# MEMORANDUM

**TO:** More Song, Department of City Planning

**FROM:** Eyestone Environmental

**SUBJECT:** Violet Street Creative Office Campus Project—VTT-83382
ENV-2021-2232-EIR

**DATE:** March 31, 2025

---

This memorandum is being prepared in response to the second level appeal filed by Adams Broadwell Joseph & Cardozo on behalf of CREED LA dated January 31, 2025. The appeal application and justification letter (2nd Level Appeal Justification) are included as Attachment 1 to this memorandum.

In accordance with the California Environmental Quality Act (CEQA), a comprehensive Draft Environmental Impact Report (Draft EIR) was prepared for the Violet Street Creative Office Campus Project (Project). The Draft EIR was circulated for public review and comment from June 29, 2023, through August 14, 2023. Following public review of the Draft EIR, the City published a comprehensive Final EIR in June 2024, which included responses to each comment within the five written comment letters received on the Draft EIR during the public comment period, as well as a clarifying Erratum No. 1 dated August 2024. The Draft EIR and Final EIR and Erratum No. 1 are collectively referred to below as the EIR.

A public hearing for the Project with the Deputy Advisory Agency and Hearing Officer was opened on June 26, 2024. On June 25, 2024, less than 24 hours prior to the hearing, the City received an additional letter from Adams Broadwell Joseph & Cardozo on behalf of CREED LA with attachments (Appellant's June 2024 Letter). Responses to this letter were submitted to the City on July 19, 2024 (July 2024 Eyestone Environmental Memorandum included as Attachment 2 to this memorandum).

Subsequent to the Deputy Advisory Agency and Hearing Officer hearing, a Letter of Determination was issued on August 29, 2024. On September 6, 2024, Adams Broadwell Joseph & Cardozo filed an appeal on behalf of CREED LA. The appeal includes an appeal justification letter dated September 6, 2024, with attachments (Appeal Justification). Responses to the Appeal Justification, which are included as Attachment 3, were provided to the City on October 1, 2024 (October 2024 Eyestone Environmental Memorandum).

2121 Rosecrans Avenue, Suite 3355, El Segundo, CA 90245-4744
Phone (424) 207-5333 • Fax (424) 207-5349

On November 12, 2024, the Appellant filed additional comments with attachments on behalf of CREED LA regarding the Staff Report prepared for the November 14, 2024, City Planning Commission hearing and the EIR (November 12 Appeal Letter). Responses to this letter were submitted to the City on November 13, 2024 (November 2024 Eyestone Environmental Memorandum included as Attachment 4 to this memorandum).

Together, the July 2024 Eyestone Environmental Memorandum, the October 2024 Eyestone Environmental Memorandum, and the November 2024 Eyestone Environmental Memorandum, together with the information, analysis, and supporting documentation included in the EIR, demonstrate that: the analysis and impact conclusions in the EIR are accurate and fully satisfy the requirements of CEQA; the findings of the Advisory Agency's Letter of Determination are correct; and, none of the comments in the Appellant's June 2024 Letter, Appeal Justification, and November 12 Appeal Letter are supported by substantial evidence, nor do they constitute significant new information warranting recirculation of the Draft EIR as set forth in CEQA Guidelines Section 15088.5.

At its November 14, 2024, meeting, the City Planning Commission considered the EIR together with written information and testimony provided by the appellant, the applicant's representative, and other members of the public, as well as responsive information addressing the issues raised by the Appellant. The City Planning Commission then certified the EIR, adopted CEQA findings, a statement of overriding considerations, and a mitigation monitoring program, and denied the appeal and sustained the decision of the Deputy Advisory Agency. Letters of Determination were mailed on January 23, 2025, setting forth this appeal determination, as well as the City Planning Commission's approval, recommendation, and findings regarding the proposed general plan amendments, vesting zone change and height district change, vesting conditional use permit, zone variance, and site plan review.

**Second Level Appeal**

On January 31, 2025, Adams Broadwell Joseph & Cardozo filed a second level appeal on behalf of CREED LA. The appeal includes the 2nd Level Appeal Justification dated January 31, 2025, with attachments. The 2nd Level Appeal Justification does not raise new issues related to the adequacy of the EIR, but repeats claims related to air quality and health

risk which were addressed in the Final EIR, as well as the July 2024, October 2024, and November 2024 Eyestone Environmental Memoranda, and claims related to fire flow that were addressed in the November 2024 Eyestone Environmental Memorandum. Responses are nevertheless summarized again below for the administrative record.

*Air Quality*

Section II. of the 2nd Level Appeal Justification repeats the Appellant's previous claims made in their November 12 Appeal Letter that the EIR's analysis did not demonstrate consistency with General Plan Air Quality Element Policy 1.3.1 which requires the City to "[m]inimize particulate emissions from construction sites." As noted above, no new information is included in this 2nd Level Appeal Justification and responses to the claims made in the November 12 Appeal Letter were submitted to the City as the November 2024 Eyestone Environmental Memorandum included as Attachment 4 to this memorandum. As detailed in the responses, the EIR continues to fully satisfy the requirements of CEQA, and the issues raised in the appeal are not supported by substantial evidence.

As explained in the November 2024 Eyestone Environmental Memorandum, this City policy falls under the City's General Plan Air Quality Element Objective 1.3 which is specific to "particulate air pollutants emanating from unpaved areas, parking lots, and construction sites." The response then provided a detailed discussion of how the Project would comply with South Coast Air Quality Management District (SCAQMD) Rule 403 and would be consistent with Objective 1.3 and Policy 1.3.1. The response did not contend, as inaccurately suggested in November 12 CREED LA Letter that diesel particulate matter (DPM) from tailpipes should somehow be subject to SCAQMD Rule 403 (Fugitive Dust). As stated above, Objective 1.3 is specific to unpaved areas, parking lots, and construction sites.

The appellant disregards that the Project would require the construction contractor(s) to comply with the applicable provisions of the California Air Resources Board (CARB) In-Use Off-Road Diesel Vehicle Regulation. And, the appellant further disregards the detailed references in the Draft EIR which accurately show that construction-related daily maximum regional construction emissions would not exceed any of the SCAQMD daily significance thresholds; that Project-related $PM_{10}$ and $PM_{2.5}$ resulted in approximately 10 percent of the corresponding SCAQMD regional significance threshold; that the maximum daily localized

emissions from Project construction and LSTs would not exceed the SCAQMD-recommended localized screening thresholds; and, that Project-related $PM_{10}$ and $PM_{2.5}$ resulted in approximately 32 and 38 percent of the corresponding SCAQMD localized significance threshold, respectively.

As a result, this comment erroneously asserts that DPM emissions remain significant and not mitigated.

*Health Risk*

Section II.A of the 2nd Level Appeal Justification repeats the Appellant's previous claims made in their November 12 Appeal Letter that the EIR's analysis of health risk impacts is inadequate since it purportedly did not disclose that diesel exhaust is a mutagenic compound and the health risk assessment (HRA) did not incorporate age sensitive factors (ASFs), referencing the exhibit from Dr. Clark of Clark & Associates attached to that letter. As noted above, no new information is included in this 2nd Level Appeal Justification and responses to the claims made in the November 12 Appeal Letter, including the exhibit from Dr. Clark, were submitted to the City as the November 2024 Eyestone Environmental Memorandum included as Attachment 4 to this memorandum. As detailed in the responses, the EIR continues to fully satisfy the requirements of CEQA, and the issues raised in the appeal are not supported by substantial evidence.

As more fully explained in Response to Comment No. 8 of the July 2024 Eyestone Environmental Memorandum included as Attachment 2 to this memorandum, the Appellant's comment is an inaccurate characterization of the discussion in the HRA. In addition, the City as the Lead Agency has the discretion to select the appropriate thresholds of significance and methodologies for evaluating a project's impacts, including potential impacts related to health risk, based on substantial evidence, including the expert opinions of its EIR preparers and City staff. This comment does not provide substantial evidence to demonstrate that the HRA included as Appendix FEIR-2 was required to classify diesel exhaust as a whole to be a mutagenic compound for purposes of preparing a quantitative HRA under CEQA. The comment also does not demonstrate that the City abused its discretion in selecting, based on its evaluation of expert opinion and other substantial evidence, an appropriate methodology with which to perform the quantitative HRA. As documented extensively in

Response to Comment No. 9 of the July 2024 Eyestone Environmental Memorandum, the City respectfully disagrees with the commenter's preferred methodology for the reasons stated therein. Dr. Clark's opinion regarding the use of ASFs is noted for the record and will be made available to the decision-makers for their review and consideration.

In addition, the City's decision to prepare a quantitative HRA in order to fully evaluate and respond to comments received on the Draft EIR (and which ultimately confirmed the conclusion in the Draft EIR) did not deprive the public or decision-makers of the analysis contained in the HRA. Please refer to Response to Comment No. 8 of the July 2024 Eyestone Environmental Memorandum, which responds to the Appellant's June 2024 Letter on the Final EIR for additional discussion as to why the City's selected methodology is supported by substantial evidence, including the City's carefully reasoned decision that diesel exhaust should not be considered as a whole to be a mutagenic compound for purposes of the quantitative HRA that was included as Appendix FEIR-2 to the Final EIR.

*Fire Flow*

Section II.B of the 2nd Level Appeal Justification repeats the Appellant's previous claims made in their November 12 Appeal Letter that the EIR's analysis of fire flow was inadequate and "substantial infrastructure improvements" are required for the Project to comply with LAMC Fire Code, referencing the exhibit from Robert Burtt P.E. of Burtt Engineering attached to that letter. As noted above, no new information is included in this 2nd Level Appeal Justification and responses to the claims made in the November 12 Appeal Letter, including the exhibit from Mr. Burtt, were submitted to the City as the November 2024 Eyestone Environmental Memorandum included as Attachment 4 to this memorandum. As detailed in the responses, the EIR continues to fully satisfy the requirements of CEQA, and the issues raised in the appeal are not supported by substantial evidence. As explained in the November 2024 Eyestone Environmental Memorandum, the comment stating that the EIR lacks substantial evidence to demonstrate that fire flow requirements can be served by Project infrastructure is incorrect and Mr. Burtt's exhibit is largely speculative.

The Appellant's claims regarding the provision of new fire flow infrastructure are both internally contradictory and contradicted by information in the record. As an example, the 2nd Level Appeal Justification Letter states at pages 4 and 5 that the "Project's insufficient

fire flow impacts were not analyzed in the FEIR", but goes on to acknowledge in the very next sentence that the Draft EIR at page IV.J.1-31 discloses this existing condition and acknowledges the need for water main upgrades in the surrounding streets. The Draft EIR, including Appendix K, discloses precisely the kind of short-term construction impacts noted by the Appellant as a result of water main upgrades within the existing environment and concludes that the "improvements to the municipal water system required for the proposed Project would ultimately provide a long-term, post-construction benefit by improving the flow, pressure, and capacity of the water system in the area of the Project." (see Draft EIR Appendix K, page 9)

With respect to the claim that "thousands of feet of new infrastructure" would be required, this is entirely speculative and not based on substantial evidence. Specifically, page 9 of Mr. Burtt's letter acknowledged the City's assessment that 400 feet of water main upgrades would be required, but then speculates, without any supporting evidence whatsoever, that "several thousand feet of additional water main upgrades *may* [emphasis added] be required." The Appellant's attorney then transforms this speculative statement from Mr. Burtt into an absolute assertion that such additional infrastructure *will* be required. By misquoting their own expert's letter, which as noted above is speculative, the Appellant's assertion lacks substantial evidence. Assuming for the sake of argument the Appellant's speculative statements were true and somewhat longer water main upgrades were required to meet Fire Code requirements, the Appellant has not identified any new or more severe impacts than those already addressed in the EIR. As noted in the November 2024 Eyestone Environmental Memorandum, "[w]hile some off-site work would occur, the Draft EIR at Section IV.J.1, Utilities and Services Systems – Water Supply and Infrastructure, page IV.J.1-32, clearly disclosed that 'limited and temporary off-site trenching associated with upgrades to adjacent water mains' would occur, but would result in less than significant impacts due to the location of these activities within already developed areas, as well as the limited scope of the activities. In addition, as part of the Project (TR-PDF-1) a Construction Traffic Management Plan would be implemented to ensure safe and efficient access during construction of the Project. As such, no significant traffic impacts would result. Furthermore, the construction equipment associated with the water main upgrade is already accounted for in the overall construction equipment assumptions. As such, there are no significant construction-related impacts that would result from the water main upgrade, the impacts of which have been fully analyzed and disclosed in the EIR." The Appellant has not provided

substantial evidence that the EIR's analysis of fire flow was lacking or incorrect. This existing analysis regarding fire flow and water infrastructure requirements is further detailed in the written response to Mr. Burtt's letter from Nathan B. Wittasek, P.E., CFEI, CASp, a principal at Simpson Gumpertz & Heger (SGH) included as Attachment 5 to this memorandum.

*Conclusion*

In summary, none of the comments made by the Appellant's June 2024 Letter, Appeal Justification, November 12 Appeal Letter, nor 2nd Level Appeal Justification alter the conclusions or analysis that was set forth in the EIR, the August 29, 2024, Letter of Determination and the City's findings set forth therein, nor in the City Planning Commission's determination of November 14, 2024, and the corresponding findings and Letters of Determination. Each of the EIR and the City's determinations are supported by substantial evidence. Additionally, none of the comments that have been received constitute significant new information warranting recirculation of the Draft EIR as set forth in CEQA Guidelines Section 15088.5.

**Attachments:**

Attachment 1—CREED LA 2nd Level Appeal Application and Justification Letter
Attachment 2—July 2024 Eyestone Environmental Memorandum
Attachment 3—October 2024 Eyestone Environmental Memorandum
Attachment 4—November 2024 Eyestone Environmental Memorandum
Attachment 5—Supporting Documentation from SGH Regarding Fire Flow

# Attachments

# Attachment 1

CREED LA 2nd Level Appeal Application and Justification Letter

APPLICATIONS

# APPEAL APPLICATION
Instructions and Checklist

## PURPOSE

This application is for the appeal of Los Angeles Department of City Planning determinations, as authorized by the LAMC. For California Environmental Quality Act Appeals, use form CP13-7840. For Building and Safety Appeals and Housing Department Appeals, use form CP13-7854.

## 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.

## 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)

## CASE INFORMATION

**Case Number:** CPC-2021-2231-GPA-VZC-HD-VCU-ZV-SPR

**APN:** 5166014003, -14012, -14001, -016-018, -015-010, -013-010

**Project Address:** 2045 Violet Street (2030 – 2060 East 7th Street; 715 – 829 East Santa Fe Avenue; 2016 – 2040 and 2022 – 2042 East 7th Place; and 2017 – 2051 Violet

**Final Date to Appeal:** February 11, 2025

## APPELLANT

**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

## APPELLANT INFORMATION

**Appellant Name:** CREED LA c/o Kelilah Federman

**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:** kfederman@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

**Name:** Kelilah D. Federman

**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:** kfederman@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

## APPLICANT'S AFFIDAVIT

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

**Appellant Signature:** _____ **Date:** 1/31/25

## 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:** _____

**Reviewed & Accepted by (DSC Planner):** _____

**Receipt No.:** _____ **Date:** _____

☐ 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) of Chapter 1 or LAMC Section 15.1.1.F.1.a. (Appeal Fees) of Chapter 1A as applicable, 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 LAMC Section 19.01 B.1(b) of Chapter 1 or LAMC Section 15.1.1.F.1.b. (Appeal Fees) of Chapter 1A as applicable

**4. Noticing Requirements (Applicant 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.

- ☐ *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 (CP13-2074) for applicable requirements.

## SPECIFIC CASE TYPES
### ADDITIONAL APPEAL FILING REQUIREMENTS AND / OR LIMITATIONS

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

Appeal procedures for DB/TOC cases are pursuant to LAMC Section 13B.2.5. (Director Determination) of Chapter 1A or LAMC Section 13B.2.3. (Class 3 Conditional Use) of Chapter 1A as applicable.

- 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 of Chapter 1 or LAMC Section 10.1.10. (Waiver and Appeals) of Chapter 1A as applicable.

- 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 13B.7.3.G. of Chapter 1A.

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

## NUISANCE ABATEMENT / REVOCATIONS

Appeal procedures for Nuisance Abatement/Revocations are pursuant to LAMC Section 13B.6.2.G. of Chapter 1A. Nuisance Abatement/Revocations cases are only appealable to the City Council.

**Appeal Fee**

- ☐ *Applicant (Owner/Operator).* The fee charged shall be in accordance with the LAMC Section 19.01 B.1(a) of Chapter 1 or LAMC Section 15.1.1.F.1.a. (Appeal Fees) of Chapter 1A as applicable.

  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) of Chapter 1 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) of Chapter 1 or LAMC Section 15.1.1.F.1.b. (Appeal Fees) of Chapter 1A as applicable.

ADAMS BROADWELL JOSEPH & CARDOZO
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037
TEL: (650) 589-1660
FAX: (650) 589-5062
kfederman@adamsbroadwell.com

KEVIN T. CARMICHAEL
CHRISTINA M. CARO
THOMAS A. ENSLOW
KELILAH D. FEDERMAN
RICHARD M. FRANCO
ANDREW J. GRAF
TANYA A. GULESSERIAN
DARION N. JOHNSTON
RACHAEL E. KOSS
AIDAN P. MARSHALL
ALAURA R. McGUIRE
TARA C. RENGIFO

*Of Counsel*
MARC D. JOSEPH
DANIEL L. CARDOZO

SACRAMENTO OFFICE
520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4721
TEL: (916) 444-6201
FAX: (916) 444-6209

January 31, 2025

**VIA ONLINE SUBMISSION**
https://planning.lacity.org/oas

**VIA EMAIL AND OVERNIGHT MAIL**
Vincent P. Bertoni, AICP, Director
Milena Zasadzien, Principal City Planner
Mindy Nguyen, Senior City Planner
More Song, City Planner
Rey Fukuda, Planning Assistant
Department of City Planning
City of Los Angeles
221 N Figueroa St Suite 1350
Los Angeles, CA 90012

**Re: Appeal of Violet Street Office Campus Project (CPC-2021-2231-GPA-VZC-HD-VCU-ZV-SPR)**

Dear Director Bertoni, Ms. Zasadzien, Ms. Nguyen, Mr. Song, and Mr. Fukuda:

Pursuant to Los Angeles Municipal Code Section 12.24.1.E, Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA") appeals the Los Angeles City Planning Commission ("Commission") decision to approve the Violet Street Creative Office Campus Project ("Project") on November 14, 2024. CREED LA appeals the following Commission actions: 1) CEQA Findings that the project was assessed in a previously certified Environmental Impact Report (EIR) No. ENV-2021-2232-EIR, SCH No. 2021110015, certified on January 22, 2025, and finding that pursuant to CEQA Guidelines, Sections 15162 and 15164, no subsequent EIR, negative declaration, or addendum is required for approval of the Project; 2) Vesting Conditional Use Permit to allow floor area averaging in a Unified Mixed-Use Development within a C or M Zone; 3) Zone Variance to permit vehicular access to a loading zone from a public street and not the adjacent alley way; and 4) Site Plan Review for a development that results in an increase of more than 50,000 square feet of nonresidential floor area. On January 23, 2025, the Commission advised CREED LA that the Commission approved the Project and provided notice

that an appeal of the City Planning Commission's determination may be filed within 20 days, by February 11, 2025. CREED LA appeals all appealable actions taken by the Commission with regard to the Project as described in the LOD.

The Project proposes redevelopment and expansion of an existing office campus on an approximately six-acre site. The Project proposes to demolish two buildings with 35,738 square feet of warehouse and office uses and associated surface parking for the new construction of a 13-story, 450,599 square-foot building comprised of 435,100 square feet of office uses, 15,499 square feet of ground floor retail and/or restaurant uses, and four subterranean and three above-grade levels of parking, all located on the southwestern portion of the Project Site. In addition, a Future Campus Expansion Phase could allow for the demolition of another existing 21,880 square-foot office building at the corner of Violet Street and Santa Fe Avenue for the new construction of up to 211,201 square feet of additional office and restaurant uses. The existing 222,915-square-foot Warner Music Group building (originally the Ford Factory building, a designated historic resource) and an existing five-story parking garage would be retained as part of the Project.

This letter details 1) the reasons for CREED LA's Appeal, 2) the Specific Points at Issue, and 3) how CREED LA is aggrieved by the City Planning Commission's determination to approve the Project. CREED LA provided the City substantial evidence demonstrating that the Project results in significant environmental impacts requiring recirculation of the EIR. CREED LA's appeal of the Advisory Agency's decision, and prior comments on the Project are concurrently uploaded to the Online Application System as Additional Findings: Exhibit A,[1] Exhibit B,[2] and Exhibit C.[3]

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

---

[1] Letter from Kelilah Federman, James Clark, Jack Meighan obo CREED LA, to City of Los Angeles, Appeal of Vesting Tentative Tract No. 83382 for Violet Street Creative Office Campus Project (VTT-83382, ENV-2021-2232-EIR; SCH # 2021110015) (September 6, 2024).
[2] Letter from Kelilah Federman, James Clark, Robert Burtt, obo CREED LA, to City of Los Angeles Appeal of Vesting Tentative Tract No. 83382 for Violet Street Creative Office Campus Project (VTT-83382, ENV-2021-2232-EIR; SCH # 2021110015) (Nov. 12, 2024).
[3] Letter from Kelilah Federman obo CREED LA, to City of Los Angeles, Agenda Item 6 & 7 Violet Street Creative Office Campus (Nov. 13, 2024).

Project in reliance on a deficient CEQA document and without substantial evidence to support the approval findings.[4]

## I. REASONS FOR APPEAL

For the reasons detailed herein, and in CREED LA's prior comments attached hereto, CREED LA appeals the City Planning Commission's determination on the Project because the Commission did not have substantial evidence to make the Findings, Recommendations, and Approvals of the Project's entitlements, including the Vesting Conditional Use Permit, Zone Variance and Site Plan Review because the Project would adversely affect the welfare of the community, contravenes the General Plan and results in significant health and safety risk from diesel particulate matter impacts and fire safety impacts which must be analyzed and mitigated in a revised and recirculated EIR. Approval of the Project without recirculation of the EIR would violate the Municipal Code's mandate not to approve the Project's entitlements unless "an appropriate environmental review clearance has been prepared in accordance with the requirements of CEQA."[5]

The Commission abused its discretion and failed to proceed in the manner required by law by relying on the Deputy Advisory Agency's premature certification of the EIR to thereafter utilize CEQA's subsequent review standards pursuant to Public Resources Code Section 21166, to approve the Project's remaining entitlements. CEQA's subsequent review standards apply to subsequent modifications to projects which were previously approved and for which an EIR was previously certified.[6] These legal standards do not apply to projects which have not received their initial entitlement approvals. The Project has not yet received the initial entitlement approvals proposed for the Project.[7] The Project requires additional entitlements, including General Plan Amendments, a Vesting Zone Change and Height District Change, to be considered by the City Council at a later date.[8] Therefore, approval of the Project's remaining entitlements is not subject to PRC § 21166. As the Court of Appeal has explained, there is "nothing in the text of

---

[4] Code Civ. Proc § 1094.5(b); *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515.
[5] LAMC Section 16.05(E)(4).
[6] Pub. Res. Code, § 21166; CEQA Guidelines Sections 15162-15164.
[7] This case is distinguishable from *Guerrero v. City of Los Angeles* (2024) 98 Cal.App.5th 1087. Here, the DAA's EIR certification is subject to further appeal to the elected decisionmaker and is not final.
[8] For this reason, and the reasons set forth in the LOD, CREED LA is not appealing the Commission's approvals and recommendations regarding the General Plan Amendments, Vesting Zone Change and Height District Change.

[CEQA] or common law interpreting [CEQA]" suggesting that a project's impact analysis or mitigation may be divided across different types of environmental review such that some impacts are analyzed in an EIR and others are analyzed in an addendum or another different CEQA document.[9] Moreover, the Commission's's EIR certification was not final because it is appealable to the elected decision maker (City Council) pursuant to PRC § 21151(c) and the LAMC.[10]

## II. SPECIFIC POINTS AT ISSUE

The Commission should not have approved the Project's entitlements, and the Council must remand the Project to Staff to recirculate the EIR, because the required Findings for Approval of the Project's entitlements cannot be made.

First, the findings required for approval of the Vesting Conditional Use Permit pursuant to Los Angeles Municipal Code Section 12.24.W cannot be made. Substantial evidence demonstrates that the Project would "adversely affect the welfare of the pertinent community"[11] due to the Project's significant public health and safety risks associated with diesel particulate matter emissions and fire flow inadequacies, as detailed herein and in CREED LA's prior comments to the City attached hereto.

Second, the findings required for approval of the Zone Variance cannot be made. The Commission and the Council could not make the necessary finding 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 that the granting of the Variance will not adversely affect any element of the General Plan."[12] Here, the Project's significant health risk impacts contravene General Plan Air Quality Element Policy 1.3.1[13] and result in a significant detriment to the public welfare.

---

[9] *Farmland Prot. Alliance v. Yolo* (Cal. Ct. App., 11/3/2021, No. C087688) 2021 WL 5103355, at *5.
[10] Agency decision not final if it may be reviewed by appealing the decision to a higher administrative body. *See Sea and Sage Audubon Society, Inc. v. Plan. Comm. of City of Anaheim* (1983) 34 Cal.3d 412; *Alta Loma School Dist. V. San Bern.Comm. On Sch. Dist. Reorg.* (1981) 124 Cal. App. 3d 542.
[11] LAMC Section 12.24.W.
[12] LAMC Section 13.B.5.3.E.
[13] City of Los Angeles, Plan for a Healthy Los Angeles A Health, Wellness, and Equity Element of the General Plan (Nov. 2021) p. 152.

Third, Site Plan Review approval requires determination that the Project is consistent with the General Plan, whereas here, the Project's significant health risk impacts contravene General Plan Air Quality Element Policy 1.3.1[14] and result in a significant public health impact.

Finally, for the reasons set forth herein, the City may not certify the Project EIR nor make the required CEQA findings as such actions are not supported by substantial evidence.

### A. Health Risk

As demonstrated in CREED LA's prior comments to the City, DPM from the Project's construction phase will result in significant impacts to the most sensitive receptors (i.e., infants) when calculated using the OEHHA-recommended age sensitivity factors, which the City failed to include in its analysis.[15] Dr. James Clark found that the resultant cancer risk to infants is 130 in one million, well above the SCAQMD's significance threshold of 10 in one million.[16] Dr. Clark's analysis provides substantial evidence that a proper health risk analysis reveals a significant health risk from exposure to the Project's diesel emissions.

As Dr. Clark explains, the City's position that an HRAs need only incorporate age adjustment factors when carcinogens act "through the mutagenic mode of action," and its suggestion that DPM is not a mutagenic carcinogen, are not supported by substantial evidence.[17] Dr. Clark cites USEPA's comprehensive review of toxicity data for diesel engine exhaust, which unequivocally found that diesel exhaust is a likely human carcinogen with mutagenic modes of action.[18] As Dr. Clark points out, the basis for this conclusion by USEPA includes "extensive supporting data including *the demonstrated mutagenic and/or chromosomal effects of DE* [diesel exhaust] 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 [emphasis added]."[19] Dr. Clark further explains that the State of California has expressed in similarly

---

[14] City of Los Angeles, Plan for a Healthy Los Angeles A Health, Wellness, and Equity Element of the General Plan (Nov. 2021) p. 152.
[15] Attachment B - Clark Comments, pgs. 3-4 and Exhibit B.
[16] *Id.*
[17] City of Los Angeles, Revised Appendix FEIR-2 Health Risk Assessment, Violet Street Creative Office Campus Project (Nov. 2023) p. 6.
[18] Attachment B - Clark Comments, pgs. 3-4 and Exhibit B.
[19] U.S. EPA. 2003. Weight of Evidence For Cancer, cited in Clark Comments, pg. 3.

explicit language that diesel exhaust is mutagenic: "*diesel exhaust particles or extracts of diesel exhaust particles are mutagenic* 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 [emphasis added]."[20]

The City's position that diesel exhaust is not mutagenic lacks the support of substantial evidence, and is flatly contradicted by scientific evidence provided by Dr. Clark. This is contrary to CEQA's requirement that the determination of whether a project may have a significant effect on the environment be based on scientific and factual data.[21] Accordingly, the HRA should have included age sensitivity factors when calculating the Project's health risks from DPM. Utilizing the correct age sensitivity factors, Dr. Clark re-calculated the risks of exposure to DPM from the Project's construction phase and found a significant health risk.[22] Dr. Clark's analysis provides substantial evidence that the Project results in significant public health and safety impacts on the community from exposure to the Project's diesel emissions.

Due to the Project's significant health and safety risk from DPM during the Project's construction phase, the City cannot make the necessary findings to approve the Project's entitlements or to certify the Project EIR.

### B. Fire Flow

Substantial infrastructure improvements are required for the Project to comply with LAMC Fire Code, according to CREED LA's Fire Protection Engineer and Fire Flow Expert Robert Burtt of Burtt Engineering. The Project's insufficient fire flow impacts were not analyzed in the FEIR and the necessary infrastructure improvements are not required as Conditions of Approval. The DEIR provides that "the Project Site currently does not have adequate fire flow to demonstrate compliance with the standards specified in LAMC Section 57.507.3.1."[23] The Staff Report provides that "2 public fire hydrants are required."[24] Mr. Burtt's comments

---

[20] CARB. 1998. Findings of the Scientific Review Panel on The Report On Diesel Exhaust, cited in Clark Comments, pg. 3.
[21] 14 CCR § 15064(b)(1).
[22] *Id.*
[23] DEIR, Appendix J, p. IV.J.1-31.
[24] Staff Report, Exhibit B VTT-83382 LOD and Tract Map VTT-83382-1A, p. 7.

provide substantial evidence that the fire hydrants at the Project site exceed maximum spacing requirements.[25] Therefore, additional infrastructure improvements are required, including the installation of up to 6-10 additional hydrants adjacent to the Project site and the replacement of existing hydrant infrastructure with 4-inch x 4-inch double fire hydrants to meet LAMC hydrant type and spacing requirements for the Project.[26] Mr. Burtt found that the FEIR and Staff Report lack substantial evidence to show that the planned upgrade of 400 feet of water main in 7th Place to 12-inch ductile main would provide adequate fire flow.[27] Mr. Burtt's comments provide substantial evidence that additional infrastructure improvements including several thousand feet of additional water main upgrades will likely be required.[28]

Fire flow infrastructure improvements would result in significant impacts to traffic and transportation, require street excavation and subsequent repair to access water mains.[29] Excavation would require demolition, disruption, and removal of portions of the street along the entire length of water main upgrade, and would entail excavation and removal asphalt, soils, and trench backfill materials.[30] New, upsized piping would likely be required, along with new trench backfill, soil, compaction, and new street asphalt work along the entire length of work. This information must be analyzed in a revised and recirculated EIR which accurately addresses and mitigates the potentially significant impacts associated with fire flow infrastructure and construction and installation of the upgrades to achieve the minimum necessary fire flow for the Project.

## III. HOW CREED LA IS AGGRIEVED BY THE DECISION

CREED LA's members live, work, recreate, and raise their families in the City of Los Angeles and communities surrounding the Project site. Thus, 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 onsite. **CREED LA members are aggrieved by the approval of the Project's entitlements due to the Project's environmental and health and safety impacts.**

---

[25] **Exhibit B -** Burtt Comments, p. 2.
[26] **Exhibit B -** Burtt Comments, p. 2.
[27] *Id.*
[28] *Id.* at 4.
[29] *Id.*
[30] *Id.*

## IV. CONCLUSION

For the foregoing reasons, the City cannot make the necessary findings to approve the Project's entitlements, including the Vesting Conditional Use Permit, Zone Variance and Site Plan Review for the Project due to the Project's significant environmental, air quality, and public health impacts. The City cannot make the necessary findings that no subsequent EIR is required and should remand the Project to staff to address the significant environmental impacts detailed herein. Thank you for your attention to these comments. Please include them in the record of proceedings for the Project.

Sincerely,

Kelilah D. Federman

Attachments
KDF:acp

# EXHIBIT A

ADAMS BROADWELL JOSEPH & CARDOZO
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037
TEL: (650) 589-1660
FAX: (650) 589-5062
kfederman@adamsbroadwell.com

KEVIN T. CARMICHAEL
CHRISTINA M. CARO
THOMAS A. ENSLOW
KELILAH D. FEDERMAN
RICHARD M. FRANCO
ANDREW J. GRAF
TANYA A. GULESSERIAN
DARION N. JOHNSTON
RACHAEL E. KOSS
AIDAN P. MARSHALL
ALAURA R. McGUIRE
TARA C. RENGIFO

*Of Counsel*
MARC D. JOSEPH
DANIEL L. CARDOZO

SACRAMENTO OFFICE
520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4721
TEL: (916) 444-6201
FAX: (916) 444-6209

September 6, 2024

**UPLOADED VIA ONLINE APPLICATION SYSTEM**
https://planning.lacity.org/oas

Vincent P. Bertoni, AICP, Director
Rey Fukuda, Planning Assistant
Kathleen King, City Planner
Department of City Planning
City of Los Angeles
221 N Figueroa St Suite 1350
Los Angeles, CA 90012

Monique Lawshe, President
Elizabeth Zamora, Vice President
Commissioners: Maria Cabildo, Caroline Choe, Martina Diaz, Phyllis Klein, Karen Mack, Michael Newhouse
Los Angeles City Planning Commission

**Re: Appeal of Vesting Tentative Tract No. 83382 for Violet Street Creative Office Campus Project (VTT-83382, ENV-2021-2232-EIR; SCH # 2021110015)**

Dear Director Bertoni, Mr. Fukuda, Ms. King, and City Planning Commissioners:

Pursuant to Los Angeles Municipal Code Section 13B.7.3.G, Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA") appeals the Advisory Agency's decision to approve the Vesting Tentative Tract Map No. 83382 for the Violet Street Creative Office Campus Project (VTT-83382; CPC-2021-2231-GPA-VZC-HDVCU-ZV-SPR; ENV-2021-2232-EIR) ("Project"). On August 29, 2024, the Advisory Agency notified CREED LA that the Advisory Agency approved the Vesting Tentative Tract Map ("VTTM") for the Project to allow for vacation and merger of portions of 7th Place and the Easterly Public Alley into the site; resubdivision of the site into four ground lots; and a Haul Route for the export of up to 144,000 cubic yards of soil.[1]

This letter details 1) the reasons for CREED LA's Appeal, 2) the Specific Points at Issue, and 3) how CREED LA is aggrieved by the Advisory Agency's decision to approve the VTTM. CREED LA provided the City substantial evidence

[1] Letter of Determination, Vesting Tentative Tract No. 83382, Advisory Agency, City of Los Angeles (Mailing Date August 29, 2024).

demonstrating that the Project results in significant environmental impacts requiring recirculation of the EIR. CREED LA's prior comments are concurrently uploaded to the Online Application System as Additional Findings: Attachment A[2] and Attachment B.[3]

## I. REASONS FOR APPEAL

For the reasons detailed herein CREED LA appeals the Advisory Agency's determination on the VTTM because the VTTM: 1) is not consistent with numerous General Plan policies[4] and 2) is not consistent with the Subdivision Map Act which prohibits approval of a VTTM where it is likely to cause serious public health problems.[5] Here, the Project's diesel particulate matter emissions from construction will result in a serious public health problem associated with cancer risk to infants.

## II. STATEMENT OF INTEREST

CREED LA is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public and worker health and safety hazards, and the environmental and public service impacts of the Project. The coalition 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 City of Los Angeles and surrounding areas.

Individual members of CREED LA and its member organizations include Jorge L. Aceves, John P. Bustos, Gerry Kennon, and Chris S. Macias. These individuals live, work, recreate, and raise their families in the City of Los Angeles and surrounding communities. Accordingly, they would be directly affected by the Project's environmental and health and safety impacts. Individual members may

---

[2] Letter from Ariana Abedifard, Richard Franco, Jack Meighan obo CREED LA, to City of Los Angeles, Comments on Draft Environmental Impact Report for the Violet Street Creative Office Campus Project (SCH Number 2022110015; Environmental Case No. ENV -2021-2232-EIR) (Aug. 14, 2023).
[3] Letter from Richard Franco obo CREED LA, to City of Los Angeles, Agenda Item No. 1- June 26, 2024 City of Los Angeles Hearing Officer hearing on Violet Street Creative Office Campus Project (SCH Number 2022110015; Environmental Case No. ENV -2021-2232-EIR) (June 25, 2024).
[4] Cal. Gov. Code § 66473.5.
[5] Cal. Gov. Code § 66474(f).

also work on the Project itself. They will be first in line to be exposed to any health and safety hazards that exist onsite. **CREED LA members may be aggrieved by the approval of the VTTM due to the Project's environmental and health and safety impacts.**

## III. SPECIFIC POINTS AT ISSUE

### A. The VTTM is Not Consistent with the General Plan

The Subdivision Map Act requires a legislative body of a city to deny a vesting tentative map if it finds that the proposed map "is not consistent with applicable general and specific plans."[6] Further the Los Angeles Municipal Code requires a Tentative Tract Map to "substantially comply with the various elements of the City's General Plan."[7] Here, the VTTM is not consistent with several of the City's General Plan policies, including General Plan Air Quality Element Policy 1.3.1, General Plan Framework Element Policy 7.2.14 and other General Plan Goals and Objectives.

General Plan Air Quality Element Policy 1.3.1 requires the City to "[m]inimize particulate emissions from construction sites."[8] The City's failure to adequately mitigate diesel particulate matter ("DPM") emissions associated with the Project results in significant nonconformance with the General Plan. As demonstrated herein and in Dr. Clark's expert consultant reports attached, the Project's construction DPM emissions will result in significant impacts to nearby sensitive receptors, including children, with a cancer risk exceeding South Coast Air Quality Management District ("SCAQMD") thresholds.

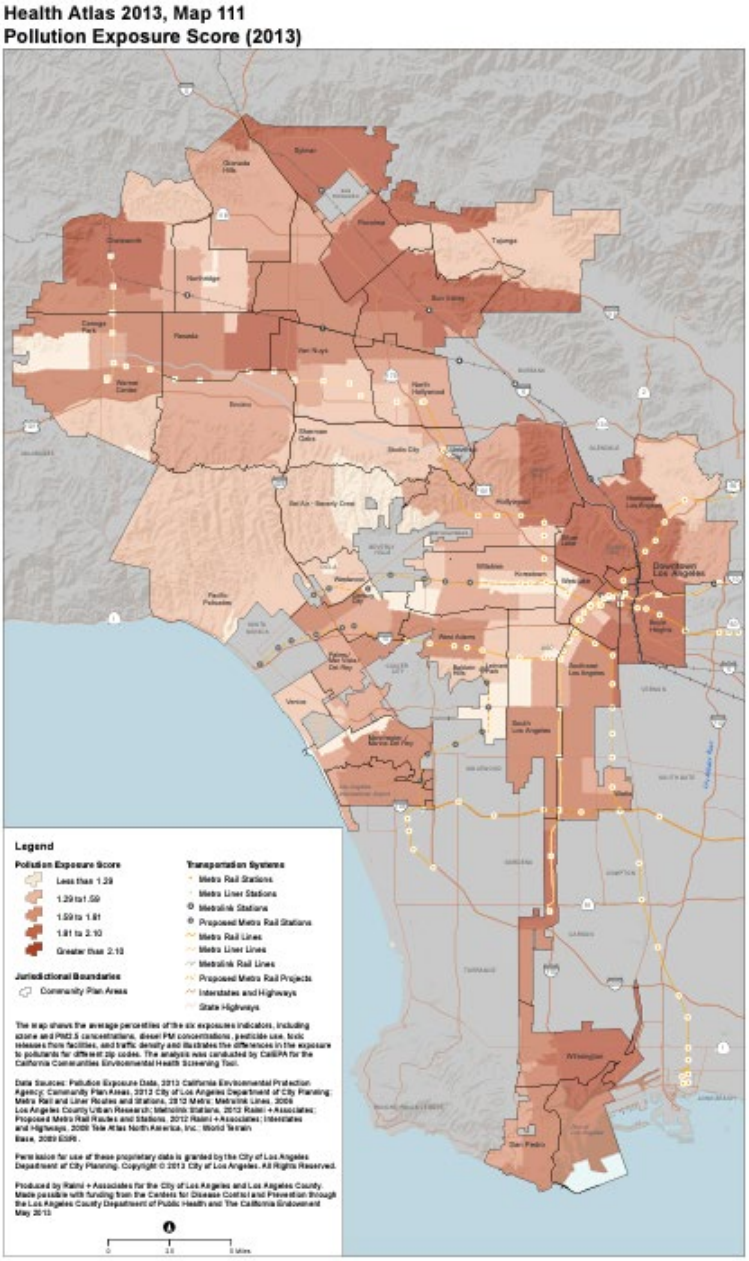
The General Plan Framework Element Policy 7.2.14 requires the City to "[t]ake steps to assure that new industries developed are sensitive to environmental and conservation issues, and that cumulative environmental impacts are addressed."[9] The Project fails to conform with this measure because the Project's DPM emissions exceed Air District thresholds and are therefore not "sensitive to environmental and conservation issues."[10]

---

[6] Cal. Gov. Code § 66474(a).
[7] Los Angeles Municipal Code § 17.52(A)(2).
[8] City of Los Angeles, Plan for a Healthy Los Angeles A Health, Wellness, and Equity Element of the General Plan (Nov. 2021) p. 152.
[9] City of Los Angeles, Plan for a Healthy Los Angeles A Health, Wellness, and Equity Element of the General Plan (Nov. 2021) p. 152.
[10] *Id.*

The General Plan provides that it is an objective of the City to "[r]educe the disparity in communities that are impacted by a high Pollution Exposure Score (exposure to six exposures indicators, including ozone, and PM2.5 concentrations, diesel, PM concentrations, pesticide use, toxic releases from facilities, and traffic density) so that every zip code has a score less than 1.7 (2013 citywide average). (Health Atlas Map 111)."[11] The Project's significant impacts associated with diesel emissions results in nonconformance with this General Plan objective. The map below details that the Project is within an area with a Pollution Exposure Score exceeding 1.7.[12]

[11] *Id.* at 87.
[12] *Id.* at p. 91.




[13]

The General Plan's Health Equity and Wellness Element provides that "the City recognizes the prevalence of incompatible land uses that pose health risks to many Angelenos. This policy calls for land use considerations that protect people,

[13] City of Los Angeles, Plan for a Healthy Los Angeles A Health, Wellness, and Equity Element of the General Plan (Nov. 2021) p. 91.

especially sensitive receptors, through mechanisms that reduce the negative health impacts of incompatible land uses through transitional zoning and land use buffers. Buildings constructed or rehabilitated in close proximity to industrial uses and freeways should incorporate mitigations that are known to protect health and wellbeing; such as air filtration systems, landscaping and vegetation known to absorb pollutants, double-paned windows, and similar strategies."[14] The Project does not include mitigation measures or design features like those listed in this policy to reduce the Project's air quality and public health impacts to bring the Project in conformance with the General Plan.

CREED LA suggested numerous mitigation measures in our comments to the Hearing Officer, including:

1. Require zero-emissions or near-zero emission on-road haul trucks such as heavy-duty trucks with natural gas engines that meet the CARB's adopted optional NOx emissions standard at 0.02 grams per brake horsepower-hour (g/bhp-hr), if and when feasible. At a minimum, require that construction vendors, contractors, and/or haul truck operators commit to using 2017 model year trucks (e.g., material delivery trucks and soil import/export) that meet CARB's 2017 engine emissions standards at 0.01 g/bhp-hr of particulate matter (PM) and 0.20 g/bhp-hr of NOx emissions or newer, cleaner trucks.

2. Provide electric vehicle (EV) Charging Stations for zero emission vehicles.

3. Install Diesel Particulate Filter (DPF) systems or Diesel Oxidation Catalysts on construction equipment that is 50 hp or greater.

4. California regulations limit idling from both on-road and offroad diesel-powered equipment. The California Air Resources Board (CARB) enforces idling limitations and compliance with diesel fleet regulations.

    a. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes [California Code of Regulations, Title 13, sections 2449(d)(3) and 2485]. Provide clear

[14] City of Los Angeles, Plan for a Healthy Los Angeles A Health, Wellness, and Equity Element of the General Plan (Nov. 2021) p. 93.

signage that posts this requirement for workers at the entrances to the site.

b. Provide current certificate(s) of compliance for CARB's In-Use Off Road Diesel-Fueled Fleets Regulation [California Code of Regulations, Title 13, sections 2449 and 2449.1]. For more information contact CARB at 877-593-6677, doors@arb.ca.gov, or www.arb.ca.gov/doors/compliance_cert1.html.

c. Use only construction equipment rated by the United States Environmental Protection Agency as having Tier 4 (model year 2008 or newer) Final or stricter emission limits for all off-road construction equipment.

d. During construction, the construction contractor shall maintain a list of all operating equipment in use on the construction site for verification by the City. The construction equipment list shall state the makes, models, Equipment Identification Numbers, Engine Family Numbers, and number of construction equipment on-site.

5. Limit the daily number of trucks allowed at the Proposed Project to levels analyzed in the CEQA document. If higher daily truck volumes are anticipated to visit the site, the City as the Lead Agency should commit to re-evaluating the Proposed Project through CEQA prior to allowing this land use or higher activity level.

These are but a few examples of feasible mitigation measures that can be utilized to reduce the Project's significant health risks from diesel emissions to bring the Project into compliance with the General Plan's Health Equity and Wellness Element .

Based on the foregoing, the Advisory Agency's approval of the VTTM must be overturned because the VTTM is not consistent with numerous City General Plan policies.

### B. The VTTM Results in Significant Environmental and Public Health Risk

The Subdivision Map Act requires denial of a tentative map where the legislative body of the City finds "[t]hat the design of the subdivision or type of improvements is likely to cause serious public health problems."[15] Here, substantial evidence in CREED LA's prior comments and expert consultant reports, attached, demonstrate that the Project results in a significant health risk. Specifically, the Project's DPM emissions will result in a cancer risk to infants of 130 in one million, well above the SCAQMD's significance threshold of 10 in one million.[16]

In response to CREED LA's prior comments, the City prepared a Health Risk Assessment for the Project.[17] However, that Health Risk Assessment lacks the necessary age sensitivity factors, and provides in part:

> Based on a review of relevant guidance on the applicability of the use of early life exposure adjustments to identified carcinogens, the use of [Age Sensitivity Factors] would not be applicable to this HRA as neither the Lead Agency nor SCAQMD have developed recommendations on whether these factors should be used for CEQA analyses of potential DPM construction or operational impacts. For this assessment, the HRA relied upon USEPA guidance relating to the use of early life exposure adjustment factors (Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens, EPA/630/R-003F) whereby adjustment factors are only considered when carcinogens act "through the mutagenic mode of action." Therefore, early life exposure adjustments were not considered in this HRA.[18]

As demonstrated in CREED LA's prior comments to the City, DPM from the Project's construction phase will result in significant impacts to the most sensitive

---

[15] Cal. Gov. Code § 66474(f).
[16] Attachment B.
[17] City of Los Angeles, Revised Appendix FEIR-2 Health Risk Assessment, Violet Street Creative Office Campus Project (Nov. 2023) p. 6. *Available at*: https://planning.lacity.gov/odocument/5f7430c6-1b00-485d-a5ac-53e509ff5bf1/_2045%20Violet%20Erratum%20No.%201%20Revised%20Appendix%20FEIR-2%20-%20Health%20Risk%20Assessment.pdf.
[18] City of Los Angeles, Revised Appendix FEIR-2 Health Risk Assessment, Violet Street Creative Office Campus Project (Nov. 2023) p. 6.

receptors (i.e., infants) when calculated using the OEHHA-recommended age sensitivity factors, which the City failed to include in its analysis.[19] Dr. James Clark found that the resultant cancer risk to infants is 130 in one million, well above the SCAQMD's significance threshold of 10 in one million.[20] Dr. Clark's analysis provides substantial evidence that a proper health risk analysis reveals a significant health risk from exposure to the Project's diesel emissions.

As Dr. Clark explains, the City's position that an HRAs need only incorporate age adjustment factors when carcinogens act "through the mutagenic mode of action," and its suggestion that DPM is not a mutagenic carcinogen, are not supported by substantial evidence.[21] Dr. Clark cites USEPA's comprehensive review of toxicity data for diesel engine exhaust, which unequivocally found that diesel exhaust is a likely human carcinogen with mutagenic modes of action.[22] As Dr. Clark points out, the basis for this conclusion by USEPA includes "extensive supporting data including *the demonstrated mutagenic and/or chromosomal effects of DE* [diesel exhaust] 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 [emphasis added]."[23] Dr. Clark further explains that the State of California has expressed in similarly explicit language that diesel exhaust is mutagenic: "*diesel exhaust particles or extracts of diesel exhaust particles are mutagenic* 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 [emphasis added]."[24]

The City's position that diesel exhaust is not mutagenic lacks the support of substantial evidence, and is flatly contradicted by scientific evidence provided by Dr. Clark. This is contrary to CEQA's requirement that the determination of whether a project may have a significant effect on the environment be based on scientific and factual data.[25] Accordingly, the HRA should have included age

---

[19] Attachment B - Clark Comments, pgs. 3-4 and Exhibit B.
[20] *Id.*
[21] City of Los Angeles, Revised Appendix FEIR-2 Health Risk Assessment, Violet Street Creative Office Campus Project (Nov. 2023) p. 6.
[22] Attachment B - Clark Comments, pgs. 3-4 and Exhibit B.
[23] U.S. EPA. 2003. Weight of Evidence For Cancer, cited in Clark Comments, pg. 3.
[24] CARB. 1998. Findings of the Scientific Review Panel on The Report On Diesel Exhaust, cited in Clark Comments, pg. 3.
[25] 14 CCR § 15064(b)(1).

sensitivity factors when calculating the Project's health risks from DPM. Utilizing the correct age sensitivity factors, Dr. Clark re-calculated the risks of exposure to DPM from the Project's construction phase and found a significant health risk.[26] Dr. Clark's analysis provides substantial evidence that the Project results in significant public health and safety impacts on the community from exposure to the Project's diesel emissions.

Due to the Project's significant health and safety risk from DPM during the Project's construction phase, the City cannot make the necessary findings to approve the VTTM, and the Advisory Agency's approval of the VTTM must be overturned.

## IV. HOW CREED LA IS AGGRIEVED BY THE DECISION

CREED LA's members live, work, recreate, and raise their families in the City of Los Angeles and communities surrounding the Project site. Thus, 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 onsite. **CREED LA members may be aggrieved by the approval of the VTTM due to the Project's environmental and health and safety impacts.**

## V. CONCLUSION

For the foregoing reasons, the City cannot make the necessary findings to approve the Vesting Tentative Tract Map for the Project due to the Project's significant environmental, air quality, and public health impacts. Thank you for your attention to these comments. Please include them in the record of proceedings for the Project.

Sincerely,

Kelilah D. Federman

Attachments
KDF:acp

---

[26] *Id.*

# ATTACHMENT A

ADAMS BROADWELL JOSEPH & CARDOZO
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037
TEL: (650) 589-1660
FAX: (650) 589-5062
aabedifard@adamsbroadwell.com

ARIANA ABEDIFARD
KEVIN T. CARMICHAEL
CHRISTINA M. CARO
THOMAS A. ENSLOW
KELILAH D. FEDERMAN
RICHARD M. FRANCO
ANDREW J. GRAF
TANYA A. GULESSERIAN
DARION N. JOHNSTON
RACHAEL E. KOSS
AIDAN P. MARSHALL
TARA C. RENGIFO

*Of Counsel*
MARC D. JOSEPH
DANIEL L. CARDOZO

SACRAMENTO OFFICE
520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4721
TEL: (916) 444-6201
FAX: (916) 444-6209

August 14, 2023

**VIA EMAIL AND OVERNIGHT MAIL**
Rey Fukuda
City of Los Angeles, Department of City Planning
221 N. Figueroa Street, Suite 1350
Los Angeles, CA 90012
Email: Rey.Fukuda@lacity.org

**VIA EMAIL ONLY**
Vince Bertoni, Director of Planning
Email: vince.bertoni@lacity.org

**Re**: **Comments on Draft Environmental Impact Report for the Violet Street Creative Office Campus Project (SCH Number 2022110015; Environmental Case No. ENV -2021-2232-EIR)**

Dear Mr. Fukuda, Mr. Bertoni:

We are writing on behalf of the Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA") to comment on the Draft Environmental Impact Report ("DEIR") prepared by the City of Los Angeles ("City") for the Violet Street Creative Office Campus Project (SCH Number 2022110015; Environmental Case No. ENV -2021-2232-EIR) ("Project") proposed by Al Violet, LLC and Al Violet B2, LLC ("Applicants"). We reserve the right to supplement these comments at later hearings and proceedings on the Project.[1]

The Project proposes to develop a new creative office campus with uses spanning existing and proposed buildings on an approximately 273,930 square-foot (6.3-acre) site.[2] Construction of the Project would require the demolition of the existing 25,798 square feet of warehouse uses, 9,940 square feet of office uses, and associated surface parking, all located on the southwest portion of the Project Site.[3]

[1] Gov. Code § 65009(b); PRC § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield ("Bakersfield")* (2004) 124 Cal. App. 4th 1184, 1199-1203; *see Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.
[2] DEIR, pg. II-1.
[3] *Id.*

The remainder of the Project Site is developed with the existing 244,795-square-foot Warner Music Group building (originally the Ford Factory building) and a five-story parking garage (including a roof-top level), which would be retained as part of the Project.[4] The Project proposes a 13-story, approximately 450,599-square-foot building featuring 435,100 square feet of office uses, 15,499 square feet of ground floor retail and/or restaurant uses, and 1,264 automobile parking spaces located in a seven-story parking garage, comprised of one at-grade, two above-grade, and four below-grade levels.[5] The Project also includes approximately 74,018 square feet of outdoor areas.[6] The Project also includes a Future Campus Expansion Phase, which encompasses a potential expansion opportunity for additional office use to be developed on Lot 4.[7] Construction of the Future Campus Expansion Phase would require the demolition of an existing 21,880-square-foot building containing office uses.[8] The precise uses and development plan for the Future Campus Expansion Phase are not known at this time.[9]

Based on our review of the DEIR and available supporting documentation, we conclude that the DEIR fails to comply with the requirements of the California Environmental Quality Act ("CEQA")[10]. The DEIR fails to adequately describe and analyze the Project and its impacts, and fails to propose feasible and enforceable mitigation measures, as required by CEQA. The City may not approve the Project until it revises the DEIR to adequately analyze and mitigate the Project's significant direct, indirect and cumulative impacts and incorporates all feasible mitigation measures to avoid or minimize these impacts to the greatest extent feasible.

We reviewed the DEIR, its technical appendices, and available reference documents with the assistance of noise and vibration expert Jack Meighan. Mr. Meighan's comments and qualifications are attached hereto as Exhibit A and are incorporated by reference as if set forth herein. The City must respond to the expert comments separately and fully.

---

[4] *Id.*
[5] DEIR, pg. I-26.
[6] DEIR, pg. I-8.
[7] DEIR, pg. II-2.
[8] *Id.*
[9] *Id.*
[10] Pub. Resources Code §§ 21000 et seq.; 14 Cal. Code Regs ("CEQA Guidelines") §§ 15000 et seq. ("CEQA Guidelines").

## I. STATEMENT OF INTEREST

CREED LA is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public and worker health and safety hazards, and the environmental and public service impacts of the Project. The coalition 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 City of Los Angeles and surrounding areas.

Individual members of CREED LA and its member organizations include Jorge L. Aceves, John P. Bustos, Gerry Kennon, and Chris S. Macias. These individuals live, work, recreate, and raise their families in the City of Los Angeles 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 onsite.

In addition, 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.

## II. LEGAL BACKGROUND

CEQA requires public agencies to analyze the potential environmental impacts of their proposed actions in an EIR.[11] "The foremost principle under CEQA is that the Legislature intended the act to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language."[12]

CEQA has two primary purposes. First, CEQA is designed to inform decisionmakers and the public about the potential significant environmental effects

---

[11] PRC § 21100.
[12] *Laurel Heights Improvement Assn. v. Regents of Univ. of Cal ("Laurel Heights I")* (1988) 47 Cal.3d 376, 390 (internal quotations omitted).

of a project.[13] "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.'"[14] 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."[15] 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."[16]

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.[17] 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."[18] 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 the greatest extent feasible and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns."[19]

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."[20] 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

---

[13] Pub. Resources Code § 21061; CEQA Guidelines §§ 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.").
[14] *Citizens of Goleta Valley,* 52 Cal.3d at p. 564 (quoting *Laurel Heights I*, 47 Cal.3d at 392).
[15] *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).
[16] CEQA Guidelines § 15003(b).
[17] CEQA Guidelines § 15002(a)(2), (3); *see also Berkeley Jets*, 91 Cal.App.4th at 1354; *Citizens of Goleta Valley*, 52 Cal.3d at p. 564.
[18] CEQA Guidelines § 15002(a)(2).
[19] PRC § 21081(a)(3), (b); CEQA Guidelines §§ 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.
[20] *Berkeley Jets*, 91 Cal.App.4th at p. 1355 (emphasis added) (quoting *Laurel Heights I*, 47 Cal.3d at 391, 409, fn. 12).

thwarting the statutory goals of the EIR process."[21] "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.'"[22]

## III. THE DEIR LACKS AN ACCURATE, COMPLETE AND STABLE PROJECT DESCRIPTION

The DEIR does not meet CEQA's requirements because it fails to include an accurate, complete and stable description of key Project components, rendering the DEIR's impact analysis inadequate. California courts have repeatedly held that "an accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR."[23] CEQA requires that a project be described with enough particularity that its impacts can be assessed.[24] Without a complete, stable and accurate project description, the environmental analysis under CEQA is impermissibly limited, thus minimizing the project's impacts and undermining meaningful public review.[25]

The DEIR does not provide a stable description of the project, as it (1) does not clearly or consistently describe the Project's square footage, and (2) inconsistently describes and analyzes the Future Campus Expansion Phase ("Future Phase").

First, the DEIR's project description does not clearly state the size of the proposed Project and the DEIR's impact analyses use differing descriptions of the size of the project being analyzed. The DEIR states that the Project proposes a new

---

[21] *Berkeley Jets*, 91 Cal.App.4th at p. 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*, 60 Cal.App.4th at p. 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).
[22] *Sierra Club,* 6 Cal.5th at p. 516 (quoting *Laurel Heights I*, 47 Cal.3d at 405).
[23] *Stopthemillenniumhollywood.com v. City of Los Angeles* (2019) 39 Cal.App.5th 1, 17; *Communities for a Better Environment v. City of Richmond* ("*CBE v. City of Richmond*") (2010) 184 Cal.App.4th 70, 85–89; *County of Inyo v. City of Los Angeles* (3d Dist. 1977) 71 Cal.App.3d 185, 193.
[24] CEQA Guidelines § 15124; *see Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376, 192–193; *see also El Dorado County Taxpayers for Quality Growth v. County of El Dorado* (2004) 122 Cal.App.4th 1591, 1597 ("An accurate and complete project description is necessary to fully evaluate the project's potential environmental effects.")
[25] *Id.*

450,599 square foot ("sf") commercial building, consisting of 435,100 sf of office space and 15,499 sf of retail uses.[26] The project description also purports to include the existing 244,795 sf Warner Music Group building, which "would remain with no change in use or alteration of the historic building."[27] Further, the DEIR claims to include in the project description the Future Phase, which would involve demolition of an existing 21,880 sf warehouse building, followed by new construction, for which the "precise uses and development…are not known at this Time."[28] Pursuant to the project description, the DEIR states "the Future Campus Expansion Phase is analyzed as 191,210 square feet of office uses and 20,000 square feet of restaurant uses throughout this DEIR unless otherwise noted."[29]

The above-described components of the Project are summarized in Table II-1 of the DEIR's project description. Table II-1 sets forth a total of 604,182 sf of new floor area for the Project, including the Future Phase and subtracting the square footage that will be demolished.[30] The Project's total square footage, including both the Future Phase and the existing Warner Music building, is stated to be 906,595 sf. Therefore, the DEIR should consistently evaluate a Project consisting of a total of 906,595 sf total floor area (or 604,182 sf to the extent it is analyzing only new net construction.) However, several of the DEIR's impact analyses appear to evaluate a different sized project. For example,

- The Project Transportation Assessment, upon which the DEIR's transportation impacts analysis is based, states that the Project as analyzed in this study involves two different buildout options depending on two different driveway scenarios: one scenario with 435,100 sf of office space and 15,499 sf of retail/restaurant and a second scenario with 432,910 sf of office and 15,499 sf of retail/restaurant.[31] It goes on to say that, including the Future Phase, the Project is analyzed with either 646,301 sf or 626,301 sf of office uses under one driveway scenario and 644,111 sf or 624,111 sf of office uses under the other driveway scenario.[32] None of these scenarios match up with the project description as summarized in Table II-1.

---

[26] DEIR, pg. II-7.
[27] DEIR, pg. II-8.
[28] DEIR, pg. II-10.
[29] *Id.*
[30] DEIR, Table II-1 at pg. II-8.
[31] DEIR Appendix M (Transportation), pgs. 6-7.
[32] DEIR Appendix M (Transportation), pg. 7.

- The Project's energy impact analysis describes the Project as consisting of 646,301 sf office and 15,499 sf retail/restaurant.[33] Though the DEIR does not present the added total, the total square footage with these figures is 661,800 sf. Once again, this figure does not match up with any of the figures in Table II-1.

- The Project's air quality impact analysis describes the Project's square footage as a total of 626,301 sf square feet office use and 35,499 sf square foot retail/restaurant use.[34] Though the DEIR does not present the added total, the total square footage with these figures is 661,800 sf, which, again, does not line up with Table II-1.

- The Project's GHG emissions impact analysis uses two different Project totals: (i) 626,301 sf office use / 35,499 square foot retail/restaurant use[35]; and (ii) 646,201 sf office use / 15,399 square foot retail/restaurant use.[36] As explained above, none of these figures nor their totals match up with Table II-1's figures.

Second, as set forth above, the DEIR states that the Future Phase is analyzed as 191,201 square feet of office uses and 20,000 square feet of restaurant uses throughout the DEIR "unless otherwise noted."[37] By explicitly stating that the Future Phase will not always be analyzed the same way, the DEIR introduces ambiguity and undermines accurate impact assessment. In fact, throughout the DEIR, the Future Phase is sometimes analyzed as a split office-retail/restaurant use and other times as office only use. This flip-flopping is anything but "stable." Indeed, Table II-1 purports to summarize the various Project components and phases, but is internally inconsistent. It shows the Project's proposed floor area for the Future Phase as 211,201 sf of office use only, but in a footnote says that the DEIR analyzes the Future Phase as 191,201 sf of office uses and 20,000 sf of restaurant uses, thereby contradicting itself.[38]

As detailed below, the DEIR recognizes that impacts may differ depending on whether the Future Phase is analyzed as office-use only or is split between office use and restaurant/retail. For example, the DEIR's transportation analysis considers office-use only in assessing freeway safety impacts, because as compared

---

[33] DEIR, pg. IV.C-42.
[34] DEIR, pg. IV.A-48.
[35] DEIR, pg. IV.D-62.
[36] DEIR, pgs. IV.D-65, 70.
[37] DEIR, pg. II-2.
[38] *See* Table II-1. DEIR, pg. II-8.

to the split use version it would "generate the greatest number of trips to the freeway off-ramps."[39] Similarly, the water supply analysis uses the split-use version, because "restaurant uses result in greater water demand than office uses."[40] The DEIR clearly recognizes that the particular land uses assumed for different Project components will affect the impact analyses. This underscores the need for the DEIR to use a consistent and stable project description so that it accurately discloses the Project's expected environmental impacts.

This confusion caused by the shifting project description persists throughout the DEIR. As noted, the Project's water supply and infrastructure impact analysis uses the two different versions of the Future Phase. In the analysis, the DEIR states, "*the Future Campus Expansion Phase is analyzed as 211,201 square feet of office uses throughout this Draft EIR.* However, because restaurant uses result in greater water demand than office uses, the analysis below, as well as the wastewater analysis in Section VI, Other CEQA Considerations, of this Draft EIR, *also analyze an option with 191,201 square feet of office uses and 20,000 square feet of restaurant uses.*"[41] Here, the DEIR's water supply analysis contradicts the project description—which states that, for the Future Phase, the DEIR analyzes 191,201 sf of office uses and 20,000 sf of restaurant uses, *i.e.*, the split use version. In other words, the project description describes the split use version of the Future Phase as the rule, with the office-use only version as the exception. The section quoted above, however, by saying the DEIR generally uses the office only version of the Future Phase, treats the office-only version as the rule and the split use version as the exception.

The Project's Transportation Assessment also assumes that the Future Phase is generally analyzed as office only use, rather than assuming the split use as set out in the Project Description. In the Transportation appendix (Appendix M), it says that "[t]his transportation analysis *generally assumes* the 211,201 additional square feet, referred to as the future campus expansion, to be developed as office but analyzes the 211,201 additional square feet as 191,201 square feet of office and 20,000 square feet of quality restaurant under the VMT analysis for consistency with other sections of the DEIR."[42] Thus, the analysis assumes that the Future Phase will be office only use but analyzes it as split use elsewhere. The DEIR's analysis of two different driveway scenarios as noted above is a further example of how this assumption confuses the DEIR's analysis. Specifically, the analysis includes two versions of the two different driveway scenarios—analyzing each

---

[39] *Id.*
[40] DEIR, pg. IV.J.1-27.
[41] DEIR, pg. IV.J.1-27 (emphasis added).
[42] DEIR Appendix M (Transportation), pg. 7.

scenario with both the office only version and split use version of the Future Phase––thus creating four different analyses making it impossible to tell what version of the Project is actually being proposed by the DEIR.[43]

The Transportation Assessment brings up the Future Phase in its freeway safety analysis and there, too, the analysis is inconsistent. The freeway safety analysis analyzed the office only version of the Future Phase and did not analyze the split use version.[44] The DEIR states that it uses the office-only total figure because it would "generate the greatest number of trips to the freeway off-ramps."[45] Here, the DEIR only analyzes one version of the Future Phase, and which is a different version than used in the vehicular access analysis, while other DEIR sections like the water supply and infrastructure analysis analyze both the split use and office only use.

These inconsistencies can be found throughout the DEIR. For example, the DEIR's energy impact analysis describes the Project (including the Future Phase) as totaling 646,301 sf office and 15,499 sf retail/restaurant—*i.e.*, uses a total figure for the office use that treats the Future Phase as office use only, departing from the project description's assumption of a split-use version.[46] On the other hand, the air quality impact analysis sticks to a project description that assumes the split use version, describing the Project (including the Future Phase) as a total of 626,301 sf office use and 35,499 sf retail/restaurant use.[47] In the Project's GHG emissions impact analysis, the DEIR uses *both* the split use and the office only version. At one point it describes the Project (including the Future Phase) as proposing 626,301 square feet office use and 35,499 square foot retail/restaurant use [48] but a few pages later, describes it as proposing up to 646,201 square feet of office use and 15,399 square foot retail/restaurant use.[49] This lack of uniformity muddies the waters as to what Project is being analyzed, introducing confusion that prevents clear analysis.

Ultimately the DEIR seems to arbitrarily pick and choose which version of the Future Phase to analyze, sometimes analyzing both versions and other times only one version. This is inconsistent with CEQA's most basic requirement to provide a stable and accurate project description. The City must circulate a revised DEIR that includes a clear and stable project description and clearly defines the Future Phase uses that it purports to analyze.

---

[43] DEIR Appendix M (Transportation), pg. 29.
[44] DEIR Appendix M (Transportation), pg. 38.
[45] *Id.*
[46] DEIR, pg. IV.C-42.
[47] DEIR, pg. IV.A-48.
[48] DEIR, pg. IV.D-62.
[49] DEIR, pgs. IV.D-65, 70.

## IV. THE DEIR FAILS TO ADEQUATELY ANALYZE THE PROJECT'S PLANNED FUTURE CAMPUS EXPANSION PHASE

The Project's Future Phase is not adequately analyzed under CEQA.[50] Under *Laurel Heights*, an EIR must include an analysis of the environmental effects of future expansion or other actions if two conditions are met: (1) the future expansion or action is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects.[51] Under this standard, "the facts of each case will determine whether and to what extent an EIR must analyze future expansion or other action."[52]

### 1. The DEIR Must Include Analysis of The Future Campus Expansion Phase Because It Meets the Two-Part Test Under *Laurel Heights*.

First, the Future Phase is more than just a "reasonably foreseeable consequence of the initial project"; it is a fully anticipated future component of the proposed Project. As stated in the Project Description, "the Project includes a Future Campus Expansion Phase. . . to be developed within Lot 4 of the Project Site."[53] The City even plans to set the Future Phase in motion by demolishing land in anticipation for the Expansion Phase.[54] Thus, the Future Phase is a reasonably foreseeable part of the project.

Second, the Future Phase will indeed "change the scope or nature of the project or its environmental effect." The Future Phase is a significant project; even though the precise uses of the Future Phase are not solidified, the City posits it will include an additional building of 211,201 sf. Demolition of an existing 21,880 sf warehouse building and construction of an additional office building with various uses invariably means increased traffic, noise, air quality impacts, and energy usage, among other things. The Future Phase therefore alters the scope of the project in expanding it significantly and will likely increase the environmental impacts of the Project.

---

[50] *See, Laurel Heights Improvement Assn. v. Regents of Univ. of California* (1988) 47 Cal. 3d 376, *as modified on denial of reh'g* (Jan. 26, 1989).
[51] *Id.* at 396; *see also Nat'l Parks & Conservation Assn. v. Cnty. of Riverside (1996) 42 Cal.App.4th 1505, 1515; Del Mar Terrace Conservancy v. City Council* (1992) 10 Cal.App.4th 712, 730; *San Jose Raptor Rescue Ctr. V. County of Merced* (2007) 149 Cal.App.4th 645, 660.
[52] *Id.*
[53] DEIR, pg. II-10.
[54] DEIR, pg. II-10 ("Construction of the Future Campus Expansion Phase would require the demolition of an existing 21,880-square-foot warehouse building.")

Accordingly, the Future Phase meets the two-part *Laurel Heights* test and must therefore be adequately analyzed in the DEIR.

**2. The DEIR Does Not Adequately Analyze the Future Campus Expansion Phase.**

CEQA does not require "prophecy."[55] Lead Agencies are "not required. . . to commit themselves to a particular use or to predict precisely what the environmental effects, if any, of future activity will be."[56] However, "[t]he fact that precision may not be possible. . . does not mean that no analysis is required. Drafting an EIR ... involves some degree of forecasting. While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can."[57] At the very least, Lead Agencies must discuss "at least the general effects of the reasonably foreseeable future uses of the [Project], the environmental effects of those uses, and the currently anticipated measures for mitigating those effects."[58]

As detailed above, the DEIR contains numerous inconsistencies in describing the Future Phase it purports to analyze. This alone precludes an adequate analysis of the Future Phase as required by *Laurel Heights*. In addition, it is clear that, while claiming to include the Future Phase in its impact analyses, the DEIR does not consistently do so. For example, while the DEIR's air quality analysis purports to calculate emissions specifically anticipating emissions associated with the Future Phase, it is far from clear that the analysis did so. For example, the DEIR's Technical Appendix for Air Quality and Greenhouse Gas Emissions includes the assumptions used in CalEEMod emissions modeling.[59] Those assumption state that the Project will include demolition of 35,738 sf of existing buildings.[60] However, based on Table II-1 of the DEIR's project description, that figure includes demolition of 9,940 sf of existing office space and 25,798 sf of existing warehouse use, *but excludes the demolition of 21,880 sf of building associated with the Future Phase.*[61] Therefore, the DEIR clearly does not analyze all aspects of the Future Phase, and a review of the CalEEMod modeling output files suggests that the new buildings associated with the Future Phase may not have been analyzed either.

---

[55] *Laurel Heights*, 47 Cal. 3d at 398.
[56] *Id.*
[57] *Id.* at 399 (internal quotation marks omitted).
[58] *Id.* at 398.
[59] DEIR Appendix C (Air Quality Analysis Assumptions), pdf pg. 24 of 346.
[60] *Id.*
[61] *See* Table II-1. DEIR, pg. II-8.

To meet the standards set forth in the *Laurel Heights* decision, the DEIR must be revised to provide a clear and stable description of the Future Phase and to properly analyze the Project including the Future Phase. As it stands, the DEIR fails to adequately analyze and disclose the potentially significant impacts of the proposed Project, including the Future Phase.

## V. THE DEIR FAILS TO ADEQUATELY DISCLOSE, ANALYZE AND MITIGATE THE PROJECT'S NOISE IMPACTS

CREED LA's noise and vibration expert Jack Meighan identifies critical flaws in the DEIR's noise and vibration analysis, including omission of a potentially significant impact that would require mitigation.

First, Mr. Meighan identifies a potential undisclosed significant impact.[62] The DEIR concludes that Project construction result in the generation of excessive ground borne vibration.[63] As Mr. Meighan points out, though, the Project's construction vibration impacts analysis lacks consideration of the use of a vibratory roller.[64] Given the Project's plan to demolish existing spaces and create a new pedestrian plaza through grading, a vibratory roller would likely be employed for the Project.[65] And if a vibratory roller is indeed used for the Project, then the use would be considered a significant impact. As Mr. Meighan explains, as per the Federal Transit Administration's guidelines, a vibratory roller generates a Peak Particle Velocity of 0.21 in/sec at 25 feet – the same distance the closest construction site will be from the historic Ford Factory, which adheres to a 0.12 PPV criteria in the DEIR.[66] This implies that using a vibratory roller at this proximity would result in a significant impact.[67] Therefore, the DEIR must disclose the roller's potential use and, if utilized, disclose and mitigate its impact by, for example, establishing a minimum distance requirement for its operation.

Second, Mr. Meighan's analysis reveals a significant concern regarding the lack of proper citation for source noise levels utilized in the DEIR. While the analysis tables in Section 4 attribute the source of sound levels to "AES, 2022" and refer to Appendix I for details, numerous source levels in Appendix I—such as those associated with mechanical equipment, people, speakers, truck loading, trash compactors, and parking lots—are presented devoid of any context or supporting

---

[62] Meighan Comments, pg. 2.
[63] DEIR, pg. IV.F-54.
[64] Meighan Comments, pg. 2.
[65] *Id.*
[66] *Id.*
[67] *Id.*

references.[68] Indeed, as Mr. Meighan points out, without the supporting references "it is impossible to verify the accuracy of the noise source levels or to evaluate the DEIR's noise impacts analysis."[69] Although certain sources, such as off-site traffic noise calculations, construction equipment noise levels, and construction equipment vibration levels, are explicitly cited, Mr. Meighan underscores the necessity of revising the DEIR to explicitly specify the origins of all noise sources.[70] This step is crucial to ensure the use of transparent, reasonable and verifiable noise levels in the assessment.

Mr. Meighan's comments and analysis provide substantial evidence that the Project may have significant unmitigated noise and vibration impacts that are completely unexamined in the DEIR, and explains why the DEIR's operational noise impact analysis is not supported by substantial evidence. The City must revise the DEIR to evaluate the risk of using a vibratory roller and include appropriate mitigation measures and citations.

## VI. THE DEIR IMPROPERLY RELIES ON UNENFORCEABLE PROJECT DESIGN FEATURES TO CONCLUDE THAT THE PROJECT'S IMPACTS ARE LESS THAN SIGNIFICANT

In the DEIR's analyses of the Project's GHG emissions, noise, transportation, and water supply and infrastructure impacts, the DEIR includes measures that are classified as Project Design Features ("PDFs"), even though they serve to mitigate the Project's impacts. The DEIR underestimates the significance of the Project's impacts by using these mitigating PDFs for its initial significance determination. By applying PDFs as mitigation to the Project's unmitigated impacts, the DEIR "compress[es] the analysis of impacts and mitigation measures into a single issue,"[71] in violation of CEQA. This approach is prohibited by CEQA because it fails to inform the public and decision makers of the true severity of an impact.

CEQA requires that an EIR disclose the significance of an impact prior to mitigation.[72] The purpose of this analysis is both to require public disclosure of a project's impacts, and to require the lead agency to "identify and focus on the significant environmental effects of the proposed project."[73] In evaluating the significance of an impact, an EIR must discuss the physical changes in the environment that the project will cause, including:

---

[68] *Id.* at pg. 3.
[69] *Id.*
[70] *Id.*
[71] *Lotus v. Dep't of Transp.* (2014) 223 Cal. App. 4th 645, 656.
[72] 14 CCR § 15126.2.
[73] 14 CCR § 15126.2(a).

> relevant specifics of the area, the resources involved, physical changes, alterations to ecological systems, and changes induced in population distribution, population concentration, the human use of the land (including commercial and residential development), health and safety problems caused by the physical changes, and other aspects of the resource base such as water, historical resources, scenic quality, and public services.[74]

Only after this discussion occurs may the agency identify and apply mitigation measures to reduce potentially significant impacts to less than significant levels.[75] The discussion is rendered meaningless (or, as here, omitted entirely) if the EIR falsely concludes that a project's impact is less than significant based on premature application of mitigation measures.

Moreover, none of these PDFs are incorporated into the DEIR as binding mitigation measures, in further violation of CEQA. CEQA defines mitigation as including any measures designed to avoid, minimize, rectify, reduce, or compensate for a significant impact.[76] The PDFs described in the DEIR are actually mitigation measures because they perform these functions. These PDFs are not designed to simply modify a physical element of the Project, as is inherent in a true project "design feature." The PDFs are designed to reduce impacts. This makes them mitigation measures within the meaning of CEQA. For example, as discussed below, WAT-PDF-1's requirement to use various water conservation techniques is clearly designed as mitigation to reduce the Project's water supply impacts that would result from using equipment with less efficient water conservation controls.

CEQA requires that mitigation measures be fully enforceable through permit conditions, agreements or other legally binding instruments.[77] Because the City has not characterized these PDFs as mitigation measures, they are not binding on the Applicants, and will not be included in the Project's Mitigation Monitoring and Reporting Program ("MMRP"). Reliance on "proposed" nonmandatory and unenforceable PDFs to reduce impacts therefore provides no assurance that the Applicant would later comply with the "design features." The PDFs therefore fail to provide the binding mechanism required by CEQA to compel the Applicant's compliance with mitigation following Project approval.

California courts have made clear that mitigation must be incorporated directly into a project's MMRP to be considered enforceable. In *Lotus v. Department*

---

[74] 14 CCR § 15126.2(a).
[75] 14 CCR § 15126.4.
[76] 14 CCR § 15370.
[77] 14 CCR §15126.4(a)(2).

*of Transportation*,[78] an EIR approved by Caltrans contained several measures "[t]o help minimize potential stress on the redwood trees" during construction of a highway. Although those measures were clearly separate mitigation, the project proponents considered them "part of the project." The EIR concluded that due to the planned implementation of those measures, the project would not result in significant impacts. The Court disagreed, finding that the EIR had "disregard[ed] the requirements of CEQA" by "compressing the analysis of impacts and mitigation measures into a single issue." The Court continued, stating "[a]bsent a determination regarding the significance of the impacts … it is impossible to determine whether mitigation measures are required or to evaluate whether other more effective measures than those proposed should be considered."[79]

Similar to the inadequate analysis contained in the *Lotus* EIR, the DEIR asserts that incorporation of their PDFs would reduce the Project's GHG emissions, noise, transportation, and water supply and infrastructure impacts to less than significant levels prior to mitigation. This approach improperly "compress[es] the analysis of impacts and mitigation measures into a single issue."[80] Even if the DEIR's conclusions were accurate, which is unclear, the PDFs must be incorporated into the Project's MMRP as formal mitigation measures in order to be factored into the City's ultimate significance findings. "Simply stating that there will be no significant impacts because the project incorporates 'special construction techniques' is not adequate or permissible."[81]

The City has a duty to disclose unmitigated impacts and compare them to the applicable significance thresholds before applying mitigation measures. As a result of its improper reliance on PDFs, the DEIR underestimates the true unmitigated that will be generated by the Project. The City has already demonstrated it is aware and capable of excluding PDFs in its impact analysis through its decision to complete its air quality impact analysis without accounting for PDFs.[82] It is unclear why the City is inconsistent in its analyses and did not do the same for these other impact analyses. The DEIR must be revised and recirculated to include an accurate analysis of the Project's air quality impacts, and to require that any and all mitigation measures that are intended to reduce emissions are incorporated as binding mitigation in the Project's MMRP.

---

[78] *Lotus v. Dep't of Transp*. (2014) 223 Cal. App. 4th 645, 651-52.
[79] *Id.*
[80] *Id.* at 656.
[81] *Id.* at 657.
[82] DEIR, pg. IV.A-45 ("To provide a conservative analysis these PDFs were not accounted for in the emissions presented below").

**1. The DEIR's GHG Emissions Impact Analysis Improperly Relies on Project Design Features to Conclude that the Project's Impacts Are Less Than Significant.**

In analyzing the Project's GHG Emissions, the DEIR utilizes WAT-PDF-1 to conclude the Project's impacts are less than significant. Specifically, in calculating the annual GHG emissions from water/wastewater, the project "takes into account Project Design Feature WAT-PDF-1."[83] The DEIR concludes that the "Project GHG emissions from water/wastewater usage would result in a . . . reduction in water/wastewater emissions *with implementation of Project Design Feature WAT-PDF-1*."[84] This approach incorrectly dismisses the significance of the Project's actual, unmitigated emissions. Without disclosing the Project's unmitigated GHG emissions, the DEIR only discloses estimated emissions with the application of WAT-PDF-1. This "downward adjustment" of the Project's emissions artificially reduces their significance. The DEIR failed to undertake the requisite analysis required by CEQA Guidelines Section 15126.2 for the Project's GHG emissions because the DEIR did not disclose the Project's GHG emission impacts prior to incorporating WAT-PDF-1.

**2. The DEIR's Noise Impact Analysis Improperly Relies on Project Design Features to Conclude that the Project's Impacts Are Less Than Significant.**

The DEIR proposes NOI-PDF-1 through NOI-PDF-5 relating to noise and vibration.[85] Because these are not formal mitigation measures, these PDFs are neither mandatory nor enforceable. Nevertheless, the DEIR assumes that the PDFs will be implemented and will reduce the Project's noise and vibration impacts, and are used as support for the conclusion that building damage impacts from on-site construction and impacts from on-site stationary noise sources will be less than significant.

For example, the DEIR uses PDFs to conclude that several on-site stationary noise sources would have less than significant impacts. In regard to noise impacts from mechanical equipment, it concludes that "as provided above in Project Design Feature NOI-PDF-3, all outdoor mounted mechanical equipment will be screened from off-site noise-sensitive receptors by the building roof parapet."[86] With respect to outdoor spaces, it finds that "[a]n additional potential noise source would be the

[83] DEIR, pg. IV.D-76
[84] DEIR, pg. IV.D-81 (emphasis added).
[85] DEIR, pg. IV.F-30
[86] DEIR, pg. IV.F-39.

use of an outdoor sound system" but concludes that "[a]s set forth in Project Design Feature NOI-PDF-5, amplified sound system will be designed so as to not exceed the maximum noise levels as shown in Table IV.F-15."[87] With respect to loading dock and trash collection areas, it finds that noise impacts from loading dock and trash compactor operations would be mitigated because "as provided above in Project Design Feature NOI-PDF-4, the loading area will be acoustically screened from off-site noise-sensitive receptors."[88] Thus, the DEIR relies several times on PDFs to conclude that these various on-site stationary sources will have a less than significant impact. Additionally, in the DEIR's analysis of building damage impacts from on-site construction, it intentionally avoids analyzing impact pile driving vibration because NOI-PDF-2 directs the Project not to include the use of driven (impact) pile systems.[89] These analyses should have been completed without consideration of these PDFs.

As with the DEIR's improper use of PDFs with respect to GHG emission impacts, the DEIR's noise and vibration impact analysis violates CEQA as it improperly "compress[es] the analysis of impacts and mitigation measures into a single issue." The DEIR must be revised to assess and disclose the Project's noise and vibration impacts without consideration of the optional and unenforceable PDFs, and to require that any and all mitigation measures that are intended to reduce noise impacts are incorporated as binding mitigation in the Project's MMRP.

### 3. The DEIR Improperly Relies on a Transportation Project Design Feature to Conclude that the Project's Impacts Are Less Than Significant.

The DEIR proposes TR-PDF-1, which would require a Construction Traffic Management Plan that must be prepared and submitted to LADOT for review and approval before construction begins. In its transportation impact analysis, the DEIR concludes that the Project would not result in inadequate emergency access to the Project Site in part because even if the Project may require temporary lane closures, "the remaining travel lanes would be maintained in accordance with the Project's Construction Management Plan prepared and approved by the LADOT pursuant to Project Design Feature TR-PDF-1."[90] It then concludes that the Project would have less than significant impacts on inadequate emergency access and that no

---

[87] *Id.*
[88] DEIR, pg.IV.F-42
[89] DEIR, pg. IV.F-49.
[90] DEIR, pg. IV.H-35.

mitigation measures are required.[91] In so doing, it improperly relies on the PDF as an assured solution to the Project's potential impact.

The DEIR also relies on TR-PDF-1 in its water supply and infrastructure analysis. In concluding that the Project would not require or result in the relocation or construction of certain facilities that could cause significant environmental effects, it finds that "while trenching and installation activities could temporarily affect traffic flow and access on the adjacent streets and sidewalks, a Construction Traffic Management Plan prepared pursuant to TR-PDF-1 … would ensure the safe and efficient flow of vehicular and pedestrian traffic."[92] Thus, the DEIR fails to analyze or disclose a potentially significant impact through using a temporary, unenforceable PDF as a solution. It then uses that altered analysis to ultimately conclude that Project construction and operational impacts would be less than significant, in violation of CEQA.

For the reasons explained above, the DEIR must be revised and recirculated to assess and disclose the Project's transportation impacts—particularly the impact on emergency access—without consideration of optional and unenforceable PDFs, and to require that any and all mitigation measures that are intended to reduce transportation impacts are incorporated as binding mitigation in the Project's MMRP.

**4. The DEIR's Water Supply and Infrastructure Impact Analysis Improperly Relies on a Project Design Feature to Conclude that the Project's Impacts Are Less Than Significant.**

The DEIR proposes WAT-PDF-1 to address water conservation.[93] The PDF is referenced in the DEIR's calculation of the Project's water demand. Specifically, the DEIR notes the estimated daily water demand "*after* implementation of…water conservation measures included as a project design feature."[94] The DEIR ultimately concludes that "the LADWP would have sufficient water supplies to serve the Project's operational activities and therefore the Project's operation-related water supply impacts would be less than significant."[95] The calculation should have been made without the mitigated effects of the PDF. Since PDFs are not required and unenforceable, it is entirely possible that the Project may not utilize the

---

[91] *Id.*
[92] DEIR, pg. IV.J.1-31 (with respect to Project construction); *see also* DEIR, pg. IV.J.1-32. (same conclusion with respect to Project operations).
[93] DEIR, pg. IV.J.1-29
[94] DEIR pg. IV.J.1-34 (emphasis added).
[95] DEIR pg. IV.J.1-38.

conservation efforts mentioned in the PDF leading to a higher daily water demand than disclosed in the DEIR. In fact, the DEIR explicitly states that these water conservation methods are "voluntary."[96]

For the reasons explained above, the DEIR must be revised to assess and disclose the Project's water supply and infrastructure impacts without consideration of optional and unenforceable PDFs, and to require that any and all mitigation measures that are intended to reduce water supply and infrastructure impacts are incorporated as binding mitigation in the Project's MMRP.

## VII. THE DEIR FAILS TO ANALYZE AND MITIGATE THE PROJECT'S POTENTIALLY SIGNIFICANT HEALTH IMPACTS FROM EMISSIONS

The DEIR's air quality analysis includes the conclusions that Project construction and operation will not expose nearby sensitive receptors to substantial pollutant concentrations, finding that such impacts will be less than significant without mitigation.[97] However, these conclusions are not supported by any analysis of the potential health risks of the Project's emissions to nearby residential receptors. The City's significance determination is not supported by accurate scientific and factual data, as required by CEQA.[98] An agency cannot conclude that an impact is less than significant unless it produces rigorous analysis and concrete substantial evidence justifying the finding.[99]

These standards apply to an agency's analysis of public health impacts of a project under CEQA. In *Sierra Club v. County of Fresno*, the California Supreme Court affirmed CEQA's mandate to protect public health and safety by holding that an EIR fails as an informational document when it fails to disclose the public health impacts from air pollutants that would be generated by a development project.[100] In *Sierra Club*, the Supreme Court held that the EIR for the Friant Ranch Project—a 942-acre master-planned, mixed-use development with 2,500 senior residential units, 250,000 square feet of commercial space, and open space on former agricultural land in north central Fresno County—was deficient as a matter of law in its informational discussion of air quality impacts as they relate to adverse human health effects.[101]

---

[96] DEIR, pg. IV.J.1-29 ("This project design feature identifies the additional (*voluntary*) water conservation measures to be implemented as part of the Project…").
[97] DEIR, pgs. IV.A-59—65.
[98] 14 C.C.R. § 15064(b).
[99] *Kings County Farm Bureau*, 221 Cal.App.3d at 732.
[100] *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 518–522.
[101] *Id.* at 507–508, 518–522.

As the *Sierra Club* 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."[102] The Court concluded that the County's EIR was inadequate for failing to disclose the nature and extent of public health impacts caused by the project's air pollution. As the Court explained, the EIR failed to comply with CEQA because after reading the EIR, "the public would have no idea of the health consequences that result when more pollutants are added to a nonattainment basin."[103] CEQA mandates discussion, supported by substantial evidence, of the nature and magnitude of impacts of air pollution on public health.[104]

Furthermore, in *Berkeley Jets*, the Court of Appeal held that a CEQA document must analyze the impacts from human exposure to toxic substances.[105] In that case, the Port of Oakland approved a development plan for the Oakland International Airport.[106] The EIR admitted that the Project would result in an increase in the release of toxic air contaminants ("TACs") and adopted mitigation measures to reduce TAC emissions, but failed to quantify the severity of the Project's impacts on human health.[107] The Court held that mitigation alone was insufficient, and that the Port had a duty to analyze the health risks associated with exposure to TACs.[108] 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."[109]

Here, the DEIR states that the City did not perform a construction health risk analysis due to the "short-term" nature of construction emissions.[110] It states, "[g]iven the short-term construction schedule of approximately 33 months, the Project would not result in a long-term (i.e., 70-year) source of TAC emissions.

---

[102] *Id.* at 519, citing *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 514–515.
[103] *Id.* at 518. CEQA's statutory scheme and legislative intent also include an express mandate that agencies analyze human health impacts and determine whether the "***environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly***." (Public Resources Code § 21083(b)(3) (emphasis added).) Moreover, CEQA directs agencies 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." (Public Resources Code § 21000(d) (emphasis added).)
[104] *Sierra Club*, 6 Cal.5th at 518–522.
[105] *Berkeley Jets*, 91 Cal.App.4th at 1369–1371.
[106] *Id.* at 1349–1350.
[107] *Id.* at 1364–1371.
[108] *Id.*
[109] 14 C.C.R. § 15003(b).
[110] DEIR, pg. IV.A-61

Additionally, the SCAQMD CEQA Guidance does not require a health risk assessment (HRA) for short-term construction emissions."[111] The City's assertion that it need not evaluate health risks from sources lasting less than 70 years is not supported by substantial evidence, and violates CEQA's requirement to 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.[112] Indeed, California's Office of Environmental Health Hazard Assessment's ("OEHHA") risk assessment guidelines recommend a formal health risk analysis ("HRA") for short-term construction exposures lasting longer than 2 months and that exposures from projects lasting more than 6 months should be evaluated for the duration of the project.[113] As Project construction will last nearly 3 years, CEQA requires that the health risk from each of the construction phases be quantified and disclosed. And under the OEHHA risk assessment guidelines, which are used throughout California for assessing health risks under CEQA, the DEIR should include a quantified HRA to assess risks to nearby sensitive receptors from construction emissions.

In evaluating the impact of potential toxic air contaminant (TAC) emissions, the DEIR concludes that "the Project would not result in the exposure of off-site sensitive receptors to carcinogenic or toxic air contaminants that exceed the maximum incremental cancer risk. . . and potential TAC impacts would be less than significant."[114] In fact, the DEIR asserts that the Project's incremental cancer risk due to TAC emissions would be "well below" 10 in one million, and the cancer burden would be less than 0.5 cancer case.[115] However, these conclusions are not supported by substantial evidence because the City did not actually quantify the cancer risk. With respect to the Project's construction activities, the DEIR states that "the greatest potential for TAC emissions during construction would be from diesel particulate emissions associated with heavy equipment operations."[116] Off-site receptors would therefore be exposed to these diesel particulate emissions ("DPM"). But the DEIR's analysis of LSTs does not quantify DPM or any other TAC emissions, because DPM and other TACs are not criteria pollutants. Therefore, the City's analysis of criteria pollutants does not satisfy its obligation to analyze TACs.

---

[111] *Id.*
[112] *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184.
[113] Office of Environmental Health Hazard Assessment (OEHHA), Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments, February 2015 (OEHHA 2015), Section 8.2.10: Cancer Risk Evaluation of Short Term Projects, pp. 8-17/18; https://oehha.ca.gov/air/crnr/notice-adoption-air-toxics-hot-spots-program-guidance-manual-preparation-health-risk-0.
[114] DEIR, pg. IV.A-65.
[115] DEIR, pg. IV.A-64.
[116] DEIR, pg. IV.A-60.

The DEIR does not further analyze TAC impacts of the construction activities because of the "short-term construction schedule."[117] But as discussed above, since project construction will last nearly 3 years, the City should have analyzed the health risk that will be posed by construction activities during that time.

With respect to the Project's operational activities, the DEIR claims that the activities and land uses associated with the project, including diesel particulate matter from delivery trucks, are "not considered uses that generate substantial TAC emissions,"[118] and therefore did not perform a health risk assessment. The DEIR also acknowledges that SCAQMD recommends a health risk assessment be done for substantial individual sources of DPM, but claims that the Project "would not be expected to generate a large number of heavy duty truck trips" because the Project primarily consists of office and retail use.[119] But the Project may still very well produce some TAC emissions that could potentially increase cancer risk. TACs are emitted from a variety of sources, and the expected source of emissions from truck traffic should be properly analyzed to ensure that it would not result in elevated TAC exposure. The DEIR lacks substantial evidence supporting its conclusion that the Project's TAC emissions will not exceed the maximum incremental cancer risk. Because the DEIR lacks any meaningful analysis of the health risks from exposure to TACs, it fails to meet CEQA's informational standards and the City's significance finding is not supported by substantial evidence. The City must prepare a revised DEIR which fully discloses, analyzes and mitigates its impacts.

Because the DEIR lacks any analysis disclosing health risks from exposure to TACs, it fails to meet CEQA's informational standards and the City's significance finding is not supported by substantial evidence. The City must revise the DEIR to include an analysis of the Project's construction and operation health risks.

## VIII. CONCLUSION

For the reasons discussed above, the DEIR for the Project is wholly inadequate under CEQA. It must be 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 additional public review. Until the DEIR has been revised and recirculated, as described herein, the City may not lawfully approve the Project.

---

[117] DEIR, pg. IV.A-61.
[118] DEIR, pg. IV.A-64.
[119] *Id.*

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

Sincerely,

Ariana Abedifard
Richard Franco

Attachment
AA:acp

# EXHIBIT A

WILSON IHRIG
ACOUSTICS, NOISE & VIBRATION

CALIFORNIA
WASHINGTON
NEW YORK

WI #23-005.21

August 7, 2023

Richard M. Franco
Adams Broadwell Joseph & Cardozo
601 Gateway Blvd., Suite 1000
South San Francisco, CA 94080

**SUBJECT: Comments on Violet Street Creative Office Noise Analysis**

Dear Mr. Franco,

Per your request, we have reviewed the subject matter document for the Violet Street Creative Office Draft Environmental Impact Report (DEIR) in Los Angeles, California[1]. The proposed project involves the demolition of 25,798 square feet of warehouse uses and 9,940 square feet of office space as well as the construction, use and maintenance of a 13-story 450,599 square foot mixed-use building with retail and office uses. The project is surrounded by sensitive uses, most notably apartments directly to the north across 7th street and to the east across Mateo Street.

Wilson Ihrig is an acoustical consulting firm that has practiced exclusively in the field of acoustics since 1966. During our almost 57 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 Roadway Construction Noise Model (RCNM), SoundPLAN, and CadnaA. In short, we are well qualified to prepare environmental noise studies and review studies prepared by others.

## Adverse Effects of Noise[2]

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 levels of industrial noise.

[1] Violet Street Creative Office Campus Project, Draft Environmental Report, City of Los Angeles, June 2023
[2] 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)

**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.

**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.

## Construction Noise and Vibration Analysis Underestimates Potential Impacts

### *Construction Vibration Levels do not Include Worst-Case Sources*

Table IV.F-22 presents Construction Vibration Impacts for building damage that could be potentially caused by the project. However, there is no vibratory roller in the construction analysis. Vibratory rollers are generally used to compact soil, gravel, concrete, asphalt or other materials in road construction. The project calls for the demolition and removal of the existing 25,798 square feet of warehouse uses, 9,940 square feet of office uses, and associated surface parking which would then have to be graded to build a new pedestrian plaza with new materials. As such, it is likely that a vibratory roller would be used in the project. According to the Federal Transit Administration Noise and Vibration Impact Assessment Manual[3] the Vibratory Roller has a Peak Particle Velocity (PPV) 0.21 in/sec at 25 feet. This is the same distance between the closest the construction site will be to the historic Ford Factory at 2060 7th street, which has a stated criteria in the DEIR of 0.12 PPV. This means that the closest potential use of a vibratory roller would be considered a significant impact. As such, the DEIR should be re-written to address whether a vibratory roller will be used during construction, or alternately to disclose the significant impact and propose appropriate mitigation measures, such as a requirement of a minimum distance that a vibratory roller could be used, that would reduce the impact.

[3] https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/research-innovation/118131/transit-noise-and-vibration-impact-assessment-manual-fta-report-no-0123_0.pdf Table 7-4

*Source Noise Levels used in the Analysis are Uncited.*

All Tables in section 4 of the DEIR state the source of the sound level is "AES, 2022. See Appendix I of this Draft EIR." Appendix I details the noise calculation worksheets used to determine noise impacts. Several source levels, such as noise from: mechanical equipment (Appendix I, PDF page 66), people (page 70), speakers (page 76), truck loading (page 95), trash compactors (page 97), and parking lots (page 100) are given without context or supporting references. If these are taken from measurements by AES of each of these sources, this should be stated in either section 4 or in Appendix I. If these levels are from the SoundPLAN program defaults, that should be stated as well. Without supporting references, it is impossible to verify the accuracy of the noise source levels or to evaluate the DEIR's noise impacts analysis. The source for the analysis of off-site traffic noise calculations (FHWA TNM Version 2.5 - Appendix I, PDF page 103), construction equipment noise levels (DEIR, page IV.F-32), and construction equipment vibrations levels (DEIR, page IV.F-49) are explicitly given. The current document recognizes that noise sources are important to properly cite. As such, the DEIR should be revised to explicitly include where all noise sources come from, in order to determine reasonable levels are currently being used.

## Project Design Features are Not Proper Mitigation Measures.

On page IV.F-30 the DEIR includes Project Design Features ("PDFs") that are meant to reduce the impact of noise and vibration. However, these features are not designated as mitigation measures and are therefore not mandatory nor enforceable under CEQA. The DEIR must not merely assume that these features will be implemented without demonstrating how the impacts would be reduced to a level below the "significant impact" threshold. The DEIR should be revised to disclose the Project's noise impacts before applying the PDFs. It should also be revised to include these features as mitigation measures and demonstrate how they would bring the project's impacts to an acceptable or less-than-significant level.

These revisions are necessary to fulfill CEQA's purposes of ensuring that decision-makers have a clear understanding of the available options for minimizing environmental impacts and can make informed choices when approving or denying the project.

## Conclusions

There are several errors and omissions in the DEIR noise analysis. Correcting these would potentially identify several significant impacts which require mitigation.

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

Very truly yours,
WILSON IHRIG

Jack Meighan
Associate

Comments on Violet Street Creative Office Noise Analysis.docx

WILSON IHRIG
ACOUSTICS, NOISE & VIBRATION

# JACK MEIGHAN

*Associate*

Jack joined Wilson Ihrig in 2021 and is an experienced acoustics engineer with expertise in projects involving rail transit systems, highways, CEQA analysis, environmental noise reduction, mechanical drawing reviews, and construction noise and vibration mitigation. He has hands-on experience with project management, including client coordination and presentations, as well as in designing, developing, and testing MATLAB code used in acoustics applications. Additionally, his expertise includes taking field measurements, developing test plans and specifying, purchasing, setting up and repairing acoustic measurement equipment. He has experience in using Traffic Noise Model (TNM), CadnaA, EASE, Visual Basic, LabView, and CAD software.

## Education

- B.S. in Mechanical Engineering, University of Southern California, Los Angeles, CA

## Project Experience

***Metro Regional Connector, Los Angeles CA***
Planned, took, and processed measurements as part of a team to determine the effectiveness of floating slab trackwork for a new subway in downtown Los Angeles that travels below the Walt Disney Concert Hall and the Colburn School of Music.

***Rodeo Credit Enterprise CEQA Analysis for New Construction, Palmdale, CA***
Wrote an accepted proposal and executed it for a noise study project to determine noise mitigation requirements on a new housing development. Led all aspects of the project and managed the budget during all phases of project completion. Completed 5 separate projects of this type for this developer.

***Blackhall Studios, Santa Clarita, CA***
Led the vibration measurement effort for a new soundstage directly adjacent to an existing freight and commuter rail line. Tested equipment, processed data, and analyzed results to determine the vibration propagation through the soil to the proposed soundstage locations, and was part of the team that developed mitigation techniques for the office spaces directly next to the rail line.

***Octavia Residential Condos CEQA Study, San Francisco, CA***
Calculated the STC ratings for the proposed windows to meet Title 24 requirements, modeled the acoustic performance of floor and ceiling structures, researched noise codes, helped with a mechanical design review, and wrote a report summarizing the results for a new Condominium project being developed in San Francisco.

***San Diego International Airport Terminal I Replacement, CA***
Conducted interior noise and vibration measurements, analyzed measurement data to help determine project criteria, modeled the existing and future terminals in CadnaA, and was part of a team that did a complete HVAC analysis of the entire terminal, as part of a CEQA analysis where a new terminal for the airport is being designed.

***Five Points Apartments Noise Study, Whittier, CA***
Took measurements, researched sound data and solutions, and recommended mitigation for a new apartment complex that was located next to an existing car wash, as part of a CEQA review.

***USC Ellison Vibration Survey, Los Angeles, CA***
Conducted vibration measurements as part of a survey to determine the effectiveness of vibration isolation platforms that are used to insulate cell growth in a cancer research facility. Determined the effectiveness and presented this information to the client. Researched and recommended a permanent monitoring system so the client could view data in real time.

***TEN50 Condos 'Popping' Noise Investigation, Los Angeles, CA***
Was part of a team that investigated the noise source of an unwanted popping noise in luxury condos in Downtown Los Angeles. Helped isolate the noise source location with accelerometers to determine where vibrations were occurring first and used an acoustic camera to determine where in the condo the noise was coming from.

***2000 University Project, Berkely, CA***
Wrote a construction noise monitoring plan based on environmental noise calculations, wrote a report summarizing the results, and attending a meeting with the client to discuss options.

---

***Bay Area Rapid Transit (BART) On-Track, CA, San Francisco Bay Area, CA****
Day to day project manager, responsible for meetings, presentations, and coordination with the client for an ongoing noise study on the BART system. Developed MATLAB code to process measurements and determine areas where high corrugation was present, contributing to excessively high in-car noise levels. Performed noise measurements inside both the right of way and the vehicle cabin, in addition to rail corrugation measurements.

***California I-605/SR-60 Interchange Improvement, Los Angeles, CA****
Developed a noise model of the area that predicted sound levels for abatement design, in addition to conducting noise measurements and analysis. Led the Team in use of the FHWA Traffic Noise Model Software for the project, involving three major highways and two busy interchanges extending over 17 miles in southern California.

***Sound Transit On-Track, Seattle, WA****
Took measurements, fixed equipment, and developed software in MATLAB to process Corrugation Analysis Trolley measurements as part of an ongoing noise study on the Sound Transit Link system. Tested vibration data to determine the best measurement and processing techniques to store the data in an online database for in-car measurements.

***LA Metro CRRC Railcar Testing, Los Angeles, CA****
Led the effort to plan the measurements, determine measurement locations and finalize the test plan. Formulated a method to capture speed data directly from legacy train vehicles. Executed noise and vibration specification measurements for new rail cars delivered by CRRC.

***City of Los Angeles, Pershing Square Station Rehabilitation Noise Monitoring, CA****
Built noise models, wrote a construction noise plan, and assisted in on-site construction noise issues as they arose for a renovation of the Pershing Square metro station in downtown Los

** Work done prior to working for Wilson Ihrig*

Angeles. Trained construction personnel in techniques for noise reduction and how to conduct noise monitoring measurements to meet project specifications.

***City of Orange Metrolink Parking Garage Construction Monitoring, CA****
Wrote an adaptive management vibration monitoring plan, set up equipment to monitor live vibration levels, and generated weekly reports as part of an effort to build a new parking garage. Designed, planned, and completed measurements to predict and mitigate pile driving construction impacts at three historic building locations adjacent to the construction site. Coordinated with the client whenever an on-site problem arose.

***LA Metro Westside Subway Construction, Los Angeles, CA****
Planned, organized, and processed noise measurements for the Purple Line extension construction. Implemented both long term microphones to measure noise levels and accelerometers to measure vibration levels in existing subway tunnels. Oversaw noise monitoring at sensitive construction sites for the project and worked with the contractor to find ways to reduce construction noise levels by approximately 10dB.

***Montreal Réseau Express Métropolitain, Canada****
Conducted vibration propagation measurements used to create models to predict operational vibration levels for an under-construction transit line. Managed equipment, solved problems in the field, and wrote parts of the report summarizing the findings of the acoustic study.

***NHCRP Barrier****
Took on-highway measurements and wrote, designed, developed, and tested MATLAB code to identify specific spectrograms to use for analyses for a project evaluating barrier reflected highway traffic noise differences in the presence of a single absorptive or reflective noise barrier.

***Siemens Railcar Testing for Sound Transit, Seattle, WA****
Measured in-car noise and vibration for new rail cars delivered by Siemens. Developed new internal techniques for measurements based on the written specifications. Contributed to the team that helped identify issues that new cars had in meeting the Sound Transit specifications for noise and vibration. Participated in developing the test plan and specified then acquired new equipment for the measurement.

***Toronto/Ontario Eglinton Crosstown Light Rail, Final Design, Canada****
Assisted in vibration propagation measurements, analysis, and recommendations for mitigation for a 12-mile light-rail line both on and under Eglinton Avenue. Set up and ran equipment for at-grade measurements with an impact hammer for underground measurements with an impact load cell that was used during pre-construction borehole drilling.

** Work done prior to working for Wilson Ihrig*

# ATTACHMENT B

ADAMS BROADWELL JOSEPH & CARDOZO
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037
TEL: (650) 589-1660
FAX: (650) 589-5062
rfranco@adamsbroadwell.com

ARIANA ABEDIFARD
KEVIN T. CARMICHAEL
CHRISTINA M. CARO
THOMAS A. ENSLOW
KELILAH D. FEDERMAN
RICHARD M. FRANCO
ANDREW J. GRAF
TANYA A. GULESSERIAN
DARION N. JOHNSTON
RACHAEL E. KOSS
AIDAN P. MARSHALL
TARA C. RENGIFO

*Of Counsel*
MARC D. JOSEPH
DANIEL L. CARDOZO

SACRAMENTO OFFICE
520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4721
TEL: (916) 444-6201
FAX: (916) 444-6209

June 25, 2024

**VIA EMAIL**

Hearing Officer
City of Los Angeles Department of City Planning
Attn: Paul Caporaso
221 N. Figueroa Street, Suite 1350
Los Angeles, CA 90012
Email: Paul.Caporaso@lacity.org

**VIA EMAIL**

Rey Fukuda
City of Los Angeles, Department of City Planning
221 N. Figueroa Street, Suite 1350
Los Angeles, CA 90012
Email: Rey.Fukuda@lacity.org

Re: **Agenda Item No. 1- June 26, 2024 City of Los Angeles Hearing Officer hearing on Violet Street Creative Office Campus Project (SCH Number 2022110015; Environmental Case No. ENV -2021-2232-EIR)**

Dear Mr. Caporaso and Mr. Fukuda:

We are writing on behalf of Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA") in opposition to the Violet Street Creative Office Campus Project (SCH Number 2022110015; Environmental Case No. ENV -2021-2232-EIR) ("Project") proposed by Al Violet, LLC and Al Violet B2, LLC ("Applicants"). The Project appears as agenda item No. 1 for the June 26, 2024 City of Los Angeles ("City") Department of City Planning hearing officer agenda. The hearing officer will take public testimony on behalf of the Los Angeles Planning Commission on the Project's Final Environmental Impact Report ("FEIR") and entitlements including a General Plan Amendment, Vesting Zone and Height District Change, Vesting Conditional Use, Zone Variance, and Site Plan Review.

The City, as lead agency under the California Environmental Quality Act[1] ("CEQA"), prepared the Draft Environmental Impact Report ("DEIR") and FEIR for the Project. CREED LA's comments on the DEIR explained how the DEIR failed to comply with CEQA's requirement to act as an informational document, in that it lacked proper analysis in crucial areas including the Project's impacts on public health and noise. Those comments further explained how these flaws made the

[1] Pub. Resources Code ("PRC") §§ 21000 *et seq.*

DEIR deficient as a matter of law because it failed to properly analyze, disclose and mitigate the Project's potentially significant impacts, and lacked substantial evidence supporting the City's conclusions regarding those impacts.

The City's FEIR includes responses to CREED LA's DEIR comments and purports to address the issues raised. As discussed below however, the FEIR fails to adequately resolve these issues or to mitigate all of the Project's potentially significant impacts. We reviewed the FEIR and available supporting documentation with the assistance of air quality expert James Clark Ph.D.[2] We reserve the right to supplement these comments at a later date, and at any later proceedings related to this Project.[3]

## I. STATEMENT OF INTEREST

CREED LA is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public and worker health and safety hazards, and the environmental and public service impacts of the Project. The coalition 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 City of Los Angeles and surrounding areas.

Individual members of CREED LA and its member organizations include Jorge L. Aceves, John P. Bustos, Gerry Kennon, and Chris S. Macias. These individuals live, work, recreate, and raise their families in the City of Los Angeles 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 onsite.

In addition, 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

---

[2] Dr. Clark's technical comments and curricula vitae are attached hereto as Exhibit A ("Clark Comments").

[3] Gov. Code § 65009(b); PRC § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* ("*Bakersfield*") (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

moratoriums and other restrictions on growth that, in turn, reduce future employment opportunities.

## II. THE CITY HAS NOT COMPLIED WITH CEQA BECAUSE FEIR FAILS TO ADEQUATELY DISCLOSE AND MITIGATE THE PROJECT'S SIGNIFICANT HEALTH RISK IMPACTS

The City may not approve the Project at this time because the FEIR fails to adequately disclose and mitigate the project's significant health risk impacts. CEQA requires that a lead agency evaluate and provide a written response to DEIR comments raising significant environmental issues.[4] Such comments must be addressed in detail and include good faith reasoned analysis; conclusory statements unsupported by facts do not suffice.[5] A lead agency's failure to adequately respond to comments raising significant environmental issues before approving a project frustrates CEQA's informational purposes and renders the EIR legally inadequate.[6] Here, the City failed to adequately respond to CREED LA's DEIR comments with respect to the Project's significant health risks fails to adequately respond lack any reasoned analysis and include wholly conclusory statements unsupported by any facts. The FEIR is therefore legally inadequate under CEQA and the Commission may not certify the FEIR nor grant the requested Project approvals at this time.

CREED LA's comments on the DEIR explained that the City's air quality and health risk analysis failed to address health risks associated with emissions of toxic diesel particulate matter ("DPM") from the Project's construction equipment. The comments explained the California Supreme Court's recognition of CEQA's mandate to protect public health and safety by holding that an EIR fails as an informational document when it fails to disclose the public health impacts from air pollutants that would be generated by a development project.[7] The DEIR stated that the City did not perform a construction health risk analysis because it claimed that the "short-term" nature of construction emissions did not warrant analysis.[8] The DEIR asserted that, "[g]iven the short-term construction schedule of approximately 33 months, the Project would not result in a long-term (i.e., 70-year) source of TAC emissions. Additionally, the SCAQMD CEQA Guidance does not require a health risk assessment (HRA) for short-term construction emissions."[9] CREED LA's DEIR comments explained that the City's position violated CEQA's

---

[4] 14 CCR § 15088(a).
[5] 14 CCR § 15088(c).
[6] *Flanders Found. v. City of Carmel-by-the-Sea* (2012) 202 Cal.App.4th 603, 615-17; *Rural Landowners Ass'n v. City Council* (1883) 143 Cal.App.3d 1013, 1020.
[7] *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 518–522.
[8] DEIR, pg. IV.A-61
[9] *Id.*

requirement to 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.[10]

This failure has not been remedied in the FEIR. In the FEIR's response to comments, the City continues to maintain that it is not required to perform a health risk analysis or otherwise analyze or disclose the health risks from Project construction.[11] Nevertheless, in response to CREED LA's comments, the City included in the FEIR a quantitative health risk analysis ("HRA") "to confirm, as the Draft EIR concludes, that no significant health risk impacts would occur from the Project."[12] This HRA purports to show that the carcinogenic risk from the Project would be a maximum of 1.0 in one million for residents adjacent to the Project site, which is below the applicable South Coast Air Quality Management District ("SCAQMD") significance threshold of 10 in one million for carcinogen exposures.[13]

As discussed below, Dr. Clark reviewed the City's HRA and found that the HRA improperly failed to include age sensitivity factors and as a result, the HRA fails to accurately calculate the risk from Project DPM emissions on residents near the Project site.

### A. The FEIR Fails to Disclose that Diesel Exhaust is a Mutagenic Compound

In performing the HRA, the City's consultant failed to incorporate age sensitivity factors in calculating health risks from DPM. To justify this failure, it claims that HRA's need only incorporate age adjustment factors when carcinogens act "through the mutagenic mode of action."[14] This claim cites a 2006 USEPA Guidance document that identifies several constituents of DPM as exhibiting a mutagenic mode of action; however, the City claims that, to date, the USEPA reports that whole diesel engine exhaust has not been shown to elicit a mutagenic mode of action."[15] In other words, the City's consultant admits that several DPM constituents are known to be mutagenic, but asserts that diesel engine exhaust "as a whole" is not.

---

[10] *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184.
[11] FEIR, pg. II-69.
[12] *Id.*
[13] *Id.*
[14] FEIR, Appendix FEIR-2, Health Risk Assessment, pg. 6.
[15] *Id.*

As Dr. Clark explains, the City's position is not supported by the evidence.[16] He cites USEPA's comprehensive review of toxicity data for diesel engine exhaust, which unequivocally found that diesel exhaust is a likely human carcinogen with mutagenic modes of action. As Dr. Clark points out, the basis for this conclusion by USEPA includes "extensive supporting data including *the demonstrated mutagenic and/or chromosomal effects of DE* [diesel exhaust] 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 [emphasis added]."[17] Dr. Clark further explains that the State of California has expressed in similarly explicit language that diesel exhaust is mutagenic: "*diesel exhaust particles or extracts of diesel exhaust particles are mutagenic* 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 [emphasis added]."[18]

The City's position that diesel exhaust is not mutagenic lacks the support of substantial evidence, and is flatly contradicted by scientific evidence provided by Dr. Clark. This is contrary to CEQA's requirement that the determination of whether a project may have a significant effect on the environment be based on scientific and factual data.[19] Accordingly, the HRA should have included age sensitivity factors when calculating the Project's health risks from DPM.

### B. With Proper Age Sensitivity Factors Applied, the Project HRA Reveals Significant and Unmitigated Health Risks

As Dr. Clark explains, federal (USEPA), state (CA OEHHA) and local (SCAQMD) public health organizations all agree that health risk analysis should include age sensitivity factors when evaluating cancer risks.[20] The importance of using age sensitivity factors in health risk analysis is explained by SCAQMD in its Risk Assessment Procedures guidance document:

> Scientific data have shown that young animals are more sensitive than adult animals to exposure to many carcinogens. Therefore, OEHHA developed ASFs to take into account the increased sensitivity to

[16] Clark Comments, pgs. 2-3.
[17] U.S. EPA. 2003. Weight of Evidence For Cancer, cited in Clark Comments, pg. 3.
[18] CARB. 1998. Findings of the Scientific Review Panel on The Report On Diesel Exhaust, cited in Clark Comments, pg. 3.
[19] 14 CCR § 15064(b)(1).
[20] Clark Comments, pgs. 3-4.

> carcinogens during early-in-life exposure. OEHHA recommends an ASF of 10 for exposures that occur from the third trimester of pregnancy to 2 years, and an ASF of 3 for exposures that occur from 2 years through 15 years of age.[21]

Despite the consensus from regulatory agencies regarding the importance of age sensitivity factors to account for the increased sensitivity of younger receptors, the City's analysis omits this crucial step. Dr. Clark used the City's own HRA, and re-calculated the risks of exposure to DPM from the Project's construction phase to the most sensitive receptors (i.e., infants) using the OEHHA-recommended age sensitivity factors.[22] He found that the resultant cancer risk to infants is 130 in one million, well above the SCAQMD's significance threshold of 10 in one million.[23] Dr. Clark's analysis provides overwhelming evidence that a proper health risk analysis reveals a significant health risk from exposure to the Project's diesel emissions.

### C. The City Must Adopt Feasible Mitigation Measures to Address the Project's Significant Health Risks

CEQA requires lead agencies to avoid or reduce environmental damage when feasible by adoption of all feasible mitigation measures.[24] 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."[25] 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 the greatest extent feasible and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns."[26]

The FEIR for this project currently includes a single Project Design Feature and no enforceable mitigation measure to reduce diesel emissions associated with Project construction. Dr. Clark identifies several commonly used and feasible mitigation measures to reduce construction emissions. These include:

---

[21] SCAQMD. Risk Assessment Procedures For Rules 1401, 1401.1 and 212. Version 8.1. Dated September 2, 2017 pg. 7, cited in Clark Comments pg. 4.
[22] Clark Comments, pgs. 3-4 and Exhibit B.
[23] *Id.*
[24] CEQA Guidelines §§ 15002(a)(2)-(3), 15126.4.
[25] CEQA Guidelines § 15002(a)(2).
[26] PRC § 21081(a)(3), (b); CEQA Guidelines §§ 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.

1. Require zero-emissions or near-zero emission on-road haul trucks such as heavy-duty trucks with natural gas engines that meet the CARB's adopted optional NOx emissions standard at 0.02 grams per brake horsepower-hour (g/bhp-hr), if and when feasible. At a minimum, require that construction vendors, contractors, and/or haul truck operators commit to using 2017 model year trucks (e.g., material delivery trucks and soil import/export) that meet CARB's 2017 engine emissions standards at 0.01 g/bhp-hr of particulate matter (PM) and 0.20 g/bhp-hr of NOx emissions or newer, cleaner trucks.

2. Provide electric vehicle (EV) Charging Stations for zero emission vehicles.

3. Install Diesel Particulate Filter (DPF) systems or Diesel Oxidation Catalysts on construction equipment that is 50 hp or greater.

4. California regulations limit idling from both on-road and offroad diesel-powered equipment. The California Air Resources Board (CARB) enforces idling limitations and compliance with diesel fleet regulations.

    a. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes [California Code of Regulations, Title 13, sections 2449(d)(3) and 2485]. Provide clear signage that posts this requirement for workers at the entrances to the site.

    b. Provide current certificate(s) of compliance for CARB's In-Use Off Road Diesel-Fueled Fleets Regulation [California Code of Regulations, Title 13, sections 2449 and 2449.1]. For more information contact CARB at 877-593-6677, doors@arb.ca.gov, or www.arb.ca.gov/doors/compliance_cert1.html.

    c. Use only construction equipment rated by the United States Environmental Protection Agency as having Tier 4 (model year 2008 or newer) Final or stricter emission limits for all off-road construction equipment.

    d. During construction, the construction contractor shall maintain a list of all operating equipment in use on the construction site for verification by the City. The construction equipment list shall state

the makes, models, Equipment Identification Numbers, Engine Family Numbers, and number of construction equipment on-site.

5. Limit the daily number of trucks allowed at the Proposed Project to levels analyzed in the CEQA document. If higher daily truck volumes are anticipated to visit the site, the City as the Lead Agency should commit to re-evaluating the Proposed Project through CEQA prior to allowing this land use or higher activity level.

These are but a few examples of feasible mitigation measures that can be utilized to reduce the Project's significant health risks from diesel emissions. The City must prepare a revised DEIR that fully analyzes, discloses and mitigates the public health risk from diesel emissions associated with the Project's construction and operations.

## III. CONCLUSION

For the foregoing reasons, the City should revise and recirculate the DEIR with a full analysis of the Project's potentially significant impacts and propose appropriate mitigation.

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

Sincerely,

Richard M. Franco

Attachment
RMF:acp

# EXHIBIT A

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

June 24, 2024

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

**Attn: Mr. Richard Franco**

**Subject: Comment Letter on Final Environmental Impact Report (FEIR) Violet Street Creative Office Campus Project. (2030, 2034, 2038, 2042, 2046, 2054, and 2060 East 7th Street; 715, 721, 725, 729, 733, 777, 801, 805, 809, 813, 817, 821, 825, 827, and 829 East Santa Fe Avenue; 2016, 2020, 2023, 2026, 2027, 2030, 2031, 2034, 2035, 2037,2038, 2040; and 2043 East 7th Place and 2017, 2023, 2027, 2031, 2035, 2039, 2045, and 2051 Violet Street, Los Angeles, California 90021), Los Angeles, CA ENV-2021-2232-EIR.**

Dear Mr. Franco:

At the request of Adams Broadwell Joseph & Cardozo (ABJC), Clark and Associates (Clark) has reviewed materials related to the above referenced project.

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

**Project Description:**

In the Health Risk Assessment for the Violet Street Creative Office Campus Project (Project) prepared by Eyestone Environmental, the Project is described as a new 13-story (including mechanical penthouse), 450,599-square-foot commercial building, featuring up to 435,100 square feet of office uses, 15,499 square feet of ground floor retail and/or restaurant uses, and 1,264 automobile parking spaces in one at-grade, two above-grade, and four below-grade parking

levels within Lot 1 of the Project Site, located at the southwestern corner of the Project Site.

In response to comments from Adams Broadwell Joseph and Cardozo (ABJC) on behalf of the Coalition for Responsible Equitable Economic Development Los Angeles (CREED LA), Eyestone performed an air dispersion model and health risk analysis of the emissions of diesel particulate matter from the Project. Eyestone concluded that the emissions from the Project would not pose a risk above the threshold of significance above the SCAQMD's cancer risk threshold of 10 in 1,000,000. This conclusion is in conflict with the facts provided within the FEIR.

**Specific Comments:**

1. **The HRA Erroneously Claims That Diesel Exhaust Is Not A Mutagenic Compound**

In the Introduction to the Health Risk Assessment prepared for the Project,[1] Eyestone states that based on [*sic,* their] review of relevant guidance on the applicability of the use of early life exposure adjustments to identified carcinogens, the use of these factors would not be applicable to this HRA as neither the Lead Agency nor SCAQMD have developed recommendations on whether these factors should be used for CEQA analyses of potential DPM construction or operational impacts. Eyestone goes on to state that adjustment factors are only considered when carcinogens act "through the mutagenic model of action." Therefore, early life exposure adjustments were not considered in this HRA. [2]

This assertion ignores the substantial evidence in the literature to support the use of early life adjustments. The U.S. EPA and the State of California spent considerable time and resources to evaluate the literature regarding exposure to diesel exhaust (DE) and in particular diesel particulate matter (DPM). In the supporting literature cited by both regulatory bodies, the state of information (all available studies including in vitro (cellular studies) and in vivo studies (whole animal or human

[1] Eyestone. 2023. Health Risk Assessment Violet Street Creative Office Campus Project. Prepared by Eyestone Environmental, LLC. Dated November, 2023. Pg 6

[2] ibid

exposure studies) were summarized. Studies supporting the mutagenic mode of action and not supporting the mutagenic mode of action were evaluated.

The U.S. EPA states clearly in its Weight-of-Evidence Characterization of Diesel Exhaust[3], found at the IRIS website, that "extensive supporting data including the demonstrated mutagenic and/or chromosomal effects of DE (*sic* Diesel Exhaust) 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."

The State of California's Scientific Review Panel's 1998 Report On Diesel Exhaust is very clear about the mode of action for DPM. In the Health Effects Section of the Report's Summary[4], the Board (made up of health scientists including toxicologists) states "Diesel exhaust particles or extracts of diesel exhaust particles are mutagenic 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." Whether one assesses the mode of action through in-vitro studies or in vivo studies it is clear that there is an overwhelming consensus of health scientists and toxicologists that study the matter that DPM meets the criteria for being deemed a mutagenic compound and therefore the use of age sensitivity factors is warranted.

## 2. The HRA Fails To Accurately Calculate The Risk From DPM Emissions On Residents Near The Project Site

The assertion by Eyestone that there is no need to use age adjustment factors since the Lead Agency (the City) and SCAQMD have not developed guidance ignores the standards for CEQA documents commonly prepared in the South Coast Air Basin. A clear example of the use of ASFs in SCAQMD's jurisdiction is the Norwalk Entertainment District Specific Plan. In its 2022 construction activities HRA, the City of Norwalk specifically used the ASFs consistent with the Office of Environmental Health Hazard Assessment's (OEHHA) Air Toxics Hot Spots Program Guidance

[3] U.S. EPA. 2003. Weight of Evidence For Cancer. https://iris.epa.gov/static/pdfs/0642_summary.pdf Pg 11.

[4] CARB. 1998. Findings of the Scientific Review Panel on The Report On Diesel Exhaust as adopted at the Panel's April 22, 1998, Meeting. https://ww2.arb.ca.gov/sites/default/files/classic/toxics/dieseltac/de-fnds.pdf

Manual for the Preparation of Health Risk Assessments and the SCAQMD's Risk Assessment Procedures for Rules 1401, 1401.1, and 212 to ensure that the health impacts from construction activities would assess risks for susceptible subpopulations such as children (see attachment).

Therefore, to be consistent with the SCAQMD's guidance on health risks in the Air Basin[5] which includes ASFs in the calculation of exposure for the maximum individual cancer risk (MICR) and the State's designation of DPM as a mutagenic chemical, the City must evaluate the health risk from exposure to DPM in a manner consistent with the guidance from the State.[6] 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. [7,8,9,10]

Using the residential receptor spreadsheet on page 87 of the pdf version Health Risk Assessment, I have re-calculated the risk from exposure to DPM from the construction phase to the most sensitive receptors (infants). Using the modeled concentration of 0.354 ug/m$^3$ the resultant cancer risk is 130 in 1,000,000, well above the SCAQMD's significance threshold. Based on this analysis it is clear that the City must require a significant amount of mitigation of construction emissions to ensure that the DPM emissions from the Project site do not adversely impact residents. To that end the City must re-evaluate the risk using the ASFs in the calculation of the risks to the residents nearby and present the results in a revised FEIR.

---

[5] SCAQMD. Risk Assessment Procedures For Rules 1401, 1401.1 and 212. Version 8.1. Dated September 2, 2017 pgs 7,12

[6] OEHHA. 2015. *Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments.* Dated February 2015.

[7] *ibid*.

[8] U.S. EPA. 2005. Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens. EPA/630/R-03/003F March 2005. Pg 33.

[9] U.S. EPA. 2011. Age Dependent Adjustment Factor (ADAF) Application.

[10] SCAQMD. Risk Assessment Procedures For Rules 1401, 1401.1 and 212. Version 8.1. Dated September 2, 2017 pgs 7,12

3. **The City Must Include Feasible Mitigation Measures In a Revised DEIR To Ensure That DPM Emissions From The Construction Phase Do Not Adversely Impact The Health Of Residents Near The Project Site**

Reasonable and feasible mitigation measures that have previously been recommended by the California Air Resources Board and the South Coast Air Quality Management District to reduce construction emissions that could be immediately adopted for the Project include:

1. Require zero-emissions or near-zero emission on-road haul trucks such as heavy-duty trucks with natural gas engines that meet the CARB's adopted optional NOx emissions standard at 0.02 grams per brake horsepower-hour (g/bhp-hr), if and when feasible. At a minimum, require that construction vendors, contractors, and/or haul truck operators commit to using 2017 model year trucks (e.g., material delivery trucks and soil import/export) that meet CARB's 2017 engine emissions standards at 0.01 g/bhp-hr of particulate matter (PM) and 0.20 g/bhp-hr of NOx emissions or newer, cleaner trucks4. Include environmental analyses to evaluate and identify sufficient power available for zero emission trucks and supportive infrastructures in the Energy and Utilities and Service Systems Sections in the CEQA document, where appropriate. The Lead Agency should include the requirement of zero-emission or near-zero emission heavy-duty trucks in applicable bid documents, purchase orders, and contracts. Operators shall maintain records of all trucks associated with project construction to document that each truck used meets these emission standards, and make the records available for inspection. The Lead Agency should conduct regular inspections to the maximum extent feasible to ensure compliance.
2. Provide electric vehicle (EV) Charging Stations for zero emission vehicles.
3. Install Diesel Particulate Filter (DPF) systems or Diesel Oxidation Catalysts on construction equipment that is 50 hp or greater.
4. California regulations limit idling from both on-road and offroad diesel-powered equipment. The California Air Resources Board (CARB) enforces idling limitations and compliance with diesel fleet regulations.
    a. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes [California Code of Regulations, Title 13, sections

2449(d)(3) and 2485]. Provide clear signage that posts this requirement for workers at the entrances to the site.

b. Provide current certificate(s) of compliance for CARB's In-Use Off-Road Diesel-Fueled Fleets Regulation [California Code of Regulations, Title 13, sections 2449 and 2449.1]. For more information contact CARB at 877-593-6677, doors@arb.ca.gov, or www.arb.ca.gov/doors/compliance_cert1.html.:

c. Use only construction equipment rated by the United States Environmental Protection Agency as having Tier 4 (model year 2008 or newer) Final or stricter emission limits for all off-road construction equipment.

d. During construction, the construction contractor shall maintain a list of all operating equipment in use on the construction site for verification by the City. The construction equipment list shall state the makes, models, Equipment Identification Numbers, Engine Family Numbers, and number of construction equipment on-site.

5. Limit the daily number of trucks allowed at the Proposed Project to levels analyzed in the CEQA document. If higher daily truck volumes are anticipated to visit the site, the City as the Lead Agency should commit to re-evaluating the Proposed Project through CEQA prior to allowing this land use or higher activity level.

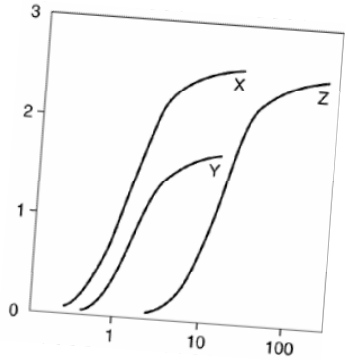
## Conclusion

The facts identified and referenced in this comment letter lead me to reasonably conclude that the Project could result in significant impacts if allowed to proceed. A revised FEIR should be prepared to address these substantial concerns.

Sincerely,

Exhibit A:

Curriculum Vitae




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

# *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 Litgation 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 Immanent 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 (M*t*BE) 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 M*t*BE. 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 M*t*BE, and is suspected to be the primary cause of M*t*BE 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 were 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 Equialency 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.

Rosenfeld, P.E., **Clark, J. J.,** Hensley, A.R., and Suffet, I.H. 2007. "The Use Of An Odor Wheel Classification For The Evaluation of Human Health Risk Criteria For Compost Facilities" Water Science & Technology. 55(5): 345-357.

Hensley A.R., Scott, A., Rosenfeld P.E., **Clark, J.J.J.** 2006. "Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility." The 26th International Symposium on Halogenated Persistent Organic Pollutants – DIOXIN2006, August 21 – 25, 2006. Radisson SAS Scandinavia Hotel in Oslo Norway.

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

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

**Clark, J.J.J**. 2003. "Manufacturing, Use, Regulation, and Occurrence of a Known Endocrine Disrupting Chemical (EDC), 2,4-Dichlorophnoxyacetic 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.

Rosenfeld, P. and **J.J.J. Clark**. 2003. "Understanding Historical Use, Chemical Properties, Toxicity, and Regulatory Guidance" National Groundwater Association Southwest Focus Conference: Water Supply and Emerging Contaminants. Phoenix, AZ. February 21, 2003.

**Clark, J.J.J.**, Brown A. 1999. Perchlorate Contamination: Fate in the Environment and Treatment Options. In Situ and On-Site Bioremediation, Fifth International Symposium. San Diego, CA, April, 1999.

**Clark, J.J.J.** 1998. Health Effects of Perchlorate and the New Reference Dose (RfD). Proceedings From the Groundwater Resource Association Seventh Annual Meeting, Walnut Creek, CA, October 23, 1998.

Browne, T., **Clark, J.J.J.** 1998. Treatment Options For Perchlorate In Drinking Water. Proceedings From the Groundwater Resource Association Seventh Annual Meeting, Walnut Creek, CA, October 23, 1998.

**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.

**Clark, J.J.J.**; Corbett, G.E.; Kerger, B.D.; Finley, B.L.; Paustenbach, D.J. 1996. Dermal Uptake of Hexavalent Chromium In Human Volunteers: Measures of Systemic Uptake From Immersion in Water At 22 PPM. Toxicologist. 30(1):14.

Dodge, D.G.; **Clark, J.J.J.**; Kerger, B.D.; Richter, R.O.; Finley, B.L.; Paustenbach, D.J. 1996. Assessment of Airborne Hexavalent Chromium In The Home Following Use of Contaminated Tapwater. Toxicologist. 30(1):117-118.

Paulo, M.T.; Gong, H., Jr.; **Clark, J.J.J.** (1992). Effects of Pretreatment with Ipratroprium Bromide in COPD Patients Exposed to Ozone. American Review of Respiratory Disease. 145(4):A96.

Harber, P.H.; Gong, H., Jr.; Lachenbruch, A.; **Clark, J.**; Hsu, P. (1992). Respiratory Pattern Effect of Acute Sulfur Dioxide Exposure in Asthmatics. American Review of Respiratory Disease. 145(4):A88.

McManus, M.S.; Gong, H., Jr.; Clements, P.; **Clark, J.J.J.** (1991). Respiratory Response of Patients With Interstitial Lung Disease To Inhaled Ozone. American Review of Respiratory Disease. 143(4):A91.

Gong, H., Jr.; Simmons, M.S.; McManus, M.S.; Tashkin, D.P.; Clark, V.A.; Detels, R.; **Clark, J.J.** (1990). Relationship Between Responses to Chronic Oxidant and Acute

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.

Exhibit B:

DPM Risk Calculations

**Risk Calculations For Diesel Exhaust From Construction Phase**

**$Risk_{inh\text{-}res} = Dose_{air} * CPF * ASF * ED/AT$**

**$Dose_{air} = C_{air} * \{BR/BW\} * A * EF * 10^{-6}$**

| Variable | Description | Units | Value |
|---|---|---|---|
| **$Risk_{inh\text{-}air}$** | Residential inhalation cancer risk | Unitless | Calculated |
| **$Dose_{air}$** | Daily inhalation dose | mg/kg-day | Calculated |
| **CPF** | Inhalation cancer potency factor | $(mg/kg\text{-}day)^{-1}$ | Chemical Specific |
| **ASF** | Age sensitivity factor for a specified age group | Unitless | Calculated |
| **ED** | Exposure duration (in years) for a specified age group | years | Calculated |
| **AT** | Averaging time for lifetime caner risk | years | 70 |
| **FAH** | Fraction of time spent at home | Unitless | Calculated |

| Variable | Description | Units | |
|---|---|---|---|
| **$Dose_{air}$** | Daily inhalation dose | mg/kg-day | |
| **$C_{air}$** | Concentration in air | $ug/m^3$ | 0.354 |
| **{BR/BW}** | Daily Breathing rate normalized to body weight | L/kg body weight-day | |
| **A** | Inhalation absorption fraction | Unitless | |
| **EF** | Exposure frequency (days/365 days) | Unitless | |
| **$10^{-6}$** | migrograms to milligrams conversion, liters to cubic meters conversion | Unitless | |

2.29E+01

**Residential Exposures**

| Age Group | Risk | Age Sensitivity | FAH | ED | CPF | Dose Air | Cair | EF |
|---|---|---|---|---|---|---|---|---|
| 3rd Trimester | 4.81E-06 | 10 | 1 | 0.25 | 1.1 | 1.23E-04 | 0.354 | 0.958904 |
| 0-1 | 5.81E-05 | 10 | 1 | 1 | 1.1 | 3.70E-04 | 0.354 | 0.958904 |
| 1-2 | 5.81E-05 | 10 | 1 | 1 | 1.1 | 3.70E-04 | 0.354 | 0.958904 |
| 2-3 | 8.42E-06 | 3 | 1 | 0.92 | 1.1 | 1.94E-04 | 0.354 | 0.958904 |
| 3-4 | 0.00E+00 | 3 | 1 | 0 | 1.1 | 1.94E-04 | 0.354 | 0.958904 |
| 2<9 | 0.00E+00 | 3 | 0.72 | 0 | 1.1 | 2.92E-04 | 0.354 | 0.958904 |
| 2<16 | 0.00E+00 | 3 | 0.72 | 0 | 1.1 | 2.53E-04 | 0.354 | 0.958904 |
| 16<30 | 0.00E+00 | 1 | 0.73 | 0 | 1.1 | 1.14E-04 | 0.354 | 0.958904 |
| 16-70 | 0.00E+00 | 1 | 0.73 | 0 | 1.1 | 9.84E-05 | 0.354 | 0.958904 |

3rd trimeseter to 3.17 1.30E-04

# EXHIBIT B

ADAMS BROADWELL JOSEPH & CARDOZO
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037
TEL: (650) 589-1660
FAX: (650) 589-5062
kfederman@adamsbroadwell.com

KEVIN T. CARMICHAEL
CHRISTINA M. CARO
THOMAS A. ENSLOW
KELILAH D. FEDERMAN
RICHARD M. FRANCO
ANDREW J. GRAF
TANYA A. GULESSERIAN
DARION N. JOHNSTON
RACHAEL E. KOSS
AIDAN P. MARSHALL
ALAURA R. McGUIRE
TARA C. RENGIFO

*Of Counsel*
MARC D. JOSEPH
DANIEL L. CARDOZO

SACRAMENTO OFFICE
520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4721
TEL: (916) 444-6201
FAX: (916) 444-6209

November 12, 2024

**Via Email and Overnight Mail**

Vincent P. Bertoni, AICP, Director
Rey Fukuda, Planning Assistant
Kathleen King, City Planner
City of Los Angeles
Department of City Planning
221 N Figueroa St Suite 1350
Los Angeles, CA 90012
**Email:** rey.fukuda@lacity.org, vince.bertoni@lacity.org

Monique Lawshe, President
Elizabeth Zamora, Vice President
Commissioners: Maria Cabildo, Caroline Choe, Martina Diaz, Phyllis Klein, Karen Mack, Michael Newhouse
Los Angeles City Planning Commission
**Email:** cpc@lacity.org

**Re: Appeal of Vesting Tentative Tract No. 83382 for Violet Street Creative Office Campus Project (VTT-83382, ENV-2021-2232-EIR; SCH # 2021110015)**

Dear Director Bertoni, Mr. Fukuda, Ms. King, and City Planning Commissioners:

On behalf of the Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA"), we submit these comments in support of CREED LA's appeal of the City of Los Angeles ("City") Advisory Agency's August 29, 2024 approval of the Violet Street Creative Office Campus Project (VTT-83382; CPC-2021-2231-GPA-VZC-HDVCU-ZV-SPR; ENV-2021-2232-EIR) ("Project") located at 2045 Violet Street (2030-2060 East 7th Street; 715-829 East Santa Fe Avenue; 2016-2040 and 2023-2043 East 7th Place; and 2017-2051 Violet Street), Los Angeles, CA 90021.

On September 6, 2024, CREED LA appealed the Advisory Agency's decision on the grounds that 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.[1] The Staff Report prepared for the November 14, 2024 City Planning Commission hearing on CREED LA's appeal ("Staff Report")[2] relies on unsupported and outdated studies and fail to disclose or mitigate the Project's potentially significant fire hazard, air quality, health risk, land use, and public utilities impacts. The FEIR's analysis and mitigation of these impacts remain

[1] Code Civ. Proc § 1094.5(b); *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515.
[2] City of Los Angeles, Department of City Planning, Appeal Recommendation Report VTT-83382-1A ENV-2021-2232-EIR (Nov. 14, 2024) (hereinafter "Staff Report").

substantially inaccurate and incomplete, failing to comply with the requirements of CEQA. As a result of these significant and unmitigated impacts, the City cannot make the requisite findings under the Los Angeles Municipal Code ("LAMC") to make the approvals. CREED LA's comments on the DEIR, FEIR, and on appeal demonstrate that the FEIR fails to comply with CEQA. CREED LA's appeal provided substantial evidence that the Project (1) is not consistent with numerous General Plan policies and (2) is not consistent with the Subdivision Map Act which prohibits approval of a VTTM where it is likely to cause serious public health problems.[3] In addition, these comments demonstrate that the Project does not have sufficient water supply and infrastructure to achieve the minimum necessary fire flow for the Project.

The City Planning Commission ("Commission") cannot uphold the Advisory Agency's approval due to the unresolved errors and omissions in the FEIR and Staff Report. These errors must be remedied in a revised EIR which fully discloses and mitigates the Project's potentially significant environmental and public health impacts. **CREED LA respectfully requests that the Commission uphold CREED LA's appeal, vacate the Advisory Agency's approval of the Project, and direct staff to revise and recirculate the EIR for public review.**

### A. The Project Results in Significant Health Risk Impacts

The Staff Report does not remedy the FEIR's failure to analyze and mitigate the Project's significant health risk impacts. Dr. James Clark found that the City's adherence to Southern California Air Quality Management District (SCAQMD) Rule 403 would not adequately mitigate impacts associated with diesel particulate matter ("DPM") emissions. DPM is a toxic air contaminant. The City's failure to mitigate DPM emissions results in the Project's nonconformance with General Plan Air Quality Element Policy 1.3.1[4]

Further, the City's position that diesel exhaust is not mutagenic lacks substantial evidence, and is flatly contradicted by scientific evidence provided by Dr. Clark. The City's conclusion is contrary to CEQA's requirement that the determination of a project's significant effect on the environment be based on scientific and factual data.[5] Accordingly, the health risk assessment for the Project should have included age sensitivity factors when calculating the Project's health risks from DPM. Utilizing the correct age sensitivity factors, Dr. Clark re-calculated the risks of exposure to DPM from the Project's construction phase and found a significant health risk.[6] Dr. Clark's analysis provides substantial evidence that the Project results in significant public health and safety impacts on the community from exposure to the Project's diesel emissions. Due to the Project's significant health and safety risk from DPM during the Project's construction phase, the City cannot make the necessary findings to approve the VTTM, and the Advisory Agency's approval of the VTTM must be overturned.

---

[3] Cal. Gov. Code § 66473.5; 66474(f).
[4] City of Los Angeles, Plan for a Healthy Los Angeles A Health, Wellness, and Equity Element of the General Plan (Nov. 2021) p. 152.
[5] 14 CCR § 15064(b)(1).
[6] **Exhibit A -** Clark Comments, p. 1.

**B. The City Lacks Substantial Evidence to Demonstrate that Fire Flow Requirements Can be Served by Project Infrastructure**

Following CREED LA's appeal, and upon further investigation with the assistance of Fire Protection Engineer and Fire Flow Expert Robert Burtt of Burtt Engineering, CREED LA found that substantial infrastructure improvements are required for the Project to comply with LAMC Fire Code. These issues are not analyzed in the FEIR and the infrastructure improvements are not required as Conditions of Approval. The DEIR provides that "the Project Site currently does not have adequate fire flow to demonstrate compliance with the standards specified in LAMC Section 57.507.3.1."[7] The Staff Report provides that "2 public fire hydrants are required."[8] Mr. Burtt's comments provide substantial evidence that the fire hydrants at the Project site exceed maximum spacing requirements. Therefore, additional infrastructure improvements are required, including the installation of up to 6-10 additional hydrants adjacent to the Project site and the replacement of existing hydrant infrastructure with 4-inch x 4-inch double fire hydrants to meet LAMC hydrant type and spacing requirements for the Project.[9] Mr. Burtt found that the FEIR and Staff Report lack substantial evidence to show that the planned upgrade of 400 feet of water main in 7th Place to 12-inch ductile main would provide adequate fire flow.[10] Mr. Burtt's comments provide substantial evidence that additional infrastructure improvements including several thousand feet of additional water main upgrades will likely be required.[11]

Fire flow infrastructure improvements would result in significant impacts to traffic and transportation, require street excavation and subsequent repair to access water mains.[12] Excavation would require demolition, disruption, and removal of portions of the street along the entire length of water main upgrade, and would entail excavation and removal asphalt, soils, and trench backfill materials.[13] New, upsized piping would likely be required, along with new trench backfill, soil, compaction, and new street asphalt work along the entire length of work. This information must be analyzed in a revised and recirculated EIR which accurately addresses and mitigates the potentially significant impacts associated with fire flow infrastructure and construction and installation of the upgrades to achieve the minimum necessary fire flow for the Project.

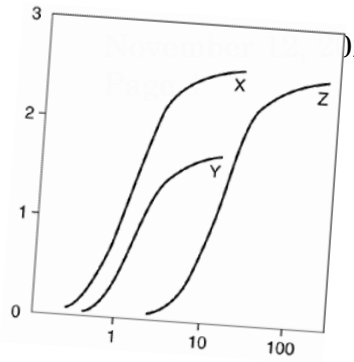
For the foregoing reasons, the City cannot make the necessary findings to approve the Vesting Tentative Tract Map for the Project due to the Project's significant environmental, air quality, public health, and utility impacts. Thank you for your attention to these comments. Please include them in the record of proceedings for the Project.

Sincerely,

Kelilah D. Federman

---

[7] DEIR, Appendix J, p. IV.J.1-31.
[8] Staff Report, Exhibit B VTT-83382 LOD and Tract Map VTT-83382-1A, p. 7.
[9] **Exhibit B -** Burtt Comments, p. 2.
[10] *Id.*
[11] *Id.* at 4.
[12] *Id.*
[13] *Id.*






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

# Exhibit A

November 11, 2024
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080

**Attn: Ms. Kelilah Federman**

**Subject: Response To City of Los Angeles Department of City Planning Appeal Recommendation Report Violet Street Creative Office Campus Project. ENV-2021-2232-EIR.**

Dear Ms. Federman:

At the request of Adams Broadwell Joseph & Cardozo (ABJC), Clark and Associates (Clark) has reviewed materials related to the above referenced project. After reviewing the City of Los Angeles (the City) Department of City Planning Appeal Recommendation Report, it is clear that a revised EIR must be prepared to correct the deficiencies in the EIR and the Report regarding mitigation measures, the use of age sensitivity factors in health risk assessments, and the final calculation of cancer risks from exposure to diesel particulate matter (DPM).

1. **Staff Response 1: Compliance With Dust Control Measures**

On page A-4 staff asserts "the Project's compliance with dust control regulations and emission reduction measures would be consistent with Objective 1.3 and Policy 1.3.1 by reducing particulate pollutants from unpaved areas and construction sites. As indicated in the Draft EIR, the Project would adhere to the Southern California Air Quality Management District (SCAQMD) Rule 403, implementing best practices for dust management, and utilizing cleaner construction equipment, thereby minimizing particulate emissions." SCAQMD Rule 403's stated purpose is to reduce the amount of particulate matter entrained in the ambient air as a result of anthropogenic fugitive dust sources by requiring actions to prevent, reduce or mitigate fugitive dust emissions. Fugitive dust in Rule 403 is defined "as any solid particulate matter that becomes airborne, other than that emitted from an exhaust stack, directly or indirectly as a result of the activities of any person." The exclusion of material from an exhaust stack in the Rule clearly means that DPM, which is by definition emitted from an exhaust stack or tailpipe is clearly not covered by Rule 403. Project DPM emissions are therefore not mitigated by Rule 403 and remain significant.

2. **Staff Response 2: Use of Age Sensitivity Factors In HRA/Input Values To HRA**

The Staff's response regarding the use of age sensitivity factors (ASFs) ignores the well-established practice of incorporating ASFs in HRA of mutagenic compounds. The Staff asserts that "for diesel particulates, polycyclic aromatic hydrocarbons, and their derivatives, which are known to exhibit a mutagenic mode of action, comprise less than one percent of the exhaust particulate mass.[1] Given that the estimate of the increased cancer risk from inhalation exposure is expressed in terms of total diesel particulate, it is not reasonable to apply mutagenic mode of action to the total amount of diesel particulate." This specious argument is not supported by the well documented analyses from U.S. EPA and the State of California which included epidemiological data as well as in vivo and in vitro studies of exposure to DPM.

U.S. EPA and the State of California spent considerable time and resources to evaluate the literature regarding exposure to diesel exhaust (DE) and in DPM, and determined that there was "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."

The State of California's Scientific Review Panel's 1998 Report On Diesel Exhaust is very clear about the mode of action for DPM. In the Health Effects Section of the Report's Summary[14], the Board (made up of health scientists and toxicologists) states "Diesel exhaust particles or extracts of diesel exhaust particles are mutagenic 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."

Therefore, to be consistent with the SCAQMD's guidance on the preparation of health risk analyses in the Air Basin[15] which includes ASFs in the calculation of exposure for the maximum individual cancer risk (MICR) and the State's designation of DPM as a mutagenic chemical, the City must evaluate the health risk from exposure to DPM in a manner consistent with State guidance.[16]

Using the modeled concentrations of DPM (0.354 ug/m$^3$) from the City's HRA, the Project's resultant cancer risk is 130 in 1,000,000, well above the SCAQMD's significance threshold. Several of the input values, including the frequency at home (FAH) and the exposure duration were input based on

---

[14] CARB. 1998. Findings of the Scientific Review Panel on The Report On Diesel Exhaust as adopted at the Panel's April 22, 1998, Meeting. https://ww2.arb.ca.gov/sites/default/files/classic/toxics/dieseltac/de-fnds.pdf

[15] SCAQMD. Risk Assessment Procedures For Rules 1401, 1401.1 and 212. Version 8.1. Dated September 2, 2017 pgs 7,12

[16] OEHHA. 2015. *Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments.* Dated February 2015.

the values report in the DEIR and FEIR (construction duration for the ED). OEHHA recommends a value of 1.0 for scenarios where children are living and going to school in areas with risks in excess of 1 in 1,000,000. Based on the screening results of this Project it was clear that the nearby residents would be within the 1 in 1,000,000 zone.

Staff reported a different value for the construction phase of 30 months. Even if the exposure duration is shortened to 30 months, the exposure in the community (based on the use of the ASFs and the age of the sensitive populations) would still exceed 10 in 1,000,000. Changing the FAH to the standard values does not take the risk below the significance threshold. (see table below).

| Age Group | Risk Per Million | Age Sensitivity | FAH | ED | CPF | Dose Air | Cair | EF |
|---|---|---|---|---|---|---|---|---|
| 3rd Trimester | 4 | 10 | 0.85 | 0.25 | 1.1 | 1.23E-04 | 0.354 | 0.958904 |
| 0-1 | 49 | 10 | 0.85 | 1 | 1.1 | 3.70E-04 | 0.354 | 0.958904 |
| 1-2 | 49 | 10 | 0.85 | 1 | 1.1 | 3.70E-04 | 0.354 | 0.958904 |
| 2-3 | 2 | 3 | 0.72 | 0.25 | 1.1 | 1.94E-04 | 0.354 | 0.958904 |

Based on this analysis it is clear that even when the values critiqued by the City in my analysis of the risk are changed there will still be a significant risk to nearby residence from exposure to DPM from the construction phase of the Project.

Regardless of whether the Project is a stationary source regulated under the Toxic Hot Spots Program, the methodology outlined by the OEHHA for preparation of health risk assessments under the Toxic Hot Spots Program is utilized frequently by regulatory agencies throughout California in the preparation of CEQA compliant analyses. The example I previously provided included the use of ASFs in the Norwalk Entertainment District Specific Plan. In its 2022 construction activities HRA, the City of Norwalk specifically used the ASFs consistent with the OEHHA Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments and the SCAQMD's Risk Assessment Procedures for Rules 1401, 1401.1, and 212 to ensure that the health impacts from construction activities would assess risks for susceptible subpopulations such as children.

## 3. Conclusion

The facts identified and referenced in this letter lead me to reasonably conclude that the Staff's Report has not addressed the well-supported concerns regarding the exposure of residents near the Project to toxic air contaminants that will result in significant impacts if allowed to proceed.

Sincerely,

# Exhibit B

**BURTT ENGINEERING**
120 Village Square #150, Orinda CA. 94563 DIRECT 925-528-8081

November 11, 2024

**Fire Flow / Fire Response Engineering Opinion Letter**

Dear Ms. Federman:

Per your request, I have reviewed the Violet Street Office Campus Project (the "Project") and the Environmental Impact Report (the "EIR") relative to the fire flow and response distance requirements of the Project in the City of Los Angeles (the "City"). The EIR includes the Draft Environmental Impact Report (the "Draft EIR") and the Final Environmental Impact Report (the "Final EIR"). The Project represents a unique and unusual construction development with significant fire water demand under California Code of Regulations and City of Los Angeles Municipal Code (LAMC). Overall, there are several outstanding items within the Project documentation that appear to require further consideration in accordance with the provided Los Angeles Fire Department (LAFD) requirements, California Code of Regulations, LAMC, and the EIR to ensure that the minimum standards of fire hazard safety are maintained for the Project.

Required Fire Flow Availability

The EIR states that at least 12,000 GPM of water shall be required for the Project's fire flow in accordance with the LAFD correspondence. Page 3 of Appendix J: *Los Angeles Fire Department Letter* of the Draft EIR states: "the required fire-flow for this project has been set at **12,000 G.P.M. available to any block (where local conditions indicate that consideration must be given to simultaneous fires, [an] additional 2,000 to 8,000 G.P.M. will be required).**" Based on information provided throughout the report, there is no substantial evidence that existing infrastructure can provide the required fire flow for the Project. Page 1 of the Appendix K: *Water Utility Technical Report* confirms that at least "400 feet of water main in 7th Place would be required to be upgraded… resulting in…construction-related impacts". Page IV.G.1-22 of the Draft EIR reiterates "the Project Site does not currently have adequate fire flow to demonstrate compliance with LAMC Section 57.507.3", and will require infrastructure improvements to comply with LAMC Section 57.507.3. This provides substantial evidence that infrastructure improvements are required for the Project.

Furthermore, there is substantial evidence that additional infrastructure improvements beyond those noted in the EIR may be required, and there is not substantial evidence that the water main infrastructure improvements noted in the EIR will provide adequate fire flow for the Project. Page IV.J.1-31 of the Draft EIR state that the LADWP outlines that "the Project would be required to upgrade 400 feet of water main in 7th Place to 12-inch ductile main which would provide the adequate [fire] flow". However, the IFFAR and documentation provided in the EIR by LADWP does not appear to provide any substantial evidence or analysis to confirm that 400 feet of water main upgrade are sufficient. The IFFAR dated February 26, 2024 only provides substantial evidence that the existing

infrastructure is insufficient, but does not provide evidence that the proposed infrastructure upgrades would provide adequate fire flow. IFFAR and LADWP state that a flow of 1,500 GPM throughout all flowing hydrants could not be achieved (Hydrant F-14543 could only provide 950 with all hydrants flowing). No statements analyzing the effects of the necessary water main upgrades have been provided.

Additionally, there is substantial evidence that additional infrastructure improvements beyond those noted in the EIR are likely required. Page IV.G.1-22 of the Draft EIR states "the Project Site does not currently have adequate fire flow to demonstrate compliance with LAMC Section 57.507.3", and will require infrastructure improvements to comply with LAMC Section 57.507.3. LAMC Table 57.507.3.1, correspondence with LAFD (Appendix J), and the Los Angeles Zone Information and Map Access System (ZIMAS) indicate that the Project would be considered "High Density Industrial and Commercial". In accordance with LAMC Table 57.507.3.2, to achieve required fire flow, fire hydrants adjacent to the Project shall be spaced no greater than 300 feet apart, and shall be of type 4-inch x 4-inch double fire hydrants.

In accordance with the Appendix C – *Water System Maps* within Appendix K: *Water Utility Technical Report*, it appears that the fire hydrants at the Project site exceed maximum spacing requirements (Figure 1). Therefore, there is substantial evidence that additional infrastructure improvements may be required, including the installation of up to 6-10 additional hydrants throughout the community directly adjacent to the Project site and the replacement of existing hydrant infrastructure with 4-inch x 4-inch double fire hydrants to meet LAMC hydrant type and spacing requirements for the Project.

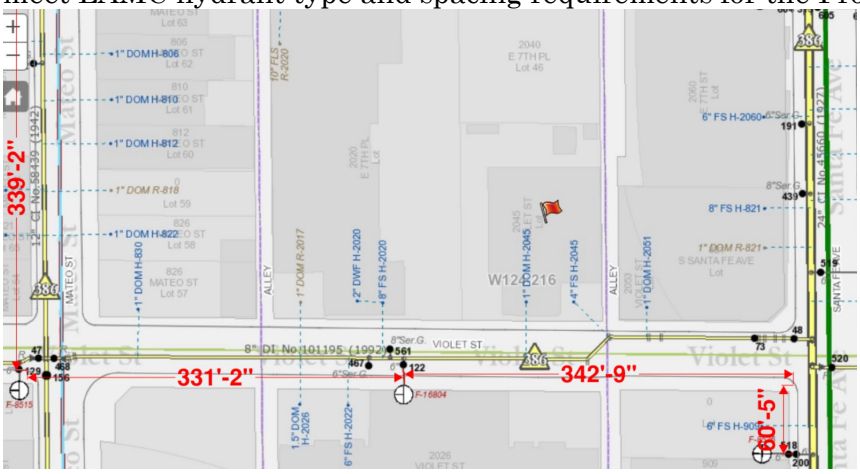



*Figure 1.* Appendix C – *Water System Map* within Appendix K: *Water Utility Technical Report. Fire hydrant spacing exceeding 300 feet between hydrants.*

Page IV.G.1-23 of the Draft EIR also states that "in accordance with LAFD Regulation No. 10 Option 2, the Project will incorporate a fire sprinkler suppression system to reduce or eliminate the public hydrant demands… subject to LAFD review and approval." However, LAMC Section 57.507.3 does not provide for modification or reduction of fire flow when fire sprinkler systems are present. LAMC Section 57.507.3 requires the minimum fire flow to be provided, regardless of fire sprinkler installation. Furthermore, fire flow and fire hydrant requirements are required in accordance with the California Fire Code (CFC) and LAMC.

Fire sprinkler requirements (NFPA 13) and standpipe requirements (NFPA 14) are separate from fire flow requirements, and do not limit the fire flow requirements. Additionally, LAFD Regulation No. 10 Option 2 as referenced applies only to Emergency Helicopter Landing Facilities. A minimum fire flow of 12,000 GPM is required for the Project in accordance with the review and written guidance provided by LAFD. The existing fire flow infrastructure for the Project does not meet minimum fire flow requirements as provided by the LAFD, and appears to not meet maximum hydrant spacing requirements.

Potential Infrastructure Upgrades / Requirements

The EIR and evidence provided suggests that the Project water main infrastructure will require substantial and extensive improvement to provide the minimum required fire flow of 12,000 GPM and the maximum hydrant spacing of 300 feet in all areas adjacent to the Project site. In accordance with the IFFAR provided by the LADWP, the fire flow supply for the site appears to be approximately 11,450 GPM. This is approximately 550 GPM below the required fire flow for the site. While 400 feet of infrastructure improvement is suggested within the EIR, no substantial evidence or secondary IFFAR has been provided confirming that 400 feet of infrastructure improvement would be sufficient to achieve 12,000 GPM of fire flow (an additional 550 GPM for the Project). At least several thousand feet of additional water main upgrades may be required.

Furthermore, in accordance with LAMC Table 57.507.3.2, to achieve required fire flow fire hydrant spacing adjacent to the Project, hydrants shall be spaced no greater than 300 feet apart, and shall be of type 4-inch x 4-inch double fire hydrants. This will likely require an additional 6-10 hydrants be installed throughout the community directly adjacent to the Project site to meet minimum required hydrant spacing for the Project. Installation of the hydrants would require approximately 300 to 400 feet of additional trenching, with significant impacts to traffic, local pedestrians and vehicles, and require street excavation and subsequent repair to access water mains. Additional hydrants and infrastructure upgrades are anticipated to be required along Violet Street, S Santa Fe Avenue, Mateo Street, 7th Street, and E 7th Street. Once additional hydrants are added, additional analysis should be provided to confirm the most demanding fire flow scenario. Hydrants spaced closer together in accordance with the requirements of LAMC Table 57.507.3.2 will likely significantly increase the water supply demand on the existing infrastructure along Violet Street, S Santa Fe Avenue, Mateo Street, 7th Street, and E 7th Street as each water main will supply more hydrants. Given that existing infrastructure does not meet minimum fire flow requirements, once fire hydrants are added to meet spacing requirements, it is highly likely that significant infrastructure improvements would likely be required throughout the area around the Project to provide minimum required fire flow. While additional study is needed to determine the full extent of the improvements required for this specific project, this may include infrastructure upgrades of several thousand feet of water main along Violet Street, Mateo Street, and/or 7th Street.

Such improvements would have significant impacts to traffic, local pedestrians and vehicles, and require street excavation and subsequent repair to access water mains. Excavation would require demolition, disruption, and removal of portions of the street along the entire length of water main upgrade, including removal asphalt, soils, and trench backfill materials. New, upsized piping would likely be required, along with new trench

backfill, soil, compaction, and new street asphalt work along the entire length of work. Traffic control would be required for the duration of the infrastructure improvement project, with careful protection and control to prevent congestion or accidents due to street lane closures. We would suggest further investigation, calculations, and review of the required infrastructure upgrades and severity of the impacts that would occur from construction and installation of the upgrades to achieve the minimum necessary fire flow for the Project.

Conclusion

Fire flow is a critical piece of infrastructure that represents the minimum required amount of water needed during an emergency fire event to safely assist with extinguishing a fire and achieving public safety. The minimum fire flow for the Project is required to be 12,000 GPM in accordance with the LAFD and the City of Los Angeles Municipal Code, and is critical to public safety. Inadequate fire flow can result in a hazard and danger to public safety, occupant safety, firefighter safety, and the safety of adjoining properties and the community. If inadequate fire flow is present, significant hazards that may arise including, but not limited to:

- Increased Fire Severity: Deficiencies in available firefighter water may result in the potential for extended fire growth and fire spread as less water is available to suppress the fire, posing an immediate threat to the safety of occupants and neighboring properties.
- Limited Firefighting Capabilities: Firefighters rely on adequate fire flow to combat fires. Deficit fire flow may hinder firefighting efforts to contain and extinguish fires promptly.
- Increased Loss of Life and Property: Inadequate fire flow may result in decreased effectiveness of firefighting efforts, increasing the risk of loss of life and property in the event of a fire emergency.
- Increased Risk of Fire Spread: Inadequate fire flow may increase the likelihood of fire spreading to adjacent properties, increasing fire risks for the area and community.

The Project EIR clearly states that at least 12,000 GPM of water shall be required for the Project's fire flow in accordance with the LAFD correspondence. Page 3 of Appendix J: *Los Angeles Fire Department Letter* of the Draft EIR states: "the required fire-flow for this project has been set at **12,000 G.P.M. available to any block**". The Project IFFAR and Page IV.J.1-31 of the Draft EIR state that the Project existing infrastructure can provide up to 11,450 GPM, before additional hydrants are added to meet hydrant spacing requirements. However, there is no evidence provided indicating that the Project's existing infrastructure can provide 12,000 GPM of fire flow. Furthermore, once additional hydrants are added throughout the surrounding neighborhood to provide the minimum safe hydrant spacing in accordance with LAMC Table 57.507.3.2, it is highly likely that the water supply demand on the existing infrastructure along Violet Street, S Santa Fe Avenue, Mateo Street, 7th Street, and E 7th Street will significantly increase as each water main will supply more hydrants. To achieve the additional fire flow required to the project site, it is likely that at least a thousand to several thousands of linear feet of water main would require upgrade.

Sincerely, Robert E. Burtt, P.E., *Fire Protection Engineer*

# EXHIBIT C

ADAMS BROADWELL JOSEPH & CARDOZO
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037
TEL: (650) 589-1660
FAX: (650) 589-5062
kfederman@adamsbroadwell.com

KEVIN T. CARMICHAEL
CHRISTINA M. CARO
THOMAS A. ENSLOW
KELILAH D. FEDERMAN
RICHARD M. FRANCO
ANDREW J. GRAF
TANYA A. GULESSERIAN
DARION N. JOHNSTON
RACHAEL E. KOSS
AIDAN P. MARSHALL
ALAURA R. McGUIRE
TARA C. RENGIFO

*Of Counsel*
MARC D. JOSEPH
DANIEL L. CARDOZO

SACRAMENTO OFFICE
520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4721
TEL: (916) 444-6201
FAX: (916) 444-6209

November 13, 2024

**Via Email and Overnight Mail**

Vincent P. Bertoni, AICP, Director
Rey Fukuda, Planning Assistant
Kathleen King, City Planner
City of Los Angeles
Department of City Planning
221 N Figueroa St Suite 1350
Los Angeles, CA 90012
**Email:** rey.fukuda@lacity.org, vince.bertoni@lacity.org

Monique Lawshe, President
Elizabeth Zamora, Vice President
Commissioners: Maria Cabildo, Caroline Choe, Martina Diaz, Phyllis Klein, Karen Mack, Michael Newhouse
Los Angeles City Planning Commission
**Email:** cpc@lacity.org

**Re: Agenda Item 6 & 7 Violet Street Creative Office Campus**

On behalf of the CREED LA, we submit these supplemental comments on Agenda Item 6 CREED LA's Appeal of the City of Los Angeles ("City") Deputy Advisory Agency's ("DAA") 8/29/2024 approval of the Violet Street Creative Office Campus Project (VTT-83382-1A; ENV-2021-2232-EIR) ("Project") and Agenda Item 7 (CPC-2021-2231-GPA-VZC-HDVCU-ZV-SPR) for the 11/14/2024, City Planning Commission ("CPC") hearing.

CREED LA respectfully requests that, with respect to Agenda Item 6, the CPC uphold its appeal and vacate the DAA's certification of the EIR and adoption of CEQA Findings, Statement of Overriding Considerations, and Conditions of Approval, due to the EIR's errors and omissions requiring revision and recirculation. With respect to Agenda Item 7[1], the CPC cannot make the Findings, Recommendations, and Approvals of the Project's entitlements, including the General Plan Amendments, Vesting Zone Change and Height District Change, Vesting Conditional Use Permit, Zone Variance and Site Plan Review because the Project contravenes the General Plan and results in significant health and safety risk from diesel particulate matter impacts and fire safety impacts which must be analyzed and mitigated in a revised and recirculated EIR. Approval of the Project without recirculation of the EIR would violate the Municipal Code's mandate not to approve the Project's entitlements unless "an appropriate environmental review clearance has been prepared in accordance with the requirements of CEQA."[2]

Agenda Item 6. The City improperly segmented approval of the Project's CEQA document from its underlying entitlements. The DAA's 8/29/24 "certification" of the FEIR was premature and in violation of CEQA because the majority of the Project's entitlements

[1] Recommendation Report, Agenda Item 7. (Nov. 14, 2024) ("Staff Report: Agenda Item 7").
[2] LAMC Section 16.05(E)(4).

(General Plan Amendments, Vesting Zone Change and Height District Change, Vesting Conditional Use Permit, Zone Variance and Site Plan Review) have not yet been considered or approved by the City. California courts have firmly established that "environmental review is not supposed to be segregated from project approval,"[3] and CEQA mandates that agencies refrain from certifying an EIR prior to full consideration of all aspects of a project.[4] The DAA violated CEQA by certifying the EIR before project approval.

Agenda Item 7. The CPC cannot rely on the DAA's premature certification of the EIR (Agenda Item 6) to thereafter utilize CEQA's subsequent review standards (PRC § 21166) to approve the Project's remaining entitlements. CEQA's subsequent review standards apply to subsequent modifications to projects which were previously approved and for which an EIR was previously certified.[5] These legal standards do not apply to projects which have not yet received their initial entitlement approvals. The Project has not yet received the initial entitlement approvals proposed for the Project in Agenda Item 7.[6] The Project also requires additional entitlements to be considered by the City Council at a later date. Therefore, approval of the Project's remaining entitlements is not subject to PRC § 21166. As the Court of Appeal has explained, there is "nothing in the text of [CEQA] or common law interpreting [CEQA]" suggesting that a project's impact analysis or mitigation may be divided across different types of environmental review such that some impacts are analyzed in an EIR and others are analyzed in an addendum or another different CEQA document.[7] That is precisely the error the CPC proposes to make here. Moreover, the DAA's EIR certification was not final because it is appealable to the elected decision maker (City Council) pursuant to PRC § 21151(c) and the LAMC.[8]

Finally, the CPC cannot make the necessary findings to approve the remaining entitlements[9] because the Project results in significant cancer risk from diesel particulate matter emissions to children and infants, which will significantly degrade public health and safety, and contravenes the General Plan. [10] The Project's Fire Code violation results in significant public safety impacts and results in nonconformance with General Plan policies.

/s/ Kelilah Federman

---

[3] *California Clean Energy Committee v. City of San Jose* (2013) 220 Cal.App.4th 1325, 1341.
[4] See, e.g., *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 963; *Coalition for an Equitable Westlake/Macarthur Park v. City of Los Angeles* (2020) 47 Cal.App.5th 368, 379; *Stockton Citizens for Sensible Planning v. City of Stockton*, 48 Cal. 4th 481, 489; *Coalition for Clean Air v. City of Visalia* (2012) 209 Cal.App.4th 408, 418-25.
[5] Pub. Res. Code, § 21166; CEQA Guidelines Sections 15162-15164.
[6] This case is distinguishable from *Guerrero v. City of Los Angeles* (2024) 98 Cal.App.5th 1087. Here, the DAA's EIR certification is subject to further appeal to the elected decisionmaker and is not final.
[7] *Farmland Prot. Alliance v. Yolo* (Cal. Ct. App., 11/3/2021, No. C087688) 2021 WL 5103355, at *5.
[8] Agency decision not final if it may be reviewed by appealing the decision to a higher administrative body. *See Sea and Sage Audubon Society, Inc. v. Plan. Comm. of City of Anaheim* (1983) 34 Cal.3d 412; *Alta Loma School Dist. V. San Bern.Comm. On Sch. Dist. Reorg.* (1981) 124 Cal. App. 3d 542.
[9] Los Angeles Municipal Code §§ 13B.2.2(E)(1)(b)-(c); 13B.5.3(E)(d)-(e).
[10] Letter from CREED LA to the City of Los Angeles Department of City Planning, Appeal of Vesting Tentative Tract No. 83382 for Violet Street Creative Office Campus Project (VTT-83382, ENV-2021-2232-EIR; SCH # 2021110015) (Nov. 12, 2024).

# Attachment 2

July 2024 Eyestone Environmental Memorandum

# MEMORANDUM

**TO:** Hearing Officer

Deputy Advisory Agency

**FROM:** Eyestone Environmental

**SUBJECT:** Violet Street Creative Office Campus Project—Response to Comments on the Final EIR
ENV-2021-2232-EIR

**DATE:** July 19, 2024

---

In accordance with the California Environmental Quality Act (CEQA), a comprehensive Draft Environmental Impact Report (EIR) was prepared for the Violet Street Creative Office Campus Project (Project). The Draft EIR was circulated for public review and comment from June 29, 2023 through August 14, 2023. Following public review of the Draft EIR, the City published a comprehensive Final EIR in June 2024, which included responses to each comment within the five written comment letters received on the Draft EIR during the public comment period.

A public hearing for the Project with the Deputy Advisory Agency and Hearing Officer was held on June 26, 2024. On June 25, 2024, less than 24 hours prior to the hearing, the City received an additional letter from Adams Broadwell Joseph & Cardozo on behalf of CREED LA (the CREED Letter). The CREED Letter is included as Attachment A to this memorandum. Under CEQA, a Lead Agency is not required to provide responses to comments submitted after the close of the Draft EIR comment period. Although not required, this response is being provided in order to ensure that the decision-makers are provided as much information as possible regarding the proposed Project.

Many of the comments from CREED made at the hearing related to the merits of the Project and are not issues directly relevant to the EIR.

Responses to environmental assertions made in the CREED Letter are provided below. None of the comments made at the hearing or in the CREED Letter alter the conclusions or analysis that was set forth in the EIR. Additionally, none of the comments that have been received constitute new significant information warranting recirculation of the Draft EIR as

2121 Rosecrans Avenue, Suite 3355, El Segundo, CA 90245-4744
Phone (424) 207-5333 • Fax (424) 207-5349

set forth in CEQA Guidelines Section 15088.5. Specifically, none of the comments received disclose any new significant impacts or a substantial increase in the severity of an impact already identified in the EIR, nor do the comments contain significant new information that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the Project or a feasible alternative or mitigation measure that the Applicant has declined to adopt.

**Comment Letter No. 1**

Richard M. Franco
obo CREED LA
Adams Broadwell Joseph & Cardozo
601 Gateway Blvd., Ste. 1000
South San Francisco, CA 94080-7037

James J.J. Clark
Clark & Associates
12405 Venice Blvd., Ste. 331
Los Angeles, CA 90066-3803

**Comment No. 1**

We are writing on behalf of Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA") in opposition to the Violet Street Creative Office Campus Project (SCH Number 2022110015; Environmental Case No. ENV-2021-2232-EIR) ("Project") proposed by Al Violet, LLC and Al Violet B2, LLC ("Applicants"). The Project appears as agenda item No. 1 for the June 26, 2024 City of Los Angeles ("City") Department of City Planning hearing officer agenda. The hearing officer will take public testimony on behalf of the Los Angeles Planning Commission on the Project's Final Environmental Impact Report ("FEIR") and entitlements including a General Plan Amendment, Vesting Zone and Height District Change, Vesting Conditional Use, Zone Variance, and Site Plan Review.

The City, as lead agency under the California Environmental Quality Act[1] ("CEQA"), prepared the Draft Environmental Impact Report ("DEIR") and FEIR for the Project. CREED LA's comments on the DEIR explained how the DEIR failed to comply with CEQA's requirement to act as an informational document, in that it lacked proper analysis in crucial areas including the Project's impacts on public health and noise. Those comments further explained how these flaws made the DEIR deficient as a matter of law because it failed to properly analyze, disclose and mitigate the Project's potentially significant impacts, and lacked substantial evidence supporting the City's conclusions regarding those impacts.

The City's FEIR includes responses to CREED LA's DEIR comments and purports to address the issues raised. As discussed below however, the FEIR fails to adequately resolve these issues or to mitigate all of the Project's potentially significant impacts. We reviewed the FEIR and available supporting documentation with the assistance of air quality expert James Clark Ph.D.[2] We reserve the right to supplement these comments at a later date, and at any later proceedings related to this Project.[3]

## I. STATEMENT OF INTEREST

CREED LA is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public and worker health and safety hazards, and the environmental and public service impacts of the Project. The coalition 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 City of Los Angeles and surrounding areas.

Individual members of CREED LA and its member organizations include Jorge L. Aceves, John P. Bustos, Gerry Kennon, and Chris S. Macias. These individuals live, work, recreate, and raise their families in the City of Los Angeles 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 onsite.

In addition, 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.

[1] Pub. Resources Code ("PRC") §§ 21000 et seq.

[2] Dr. Clark's technical comments and curricula vitae are attached hereto as Exhibit A ("Clark Comments").

[3] Gov. Code § 65009(b); PRC § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* ("*Bakersfield*") (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist*. (1997) 60 Cal. App. 4th 1109, 1121.

**Response to Comment No. 1**

This introductory comment is noted for the record and will be made available to the decision-makers for their review and consideration. Specific issues raised by the commenter are addressed in Response to Comment Nos. 2 through 11 below.

**Comment No. 2**

**II. THE CITY HAS NOT COMPLIED WITH CEQA BECAUSE FEIR FAILS TO ADEQUATELY DISCLOSE AND MITIGATE THE PROJECT'S SIGNIFICANT HEALTH RISK IMPACTS**

The City may not approve the Project at this time because the FEIR fails to adequately disclose and mitigate the project's significant health risk impacts. CEQA requires that a lead agency evaluate and provide a written response to DEIR comments raising significant environmental issues.[4] Such comments must be addressed in detail and include good faith reasoned analysis; conclusory statements unsupported by facts do not suffice.[5] A lead agency's failure to adequately respond to comments raising significant environmental issues before approving a project frustrates CEQA's informational purposes and renders the EIR legally inadequate.[6] Here, the City failed to adequately respond to CREED LA's DEIR comments with respect to the Project's significant health risks fails to adequately respond lack any reasoned analysis and include wholly conclusory statements unsupported by any facts. The FEIR is therefore legally inadequate under CEQA and the Commission may not certify the FEIR nor grant the requested Project approvals at this time.

CREED LA's comments on the DEIR explained that the City's air quality and health risk analysis failed to address health risks associated with emissions of toxic diesel particulate matter ("DPM") from the Project's construction equipment. The comments explained the California Supreme Court's recognition of CEQA's mandate to protect public health and safety by holding that an EIR fails as an informational document when it fails to disclose the public health impacts from air pollutants that would be generated by a development project.[7] The DEIR stated that the City did not perform a construction health risk analysis because it claimed that the "short-term" nature of construction emissions did not warrant analysis.[8] The

DEIR asserted that, "[g]iven the short-term construction schedule of approximately 33 months, the Project would not result in a long-term (i.e., 70-year) source of TAC emissions. Additionally, the SCAQMD CEQA Guidance does not require a health risk assessment (HRA) for short-term construction emissions."[9] CREED LA's DEIR comments explained that the City's position violated CEQA's requirement to 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.[10]

This failure has not been remedied in the FEIR. In the FEIR's response to comments, the City continues to maintain that it is not required to perform a health risk analysis or otherwise analyze or disclose the health risks from Project construction.[11] Nevertheless, in response to CREED LA's comments, the City included in the FEIR a quantitative health risk analysis ("HRA") "to confirm, as the Draft EIR concludes, that no significant health risk impacts would occur from the Project."[12] This HRA purports to show that the carcinogenic risk from the Project would be a maximum of 1.0 in one million for residents adjacent to the Project site, which is below the applicable South Coast Air Quality Management District ("SCAQMD") significance threshold of 10 in one million for carcinogen exposures.[13]

As discussed below, Dr. Clark reviewed the City's HRA and found that the HRA improperly failed to include age sensitivity factors and as a result, the HRA fails to accurately calculate the risk from Project DPM emissions on residents near the Project site.

4 14 CCR § 15088(a).

5 14 CCR § 15088(c).

6 *Flanders Found. v. City of Carmel-by-the-Sea* (2012) 202 Cal.App.4th 603, 615-17; *Rural Landowners Ass'n v. City Council* (1883) 143 Cal.App.3d 1013, 1020.

7 *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 518–522.

8 DEIR, pg. IV.A-61

9 *Id.*

10 *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184.

11 FEIR, pg. II-69.

12 *Id.*

13 *Id.*

**Response to Comment No. 2**

The commenter contends that City failed to adequately respond to CREED LA's Draft EIR comments with respect to the Project's significant health risks. Contrary to the opinion expressed in this comment, the Final EIR adequately addresses public comments and has been completed in full compliance with CEQA and there are no deficiencies that need to be remedied.

As more fully discussed in Response to Comment No. 3-36 of the Draft EIR, the Draft EIR correctly identified that proposed construction activities would be limited in duration and considered a short-term source of TAC emissions. SCAQMD's CEQA Air Quality Handbook does not recommend analysis of TACs from short-term construction activities associated with land use development projects. The rationale for not requiring a quantitative health risk assessment (HRA) for construction activities is the limited duration of exposure. According to SCAQMD methodology, which the City has reviewed and agrees with, health effects from carcinogenic air toxics are usually described in terms of individual cancer risk. Specifically, "Individual Cancer Risk" is the likelihood that a person continuously exposed to concentrations of toxic air contaminants (TACs) over a 70-year lifetime will contract cancer based on the use of standard risk assessment methodology.

Because the construction schedule for the Project estimates that the overall construction schedule would be limited to approximately 33 months, construction of the Project would not result in a substantial, long-term (i.e., 70-year) source of TAC emissions. No residual emissions and corresponding individual cancer risk are anticipated after construction as the Project does not include any substantial operational sources of TAC emissions (e.g., warehouse distribution facility). Because there is such a short-term exposure period (approximately three years out of a 70-year lifetime), further evaluation of construction TAC emissions within the Draft EIR was not warranted. This supporting information is consistent with the *L.A. City CEQA Thresholds Guide* in making a case-by-case basis determination of significance. As such, the Draft EIR correctly concluded that Project-related TAC emission impacts during construction would be less than significant and consequently not result in a potential health risk impact.

From an operational standpoint, the Draft EIR also correctly identified that the Project would not support any land uses or activities that would involve the use, storage, or

processing of carcinogenic toxic air contaminants. In addition, the proposed land uses would not generally involve the use of heavy-duty diesel trucks with the exception of delivery trucks. The commenter is referred to SCAQMD guidance below that provides clarification as to when a quantitative HRA may be warranted and, by inference, where one is not warranted:

> The SCAQMD published and adopted the *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*, which provides recommendations regarding the siting of new sensitive land uses near potential sources of air toxic emissions (e.g., freeways, distribution centers, rail yards, ports, refineries, chrome plating facilities, dry cleaners, and gasoline dispensing facilities).[1] The SCAQMD recommends that HRAs be conducted for substantial sources of DPM (e.g., truck stops and warehouse distribution facilities that generate more than 100 trucks per day or more than 40 trucks with operating transport refrigeration units).

As discussed in Response to Comment No. 3-36 of the Final EIR, the Project includes the development of approximately 435,100 square feet of office uses and 15,499 square feet of ground floor retail and/or restaurant uses. A future expansion of the Project would add an additional 211,201 square feet of floor area (conservatively analyzed as 191,201 square feet of office and 20,000 square feet of restaurant uses) resulting in a total new floor area of approximately 661,800 square feet within the Project Site. A conservative estimate of the number of daily truck trips is provided below based on the National Cooperative Highway Research Program (NCHRP) Truck Trip Generation Data.[2]

- Table D-2c of the NCHRP data (Trip Generation Summary—Daily Commercial Vehicle Trips per 1,000 sf of Building Space for Retail (includes restaurants)) provides an average of 0.324 truck trips per 1,000 sf or approximately 11.5 truck trips per day ((35,499 sf/1,000 sf) x 0.324 trips/1,000 sf/day) for the Project's retail/restaurant uses. This assumes that all trucks would be diesel even though

---

[1] SCAQMD, Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning, May 6, 2005.

[2] National Cooperative Highway Research Program (NCHRP) Synthesis 298 Truck Trip Generation Data, 2001, http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_syn_298.pdf.

many retail//restaurant truck deliveries are from smaller gasoline trucks (e.g., UPS or FedEx).

- Table D-2d of the NCHRP data (Trip Generation Summary—Daily Commercial Vehicle Trips per 1,000 sf of Building Space for Office and Services provides 0.039 truck trips per 1,000 sf or approximately 24.4 truck trips per day ((626,301 sf/1,000 sf) x 0.039 trips/1,000 sf/day). Once again, it is conservatively assumed that all of these delivery trucks would be heavy-duty diesel trucks even though many residential truck deliveries are from smaller gasoline or, as is increasingly common, electrical or hybrid-electric trucks (e.g., UPS or FedEx).

As shown above, the Project is conservatively estimated to generate approximately 35 trucks per day during project operations. Based on SCAQMD guidance, which the City, after careful consideration, agrees with, there was no quantitative analysis required for future cancer risk within the vicinity of the Project as the Project is consistent with the recommendations regarding the siting of new sensitive land uses near potential sources of TAC emissions provided in the SCAQMD *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*. Specifically, the Project's operation is not considered to be a substantial source of diesel particulate matter warranting an HRA since daily truck trips to the Project Site would not exceed 100 trucks per day or more than 40 trucks with operating transport refrigeration units. Of note, the Project includes the demolition of 25,798 square feet of warehouse uses and would offset some of the Project generated truck trips.

Based on the above information, the Draft EIR correctly concluded that a quantitative HRA was not warranted.

As further discussed in Response to Comment No. 3-36 of the Final EIR, the Office of Environmental Health Hazard Assessment (OEHHA) adopted a new version of the Air Toxics Hot Spots Program Guidance Manual for the Preparation of Risk Assessments (new Guidance Manual) in March of 2015.[3] The Guidance Manual was developed by OEHHA, in conjunction with CARB, for use in implementing the Air Toxics "Hot Spots" Program (Health

---

[3] See OEHHA, Notice of Adoption of Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments 2015, https://oehha.ca.gov/air/crnr/notice-adoption-air-toxics-hot-spots-program-guidance-manual-preparation-health-risk-0, accessed March 4, 2024.

and Safety Code Section 44360 et seq.). The Air Toxics "Hot Spots" Program requires stationary sources to report the types and quantities of certain substances routinely released into the air. The goals of the Air Toxics "Hot Spots" Act are to collect emission data, to identify facilities having localized impacts, to ascertain health risks, to notify nearby residents of significant risks, and to reduce those significant risks to acceptable levels.

The new Guidance Manual provides recommendations related to cancer risk evaluation of certain short-term projects. As discussed in Section 8.2.10 of the Guidance Manual, "The local air pollution control districts sometimes use the risk assessment guidelines for the Hot Spots program in permitting decisions for short-term projects such as construction or waste site remediation." Short-term projects that would require a permitting decision by SCAQMD typically would be limited to site remediation (e.g., stationary soil vapor extractors) and would not be applicable to the Project. The new Guidance Manual does not provide specific recommendations for evaluation of short-term use of mobile sources (e.g., heavy-duty diesel construction equipment). Therefore, the Guidance Manual's recommendations for quantitative HRAs are not applicable to the Project and do not indicate that a quantitative HRA was either by agency guidance.

In sum, a quantitative HRA is not required by SCAQMD or the *L.A. City CEQA Thresholds Guide*, and no generally applicable guidance for health risk assessments for construction has been adopted by SCAQMD or the City. Nonetheless, as part of the City's effort to carefully consider and thoroughly respond to comments received on the Draft EIR and provide as much information as possible to members of the public and City decisionmakers, a quantitative HRA was prepared pursuant to the California Air Pollution Control Officers Association (CAPCOA) Guidance Document for Health Risk Assessments for Proposed Land Use Projects in response to Comment No. 3-36 of the Draft EIR. This quantitative HRA confirmed, as the Draft EIR had also concluded, that no significant health risk impacts would occur from the Project. The quantitative HRA is provided as Appendix FEIR-2 of the Final EIR. The quantitative HRA demonstrates that carcinogenic risk from the Project (combined construction and operation) would be a maximum of 1.0 in one million for residences located north and east of the Project Site, across 7th Street and Santa Fe Avenue (for combined construction and operational emissions), which is below the applicable SCAQMD significance threshold of 10 in one million for carcinogenic exposure. For chronic non-carcinogenic exposures, the increase in the hazard index was estimated to be less than

the applicable threshold of 1.0 for either chronic or acute effects at sensitive receptors in close proximity to the Project Site, resulting in a less than significant impact.

The specific comments provided by Dr. Clark regarding Appendix FEIR-2 (age sensitivity factors and calculated risk from Project DPM emissions on residents near the Project site) are fully addressed in Response to Comment Nos. 7 through 10, below. In sum, these comments do not provide any substantial evidence that the Draft EIR is inadequate, nor that additional analysis is necessary, nor that recirculation of the Draft EIR is required.

**Comment No. 3**

**A. The FEIR Fails to Disclose that Diesel Exhaust is a Mutagenic Compound**

In performing the HRA, the City's consultant failed to incorporate age sensitivity factors in calculating health risks from DPM. To justify this failure, it claims that HRA's need only incorporate age adjustment factors when carcinogens act "through the mutagenic mode of action."[14] This claim cites a 2006 USEPA Guidance document that identifies several constituents of DPM as exhibiting a mutagenic mode of action; however, the City claims that, to date, the USEPA reports that whole diesel engine exhaust has not been shown to elicit a mutagenic mode of action."[15] In other words, the City's consultant admits that several DPM constituents are known to be mutagenic, but asserts that diesel engine exhaust "as a whole" is not.

As Dr. Clark explains, the City's position is not supported by the evidence.[16] He cites USEPA's comprehensive review of toxicity data for diesel engine exhaust, which unequivocally found that diesel exhaust is a likely human carcinogen with mutagenic modes of action. As Dr. Clark points out, the basis for this conclusion by USEPA includes "*extensive supporting data including the demonstrated mutagenic and/or chromosomal effects of DE* [diesel exhaust] 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 [emphasis added]."[17] Dr. Clark further explains that the State of California has expressed in similarly explicit language that diesel exhaust is mutagenic: "*diesel exhaust particles or extracts of diesel exhaust particles are mutagenic* 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 [emphasis added]."[18]

The City's position that diesel exhaust is not mutagenic lacks the support of substantial evidence, and is flatly contradicted by scientific evidence provided by Dr. Clark. This is contrary to CEQA's requirement that the determination of whether a project may have a significant effect on the environment be based on scientific and factual data.[19] Accordingly, the HRA should have included age sensitivity factors when calculating the Project's health risks from DPM.

[14] FEIR, Appendix FEIR-2, Health Risk Assessment, pg. 6.

[15] *Id.*

[16] Clark Comments, pgs. 2–3.

[17] U.S. EPA. 2003. Weight of Evidence For Cancer, cited in Clark Comments, pg. 3.

[18] CARB. 1998. Findings of the Scientific Review Panel on The Report On Diesel Exhaust, cited in Clark Comments, pg. 3.

[19] 14 CCR § 15064(b)(1).

**<u>Response to Comment No. 3</u>**

The commenter contends that the HRA contained in the Final EIR is inadequate because the Final EIR failed to disclose that diesel exhaust is a mutagenic compound. As more fully explained in Response to Comment No. 8 (below), is an inaccurate characterization of the discussion in the HRA. In addition, the City as the Lead Agency has the discretion to select the appropriate thresholds of significance and methodologies for evaluating a project's impacts including potential impacts related to health risk based on substantial evidence, including the expert opinions of its EIR preparers and City staff. This comment does not provide substantial evidence to demonstrate that the HRA included as Appendix FEIR-2 was required to classify diesel exhaust as a whole to be a mutagenic compound for purposes of preparing a quantitative HRA under CEQA. The comment also does not demonstrate that the City abused its discretion in selecting, based on expert opinion, an appropriate methodology with which to perform the quantitative HRA. In addition, the City's decision to prepare a quantitative HRA in order to fully evaluate and respond to comments received on the Draft EIR (and which ultimately confirmed the conclusion in the Draft EIR) did not deprive the public or decisionmakers of the analysis contained in the HRA.

Dr. Clark's comments regarding his preferred methodology with respect to treating diesel exhaust as a mutagenic compound is noted for the record and will be made available to the decision-makers for their review and consideration. Please refer to Response to Comment No. 8 for additional discussion as to why the City's selected methodology is supported by substantial evidence, including its carefully reasoned decision that diesel exhaust should not be considered as a whole to be a mutagenic compound for purposes of the quantitative HRA that was included as Appendix FEIR-2 to the Final EIR.

**Comment No. 4**

### B. With Proper Age Sensitivity Factors Applied, the Project HRA Reveals Significant and Unmitigated Health Risks

As Dr. Clark explains, federal (USEPA), state (CA OEHHA) and local (SCAQMD) public health organizations all agree that health risk analysis should include age sensitivity factors when evaluating cancer risks.[20] The importance of using age sensitivity factors in health risk analysis is explained by SCAQMD in its Risk Assessment Procedures guidance document:

> Scientific data have shown that young animals are more sensitive than adult animals to exposure to many carcinogens. Therefore, OEHHA developed ASFs to take into account the increased sensitivity to carcinogens during early-in-life exposure. OEHHA recommends an ASF of 10 for exposures that occur from the third trimester of pregnancy to 2 years, and an ASF of 3 for exposures that occur from 2 years through 15 years of age.[21]

Despite the consensus from regulatory agencies regarding the importance of age sensitivity factors to account for the increased sensitivity of younger receptors, the City's analysis omits this crucial step. Dr. Clark used the City's own HRA, and re-calculated the risks of exposure to DPM from the Project's construction phase to the most sensitive receptors (i.e., infants) using the OEHHA-recommended age sensitivity factors.[22] He found that the resultant cancer risk to infants is 130 in one million, well above the SCAQMD's significance threshold of 10 in one million.[23] Dr. Clark's analysis provides overwhelming evidence that a proper health risk analysis reveals a significant health risk from exposure to the Project's diesel emissions.

[20] Clark Comments, pgs. 3–4.

[21] SCAQMD. Risk Assessment Procedures For Rules 1401, 1401.1 and 212. Version 8.1. Dated September 2, 2017 pg. 7, cited in Clark Comments pg. 4.

[22] Clark Comments, pgs. 3–4 and Exhibit B.

[23] *Id.*

**Response to Comment No. 4**

The commenter contends that the HRA contained in the Final EIR is inadequate because age sensitivity factors (ASFs) were not included in the HRA and summarizes Dr. Clark's calculations using ASFs. Please refer to Response to Comment No. 3 regarding the City's discretion to select the appropriate thresholds of significance and methodologies based on substantial evidence, including without limitation the expert opinion of its EIR preparers and City staff. As further explained in the HRA presented as Appendix FEIR-2, and response to comments below, the City specifically considered the possible inclusion of ASFs, and then determined based on substantial evidence that ASFs were not appropriate for inclusion in the quantitative HRA in light of the specific facts applicable to the Project. Dr. Clark's alternative version of the analysis using ASFs is noted for the record and will be made available to the decision-makers for their review and consideration. Please refer to Response to Comment No. 9 for additional discussion of the applicability of ASFs, the discussion of which is incorporated herein by this reference.

**Comment No. 5**

### C. The City Must Adopt Feasible Mitigation Measures to Address the Project's Significant Health Risks

CEQA requires lead agencies to avoid or reduce environmental damage when feasible by adoption of all feasible mitigation measures.[24] 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."[25] 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 the greatest extent feasible and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns."[26]

The FEIR for this project currently includes a single Project Design Feature and no enforceable mitigation measure to reduce diesel emissions associated with Project construction. Dr. Clark identifies several commonly used and feasible mitigation measures to reduce construction emissions. These include:

1. Require zero-emissions or near-zero emission on-road haul trucks such as heavy-duty trucks with natural gas engines that meet the CARB's adopted optional NOX emissions standard at 0.02 grams per brake horsepower-hour (g/bhp-hr), if and when feasible. At a minimum, require that construction vendors, contractors, and/or haul truck operators commit to using 2017 model year trucks (e.g., material delivery trucks and soil import/export) that meet CARB's 2017 engine emissions standards at 0.01 g/bhp-hr of particulate matter (PM) and 0.20 g/bhp-hr of NOX emissions or newer, cleaner trucks.

2. Provide electric vehicle (EV) Charging Stations for zero emission vehicles.

3. Install Diesel Particulate Filter (DPF) systems or Diesel Oxidation Catalysts on construction equipment that is 50 hp or greater.

4. California regulations limit idling from both on-road and offroad diesel-powered equipment. The California Air Resources Board (CARB) enforces idling limitations and compliance with diesel fleet regulations.

    a. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes [California Code of Regulations, Title 13, sections 2449(d)(3) and 2485]. Provide clear signage that posts this requirement for workers at the entrances to the site.

    b. Provide current certificate(s) of compliance for CARB's In-Use Off Road Diesel-Fueled Fleets Regulation [California Code of Regulations, Title 13, sections 2449 and 2449.1]. For more information contact CARB at 877-593-6677, doors@arb.ca.gov, or www.arb.ca.gov/doors/compliance_cert1.html.

    c. Use only construction equipment rated by the United States Environmental Protection Agency as having Tier 4 (model year 2008 or newer) Final or stricter emission limits for all off-road construction equipment.

d. During construction, the construction contractor shall maintain a list of all operating equipment in use on the construction site for verification by the City. The construction equipment list shall state the makes, models, Equipment Identification Numbers, Engine Family Numbers, and number of construction equipment on-site.

5. Limit the daily number of trucks allowed at the Proposed Project to levels analyzed in the CEQA document. If higher daily truck volumes are anticipated to visit the site, the City as the Lead Agency should commit to re-evaluating the Proposed Project through CEQA prior to allowing this land use or higher activity level.

These are but a few examples of feasible mitigation measures that can be utilized to reduce the Project's significant health risks from diesel emissions. The City must prepare a revised DEIR that fully analyzes, discloses and mitigates the public health risk from diesel emissions associated with the Project's construction and operations.

[24] CEQA Guidelines §§ 15002(a)(2)-(3), 15126.4.

[25] CEQA Guidelines § 15002(a)(2).

[26] PRC § 21081(a)(3), (b); CEQA Guidelines §§ 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.

**Response to Comment No. 5**

The commenter notes their description of the general requirement under CEQA that when a lead agency identifies that a project will have a significant impact on the environment, the agency must adopt measures to eliminate or substantially lessen such significant effects on the environment to the extent feasible and that if there are remaining unavoidable significant effects, the lead agency must find before approving the project that those effects are acceptable due to overriding considerations. The commenter suggests examples of certain mitigation measures that would, in its view, reduce construction emissions. Further, the commenter asserts that the Draft EIR must be revised to analyze, disclose, and mitigate the public health risk from the diesel emissions associated with the Project's construction and operations. The commenters statements are contrary to the conclusions of the EIR and the facts of the Project with respect to air quality impacts.

The HRA provided as Appendix FEIR-2 of the Final EIR was done voluntarily by the City in order to thoroughly evaluate and respond to comments received on the Draft EIR and provide as much information as possible to interested members of the public and City decision-makers. The HRA demonstrated, and confirmed the prior conclusions of the Draft EIR, that the Project would not have a significant air quality impact. Therefore no additional mitigation measures are warranted. The HRA demonstrated that health risks from the Project (combined construction and operation) would result in a maximum of 1.0 in one million for residences located north and east of the Project Site, across 7th Street and Santa Fe Avenue. The Project-related incremental cancer risk is below the applicable SCAQMD significance threshold of 10 in one million people.[4] Therefore, while the commenter's suggestions are noted for the record and will be made available to the decision-makers for their review and consideration, no additional mitigation measures are warranted based on the HRA's cancer risk determination or this comment.

**Comment No. 6**

**III. CONCLUSION**

For the foregoing reasons, the City should revise and recirculate the DEIR with a full analysis of the Project's potentially significant impacts and propose appropriate mitigation.

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

**Response to Comment No. 6**

This comment concludes the first part of the comment letter. Refer to Response to Comment Nos. 2 through 5 above and 7 through 11 below.

---

[4] SCAQMD, South Coast AQMD Air Quality Significance Thresholds, April 2019.

**Comment No. 7**

**Attachment—Exhibit A, Clark & Associates, June 24, 2024, letter**

At the request of Adams Broadwell Joseph & Cardozo (ABJC), Clark and Associates (Clark) has reviewed materials related to the above referenced project.

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

**Project Description:**

In the Health Risk Assessment for the Violet Street Creative Office Campus Project (Project) prepared by Eyestone Environmental, the Project is described as a new 13-story (including mechanical penthouse), 450,599-square-foot commercial building, featuring up to 435,100 square feet of office uses, 15,499 square feet of ground floor retail and/or restaurant uses, and 1,264 automobile parking spaces in one at-grade, two above-grade, and four below-grade parking levels within Lot 1 of the Project Site, located at the southwestern corner of the Project Site.

In response to comments from Adams Broadwell Joseph and Cardozo (ABJC) on behalf of the Coalition for Responsible Equitable Economic Development Los Angeles (CREED LA), Eyestone performed an air dispersion model and health risk analysis of the emissions of diesel particulate matter from the Project. Eyestone concluded that the emissions from the Project would not pose a risk above the threshold of significance above the SCAQMD's cancer risk threshold of 10 in 1,000,000. This conclusion is in conflict with the facts provided within the FEIR.

**Response to Comment No. 7**

This comment introduces the attachment and indicates that Clark & Associates is working at the request of attorneys for CREED. Refer to Response to Comment Nos. 8 through 11 below for specific issues raised by the commenter.

**Comment No. 8**

**Specific Comments:**

1. **The HRA Erroneously Claims That Diesel Exhaust Is Not A Mutagenic Compound**

In the Introduction to the Health Risk Assessment prepared for the Project,[1] Eyestone states that based on [sic, their] review of relevant guidance on the applicability of the use of early life exposure adjustments to identified carcinogens, the use of these factors would not be applicable to this HRA as neither the Lead Agency nor SCAQMD have developed recommendations on whether these factors should be used for CEQA analyses of potential DPM construction or operational impacts. Eyestone goes on to state that adjustment factors are only considered when carcinogens act "through the mutagenic model of action." Therefore, early life exposure adjustments were not considered in this HRA.[2]

This assertion ignores the substantial evidence in the literature to support the use of early life adjustments. The U.S. EPA and the State of California spent considerable time and resources to evaluate the literature regarding exposure to diesel exhaust (DE) and in particular diesel particulate matter (DPM). In the supporting literature cited by both regulatory bodies, the state of information (all available studies including in vitro (cellular studies) and in vivo studies (whole animal or human exposure studies) were summarized. Studies supporting the mutagenic mode of action and not supporting the mutagenic mode of action were evaluated.

The U.S. EPA states clearly in its Weight-of-Evidence Characterization of Diesel Exhaust[3], found at the IRIS website, that "extensive supporting data including the demonstrated mutagenic and/or chromosomal effects of DE (sic Diesel Exhaust) 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."

The State of California's Scientific Review Panel's 1998 Report On Diesel Exhaust is very clear about the mode of action for DPM. In the Health Effects Section of the Report's Summary[4], the Board (made up of health scientists including toxicologists) states "Diesel exhaust particles or extracts of diesel exhaust particles are mutagenic 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." Whether one assesses the mode of action through in-vitro studies or in vivo studies it is clear that there is an overwhelming consensus of health scientists and toxicologists that study the matter that DPM meets the criteria for being deemed a mutagenic compound and therefore the use of age sensitivity factors is warranted.

[1] Eyestone. 2023. Health Risk Assessment Violet Street Creative Office Campus Project. Prepared by Eyestone Environmental, LLC. Dated November, 2023. Pg 6

[2] *ibid*

[3] U.S. EPA. 2003. Weight of Evidence For Cancer. https://iris.epa.gov/static/pdfs/0642_summary.pdf Pg 11.

[4] CARB. 1998. Findings of the Scientific Review Panel on The Report On Diesel Exhaust as adopted at the Panel's April 22, 1998, Meeting. https://ww2.arb.ca.gov/sites/default/files/classic/toxics/dieseltac/de-fnds.pdf

**Response to Comment No. 8**

The commenter disputes the methodology used in the HRA contained in the Final EIR, and states the commenter's opinion that, based on portions of two studies referenced by this comment (each of which are addressed below), the HRA should have considered DPM and diesel exhaust to be mutagenic compounds and that, on such basis, the HRA should have applied age sensitivity factors.[5] Eyestone Environmental considered this approach, and respectfully disagrees with the commenter's opinion for the reasons described below and in the HRA.

It is acknowledged that there is some scientific uncertainty regarding the health effects of DPM and diesel exhaust and the appropriateness, or lack thereof, of incorporating early-life exposure adjustments. There is therefore a variety of methodologies that have been recognized by regulatory agencies with expertise in these matters, and not all experts agree on the preferred approach. This uncertainty and the variability of methodologies was noted

[5] Diesel engine exhaust is a complex mixture of airborne particles and gases. Diesel particulate matter (DPM), composed of elemental carbon particles and adsorbed organic compounds, is the most frequently determined measure of diesel exhaust and the measure reported in toxicological studies of diesel engine exhaust. For the purposes of this discussion, the two terms are used interchangeably.

in the HRA included as Appendix FEIR-2. For example, page 5 of the HRA cites to the South Coast Air Quality Management District (SCAQMD) Staff Report presented to the SCAQMD Governing Board[6] regarding the Final Environmental Assessment for Proposed Amended Rules to Implement OEHHA Revisions to the Air Toxics Hot Spots Program Risk Assessment Guidelines and proposed amendments to Rule 1401.[7] As discussed therein, SCAQMD staff, in response to public comment in connection with toxic air contaminant exposures under Rule 1401, indicated that the "SCAQMD staff will evaluate a variety of options on how to evaluate health risks under the Revised OEHHA Guidelines under CEQA. The SCAQMD staff will conduct public workshops to gather input before bringing recommendations to the Governing Board." As noted in the HRA, thus far, SCAQMD has not conducted such workshops nor developed policy pertaining to the applicability of applying the 2015 OEHHA Guidance for CEQA purposes.

The discussion below illustrates why the studies selectively quoted by the commenter do not provide substantial evidence that age sensitivity factors were warranted in this HRA. *USEPA Guidance Indicates that Early Life Exposure Adjustments Are Warranted Only In Limited Circumstances, Not Applicable Here, for Compounds Exhibiting a Mutagenic Mode of Action*

First, USEPA guidance relating to the use of early life exposure adjustments (*Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens, EPA/630/R-003F*)[8] are considered when carcinogens act "through the mutagenic mode of action." This USEPA guidance specifically noted that this approach provides public health conservatism. As reported:

> *The Agency considered both the advantages and disadvantages of extending the recommended, age dependent adjustment factors for carcinogenic potency to carcinogenic agents for which the mode of action remains unknown. EPA*

---

[6] SCAQMD, Governing Board Meeting Agenda: June 5, 2015 (Agenda Item No. 28), www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2015/2015-jun1-028.pdf?sfvrsn=9.

[7] Prior to the 2015 OEHHA Guidelines, ASFs were not included in previous OEHHA guidance (Air Toxics Hot Spots Program Guidance Manual for the Preparation of Risk Assessments (2003 Guidance Manual).

[8] USEPA, Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens, March 2005, www3.epa.gov/airtoxics/childrens_supplement_final.pdf.

> *recommends these factors only for carcinogens acting through a mutagenic mode of action based on a combination of analysis of available data and long-standing science policy positions that set out the Agency's overall approach to carcinogen risk assessment, e.g., the use of a linear, no threshold extrapolation procedure in the absence of data in order to be health protective. In general, the Agency prefers to rely on analyses of data rather than on general defaults. When data are available for a susceptible lifestage, they should be used directly to evaluate risks for that chemical and that lifestage on a case-by-case basis. In the case of nonmutagenic carcinogens, when the mode of action is unknown, the data were judged by EPA to be too limited and the modes of action too diverse to use this as a category for which a general default adjustment factor approach can be applied. In this situation per the Agency's Guidelines for Carcinogen Risk Assessment, a linear low-dose extrapolation methodology is recommended. It is the Agency's long-standing science policy position that use of the linear low-dose extrapolation approach (without further adjustment) provides adequate public health conservatism in the absence of chemical-specific data indicating differential early-life susceptibility or when the mode of action is not mutagenicity.*

In other words, this USEPA Guidance acknowledges that not all carcinogenic agents act through a mutagenic mode of action. The USEPA Guidance indicates that for carcinogenic agents for which the mode of action remains unknown (that is, for carcinogenic agents that have not been established to be mutagenic), USEPA's position is that "linear low-dose extrapolation", "without further adjustment", provides adequate public health conservatism. Therefore, this USEPA Guidance supports the methodology that was recommended by Eyestone Environmental' s air quality experts and which was accordingly used to prepare the quantitative HRA that was included in Appendix FEIR-2.

*The Commenter Appears to Conflate the USEPA's Weight of Evidence Conclusion that Diesel Exhaust is Likely to Be Carcinogenic to Humans with a Conclusion (not made by the USEPA) that Diesel Exhaust Exhibits a Mutagenic Mode of Action*

Second, the commenter appears to confuse or conflate the USEPA's "weight of evidence" judgment that diesel exhaust is "likely to be carcinogenic to humans", with a hypothetical conclusion—that is not contained in the IRIS Assessment—that diesel exhaust exhibits a mutagenic mode of action. More specifically, the USEPA Integrated Risk Information System (IRIS) Chemical Assessment Summary for Diesel Engine Exhaust (IRIS Assessment), which is extensively referenced in Comment No. 8, concludes, in part, based on the weight-of-evidence judgement of the likelihood that DE is a human carcinogen and states that "diesel exhaust (DE) *is likely to be carcinogenic to humans* by inhalation from environmental exposures."[9] However, this conclusion of the IRIS Assessment is different than a conclusion that diesel exhaust as a whole is a mutagenic compound. This difference is critical to a judgment as to whether it would be analytically appropriate for the HRA to include age sensitive factors when analyzing the effects of diesel exhaust.

It is acknowledged that, as this comment identifies, USEPA's IRIS Assessment has identified as "lines of evidence" for its overarching conclusion that, for example, there is "strong but less than sufficient evidence for a causal association between [diesel exhaust] exposure and increased lung cancer risk among workers in varied occupations where exposure to DE occurs; [and there is] extensive supporting data including the demonstrated mutagenic and/or chromosomal effects of [diesel exhaust] 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."[10] These facts were considered by Eyestone Environmental and the City in the preparation of the HRA. In fact, the HRA expressly disclosed that certain organic constituents of diesel exhaust—comprising less than one percent of diesel exhaust particulate mass—exhibit mutagenic modes of action. Therefore, the comment is incorrect when it asserts that the HRA ignored this issue, or ignored the evidence in the literature that might support the use of early life adjustments.

---

[9] USEPA, National Center for Environmental Assessment, Integrated Risk Information System (IRIS), Diesel Engine Exhaust United States, last Updated February 28, 2003, p. 11, https://iris.epa.gov/static/pdfs/0642_summary.pdf.

[10] *Ibid*.

*The Commenter Fails to Acknowledge and/or Give Sufficient Weight to the Substantial Scientific Uncertainty Noted in the USEPA IRIS Assessment*

Third, in Eyestone Environmental's judgment, as informed by the expertise of Mark Hagmann, P.E., the commenter fails to give sufficient weight to (nor in many cases does the commenter even acknowledge) other information set forth in the IRIS Assessment which indicates that it has not been established that diesel exhaust as a whole exhibits a mutagenic mode of action. Mr. Hagmann's resume is included as Attachment B of this response.

For example, while the IRIS Assessment indicates that the "qualitative evidence for potential human carcinogenicity is considered strong … inferences are involved and uncertainties are present." The IRIS Assessment goes on to describe this uncertainty at length:

> *First, there has been a considerable scientific debate about the significance of the available human evidence for a causal association between occupational exposure and increased lung cancer risk. Some experts view the evidence as weak and/or inconsistent while others consider the evidence compelling, due to a lack of consensus about whether the effects of smoking and other potential confounders have been adequately accounted for in key studies, and the lack of agreed-upon historical DE exposure data for the key studies. These issues highlight the difficulty in delineating an exposure-based dose-response relationship. In addition, while the mode of action for lung tumors in rats at high DE exposures is sufficiently understood, the mode of action for the DE lung cancer risk in humans is not known. To date, available evidence for the role of both the adsorbed organics and the carbon core particle has only been shown under high-exposure experimental animal test conditions. There is virtually no information about the relative role of DE constituents in mediating carcinogenic effects at the low-exposure levels or in humans. Data gaps also limit conclusions regarding the full extent of DE's carcinogenic potential. These limitations include lack of knowledge concerning the susceptibility of young animals to DE's carcinogenic effects relative to more mature animals, the human carcinogenic potential of DE by oral and dermal exposures, and the inconclusive epidemiologic evidence for DE being associated with other forms of cancer.*

> In other words, the studies included in the IRIS Assessment indicate that a mutagenic mode of action has been identified in rats following high DE exposures, but no such mode of action has been identified in humans [“*the mode of action for the DE lung cancer risk in humans is not known” … “There is virtually no information about the relative role of DE constituents in mediating carcinogenic effects at the low-exposure levels or in humans.”]*

Additionally, we emphasize that, as discussed in Appendix FEIR-2 at page 6, for diesel particulates, polycyclic aromatic hydrocarbons (PAHs), and their derivatives, which are known to exhibit a mutagenic mode of action, comprise less than one percent of the exhaust particulate mass.[11] Given that the estimate of the increased cancer risk from inhalation exposure is expressed in terms of total diesel particulate, in Eyestone Environmental’ s expert judgment, it is not reasonable to apply mutagenic mode of action to the total amount of diesel particulate.

In sum, while the IRIS Assessment (and the HRA) acknowledges that there is strong evidence of diesel exhaust carcinogenicity, substantial uncertainty remains about the mode of action for diesel exhaust as a whole. Furthermore, and contrary to what is implied by this comment, USEPA’s IRIS Assessment does not provide guidance in support of the use of age sensitive factors for diesel exhaust or purport that whole diesel engine exhaust has shown to elicit a mutagenic mode of action.[12]

*The State of California’s Scientific Review Panel’s 1998 Report on Diesel Exhaust Relied on Substantially the Same Studies and Included the Same Degree of Uncertainty as Noted Above in the USEPA’s IRIS Assessment*

Fourth, the comment also referred to the State of California’s Scientific Review Panel’s 1998 Report on Diesel Exhaust (the “1998 Report”), which suffers from the same uncertainties as noted above. More specifically, the 1998 Report was based on many of the

---

[11] United States Environmental Protection Agency, Health Assessment Document for Diesel Engine Exhaust (EPA/600/8-90/057F), 2002.

[12] United States Environmental Protection Agency, National Center for Environmental Assessment, Integrated Risk Information System (IRIS), Diesel Engine Exhaust, Last Updated February 28, 2003, p. 12, https://iris.epa.gov/static/pdfs/0642_summary.pdf.

same studies that were cited in USEPA's IRIS Assessment and thus the same response applies. In addition, the 1998 Report acknowledges under Exposure Related Conclusions (Item 4) that "The organic fraction consists of soluble organic compounds such as aldehydes, alkanes and alkenes, and high-molecular weight PAH and PAH-derivatives, such as nitro-PAHs. Many of these PAHs and PAH-derivatives, especially nitro-PAHs, have been found to be potent mutagens and carcinogens." This conclusion regarding diesel exhaust by the State of California's Scientific Review Panel is consistent with what was emphasized in Appendix FEIR-2 at page 6, in which PAHs and their derivatives, which are known to exhibit a mutagenic mode of action, comprise less than 1 percent of the exhaust particulate mass. The commentor is also referred to Page 22 of USEPA's IRIS Assessment, in which additional context is provided regarding mutagenicity data. The IRIS Assessment states: "The application of mutagenicity data to the question of the potential carcinogenicity of diesel engine exhaust is based on the premise that genetic alterations are found in all cancers and that several of the chemicals found in diesel engine exhaust possess mutagenic activity in a variety of genetic assays. These genetic alterations can be produced by gene mutations, deletions, translocations, aneuploidy, or amplification of genes; hence, no single genotoxicity assay should be expected to either qualitatively or quantitatively predict rodent carcinogenicity. With diesel engine exhaust or other mixtures, additional complications arise because of the complexity of the material being tested." Again, this information, when applied in conjunction with the USEPA guidance relating to the use of early life exposure adjustment factors (Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens, EPA/630/R-003F), supports the methodology used in the HRA. This is particularly true because, as provided as Appendix FEIR-2, PAHs, and their derivatives, which are known to exhibit a mutagenic mode of action, comprise less than one percent of the exhaust particulate mass. This comment, and the referenced studies, do not provide substantial evidence that whole diesel engine exhaust has been shown to elicit a mutagenic mode of action, nor that age sensitivity factors are warranted in this HRA.

Moreover, based on a review of relevant guidance on the applicability of the use of early life exposure adjustments to identified carcinogens, the use of these factors would not be applicable to the HRA provided in the Final EIR. Indeed, neither the Lead Agency nor SCAQMD, have developed generally applicable recommendations on whether these factors should be used for CEQA analyses of potential DPM construction or operational impacts.

In sum, neither of the studies cited in this Comment No. 8 are sufficient to indicate that diesel exhaust as a whole should be treated as having a mutagenic mode of action, and these studies therefore do not support the commenter's belief that a different methodology than the one adopted by the City should have been used.

*In Contrast to the Inapplicable or Inconclusive Studies Cited by the Commenter, Applicable Guidance Supports the Methodology Applied in the HRA*

USEPA Guidance also supports the methodology used in the HRA. For example, for the HRA prepared in the Final EIR, the HRA relied upon USEPA guidance relating to the use of early life exposure adjustment factors (Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens, EPA/630/R-003F) whereby adjustment factors are only considered when carcinogens act "through the mutagenic mode of action." As discussed above, PAHs and their derivatives within diesel particulate, which are known to exhibit a mutagenic mode of action, comprise less than one percent of the exhaust particulate mass. In sum, the alternative methodology requested by the commenter and the background studies referenced by the commenter (including the USEPA and the 1998 Report) were carefully considered by the air quality experts that prepared the HRA. However, in the expert judgment of the City's air quality experts, the totality of prior studies regarding the mutagenic mode of action of diesel exhaust *as a whole*, and the specific circumstances applicable to the Project, indicate that early life exposure adjustments are not appropriate for use in the HRA presented as Appendix FEIR-2. No information in the CREED Letter alters this conclusion or analysis.

**Comment No. 9**

**2. The HRA Fails To Accurately Calculate The Risk From DPM Emissions On Residents Near The Project Site**

The assertion by Eyestone that there is no need to use age adjustment factors since the Lead Agency (the City) and SCAQMD have not developed guidance ignores the standards for CEQA documents commonly prepared in the South Coast Air Basin. A clear example of the use of ASFs in SCAQMD's jurisdiction is the Norwalk Entertainment District Specific Plan. In its 2022 construction activities HRA, the City of Norwalk specifically used the ASFs consistent with the Office of Environmental Health Hazard Assessment's (OEHHA) *Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments* and

the SCAQMD's Risk Assessment Procedures for Rules 1401, 1401.1, and 212 to ensure that the health impacts from construction activities would assess risks for susceptible subpopulations such as children (see attachment).

Therefore, to be consistent with the SCAQMD's guidance on health risks in the Air Basin[5] which includes ASFs in the calculation of exposure for the maximum individual cancer risk (MICR) and the State's designation of DPM as a mutagenic chemical, the City must evaluate the health risk from exposure to DPM in a manner consistent with the guidance from the State.[6] 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.[7,8,9,10]

Using the residential receptor spreadsheet on page 87 of the pdf version Health Risk Assessment, I have re-calculated the risk from exposure to DPM from the construction phase to the most sensitive receptors (infants). Using the modeled concentration of 0.354 ug/m$^3$ the resultant cancer risk is 130 in 1,000,000, well above the SCAQMD's significance threshold. Based on this analysis it is clear that the City must require a significant amount of mitigation of construction emissions to ensure that the DPM emissions from the Project site do not adversely impact residents. To that end the City must re-evaluate the risk using the ASFs in the calculation of the risks to the residents nearby and present the results in a revised FEIR.

[5] SCAQMD. Risk Assessment Procedures For Rules 1401, 1401.1 and 212. Version 8.1. Dated September 2, 2017 pgs 7,12

[6] OEHHA. 2015. *Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments*. Dated February 2015.

[7] *ibid*.

[8] U.S. EPA. 2005. Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens. EPA/630/R-03/003F March 2005. Pg 33.

[9] U.S. EPA. 2011. Age Dependent Adjustment Factor (ADAF) Application.

[10] SCAQMD. Risk Assessment Procedures For Rules 1401, 1401.1 and 212. Version 8.1. Dated September 2, 2017 pgs 7,12

**Response to Comment No. 9**

The commenter again asserts his objection to the methodology selected by the City, and asserts that because a different lead agency has apparently selected the methodology he prefers on a factually distinguishable project, the City of Los Angeles must make that same choice of methodologies on this Project. The commenter's assertions are without merit.

The commenter then provides his calculation of the risk exposure to DPM, using commenter's preferred methodology (with the application of ASFs). As documented extensively throughout this response to comment, Eyestone Environmental respectfully disagrees with the commenter's preferred methodology for the reasons stated herein. Furthermore, the commenter did not implement his preferred methodology correctly. Table 8.4 of the OEHHA's *Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments* provides a fraction of time at home (FAH) of 0.85 for 0 to 2 years and 0.72 for 2 to 16 years of age. The commenter used an FAH of 1, which is only applicable for when a school is within the one in a million cancer risk isopleth. Since the commentor did not provide any risk isopleths, use of an FAH of 1 is not applicable to the analysis and overstates the risk. In addition, the commenter assumed a construction duration of 38 months even though as discussed in Response to Comment No. 2, the construction schedule for the Project estimates that the overall construction schedule would be limited to approximately 33 months. An assumed longer construction duration would also overstate the Project-related cancer risk. As discussed in Response to Comments No. 2 and 8, a quantified HRA using ASFs is not required, is not warranted under the facts of the Project, and the City as the Lead Agency has the discretion to select the appropriate thresholds of significance and methodologies based on substantial evidence for evaluating a project's impacts including potential impacts related to health risk. Please refer to Response to Comment No. 8 as to why the commenter incorrectly asserts that the State has designated DPM as a mutagenic chemical. We also note that the commenter's generalized statement to the "State's designation of DPM as a mutagenic compound' is unclear and appears unwarranted. No such designation by the State has been made, and the limited discussion of DPM in the 1998 Report has been fully addressed above.

When considering the methodology the commenter prefers, it is important to understand the purpose of the OEHHA guidance regarding mutagenic compounds and related age sensitivity factors cited in this comment as it is not applicable to the Project.

OEHHA adopted the Air Toxics Hot Spots Program Guidance Manual for the Preparation of Risk Assessments (2003 Guidance Manual) in October of 2003. The Guidance Manual was developed by OEHHA, in conjunction with the California Air Resources Board (CARB), for use in implementing the Air Toxics "Hot Spots" Program (Health and Safety Code Section 44360 et. seq.). The Air Toxics "Hot Spots" Program requires certain stationary sources to report the types and quantities of certain substances routinely released into the air. The goals of the Air Toxics "Hot Spots" Program are to collect emission data, to identify facilities having localized impacts, to ascertain health risks, to notify nearby residents of significant risks, and to reduce those significant risks to acceptable levels.

OEHHA adopted a new version of the *Air Toxics Hot Spots Program Guidance Manual for the Preparation of Risk Assessments* (2015 Guidance Manual) in March of 2015. CARB acknowledges that the Guidance Manual does not include guidance for projects prepared under the auspices of CEQA and that it would be "handled by individual [Air Pollution Control] Districts." As noted by CARB,

*The Air Toxics "Hot Spots" Information and Assessment Act (AB 2588, 1987, Connelly) was enacted in September 1987. Under this, stationary sources are required to report the types and quantities of certain substances their facilities routinely release into the air. Emissions of interest are those that result from the routine operation of a facility or that are predictable, including but not limited to continuous and intermittent releases and process upsets or leaks…*

*The Act requires that toxic air emissions from stationary sources (facilities) be quantified and compiled into an inventory according to criteria and guidelines developed by the ARB, that each facility be prioritized to determine whether a risk assessment must be conducted, that the risk assessments be conducted according to methods developed by OEHHA….*

There are two broad classes of facilities subject to the AB 2588 Program: Core facilities and facilities identified within discrete industry-wide source categories. Core facilities subject to AB 2588 compliance are sources whose criteria pollutant emissions (particulate matter, oxides of sulfur, oxides of nitrogen, and volatile organic compounds) are 25 tons per year or more as well as those facilities whose criteria pollutant emissions are 10 tons per year or more but less than 25 tons per year. Industry-wide source facilities are classified as

smaller operations with relatively similar emission profiles (e.g., auto body shops, gas stations, and dry cleaners using perchloroethylene).

The emissions generated from the construction and subsequent occupancy of an office and commercial development project (such as the proposed Project) are not classified as core operations, nor are they subject to industry-wide source evaluation.

The intent in developing the 2015 Guidance Manual was to provide HRA procedures for use in the Air Toxics Hot Spots Program or for the permitting of certain new or modified stationary sources. As noted above, the Project is not a new or modified stationary source that requires air quality permits to construct or operate. Air districts are to determine which facilities will prepare an HRA based on a prioritization process. The 2015 Guidance Manual also provides recommendations related to cancer risk evaluation of short-term projects regarding certain stationary sources. As discussed in Section 8.2.10 of the 2015 Guidance Manual, "[t]he local air pollution control districts sometimes use the risk assessment guidelines for the Hot Spots program in permitting decisions for short-term projects such as construction or waste site remediation." Short-term projects that would require a permitting decision by SCAQMD typically would be limited to site remediation (e.g., stationary soil vapor extractors) and would not be applicable to the Project. The 2015 Guidance Manual also does not provide specific recommendations for evaluation of short-term use of mobile sources (e.g., heavy-duty diesel construction equipment). Thus, the 2015 Guidance Manual and, as noted below, the SCAQMD Risk Assessment Procedures for *1401, 1401.1, 1402, and 212 A-8*, are inapplicable as a factual matter to the proposed Project and the HRA, and does not support the commenter's opinion that age adjustment factors should have been utilized.

OEHHA's *Air Toxics Hot Spots Program Guidance Manual for the Preparation of Risk Assessments* (2015 Guidance Manual).[13]I provides age sensitivity factors to account for potential increased sensitivity of early-in-life exposure to carcinogens. For risk assessments conducted under the auspices of AB 2588, a weighting factor is applied to all carcinogens

---

[13] Office of Environmental Health Hazard Assessment, Air Toxicology and Epidemiology, Adoption of Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments. March 6, 2015, https://oehha.ca.gov/air/crnr/notice-adoption-air-toxics-hot-spots-program-guidance-manual-preparation-health-risk-0.

regardless of purported mechanism of action. In comments presented to the SCAQMD Governing Board (Meeting Date: June 5, 2015, Agenda No. 28) relating to toxic air contaminant exposures under Rules 1401 (New Source Review of Toxic Air Contaminants), use of the 2015 OEHHA guidelines and their applicability for projects subject to CEQA, as they relate to the incorporation of early-life exposure adjustments, it was reported that:

*The Proposed Amended Rules are separate from the CEQA significance thresholds. The Response to Comments Staff Report PAR 1401, 1401.1, 1402, and 212 A - 8 June 2015 SCAQMD staff is currently evaluating how to implement the Revised OEHHA Guidelines under CEQA. The SCAQMD staff will evaluate a variety of options on how to evaluate health risks under the Revised OEHHA Guidelines under CEQA. The SCAQMD staff will conduct public workshops to gather input before bringing recommendations to the Governing Board.*

SCAQMD, as a commenting agency, has not conducted public workshops nor developed policy relating to the applicability of applying the 2015 OEHHA guidance for projects prepared by other public/lead agencies subject to CEQA.

To emphasize variability in methodology for conducting HRAs, regulatory agencies throughout the State of California including the Department of Toxic Substances Control (DTSC) which is charged with protecting individuals and the environment from the effects of toxic substances and responsible for assessing, investigating and evaluating sensitive receptor populations to ensure that properties are free of contamination or that health protective remediation levels are achieved, have adopted the U.S. Environmental Protection Agency's (USEPA's) policy in the application of early-life exposure adjustments. As discussed above, USEPA guidance relating to the use of early life exposure adjustments (*Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens, EPA/630/R-003F*) are considered only when carcinogens act "through the mutagenic mode of action." As discussed extensively throughout this comment, in Eyestone Environmental's expert judgment, as informed by the expertise of Mark Hagmann, P.E., and a review of the cited literature, early life exposure adjustments are not required, nor are they warranted, for DPM emissions.

The commentor provides an example of a Lead Agency (City of Norwalk) choosing to use ASFs consistent with OEHHA *Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments* and the SCAQMD's Risk Assessment Procedures

for Rules 1401, 1401.1, and 212 in an HRA for the Norwalk Entertainment District Specific Plan. Contrary to what is stated in this comment, the referenced HRA was not included as an attachment to this comment letter and, therefore, the comment is ambiguous. However, this example simply highlights that Lead Agencies have the discretion to select the appropriate thresholds of significance and methodologies for evaluating a project's impacts including potential impacts related to health risk. This example does not support a conclusion that SCAQMD (or any other agency with jurisdiction over the Project) has developed and provided binding guidance to the City of Los Angeles that it must use ASFs in CEQA documents related to land use development projects, and the commenter cites to no other such legal requirement. Dr. Clark's opinion regarding the use of ASFs is noted for the record and will be made available to the decision-makers for their review and consideration.

**Comment No. 10**

**3. The City Must Include Feasible Mitigation Measures In a Revised DEIR To Ensure That DPM Emissions From The Construction Phase Do Not Adversely Impact The Health Of Residents Near The Project Site**

Reasonable and feasible mitigation measures that have previously been recommended by the California Air Resources Board and the South Coast Air Quality Management District to reduce construction emissions that could be immediately adopted for the Project include:

1. Require zero-emissions or near-zero emission on-road haul trucks such as heavy-duty trucks with natural gas engines that meet the CARB's adopted optional $NO_X$ emissions standard at 0.02 grams per brake horsepower-hour (g/bhp-hr), if and when feasible. At a minimum, require that construction vendors, contractors, and/or haul truck operators commit to using 2017 model year trucks (e.g., material delivery trucks and soil import/export) that meet CARB's 2017 engine emissions standards at 0.01 g/bhp-hr of particulate matter (PM) and 0.20 g/bhp-hr of $NO_X$ emissions or newer, cleaner trucks4. [sic] Include environmental analyses to evaluate and identify sufficient power available for zero emission trucks and supportive infrastructures in the Energy and Utilities and Service Systems Sections in the CEQA document, where appropriate. The Lead Agency should include the requirement of zero-emission or near-zero emission heavy-duty trucks in applicable bid documents, purchase orders, and contracts. Operators shall maintain records of all trucks associated with project construction to document that

each truck used meets these emission standards, and make the records available for inspection. The Lead Agency should conduct regular inspections to the maximum extent feasible to ensure compliance.

2. Provide electric vehicle (EV) Charging Stations for zero emission vehicles.

3. Install Diesel Particulate Filter (DPF) systems or Diesel Oxidation Catalysts on construction equipment that is 50 hp or greater.

4. California regulations limit idling from both on-road and offroad diesel-powered equipment. The California Air Resources Board (CARB) enforces idling limitations and compliance with diesel fleet regulations.

   a. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes [California Code of Regulations, Title 13, sections 2449(d)(3) and 2485]. Provide clear signage that posts this requirement for workers at the entrances to the site.

   b. Provide current certificate(s) of compliance for CARB's In-Use Off-Road Diesel-Fueled Fleets Regulation [California Code of Regulations, Title 13, sections 2449 and 2449.1]. For more information contact CARB at 877-593-6677, doors@arb.ca.gov, or www.arb.ca.gov/doors/compliance_cert1.html.: [sic]

   c. Use only construction equipment rated by the United States Environmental Protection Agency as having Tier 4 (model year 2008 or newer) Final or stricter emission limits for all off-road construction equipment.

   d. During construction, the construction contractor shall maintain a list of all operating equipment in use on the construction site for verification by the City. The construction equipment list shall state the makes, models, Equipment Identification Numbers, Engine Family Numbers, and number of construction equipment on-site.

5. Limit the daily number of trucks allowed at the Proposed Project to levels analyzed in the CEQA document. If higher daily truck volumes are anticipated to visit the

site, the City as the Lead Agency should commit to re-evaluating the Proposed Project through CEQA prior to allowing this land use or higher activity level.

**Response to Comment No. 10**

The commenter states that the City must adopt feasible mitigation measures to ensure that DPM emissions do not adversely impact the health of residents near the Project Site, and suggests specific measures. This comment reiterates the comment made under Comment No. 5. Accordingly, the Response to Comment No. 5 is incorporated herein by this reference. As noted above, the quantitative HRA demonstrates that carcinogenic risk from the Project (combined construction and operation) would be a maximum of 1.0 in one million for residences located north and east of the Project Site, across 7th Street and Santa Fe Avenue (for combined construction and operational emissions), which is below the applicable SCAQMD significance threshold of 10 in one million for carcinogenic exposure. For chronic non-carcinogenic exposures, the increase in the hazard index was estimated to be less than the applicable threshold of 1.0 for either chronic or acute effects at sensitive receptors in close proximity to the Project Site, resulting in a less than significant impact. No additional mitigation measures are warranted based on the HRA's cancer risk determination, the non-cancer exposure risk, determination, nor this comment.

**Comment No. 11**

**Conclusion**

The facts identified and referenced in this comment letter lead me to reasonably conclude that the Project could result in significant impacts if allowed to proceed. A revised FEIR should be prepared to address these substantial concerns.

**Exhibit A—James J.J. Clark Curriculum Vitae** (19 pages)

**Exhibit B—DPM Risk Calculations** (2 pages)

**Response to Comment No. 11**

This comment concludes the attachment. Refer to Response to Comment Nos. 7 through 10 above for specific issues raised by the commenter. For the reasons stated above, and incorporated herein by this reference, no revised FEIR is warranted.

# Attachments

# Attachment A

Adams Broadwell Joseph & Cardozo
Comment Letter, June 25, 2024

ADAMS BROADWELL JOSEPH & CARDOZO
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037
TEL: (650) 589-1660
FAX: (650) 589-5062
rfranco@adamsbroadwell.com

ARIANA ABEDIFARD
KEVIN T. CARMICHAEL
CHRISTINA M. CARO
THOMAS A. ENSLOW
KELILAH D. FEDERMAN
RICHARD M. FRANCO
ANDREW J. GRAF
TANYA A. GULESSERIAN
DARION N. JOHNSTON
RACHAEL E. KOSS
AIDAN P. MARSHALL
TARA C. RENGIFO

*Of Counsel*
MARC D. JOSEPH
DANIEL L. CARDOZO

SACRAMENTO OFFICE
520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4721
TEL: (916) 444-6201
FAX: (916) 444-6209

June 25, 2024

**VIA EMAIL**

Hearing Officer
City of Los Angeles Department of City Planning
Attn: Paul Caporaso
221 N. Figueroa Street, Suite 1350
Los Angeles, CA 90012
Email: Paul.Caporaso@lacity.org

**VIA EMAIL**

Rey Fukuda
City of Los Angeles, Department of City Planning
221 N. Figueroa Street, Suite 1350
Los Angeles, CA 90012
Email: Rey.Fukuda@lacity.org

Re: **Agenda Item No. 1- June 26, 2024 City of Los Angeles Hearing Officer hearing on Violet Street Creative Office Campus Project (SCH Number 2022110015; Environmental Case No. ENV -2021-2232-EIR)**

Dear Mr. Caporaso and Mr. Fukuda:

We are writing on behalf of Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA") in opposition to the Violet Street Creative Office Campus Project (SCH Number 2022110015; Environmental Case No. ENV -2021-2232-EIR) ("Project") proposed by Al Violet, LLC and Al Violet B2, LLC ("Applicants"). The Project appears as agenda item No. 1 for the June 26, 2024 City of Los Angeles ("City") Department of City Planning hearing officer agenda. The hearing officer will take public testimony on behalf of the Los Angeles Planning Commission on the Project's Final Environmental Impact Report ("FEIR") and entitlements including a General Plan Amendment, Vesting Zone and Height District Change, Vesting Conditional Use, Zone Variance, and Site Plan Review.

The City, as lead agency under the California Environmental Quality Act[1] ("CEQA"), prepared the Draft Environmental Impact Report ("DEIR") and FEIR for the Project. CREED LA's comments on the DEIR explained how the DEIR failed to comply with CEQA's requirement to act as an informational document, in that it lacked proper analysis in crucial areas including the Project's impacts on public health and noise. Those comments further explained how these flaws made the

[1] Pub. Resources Code ("PRC") §§ 21000 *et seq.*

DEIR deficient as a matter of law because it failed to properly analyze, disclose and mitigate the Project's potentially significant impacts, and lacked substantial evidence supporting the City's conclusions regarding those impacts.

The City's FEIR includes responses to CREED LA's DEIR comments and purports to address the issues raised. As discussed below however, the FEIR fails to adequately resolve these issues or to mitigate all of the Project's potentially significant impacts. We reviewed the FEIR and available supporting documentation with the assistance of air quality expert James Clark Ph.D.[2] We reserve the right to supplement these comments at a later date, and at any later proceedings related to this Project.[3]

## I. STATEMENT OF INTEREST

CREED LA is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public and worker health and safety hazards, and the environmental and public service impacts of the Project. The coalition 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 City of Los Angeles and surrounding areas.

Individual members of CREED LA and its member organizations include Jorge L. Aceves, John P. Bustos, Gerry Kennon, and Chris S. Macias. These individuals live, work, recreate, and raise their families in the City of Los Angeles 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 onsite.

In addition, 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

---

[2] Dr. Clark's technical comments and curricula vitae are attached hereto as Exhibit A ("Clark Comments").

[3] Gov. Code § 65009(b); PRC § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* ("*Bakersfield*") (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

moratoriums and other restrictions on growth that, in turn, reduce future employment opportunities.

## II. THE CITY HAS NOT COMPLIED WITH CEQA BECAUSE FEIR FAILS TO ADEQUATELY DISCLOSE AND MITIGATE THE PROJECT'S SIGNIFICANT HEALTH RISK IMPACTS

The City may not approve the Project at this time because the FEIR fails to adequately disclose and mitigate the project's significant health risk impacts. CEQA requires that a lead agency evaluate and provide a written response to DEIR comments raising significant environmental issues.[4] Such comments must be addressed in detail and include good faith reasoned analysis; conclusory statements unsupported by facts do not suffice.[5] A lead agency's failure to adequately respond to comments raising significant environmental issues before approving a project frustrates CEQA's informational purposes and renders the EIR legally inadequate.[6] Here, the City failed to adequately respond to CREED LA's DEIR comments with respect to the Project's significant health risks fails to adequately respond lack any reasoned analysis and include wholly conclusory statements unsupported by any facts. The FEIR is therefore legally inadequate under CEQA and the Commission may not certify the FEIR nor grant the requested Project approvals at this time.

CREED LA's comments on the DEIR explained that the City's air quality and health risk analysis failed to address health risks associated with emissions of toxic diesel particulate matter ("DPM") from the Project's construction equipment. The comments explained the California Supreme Court's recognition of CEQA's mandate to protect public health and safety by holding that an EIR fails as an informational document when it fails to disclose the public health impacts from air pollutants that would be generated by a development project.[7] The DEIR stated that the City did not perform a construction health risk analysis because it claimed that the "short-term" nature of construction emissions did not warrant analysis.[8] The DEIR asserted that, "[g]iven the short-term construction schedule of approximately 33 months, the Project would not result in a long-term (i.e., 70-year) source of TAC emissions. Additionally, the SCAQMD CEQA Guidance does not require a health risk assessment (HRA) for short-term construction emissions."[9] CREED LA's DEIR comments explained that the City's position violated CEQA's

---

[4] 14 CCR § 15088(a).
[5] 14 CCR § 15088(c).
[6] *Flanders Found. v. City of Carmel-by-the-Sea* (2012) 202 Cal.App.4th 603, 615-17; *Rural Landowners Ass'n v. City Council* (1883) 143 Cal.App.3d 1013, 1020.
[7] *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 518–522.
[8] DEIR, pg. IV.A-61
[9] *Id.*

requirement to 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.[10]

This failure has not been remedied in the FEIR. In the FEIR's response to comments, the City continues to maintain that it is not required to perform a health risk analysis or otherwise analyze or disclose the health risks from Project construction.[11] Nevertheless, in response to CREED LA's comments, the City included in the FEIR a quantitative health risk analysis ("HRA") "to confirm, as the Draft EIR concludes, that no significant health risk impacts would occur from the Project."[12] This HRA purports to show that the carcinogenic risk from the Project would be a maximum of 1.0 in one million for residents adjacent to the Project site, which is below the applicable South Coast Air Quality Management District ("SCAQMD") significance threshold of 10 in one million for carcinogen exposures.[13]

As discussed below, Dr. Clark reviewed the City's HRA and found that the HRA improperly failed to include age sensitivity factors and as a result, the HRA fails to accurately calculate the risk from Project DPM emissions on residents near the Project site.

### A. The FEIR Fails to Disclose that Diesel Exhaust is a Mutagenic Compound

In performing the HRA, the City's consultant failed to incorporate age sensitivity factors in calculating health risks from DPM. To justify this failure, it claims that HRA's need only incorporate age adjustment factors when carcinogens act "through the mutagenic mode of action."[14] This claim cites a 2006 USEPA Guidance document that identifies several constituents of DPM as exhibiting a mutagenic mode of action; however, the City claims that, to date, the USEPA reports that whole diesel engine exhaust has not been shown to elicit a mutagenic mode of action."[15] In other words, the City's consultant admits that several DPM constituents are known to be mutagenic, but asserts that diesel engine exhaust "as a whole" is not.

---

[10] *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184.
[11] FEIR, pg. II-69.
[12] *Id.*
[13] *Id.*
[14] FEIR, Appendix FEIR-2, Health Risk Assessment, pg. 6.
[15] *Id.*

As Dr. Clark explains, the City's position is not supported by the evidence.[16] He cites USEPA's comprehensive review of toxicity data for diesel engine exhaust, which unequivocally found that diesel exhaust is a likely human carcinogen with mutagenic modes of action. As Dr. Clark points out, the basis for this conclusion by USEPA includes "extensive supporting data including *the demonstrated mutagenic and/or chromosomal effects of DE* [diesel exhaust] 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 [emphasis added]."[17] Dr. Clark further explains that the State of California has expressed in similarly explicit language that diesel exhaust is mutagenic: "*diesel exhaust particles or extracts of diesel exhaust particles are mutagenic* 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 [emphasis added]."[18]

The City's position that diesel exhaust is not mutagenic lacks the support of substantial evidence, and is flatly contradicted by scientific evidence provided by Dr. Clark. This is contrary to CEQA's requirement that the determination of whether a project may have a significant effect on the environment be based on scientific and factual data.[19] Accordingly, the HRA should have included age sensitivity factors when calculating the Project's health risks from DPM.

### B. With Proper Age Sensitivity Factors Applied, the Project HRA Reveals Significant and Unmitigated Health Risks

As Dr. Clark explains, federal (USEPA), state (CA OEHHA) and local (SCAQMD) public health organizations all agree that health risk analysis should include age sensitivity factors when evaluating cancer risks.[20] The importance of using age sensitivity factors in health risk analysis is explained by SCAQMD in its Risk Assessment Procedures guidance document:

> Scientific data have shown that young animals are more sensitive than adult animals to exposure to many carcinogens. Therefore, OEHHA developed ASFs to take into account the increased sensitivity to

[16] Clark Comments, pgs. 2-3.
[17] U.S. EPA. 2003. Weight of Evidence For Cancer, cited in Clark Comments, pg. 3.
[18] CARB. 1998. Findings of the Scientific Review Panel on The Report On Diesel Exhaust, cited in Clark Comments, pg. 3.
[19] 14 CCR § 15064(b)(1).
[20] Clark Comments, pgs. 3-4.

> carcinogens during early-in-life exposure. OEHHA recommends an ASF of 10 for exposures that occur from the third trimester of pregnancy to 2 years, and an ASF of 3 for exposures that occur from 2 years through 15 years of age.[21]

Despite the consensus from regulatory agencies regarding the importance of age sensitivity factors to account for the increased sensitivity of younger receptors, the City's analysis omits this crucial step. Dr. Clark used the City's own HRA, and re-calculated the risks of exposure to DPM from the Project's construction phase to the most sensitive receptors (i.e., infants) using the OEHHA-recommended age sensitivity factors.[22] He found that the resultant cancer risk to infants is 130 in one million, well above the SCAQMD's significance threshold of 10 in one million.[23] Dr. Clark's analysis provides overwhelming evidence that a proper health risk analysis reveals a significant health risk from exposure to the Project's diesel emissions.

### C. The City Must Adopt Feasible Mitigation Measures to Address the Project's Significant Health Risks

CEQA requires lead agencies to avoid or reduce environmental damage when feasible by adoption of all feasible mitigation measures.[24] 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."[25] 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 the greatest extent feasible and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns."[26]

The FEIR for this project currently includes a single Project Design Feature and no enforceable mitigation measure to reduce diesel emissions associated with Project construction. Dr. Clark identifies several commonly used and feasible mitigation measures to reduce construction emissions. These include:

---

[21] SCAQMD. Risk Assessment Procedures For Rules 1401, 1401.1 and 212. Version 8.1. Dated September 2, 2017 pg. 7, cited in Clark Comments pg. 4.
[22] Clark Comments, pgs. 3-4 and Exhibit B.
[23] *Id.*
[24] CEQA Guidelines §§ 15002(a)(2)-(3), 15126.4.
[25] CEQA Guidelines § 15002(a)(2).
[26] PRC § 21081(a)(3), (b); CEQA Guidelines §§ 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.

1. Require zero-emissions or near-zero emission on-road haul trucks such as heavy-duty trucks with natural gas engines that meet the CARB's adopted optional NOx emissions standard at 0.02 grams per brake horsepower-hour (g/bhp-hr), if and when feasible. At a minimum, require that construction vendors, contractors, and/or haul truck operators commit to using 2017 model year trucks (e.g., material delivery trucks and soil import/export) that meet CARB's 2017 engine emissions standards at 0.01 g/bhp-hr of particulate matter (PM) and 0.20 g/bhp-hr of NOx emissions or newer, cleaner trucks.

2. Provide electric vehicle (EV) Charging Stations for zero emission vehicles.

3. Install Diesel Particulate Filter (DPF) systems or Diesel Oxidation Catalysts on construction equipment that is 50 hp or greater.

4. California regulations limit idling from both on-road and offroad diesel-powered equipment. The California Air Resources Board (CARB) enforces idling limitations and compliance with diesel fleet regulations.

    a. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes [California Code of Regulations, Title 13, sections 2449(d)(3) and 2485]. Provide clear signage that posts this requirement for workers at the entrances to the site.

    b. Provide current certificate(s) of compliance for CARB's In-Use Off Road Diesel-Fueled Fleets Regulation [California Code of Regulations, Title 13, sections 2449 and 2449.1]. For more information contact CARB at 877-593-6677, doors@arb.ca.gov, or www.arb.ca.gov/doors/compliance_cert1.html.

    c. Use only construction equipment rated by the United States Environmental Protection Agency as having Tier 4 (model year 2008 or newer) Final or stricter emission limits for all off-road construction equipment.

    d. During construction, the construction contractor shall maintain a list of all operating equipment in use on the construction site for verification by the City. The construction equipment list shall state

the makes, models, Equipment Identification Numbers, Engine Family Numbers, and number of construction equipment on-site.

5. Limit the daily number of trucks allowed at the Proposed Project to levels analyzed in the CEQA document. If higher daily truck volumes are anticipated to visit the site, the City as the Lead Agency should commit to re-evaluating the Proposed Project through CEQA prior to allowing this land use or higher activity level.

These are but a few examples of feasible mitigation measures that can be utilized to reduce the Project's significant health risks from diesel emissions. The City must prepare a revised DEIR that fully analyzes, discloses and mitigates the public health risk from diesel emissions associated with the Project's construction and operations.

## III. CONCLUSION

For the foregoing reasons, the City should revise and recirculate the DEIR with a full analysis of the Project's potentially significant impacts and propose appropriate mitigation.

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

Sincerely,

Richard M. Franco

Attachment
RMF:acp

# EXHIBIT A

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

June 24, 2024

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

**Attn: Mr. Richard Franco**

**Subject: Comment Letter on Final Environmental Impact Report (FEIR) Violet Street Creative Office Campus Project. (2030, 2034, 2038, 2042, 2046, 2054, and 2060 East 7th Street; 715, 721, 725, 729, 733, 777, 801, 805, 809, 813, 817, 821, 825, 827, and 829 East Santa Fe Avenue; 2016, 2020, 2023, 2026, 2027, 2030, 2031, 2034, 2035, 2037,2038, 2040; and 2043 East 7th Place and 2017, 2023, 2027, 2031, 2035, 2039, 2045, and 2051 Violet Street, Los Angeles, California 90021), Los Angeles, CA ENV-2021-2232-EIR.**

Dear Mr. Franco:

At the request of Adams Broadwell Joseph & Cardozo (ABJC), Clark and Associates (Clark) has reviewed materials related to the above referenced project.

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

**Project Description:**

In the Health Risk Assessment for the Violet Street Creative Office Campus Project (Project) prepared by Eyestone Environmental, the Project is described as a new 13-story (including mechanical penthouse), 450,599-square-foot commercial building, featuring up to 435,100 square feet of office uses, 15,499 square feet of ground floor retail and/or restaurant uses, and 1,264 automobile parking spaces in one at-grade, two above-grade, and four below-grade parking

levels within Lot 1 of the Project Site, located at the southwestern corner of the Project Site.

In response to comments from Adams Broadwell Joseph and Cardozo (ABJC) on behalf of the Coalition for Responsible Equitable Economic Development Los Angeles (CREED LA), Eyestone performed an air dispersion model and health risk analysis of the emissions of diesel particulate matter from the Project. Eyestone concluded that the emissions from the Project would not pose a risk above the threshold of significance above the SCAQMD's cancer risk threshold of 10 in 1,000,000. This conclusion is in conflict with the facts provided within the FEIR.

**Specific Comments:**

1. **The HRA Erroneously Claims That Diesel Exhaust Is Not A Mutagenic Compound**

In the Introduction to the Health Risk Assessment prepared for the Project,[1] Eyestone states that based on [*sic,* their] review of relevant guidance on the applicability of the use of early life exposure adjustments to identified carcinogens, the use of these factors would not be applicable to this HRA as neither the Lead Agency nor SCAQMD have developed recommendations on whether these factors should be used for CEQA analyses of potential DPM construction or operational impacts. Eyestone goes on to state that adjustment factors are only considered when carcinogens act "through the mutagenic model of action." Therefore, early life exposure adjustments were not considered in this HRA. [2]

This assertion ignores the substantial evidence in the literature to support the use of early life adjustments. The U.S. EPA and the State of California spent considerable time and resources to evaluate the literature regarding exposure to diesel exhaust (DE) and in particular diesel particulate matter (DPM). In the supporting literature cited by both regulatory bodies, the state of information (all available studies including in vitro (cellular studies) and in vivo studies (whole animal or human

[1] Eyestone. 2023. Health Risk Assessment Violet Street Creative Office Campus Project. Prepared by Eyestone Environmental, LLC. Dated November, 2023. Pg 6

[2] ibid

exposure studies) were summarized. Studies supporting the mutagenic mode of action and not supporting the mutagenic mode of action were evaluated.

The U.S. EPA states clearly in its Weight-of-Evidence Characterization of Diesel Exhaust[3], found at the IRIS website, that "extensive supporting data including the demonstrated mutagenic and/or chromosomal effects of DE (*sic* Diesel Exhaust) 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."

The State of California's Scientific Review Panel's 1998 Report On Diesel Exhaust is very clear about the mode of action for DPM. In the Health Effects Section of the Report's Summary[4], the Board (made up of health scientists including toxicologists) states "Diesel exhaust particles or extracts of diesel exhaust particles are mutagenic 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." Whether one assesses the mode of action through in-vitro studies or in vivo studies it is clear that there is an overwhelming consensus of health scientists and toxicologists that study the matter that DPM meets the criteria for being deemed a mutagenic compound and therefore the use of age sensitivity factors is warranted.

## 2. The HRA Fails To Accurately Calculate The Risk From DPM Emissions On Residents Near The Project Site

The assertion by Eyestone that there is no need to use age adjustment factors since the Lead Agency (the City) and SCAQMD have not developed guidance ignores the standards for CEQA documents commonly prepared in the South Coast Air Basin. A clear example of the use of ASFs in SCAQMD's jurisdiction is the Norwalk Entertainment District Specific Plan. In its 2022 construction activities HRA, the City of Norwalk specifically used the ASFs consistent with the Office of Environmental Health Hazard Assessment's (OEHHA) Air Toxics Hot Spots Program Guidance

[3] U.S. EPA. 2003. Weight of Evidence For Cancer. https://iris.epa.gov/static/pdfs/0642_summary.pdf Pg 11.

[4] CARB. 1998. Findings of the Scientific Review Panel on The Report On Diesel Exhaust as adopted at the Panel's April 22, 1998, Meeting. https://ww2.arb.ca.gov/sites/default/files/classic/toxics/dieseltac/de-fnds.pdf

Manual for the Preparation of Health Risk Assessments and the SCAQMD's Risk Assessment Procedures for Rules 1401, 1401.1, and 212 to ensure that the health impacts from construction activities would assess risks for susceptible subpopulations such as children (see attachment).

Therefore, to be consistent with the SCAQMD's guidance on health risks in the Air Basin[5] which includes ASFs in the calculation of exposure for the maximum individual cancer risk (MICR) and the State's designation of DPM as a mutagenic chemical, the City must evaluate the health risk from exposure to DPM in a manner consistent with the guidance from the State.[6] 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. [7,8,9,10]

Using the residential receptor spreadsheet on page 87 of the pdf version Health Risk Assessment, I have re-calculated the risk from exposure to DPM from the construction phase to the most sensitive receptors (infants). Using the modeled concentration of 0.354 ug/m$^3$ the resultant cancer risk is 130 in 1,000,000, well above the SCAQMD's significance threshold. Based on this analysis it is clear that the City must require a significant amount of mitigation of construction emissions to ensure that the DPM emissions from the Project site do not adversely impact residents. To that end the City must re-evaluate the risk using the ASFs in the calculation of the risks to the residents nearby and present the results in a revised FEIR.

---

[5] SCAQMD. Risk Assessment Procedures For Rules 1401, 1401.1 and 212. Version 8.1. Dated September 2, 2017 pgs 7,12

[6] OEHHA. 2015. *Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments.* Dated February 2015.

[7] *ibid*.

[8] U.S. EPA. 2005. Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens. EPA/630/R-03/003F March 2005. Pg 33.

[9] U.S. EPA. 2011. Age Dependent Adjustment Factor (ADAF) Application.

[10] SCAQMD. Risk Assessment Procedures For Rules 1401, 1401.1 and 212. Version 8.1. Dated September 2, 2017 pgs 7,12

3. **The City Must Include Feasible Mitigation Measures In a Revised DEIR To Ensure That DPM Emissions From The Construction Phase Do Not Adversely Impact The Health Of Residents Near The Project Site**

Reasonable and feasible mitigation measures that have previously been recommended by the California Air Resources Board and the South Coast Air Quality Management District to reduce construction emissions that could be immediately adopted for the Project include:

1. Require zero-emissions or near-zero emission on-road haul trucks such as heavy-duty trucks with natural gas engines that meet the CARB's adopted optional NOx emissions standard at 0.02 grams per brake horsepower-hour (g/bhp-hr), if and when feasible. At a minimum, require that construction vendors, contractors, and/or haul truck operators commit to using 2017 model year trucks (e.g., material delivery trucks and soil import/export) that meet CARB's 2017 engine emissions standards at 0.01 g/bhp-hr of particulate matter (PM) and 0.20 g/bhp-hr of NOx emissions or newer, cleaner trucks4. Include environmental analyses to evaluate and identify sufficient power available for zero emission trucks and supportive infrastructures in the Energy and Utilities and Service Systems Sections in the CEQA document, where appropriate. The Lead Agency should include the requirement of zero-emission or near-zero emission heavy-duty trucks in applicable bid documents, purchase orders, and contracts. Operators shall maintain records of all trucks associated with project construction to document that each truck used meets these emission standards, and make the records available for inspection. The Lead Agency should conduct regular inspections to the maximum extent feasible to ensure compliance.
2. Provide electric vehicle (EV) Charging Stations for zero emission vehicles.
3. Install Diesel Particulate Filter (DPF) systems or Diesel Oxidation Catalysts on construction equipment that is 50 hp or greater.
4. California regulations limit idling from both on-road and offroad diesel-powered equipment. The California Air Resources Board (CARB) enforces idling limitations and compliance with diesel fleet regulations.
    a. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes [California Code of Regulations, Title 13, sections

2449(d)(3) and 2485]. Provide clear signage that posts this requirement for workers at the entrances to the site.

b. Provide current certificate(s) of compliance for CARB's In-Use Off-Road Diesel-Fueled Fleets Regulation [California Code of Regulations, Title 13, sections 2449 and 2449.1]. For more information contact CARB at 877-593-6677, doors@arb.ca.gov, or www.arb.ca.gov/doors/compliance_cert1.html.:

c. Use only construction equipment rated by the United States Environmental Protection Agency as having Tier 4 (model year 2008 or newer) Final or stricter emission limits for all off-road construction equipment.

d. During construction, the construction contractor shall maintain a list of all operating equipment in use on the construction site for verification by the City. The construction equipment list shall state the makes, models, Equipment Identification Numbers, Engine Family Numbers, and number of construction equipment on-site.

5. Limit the daily number of trucks allowed at the Proposed Project to levels analyzed in the CEQA document. If higher daily truck volumes are anticipated to visit the site, the City as the Lead Agency should commit to re-evaluating the Proposed Project through CEQA prior to allowing this land use or higher activity level.

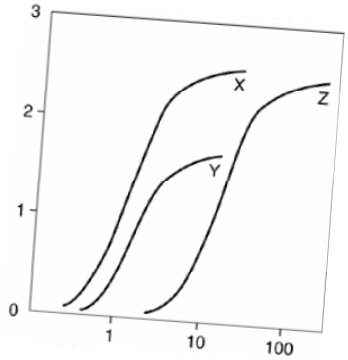
## Conclusion

The facts identified and referenced in this comment letter lead me to reasonably conclude that the Project could result in significant impacts if allowed to proceed. A revised FEIR should be prepared to address these substantial concerns.

Sincerely,

Exhibit A:

Curriculum Vitae




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

# *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 Litgation 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 Immanent 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 (M*t*BE) 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 M*t*BE. 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 M*t*BE, and is suspected to be the primary cause of M*t*BE 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 were 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 Equialency 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.

Rosenfeld, P.E., **Clark, J. J.,** Hensley, A.R., and Suffet, I.H. 2007. "The Use Of An Odor Wheel Classification For The Evaluation of Human Health Risk Criteria For Compost Facilities" Water Science & Technology. 55(5): 345-357.

Hensley A.R., Scott, A., Rosenfeld P.E., **Clark, J.J.J.** 2006. "Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility." The 26th International Symposium on Halogenated Persistent Organic Pollutants – DIOXIN2006, August 21 – 25, 2006. Radisson SAS Scandinavia Hotel in Oslo Norway.

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

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

**Clark, J.J.J**. 2003. "Manufacturing, Use, Regulation, and Occurrence of a Known Endocrine Disrupting Chemical (EDC), 2,4-Dichlorophnoxyacetic 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.

Rosenfeld, P. and **J.J.J. Clark**. 2003. "Understanding Historical Use, Chemical Properties, Toxicity, and Regulatory Guidance" National Groundwater Association Southwest Focus Conference: Water Supply and Emerging Contaminants. Phoenix, AZ. February 21, 2003.

**Clark, J.J.J.**, Brown A. 1999. Perchlorate Contamination: Fate in the Environment and Treatment Options. In Situ and On-Site Bioremediation, Fifth International Symposium. San Diego, CA, April, 1999.

**Clark, J.J.J.** 1998. Health Effects of Perchlorate and the New Reference Dose (RfD). Proceedings From the Groundwater Resource Association Seventh Annual Meeting, Walnut Creek, CA, October 23, 1998.

Browne, T., **Clark, J.J.J.** 1998. Treatment Options For Perchlorate In Drinking Water. Proceedings From the Groundwater Resource Association Seventh Annual Meeting, Walnut Creek, CA, October 23, 1998.

**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.

**Clark, J.J.J.**; Corbett, G.E.; Kerger, B.D.; Finley, B.L.; Paustenbach, D.J. 1996. Dermal Uptake of Hexavalent Chromium In Human Volunteers: Measures of Systemic Uptake From Immersion in Water At 22 PPM. Toxicologist. 30(1):14.

Dodge, D.G.; **Clark, J.J.J.**; Kerger, B.D.; Richter, R.O.; Finley, B.L.; Paustenbach, D.J. 1996. Assessment of Airborne Hexavalent Chromium In The Home Following Use of Contaminated Tapwater. Toxicologist. 30(1):117-118.

Paulo, M.T.; Gong, H., Jr.; **Clark, J.J.J.** (1992). Effects of Pretreatment with Ipratroprium Bromide in COPD Patients Exposed to Ozone. American Review of Respiratory Disease. 145(4):A96.

Harber, P.H.; Gong, H., Jr.; Lachenbruch, A.; **Clark, J.**; Hsu, P. (1992). Respiratory Pattern Effect of Acute Sulfur Dioxide Exposure in Asthmatics. American Review of Respiratory Disease. 145(4):A88.

McManus, M.S.; Gong, H., Jr.; Clements, P.; **Clark, J.J.J.** (1991). Respiratory Response of Patients With Interstitial Lung Disease To Inhaled Ozone. American Review of Respiratory Disease. 143(4):A91.

Gong, H., Jr.; Simmons, M.S.; McManus, M.S.; Tashkin, D.P.; Clark, V.A.; Detels, R.; **Clark, J.J.** (1990). Relationship Between Responses to Chronic Oxidant and Acute

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.

Exhibit B:

DPM Risk Calculations

**Risk Calculations For Diesel Exhaust From Construction Phase**

**$Risk_{inh\text{-}res} = Dose_{air} * CPF * ASF * ED/AT$**

**$Dose_{air} = C_{air} * \{BR/BW\} * A * EF * 10^{-6}$**

| Variable | Description | Units | Value |
|---|---|---|---|
| **$Risk_{inh\text{-}air}$** | Residential inhalation cancer risk | Unitless | Calculated |
| **$Dose_{air}$** | Daily inhalation dose | mg/kg-day | Calculated |
| **CPF** | Inhalation cancer potency factor | $(mg/kg\text{-}day)^{-1}$ | Chemical Specific |
| **ASF** | Age sensitivity factor for a specified age group | Unitless | Calculated |
| **ED** | Exposure duration (in years) for a specified age group | years | Calculated |
| **AT** | Averaging time for lifetime caner risk | years | 70 |
| **FAH** | Fraction of time spent at home | Unitless | Calculated |

| Variable | Description | Units | |
|---|---|---|---|
| **$Dose_{air}$** | Daily inhalation dose | mg/kg-day | |
| **$C_{air}$** | Concentration in air | $ug/m^3$ | 0.354 |
| **{BR/BW}** | Daily Breathing rate normalized to body weight | L/kg body weight-day | |
| **A** | Inhalation absorption fraction | Unitless | |
| **EF** | Exposure frequency (days/365 days) | Unitless | |
| **$10^{-6}$** | migrograms to milligrams conversion, liters to cubic meters conversion | Unitless | |

2.29E+01

**Residential Exposures**

| Age Group | Risk | Age Sensitivity | FAH | ED | CPF | Dose Air | Cair | EF |
|---|---|---|---|---|---|---|---|---|
| 3rd Trimester | 4.81E-06 | 10 | 1 | 0.25 | 1.1 | 1.23E-04 | 0.354 | 0.958904 |
| 0-1 | 5.81E-05 | 10 | 1 | 1 | 1.1 | 3.70E-04 | 0.354 | 0.958904 |
| 1-2 | 5.81E-05 | 10 | 1 | 1 | 1.1 | 3.70E-04 | 0.354 | 0.958904 |
| 2-3 | 8.42E-06 | 3 | 1 | 0.92 | 1.1 | 1.94E-04 | 0.354 | 0.958904 |
| 3-4 | 0.00E+00 | 3 | 1 | 0 | 1.1 | 1.94E-04 | 0.354 | 0.958904 |
| 2<9 | 0.00E+00 | 3 | 0.72 | 0 | 1.1 | 2.92E-04 | 0.354 | 0.958904 |
| 2<16 | 0.00E+00 | 3 | 0.72 | 0 | 1.1 | 2.53E-04 | 0.354 | 0.958904 |
| 16<30 | 0.00E+00 | 1 | 0.73 | 0 | 1.1 | 1.14E-04 | 0.354 | 0.958904 |
| 16-70 | 0.00E+00 | 1 | 0.73 | 0 | 1.1 | 9.84E-05 | 0.354 | 0.958904 |

3rd trimeseter to 3.17 1.30E-04

# Attachment B

Mark Hagmann Résumé

eyestone ENVIRONMENTAL

# MARK HAGMANN, P.E.

*Director of Air Quality*

Mark Hagmann has over 25 years of technical and supervisory experience related to the preparation of air quality technical studies for toxic air contaminants, criteria pollutants, and greenhouse gases (GHG). He has extensive knowledge of the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) regulatory process and the rules and regulations established by the South Coast Air Quality Management District. He has prepared Air Quality Impact Assessments (AQIA) and Health Risk Assessments (HRAs) required under various state and federal environmental regulations including NEPA and CEQA, RMPP, Cal ARP, AB2588, and Proposition 65. He has also conducted GHG analyses consistent with State, regional and local guidance. Mr. Hagmann has extensive expertise with all applicable modeling tools including CalEEMod, EMFAC, AERMOD, HARP, Cal3QHC, CALINE4, and EDMS. Mr. Hagmann was also selected by the SCAQMD to provide CEQA-Air Quality Specialist consulting services related to SCAQMD dispersion modeling, HRAs, and GHG analyses and GHG mitigation and monitoring plans.

**EDUCATION**

Graduate Study, Environmental Engineering, University of Central Florida, Design of Air Pollution Controls and Atmospheric Dispersion, 1995

B.S., Environmental Engineering, University of Florida, 1994

**PROFESSIONAL EXPERIENCE**

10131 Constellation Boulevard High-Rise Residential Project (EIR)

Arts Club West Hollywood (EIR)

Ascon Landfill Remedial Action Plan (EIR)

Boyle Heights Mixed-Use Community Project (EIR)

Carson Marketplace (EIR)

Chula Vista Eastern Urban Center Sectional Planning Area EIR

Columbia Square Project (EIR)

Convention and Event Center Project (EIR)

Crossroads Hollywood (EIR)

Disney | ABC Studios at The Ranch (EIR)

Douglas Park Project (EIR and Addendum)

Forest Lawn Memorial-Park–Hollywood Hills Master Plan (EIR)

Getty Villa Master Plan (EIR)

Grand Central Creative Campus (EIR)

Harvard Westlake Middle School (EIR)

Il Villaggio Toscano Project (EIR)

LAX Master Plan (EIR/EIS)

LAX South Airfield Project (EIR/EIS)

Los Angeles Sports and Entertainment Complex (EIR)

Lytle Creek Specific Plan (EIR)

New Century Plan at Westfield Century City (EIR)

Sunset Millennium (EIR)

The Grand Avenue Project (EIR)

USC Specific Plan (EIR)

USC Health Sciences Campus (EIR)

Village at Playa Vista (EIR)

**PROFESSIONAL AFFILIATIONS**

Registered Professional Engineer (P.E.), State of California, #C60002

# Attachment 3

October 2024 Eyestone Environmental Memorandum

# MEMORANDUM

**TO:** Rey Fukuda
Department of City Planning

**FROM:** Eyestone Environmental

**SUBJECT:** Violet Street Creative Office Campus Project—
VTT-83382
ENV-2021-2232-EIR

**DATE:** October 1, 2024

---

In accordance with the California Environmental Quality Act (CEQA), a comprehensive Draft Environmental Impact Report (EIR) was prepared for the Violet Street Creative Office Campus Project (Project). The Draft EIR was circulated for public review and comment from June 29, 2023, through August 14, 2023. Following public review of the Draft EIR, the City published a comprehensive Final EIR in June 2024, which included responses to each comment within the five written comment letters received on the Draft EIR during the public comment period.

A public hearing for the Project with the Deputy Advisory Agency and Hearing Officer was held on June 26, 2024, and the Letter of Determination was issued on August 29, 2024. On September 6, 2024, Adams Broadwell Joseph & Cardozo filed an appeal on behalf of CREED LA. The appeal includes an appeal justification letter dated September 6, 2024. Responses to this letter and appeal are provided below. As detailed in the responses and the accompanying analysis, the Draft EIR and the Final EIR fully satisfy the requirements of CEQA, and the issues raised in the appeal are not supported by substantial evidence.

None of the comments made by the Appellant in their appeal justification or June 25, 2024, letter alter the conclusions or analysis that was set forth in the EIR, nor in the August 29, 2024, Letter of Decision and the City's findings set forth therein. Both the EIR and the Advisory Agency's Letter of Decision are supported by substantial evidence. Additionally, none of the comments that have been received constitute new significant information warranting recirculation of the Draft EIR as set forth in CEQA Guidelines Section 15088.5.

2121 Rosecrans Avenue, Suite 3355, El Segundo, CA 90245-4744
Phone (424) 207-5333 • Fax (424) 207-5349

# MEMORANDUM



**Appeal Justification No. 1**

Kelilah D. Federman
obo CREED LA
Adams Broadwell Joseph & Cardozo
601 Gateway Blvd., Ste. 1000
South San Francisco, CA 94080-7037

**Appeal Comment No. 1**

Pursuant to Los Angeles Municipal Code Section 13B.7.3.G, Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA") appeals the Advisory Agency's decision to approve the Vesting Tentative Tract Map No. 83382 for the Violet Street Creative Office Campus Project (VTT-83382; CPC-2021-2231-GPA-VZC-HDVCU-ZV-SPR; ENV-2021-2232-EIR) ("Project"). On August 29, 2024, the Advisory Agency notified CREED LA that the Advisory Agency approved the Vesting Tentative Tract Map ("VTTM") for the Project to allow for vacation and merger of portions of 7th Place and the Easterly Public Alley into the site; resubdivision of the site into four ground lots; and a Haul Route for the export of up to 144,000 cubic yards of soil.[1]

This letter details 1) the reasons for CREED LA's Appeal, 2) the Specific Points at Issue, and 3) how CREED LA is aggrieved by the Advisory Agency's decision to approve the VTTM. CREED LA provided the City substantial evidence demonstrating that the Project results in significant environmental impacts requiring recirculation of the EIR. CREED LA's prior comments are concurrently uploaded to the Online Application System as Additional Findings: Attachment A[2] and Attachment B.[3]

## I. REASONS FOR APPEAL

For the reasons detailed herein CREED LA appeals the Advisory Agency's determination on the VTTM because the VTTM: 1) is not consistent with numerous General Plan policies[4] and 2) is not consistent with the Subdivision Map Act which prohibits approval of a VTTM where it is likely to cause serious public health problems.[5] Here, the Project's diesel particulate

matter emissions from construction will result in a serious public health problem associated with cancer risk to infants.

## II. STATEMENT OF INTEREST

CREED LA is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public and worker health and safety hazards, and the environmental and public service impacts of the Project. The coalition 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 City of Los Angeles and surrounding areas.

Individual members of CREED LA and its member organizations include Jorge L. Aceves, John P. Bustos, Gerry Kennon, and Chris S. Macias. These individuals live, work, recreate, and raise their families in the City of Los Angeles 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 onsite. **CREED LA members may be aggrieved by the approval of the VTTM due to the Project's environmental and health and safety impacts.**

[1] Letter of Determination, Vesting Tentative Tract No. 83382, Advisory Agency, City of Los Angeles (Mailing Date August 29, 2024).

[2] Letter from Ariana Abedifard, Richard Franco, Jack Meighan obo CREED LA, to City of Los Angeles, Comments on Draft Environmental Impact Report for the Violet Street Creative Office Campus Project (SCH Number 2022110015; Environmental Case No. ENV -2021-2232-EIR) (Aug. 14, 2023).

[3] Letter from Richard Franco obo CREED LA, to City of Los Angeles, Agenda Item No. 1-June 26, 2024 City of Los Angeles Hearing Officer hearing on Violet Street Creative Office Campus Project (SCH Number 2022110015; Environmental Case No. ENV -2021-2232-EIR) (June 25, 2024).

[4] Cal. Gov. Code § 66473.5.

[5] Cal. Gov. Code § 66474(f).

**Response to Appeal Comment No. 1**

Appeal Comment No. 1 details that CREED LA is appealing the Advisory Agency's decision to approve Vesting Tentative Map No. 83382 (CREED LA did not expressly appeal the Advisory Agency's CEQA determination). Two reasons are stated for this narrow appeal, namely the appellant's assertions that (1) the VTTM is not consistent with certain General Plan policies, and (2) the VTTM is not consistent with certain provisions of the Subdivision Map Act on the stated basis that approval of a VTTM is prohibited where it is likely to cause serious public health problems, in this case related to the Appellant's statements regarding diesel particulate matter emissions and cancer risk. This introductory comment and the bases for appeal are noted for the record and will be made available to the decision-makers for their review and consideration. Specific issues raised by the Appellant are addressed in Response to Appeal Comment Nos. 2 through 16, below.

This portion of the comment also notes that CREED LA's prior comments are concurrently uploaded to the Online Application System as "Additional Findings: Attachment A and Attachment B." (footnotes omitted). Although labeled by the Appellant as "Additional Findings," these attachments resubmit verbatim CREED LA's June 25, 2024, letter (Appellant's June 2024 Letter) that was previously submitted to the Advisory Agency and Hearing Officer, and the Appellant's comments that were previously submitted on the Draft EIR. Eyestone Environmental provided comprehensive responses to the issues raised in the Appellant's June 2024 Letter on July 19, 2024 (that memorandum is referred to below as the "July 2024 Eyestone Environmental Memorandum"). The City has additionally provided full and complete responses to all comments received during the public comment period on the Draft EIR, including the comments submitted by CREED LA.. All of these responses are incorporated by reference into this memorandum. Additionally, the July 2024 Eyestone Environmental Memorandum is attached to this Memorandum as Exhibit B. Further responses to specific points raised in this appeal are provided below in order to ensure that decision-makers are provided with as much information as possible regarding the proposed Project and the facts regarding the Appellants' two stated reasons for their appeal.

**Appeal Comment No. 2**

## III. SPECIFIC POINTS AT ISSUE

### A. The VTTM is Not Consistent with the General Plan

The Subdivision Map Act requires a legislative body of a city to deny a vesting tentative map if it finds that the proposed map "is not consistent with applicable general and specific plans."[6] Further the Los Angeles Municipal Code requires a Tentative Tract Map to "substantially comply with the various elements of the City's General Plan."[7] Here, the VTTM is not consistent with several of the City's General Plan policies, including General Plan Air Quality Element Policy 1.3.1, General Plan Framework Element Policy 7.2.14 and other General Plan Goals and Objectives.

[6] Cal. Gov. Code § 66474(a).

[7] Los Angeles Municipal Code § 17.52(A)(2).

**Response to Appeal Comment No. 2**

This Appeal comment notes that Government Code Section 66474(a) requires a legislative body to deny a vesting tentative map if it finds that the proposed map "is not consistent with applicable general and specific plans." This comment is demonstrably inapplicable to the Advisory's Agency's determination because the Advisory Agency found that VTT-83382 is consistent with the City of Los Angeles General Plan.[1] Additionally, the municipal code provision referenced by the Appellant relates to an allowance for the Advisory Agency to disapprove a preliminary Parcel Map if, after investigation, it determines (among other things) that such a preliminary Parcel Map does not substantially conform with the various elements of the City's General Plan. Therefore, the Appellant's quoted provision of the subdivision map act and the referenced provision of the Los Angeles Municipal Code are

[1] No Specific Plan are applicable to the project site, the issue of specific plan consistency is therefore not applicable to VTTM 83382 or the current appeal.

not applicable to the Advisory Agency's approval of a vesting tentative tract map. This comment therefore does not provide a credible basis for the granting of this appeal.

More broadly, however, this comment makes a generalized claim that the approved map is not consistent with several General Plan policies, but only specifies two: Air Quality Element Policy 1.3.1 and Framework Element Policy 7.2.14. Refer to Response to Appeal Comment No. 3 for a discussion of Air Quality Element Policy 1.3.1 and Response to Appeal Comment No. 4 for a discussion of Framework Element Policy 7.2.14. With respect to the Appellant's generalized claim, substantial evidence supports the Advisory Agency's finding that VTT 83382 is consistent with the City's General Plan.

As accurately summarized in the CEQA Findings included in the Advisory Agency's Letter of Determination, the Project would not conflict with the policies and objectives provided in the applicable land use plans that were adopted for purposes of avoiding or mitigating environmental effects. Under applicable law, a project is consistent with the applicable land use plan if it is compatible with the objectives, policies, general land uses, and programs specified in the applicable plan, meaning that the project is in agreement or harmony with the applicable land use plan. In this case, substantial evidence supports the City's conclusion that the Project is compatible with the objectives, policies, general land uses, and programs specified in the City's General Plan, and that the Project is in agreement with the applicable General Plan policies.

For example, Section IV.E, Land Use, of the Draft EIR, and the Land Use Tables included as Appendix H of the Draft EIR include a detailed analysis of the Project's degree of compliance with the various elements of the City's General Plan. That discussion is incorporated by reference and provides substantial support for the Advisory Agency's carefully considered analysis of the subdivision's consistency with the General Plan. As concluded therein, the Project would not conflict with the applicable goals, objectives, and policies in local and regional plans that were adopted for the purpose of avoiding or mitigating an environmental effect. This analysis provides substantial evidence for the Advisory Agency's determination that the Project conforms to the various elements of the City's General Plan.

**Appeal Comment No. 3**

General Plan Air Quality Element Policy 1.3.1 requires the City to "[m]inimize particulate emissions from construction sites."[8] The City's failure to adequately mitigate diesel particulate matter ("DPM") emissions associated with the Project results in significant nonconformance with the General Plan. As demonstrated herein and in Dr. Clark's expert consultant reports attached, the Project's construction DPM emissions will result in significant impacts to nearby sensitive receptors, including children, with a cancer risk exceeding South Coast Air Quality Management District ("SCAQMD") thresholds.

[8] City of Los Angeles, Plan for a Healthy Los Angeles A Health, Wellness, and Equity Element of the General Plan (Nov. 2021) p. 152.

**Response to Appeal Comment No. 3**

To provide more context to the referenced City policy, it should be recognized that the policy referenced by Appellant falls within Objective 1.3 of the General Plan Air Quality Element. . Specifically, General Plan Air Quality Element Objective 1.3 provides "It is the objective of the City of Los Angeles to reduce particulate air pollutants emanating from unpaved areas, parking lots, and construction sites." As discussed on page IV.A-52 of the Draft EIR, the Project would be consistent with this objective and policy as the "the Project would comply with SCAQMD Rule 403, which requires dust control measures during construction activities. The Project would require the construction contractor(s) to comply with the applicable provisions of the CARB In-Use Off-Road Diesel Vehicle Regulation, which aims to reduce emissions through the installation of filters, and encouraging the retirement, replacement, or repower of older, dirtier engines with newer emission-controlled models. In addition, the Project would not have large areas of unpaved surfaces and would remove existing surface parking uses. Parking areas would be maintained with good housekeeping practices." Separately and additionally, the commentor is referred to Table IV.A-6 on page IV.A-57 of the Draft EIR which provides the highest daily emissions projected to occur during each year of construction. As presented in Table IV.A-6, construction-related daily maximum regional construction emissions would not exceed any of the SCAQMD daily significance thresholds and Project-related $PM_{10}$ and $PM_{2.5}$ resulted in approximately 10 percent of the corresponding SCAQMD regional significance threshold. The maximum daily localized emissions from Project construction and LSTs were presented in Table IV.A-8 on page IV.A-

61 of the Draft EIR, which showed that maximum construction emissions would not exceed the SCAQMD-recommended localized screening thresholds and Project-related $PM_{10}$ and $PM_{2.5}$ resulted in approximately 32 and 38 percent of the corresponding SCAQMD localized significance threshold, respectively.

The specific comments from Dr. Clark referenced in Appeal Comment No. 3 regarding the Appellant's preferred methodology for calculating risk from Project DPM emissions on residents near the Project Site are restatements of the same information that had previously been included with the Appellant's June 2024 Letter, and which were fully addressed in Response to Comment Nos. 7 through 10 in the July 2024 Eyestone Environmental Memorandum . In addition, Dr. Clark's comments are further addressed below in Response to Appeal Comment Nos. 9 through 11. In brief summary, the Project's analysis of air quality impacts to sensitive receptors and the associated HRA demonstrate that air quality impacts would be less than significant (i.e., would not exceed SCAQMD thresholds) and the Appellant has not presented credible evidence to the contrary.

In sum, there is substantial evidence in support of the conclusion that the Project will further the Air Quality Element's objective to reduce particulate air pollutants emanating from unpaved areas, parking lots, and construction sites, including through the above-listed measures which will minimize particulate emissions from construction sites. This further supports the Advisory Agency's finding that the vesting tentative map conforms to this General Plan policy.

**<u>Appeal Comment No. 4</u>**

The General Plan Framework Element Policy 7.2.14 requires the City to "[t]ake steps to assure that new industries developed are sensitive to environmental and conservation issues, and that cumulative environmental impacts are addressed."[9] The Project fails to conform with this measure because the Project's DPM emissions exceed Air District thresholds and are therefore not "sensitive to environmental and conservation issues."[10]

[9] City of Los Angeles, Plan for a Healthy Los Angeles A Health, Wellness, and Equity Element of the General Plan (Nov. 2021) p. 152.

[10] *Id.*

**Response to Appeal Comment No. 4**

The commentor misconstrues the applicability of provisions of the General Plan's Framework Element to the Project General Plan Framework Element Policy 7.2.14 are clearly under the heading "Industrial" within the Framework Element. The Project does not include any new industrial uses located near sensitive uses and, therefore, further discussion of this policy is not required. Moreover, while the Framework Element has been carefully considered by the City in both the Project's environmental analysis and its consideration of VTT-83382, and the Framework Element provides helpful context for the evaluation of the Project's overall consistency with the General Plan, the Framework Element expressly provides at Page I-6 that "[t]he Framework Element establishes the broad overall policy and direction for the entire general plan. … It provides a citywide context and a comprehensive long-range strategy to guide the comprehensive update of the general plan's other elements—including the community plans which collectively comprise the Land Use Element. … The Framework Element is not sufficiently detailed to impact requests for entitlements on individual parcels. Community plans will be more specific and will be the major documents to be looked to for consistency with the general plan for land use entitlements." Given this express instruction, even if the Project hypothetically did not conform to General Plan Framework Element Policy 7.2.14 (and, as noted above, the best reading of Policy 7.2.14 is that it is inapplicable to VTT-83382), such a hypothetical inconsistency would not provide a sufficient basis to grant the appeal.

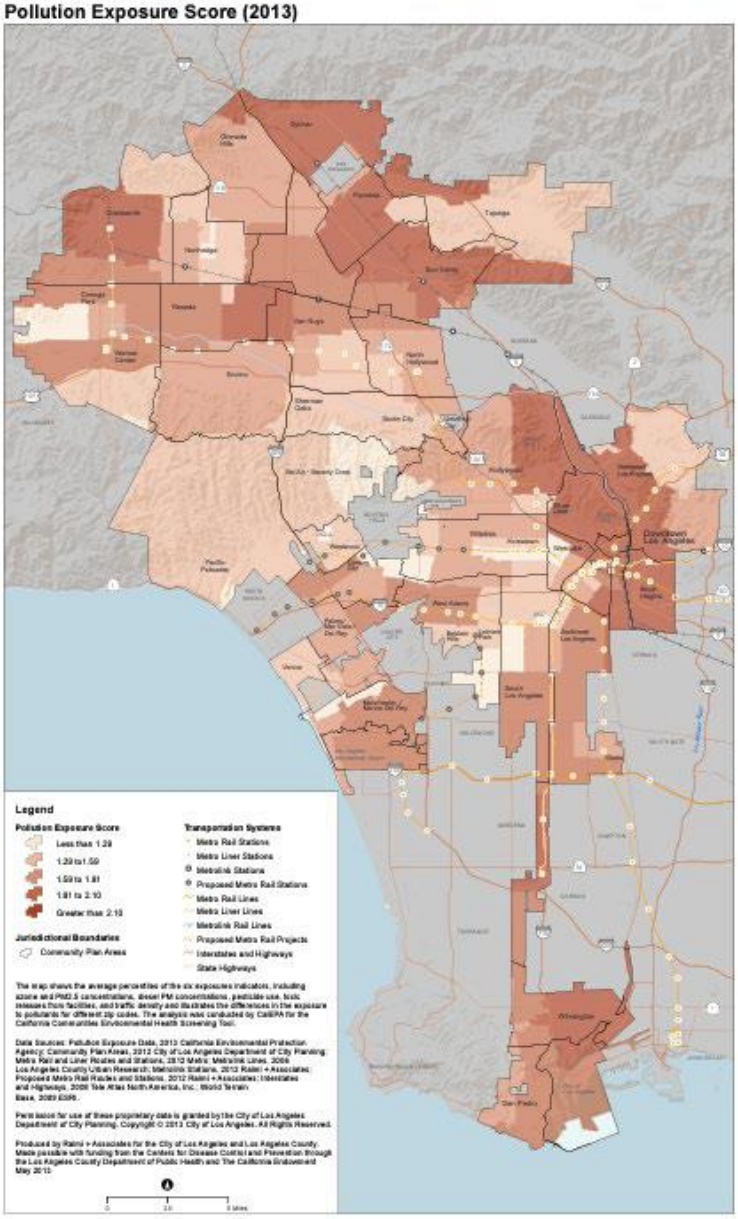
In contrast, as summarized throughout this response, substantial evidence in the record supports the conclusion that the Project is consistent with the General Plan Framework Element (and all other elements of the General Plan).

**Appeal Comment No. 5**

The General Plan provides that it is an objective of the City to "[r]educe the disparity in communities that are impacted by a high Pollution Exposure Score (exposure to six exposures indicators, including ozone, and PM2.5 concentrations, diesel, PM concentrations, pesticide use, toxic releases from facilities, and traffic density) so that every zip code has a score less than 1.7 (2013 citywide average). (Health Atlas Map 111)."[11] The Project's significant impacts associated with diesel emissions results in nonconformance with

this General Plan objective. The map below details that the Project is within an area with a Pollution Exposure Score exceeding 1.7.[12]

**Health Atlas 2013, Map 111**
**Pollution Exposure Score (2013)**



[11] *Id.* at 87.

[12] *Id.* at p. 91.

[13] City of Los Angeles, Plan for a Healthy Los Angeles A Health, Wellness, and Equity Element of the General Plan (Nov. 2021) p. 91.

**Response to Appeal Comment No. 5**

As discussed above in Response to Appeal Comment No. 5, the Project's and EIR's analysis of air quality impacts to sensitive receptors and the associated HRA demonstrate impacts would be less than significant (i.e., would not exceed SCAQMD thresholds) and the Appellant has not presented credible evidence to the contrary. Furthermore, the Project would result in less than significant construction and operational air quality impacts (e.g., $PM_{10}$ and $PM_{2.5}$ concentrations). Therefore, the Appellant's statement that the Project would have significant impacts associated with diesel emissions is contrary to the analysis and conclusions of the EIR. Accordingly, and contrary to Appellant's assertion, the Project would not be inconsistent with the General Plan objective referenced in this comment.

Moreover, there is substantial evidence in the record confirming that the Project will conform to the objectives of the Health and Wellness Element and other applicable air quality policies. For example, under the broad objective cited by the Appellant (namely, the objective found on page 87 of the Health and Wellness Element, to "[r]educe the disparity in communities that are impacted by a high Pollution Exposure Score (exposure to six exposures indicators, including ozone, and $PM_{2.5}$ concentrations, diesel, PM concentrations, pesticide use, toxic releases from facilities, and traffic density) so that every zip code has a score less than 1.7 (2013 citywide average)."), the Health and Wellness Element provides broad policy topics that can be used to implement these objectives. The Project will be consistent with, and will not conflict with any of these objectives. For example, Topic 5.1 (Air pollution and respiratory health) explains that this policy "supports efforts to reduce vehicle use through implementation of smart growth mixed land use patterns, expanding public transit and active transportation modes; limiting truck idling in residential neighborhoods and working with residents and relevant public agencies on regulations and complaint processes," and Topic 5.7 indicates that the City should "[p]romote land use policies that reduce per capita greenhouse gas emissions, result in improved air quality and decreased air pollution." To this end, this Topic 5.7 calls for a land use pattern that makes walking,

cycling, and taking transit viable modes of transportation. While many of the other implementing policies apply to broader efforts outside the scope of this or any other individual development, the Project will implement the above-cited policy objectives of implementing smart growth mixed land use patterns and expanding active transportation modes.

Substantial evidence in the record describes the Project's compliance with these policy objectives. For example, on page IV.A-53 of the Draft EIR, it is documented that the "Project … incorporates land use characteristics such as high density and mixed use development as well as proximity to mass transit that would reduce land-use planning related emissions." This section of the EIR also notes that the Project would "reduce VMT [vehicle miles traveled] due to its infill location, development of office uses near major population areas and job centers in Downtown Los Angeles and access to public transportation within 0.25 miles of the Project Site." Similarly, as explained on page IV.A-46 of the EIR, the Project "is an infill development near transit within an existing urbanized area that would concentrate new commercial uses within a High Quality Transit Area (HQTA) as designated by SCAG in the 2020-2045 RTP/SCS. This means the Project advances regional goals to reduce VMT through infill development near transit lines that has the co-benefit of reducing air emissions and GHG emissions compared to the average regional project." This illustrates that the Project implements and is consistent with the specific policy topics and policy recommendations that the City Health and Wellness Element has identified as furthering the broad policy objective cited by the Appellant.

Additionally, as discussed commencing on page IV.D-43 of the Draft EIR, compliance with applicable GHG emissions reductions plans would result in a less-than-significant Project and cumulative impact. As summarized on page IV.D-61 of the Draft EIR, the Project would comply with or exceed the performance-based standards included in the regulations outlined in the 2008 Climate Change Scoping Plan and subsequent updates (i.e., 2014 Update to the Scoping Plan, 2017 Update to the Scoping Plan, and 2022 Update to the Scoping Plan), SCAG's 2020–2045 RTP/SCS, and the City's Green New Deal. Project Design Feature GHG-PDF-1 would also be implemented as part of the Project to further reduce GHG emissions. As such, consistent with the specific policy topics cited above, the Project would not conflict with any applicable plan, policy, or regulation of an agency adopted for the purpose of reducing emissions of GHGs, and impacts (both during construction and operation) would be less than significant.

In sum, the Appellant provides no credible evidence that the Project will inhibit the City' s achievement of this General Plan policy objective. To the contrary, substantial evidence supports the City's conclusion that the Project is consistent with this and other General Plan policy objectives.

**Appeal Comment No. 6**

The General Plan's Health Equity and Wellness Element provides that "the City recognizes the prevalence of incompatible land uses that pose health risks to many Angelenos. This policy calls for land use considerations that protect people, especially sensitive receptors, through mechanisms that reduce the negative health impacts of incompatible land uses through transitional zoning and land use buffers. Buildings constructed or rehabilitated in close proximity to industrial uses and freeways should incorporate mitigations that are known to protect health and wellbeing; such as air filtration systems, landscaping and vegetation known to absorb pollutants, double-paned windows, and similar strategies."[14] The Project does not include mitigation measures or design features like those listed in this policy to reduce the Project's air quality and public health impacts to bring the Project in conformance with the General Plan.

[14] City of Los Angeles, Plan for a Healthy Los Angeles A Health, Wellness, and Equity Element of the General Plan (Nov. 2021) p. 93.

**Response to Appeal Comment No. 6**

The commentor misconstrues the applicability of the cited provisions of the General Plan's Health and Wellness Element to the Project. The mitigation measures discussed in this comment are included to protect proposed sensitive uses which may be in close proximity to existing industrial uses and freeways. The Project does not include proposed sensitive uses (e.g., residential) and the commentor's recommendation to incorporate these measures is not applicable to the Project. Furthermore, the measures would not serve to reduce onsite Project-related emissions to offsite sensitive receptors and they are therefore not warranted as mitigation measures under CEQA.

Nonetheless, the record contains extensive detail regarding the Project's consistency with applicable provisions of the Health and Wellness Element. For example as discussed

on page IV.E-22 and Subsection 2.a(2)(a)(v), the City's Health and Wellness Element provides high-level policy vision, along with measurable objectives and implementation programs to elevate health as a priority for the City's future growth and development. The Health and Wellness Element includes a policy to reduce air pollution from stationary and mobile sources, protect human health and welfare, and promote improved respiratory health. The Project is in close proximity to transit, including numerous bus lines and would include TDM measures to reduce VMT. In addition, the Project would encourage alternative transportation choices by improving the pedestrian experience on adjacent streets and providing on-site bicycle parking spaces. As such, the Project would support the Health and Wellness Element's efforts to reduce vehicle use through implementation of smart growth mixed land use patterns, which would in turn support the reduction of air pollution.

Finally, as described in the Project Description (Section II of the Draft EIR) and illustrated on the project plans, the subdivision improvements will, contrary to the Appellant's assertion, contain extensive landscaping in both the ground floor paseo, as well as within public and private deck areas. The Project will also be constructed in accordance with the California Building Standards, including California Building Energy Efficiency Standards and California Green Building Standards. These codes necessitate the use of double-paned (or better) windows, consistent with the General Plan recommendation referenced by the Appellant. Therefore, even though the best reading of the cited General Plan policy is that it does not apply to the Project, the Project will nonetheless incorporate several of the recommended measures identified in that policy. For each of these independently sufficient reasons, the Project is therefore properly found consistent with the Health and Wellness Element of the General Plan (and will all other applicable general plan elements), and the Appellant has not presented credible evidence to the contrary.

**<u>Appeal Comment No. 7</u>**

CREED LA suggested numerous mitigation measures in our comments to the Hearing Officer, including:

1. Require zero-emissions or near-zero emission on-road haul trucks such as heavy-duty trucks with natural gas engines that meet the CARB's adopted optional $NO_X$ emissions standard at 0.02 grams per brake horsepower-hour

(g/bhp-hr), if and when feasible. At a minimum, require that construction vendors, contractors, and/or haul truck operators commit to using 2017 model year trucks (e.g., material delivery trucks and soil import/export) that meet CARB's 2017 engine emissions standards at 0.01 g/bhp-hr of particulate matter (PM) and 0.20 g/bhp-hr of $NO_X$ emissions or newer, cleaner trucks.

2. Provide electric vehicle (EV) Charging Stations for zero emission vehicles.

3. Install Diesel Particulate Filter (DPF) systems or Diesel Oxidation Catalysts on construction equipment that is 50 hp or greater.

4. California regulations limit idling from both on-road and offroad diesel-powered equipment. The California Air Resources Board (CARB) enforces idling limitations and compliance with diesel fleet regulations.

    a. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes [California Code of Regulations, Title 13, sections 2449(d)(3) and 2485]. Provide clear signage that posts this requirement for workers at the entrances to the site.

    b. Provide current certificate(s) of compliance for CARB's In-Use Off Road Diesel-Fueled Fleets Regulation [California Code of Regulations, Title 13, sections 2449 and 2449.1]. For more information contact CARB at 877-593-6677, doors@arb.ca.gov, or www.arb.ca.gov/doors/compliance_cert1.html.

    c. Use only construction equipment rated by the United States Environmental Protection Agency as having Tier 4 (model year 2008 or newer) Final or stricter emission limits for all off-road construction equipment.

    d. During construction, the construction contractor shall maintain a list of all operating equipment in use on the construction site for verification by the City. The construction equipment list shall state the makes, models,

Equipment Identification Numbers, Engine Family Numbers, and number of construction equipment on-site.

5. Limit the daily number of trucks allowed at the Proposed Project to levels analyzed in the CEQA document. If higher daily truck volumes are anticipated to visit the site, the City as the Lead Agency should commit to re-evaluating the Proposed Project through CEQA prior to allowing this land use or higher activity level.

These are but a few examples of feasible mitigation measures that can be utilized to reduce the Project's significant health risks from diesel emissions to bring the Project into compliance with the General Plan's Health Equity and Wellness Element .

**Response to Appeal Comment No. 7**

The list of mitigation measures are identical to the list of measures included in the Appellant's June 2024 Letter. As discussed in Response to Comment No. 5 of the Responses to the Appellant's June 2024 Letter on the Final EIR, the commenter's statements are contrary to the conclusions of the EIR and the facts of the Project with respect to air quality impacts.

The HRA provided as Appendix FEIR-2 of the Final EIR was done voluntarily by the City in order to thoroughly evaluate and respond to comments received on the Draft EIR and provide as much information as possible to interested members of the public and City decision-makers. The HRA demonstrated, and confirmed the prior conclusions of the Draft EIR, that the Project would not have a significant air quality impact. Therefore no additional mitigation measures, including the one suggested by the Appellant, are warranted. The HRA demonstrated that health risks from the Project (combined construction and operation) would result in a maximum of 1.0 in one million for residences located north and east of the Project Site, across 7th Street and Santa Fe Avenue. The Project-related incremental cancer risk is

below the applicable SCAQMD significance threshold of 10 in one million people.[2] Therefore, while the commenter's suggestions are noted for the record and will be made available to the decision-makers for their review and consideration, no additional mitigation measures are warranted based on the HRA's cancer risk determination or this comment. To provide additional responses to this comment and provide additional information for the benefit of decisionmakers and the public, the July 2024 Eyestone Environmental Memorandum is attached to this Memorandum, and is incorporated in full by this reference.

**Appeal Comment No. 8**

Based on the foregoing, the Advisory Agency's approval of the VTTM must be overturned because the VTTM is not consistent with numerous City General Plan policies.

**Response to Appeal Comment No. 8**

Refer to Response to Appeal Comment Nos. 2 through 7 above. The analysis included in the Draft EIR demonstrates the Project would not conflict with any applicable goals, objectives, and policies of the General Plan and would result in less than significant impacts related to air quality. The Appellant has not presented credible evidence to the contrary.

**Appeal Comment No. 9**

**B. The VTTM Results in Significant Environmental and Public Health Risk**

The Subdivision Map Act requires denial of a tentative map where the legislative body of the City finds "[t]hat the design of the subdivision or type of improvements is likely to cause serious public health problems."[15] Here, substantial evidence in CREED LA's prior comments and expert consultant reports, attached, demonstrate that the Project results in a significant health risk.

---

[2] SCAQMD, South Coast AQMD Air Quality Significance Thresholds, April 2019.

Specifically, the Project's DPM emissions will result in a cancer risk to infants of 130 in one million, well above the SCAQMD's significance threshold of 10 in one million.[16]

[15] Cal. Gov. Code § 66474(f).

[16] Attachment B.

**Response to Appeal Comment No. 9**

The commenter's statements are contrary to the conclusions of the EIR, the facts of the Project with respect to air quality impacts, and are additionally inapplicable to the cited provision of the subdivision map act and the corresponding provisions of the LAMC.

First, Government Code Section 66474(f) (i.e., the subdivision map act provision referenced by the commenter) applies specifically to the design of the subdivision and the type of improvements. As codified in both Section 66418 of the Subdivision Map Act and LAMC Section 17.02, "design" is an expressly defined term of art that refers to the 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. This includes eight enumerated features, such as street alignments, grades and widths, drainage and sanitary facilities, location and size of rights of way, and similar physical improvements. Similarly, as set forth in Section 66419 of the Subdivision Map Act and LAMC Section 17.02, the term "improvements" is also an expressly defined term of art which refers to, as codified in the LAMC, "such street work and utilities to be installed, or agreed to be installed by the subdivider on the land to be used for public or private streets, highways, ways, and easements as are necessary for the general use of the lot owners in the subdivision and local neighborhood traffic and drainage needs and required as a condition precedent to the approval and acceptance of the Final Map or Parcel Map. Such street work and utilities include necessary monuments, street name signs, guardrails, barricades, safety devices, fire hydrants, grading, retaining walls, storm drains and flood control channels and facilities, erosion control structures, sanitary sewers, street lights, street trees, traffic warning devices other than traffic signals and relocation of existing traffic signal systems directly affected by other subdivision improvements and other facilities as are required by the Bureau of Street Lighting or Bureau of Street Maintenance in conformance with other applicable provisions of this Code, or as are determined necessary by the Advisory Agency for the necessary and

proper development of the proposed subdivision and to insure conformity to or the implementation of the general plan or any adopted specific plan."

Finding 'f' within the Advisory Agency's Findings of Fact (Subdivision Map Act) expressly addresses these statutory provisions, and documents why the design of the subdivision and the proposed improvements are not likely to cause serious public health problems. The Appellant presents no evidence challenging any of the facts or conclusions included in this finding. Therefore, for sake of brevity, the Advisory Agency's findings are not repeated here, but all points are incorporated by reference into this response.

Other aspects of the design and improvement of the subdivision are addressed in detail under finding 'b' within the Advisory Agency's Findings of Fact (Subdivision Map Act). In brief summary, the Advisory Agency accurately identified that the design and improvement of the proposed subdivision are consistent with the City's general plan, and described several of the reasons why the design and improvement of the subdivision will not cause serious public health problems. For example, the Advisory Agency found that:

- The design and layout of VTT 83382 will be consistent with the use and floor area permitted by the Zone and Height District;

- The design and layout of VTT 83382 is consistent with the design standards established by both the Subdivision Map Act and the Land Regulations of the LAMC. This conclusion was based on a review of the map design and improvements by each City agency that comprises the City of Los Angeles Subdivision Committee and has subject-matter expertise in specific aspects of the proposed subdivision design and improvements. These include the Bureau of Engineering, Department of Building and Safety, Grading Division and Zoning Division, Bureau of Street Lighting, and the Department of Recreation and Parks. Where applicable, conditions were recommended by each of these agencies, which conditions were then adopted by the Advisory Agency to ensure that, for example, City standards relating to grading, street safety, and pedestrian safety standards were satisfied.

- Specific aspects of the proposed design and improvement of the subdivision map were also considered under this finding and which are relevant to how the subdivision's design and improvement will promote public health. For example, the

> merger and vacation of 7th Place and the Easterly Public Alley that would be achieved by the subdivision map would allow for a development design that places a pedestrian paseo in the place of the previously dedicated public right-of-way, and would thereby support General Plan policies for pedestrian-focused design and mobility in the area.

Third, substantial evidence is provided throughout the Final EIR confirming that the design and improvement of the subdivision will not be likely to cause serious public health problems. To the contrary, the proposed subdivision will further numerous public health-related goals reflected in the general plan. To cite just a few examples, as reflected on page 17 of Appendix H of the Draft EIR, the Project will support healthy and equitable communities by promoting alternative methods of transportation instead of the single-occupancy automobile. The Project will do so by providing secure bicycle parking facilities, and improving the pedestrian realm by providing new street trees and landscaping. Additionally, the subdivision's location within an area with existing commercial uses that is well-served by transit would promote walking and other forms of active transportation. Additionally, as explained on page IV.H-29 of the Draft EIR and the related discussion, the Project would not substantially increase hazards, nor would it conflict with or preclude City actions to address the public circulation system, including transit, roadway, pedestrian, and bicycle facilities. Instead, the Project will contribute to overall walkability through its pedestrian-friendly enhancements to the project site.

As noted above, Appeal Comment No. 9 addresses none of these applicable design and improvement related findings. Instead, the Appellant Comment repeats an unrelated, inapposite, and previously addressed assertion that the Project's DPM emissions will result in a cancer risk. As discussed above in Response to Appeal Comment No. 9, the HRA provided as Appendix FEIR-2 of the Final EIR demonstrated that health risks from the Project (combined construction and operation) would result in a maximum of 1.0 in one million for residences located north and east of the Project Site, across 7th Street and Santa Fe Avenue. The Project-related incremental cancer risk is below the applicable SCAQMD significance threshold of 10 in one million people.[3] Therefore, the Project will not cause

---

[3] SCAQMD, South Coast AQMD Air Quality Significance Thresholds, April 2019.

serious public health problems. For each of the independently sufficient reasons noted above, the Appellant has not presented credible evidence to the contrary.

**Appeal Comment No. 10**

In response to CREED LA's prior comments, the City prepared a Health Risk Assessment for the Project.[17] However, that Health Risk Assessment lacks the necessary age sensitivity factors, and provides in part:

> Based on a review of relevant guidance on the applicability of the use of early life exposure adjustments to identified carcinogens, the use of [Age Sensitivity Factors] would not be applicable to this HRA as neither the Lead Agency nor SCAQMD have developed recommendations on whether these factors should be used for CEQA analyses of potential DPM construction or operational impacts. For this assessment, the HRA relied upon USEPA guidance relating to the use of early life exposure adjustment factors (Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens, EPA/630/R-003F) whereby adjustment factors are only considered when carcinogens act "through the mutagenic mode of action." Therefore, early life exposure adjustments were not considered in this HRA.[18]

As demonstrated in CREED LA's prior comments to the City, DPM from the Project's construction phase will result in significant impacts to the most sensitive receptors (i.e., infants) when calculated using the OEHHA-recommended age sensitivity factors, which the City failed to include in its analysis.[19] Dr. James Clark found that the resultant cancer risk to infants is 130 in one million, well above the SCAQMD's significance threshold of 10 in one million.[20] Dr. Clark's analysis provides substantial evidence that a proper health risk analysis reveals a significant health risk from exposure to the Project's diesel emissions.

As Dr. Clark explains, the City's position that an HRAs need only incorporate age adjustment factors when carcinogens act "through the mutagenic mode of action," and its suggestion that DPM is not a mutagenic carcinogen, are not supported by substantial evidence.[21] Dr. Clark cites USEPA's comprehensive review of toxicity data for diesel engine exhaust, which unequivocally found that diesel exhaust is a likely human carcinogen with mutagenic modes

of action.[22] As Dr. Clark points out, the basis for this conclusion by USEPA includes "extensive supporting data including *the demonstrated mutagenic and/or chromosomal effects of DE* [diesel exhaust] 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 [emphasis added]."[23] Dr. Clark further explains that the State of California has expressed in similarly explicit language that diesel exhaust is mutagenic: "*diesel exhaust particles or extracts of diesel exhaust particles are mutagenic* 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 [emphasis added]."[24]

[17] City of Los Angeles, Revised Appendix FEIR-2 Health Risk Assessment, Violet Street Creative Office Campus Project (Nov. 2023) p. 6. Available at: https://planning.lacity.gov/odocument/5f7430c6-1b00-485d-a5ac-53e509ff5bf1/_2045%20Violet%20Erratum%20No.%201%20Revised%20Appendix%20FEIR-2%20-%20Health%20Risk%20Assessment.pdf.

[18] City of Los Angeles, Revised Appendix FEIR-2 Health Risk Assessment, Violet Street Creative Office Campus Project (Nov. 2023) p. 6.

[19] Attachment B—Clark Comments, pgs. 3-4 and Exhibit B.

[20] *Id.*

[21] City of Los Angeles, Revised Appendix FEIR-2 Health Risk Assessment, Violet Street Creative Office Campus Project (Nov. 2023) p. 6.

[22] Attachment B—Clark Comments, pgs. 3–4 and Exhibit B.

[23] U.S. EPA. 2003. Weight of Evidence For Cancer, cited in Clark Comments, pg. 3.

[24] CARB. 1998. Findings of the Scientific Review Panel on The Report On Diesel Exhaust, cited in Clark Comments, pg. 3.

## Response to Appeal Comment No. 10

The commenter asserts his objection to the methodology selected by the City. The commenter then references Dr. Clark's previously submitted calculation of the risk exposure to DPM, using the commenter's preferred methodology (with the application of ASFs). As documented extensively in Response to Comment No. 9 of the July 2024 Eyestone Environmental Memorandum, the City respectfully disagrees with the commenter's preferred methodology for the reasons stated therein. Dr. Clark's opinion regarding the use of ASFs

is noted for the record and will be made available to the decision-makers for their review and consideration. To provide additional responses to this comment and provide additional information for the benefit of decision-makers and the public, the July 2024 Eyestone Environmental Memorandum is attached to this Memorandum, and is incorporated in full by this reference.

**Appeal Comment No. 11**

The City's position that diesel exhaust is not mutagenic lacks the support of substantial evidence, and is flatly contradicted by scientific evidence provided by Dr. Clark. This is contrary to CEQA's requirement that the determination of whether a project may have a significant effect on the environment be based on scientific and factual data.[25] Accordingly, the HRA should have included age sensitivity factors when calculating the Project's health risks from DPM. Utilizing the correct age sensitivity factors, Dr. Clark re-calculated the risks of exposure to DPM from the Project's construction phase and found a significant health risk.[26] Dr. Clark's analysis provides substantial evidence that the Project results in significant public health and safety impacts on the community from exposure to the Project's diesel emissions.

[25] 14 CCR § 15064(b)(1).

[26] *Id*.

**Response to Appeal Comment No. 11**

The commenter repeats its prior contention that the HRA contained in the Final EIR is inadequate because the Final EIR failed to disclose that diesel exhaust is a mutagenic compound. As more fully explained in Response to Comment No. 8 of the July 2024 Eyestone Environmental Memorandum, the Appellant's comment is an inaccurate characterization of the discussion in the HRA. In addition, the City as the Lead Agency has the discretion to select the appropriate thresholds of significance and methodologies for evaluating a project's impacts, including potential impacts related to health risk, based on substantial evidence, including the expert opinions of its EIR preparers and City staff. This comment does not provide substantial evidence to demonstrate that the HRA included as Appendix FEIR-2 was required to classify diesel exhaust as a whole to be a mutagenic

compound for purposes of preparing a quantitative HRA under CEQA. The comment also does not demonstrate that the City abused its discretion in selecting, based on its evaluation of expert opinion, an appropriate methodology with which to perform the quantitative HRA. In addition, the City's decision to prepare a quantitative HRA in order to fully evaluate and respond to comments received on the Draft EIR (and which ultimately confirmed the conclusion in the Draft EIR) did not deprive the public or decisionmakers of the analysis contained in the HRA. Dr. Clark's comments regarding his preferred methodology with respect to treating diesel exhaust as a mutagenic compound is noted for the record and will be made available to the decision-makers for their review and consideration. Please refer to Response to Comment No. 8 of the July 2024 Eyestone Environmental Memorandum, which responds to to the Appellant's June 2024 Letter on the Final EIR for additional discussion as to why the City's selected methodology is supported by substantial evidence, including the City's carefully reasoned decision that diesel exhaust should not be considered as a whole to be a mutagenic compound for purposes of the quantitative HRA that was included as Appendix FEIR-2 to the Final EIR.

**Appeal Comment No. 12**

Due to the Project's significant health and safety risk from DPM during the Project's construction phase, the City cannot make the necessary findings to approve the VTTM, and the Advisory Agency's approval of the VTTM must be overturned.

**Response to Appeal Comment No. 12**

Refer to Response to Appeal Comment Nos. 9 through 11 above. The Project's analysis of air quality impacts to sensitive receptors and the associated HRA demonstrate impacts would be less than significant and the Appellant has not presented credible evidence to the contrary. As noted above, the July 2024 Eyestone Environmental Memorandum is attached to this Memorandum, and is incorporated in full by this reference.

**Appeal Comment No. 13**

## IV. HOW CREED LA IS AGGRIEVED BY THE DECISION

CREED LA's members live, work, recreate, and raise their families in the City of Los Angeles and communities surrounding the Project site. Thus, 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 onsite. **CREED LA members may be aggrieved by the approval of the VTTM due to the Project's environmental and health and safety impacts.**

## V. CONCLUSION

For the foregoing reasons, the City cannot make the necessary findings to approve the Vesting Tentative Tract Map for the Project due to the Project's significant environmental, air quality, and public health impacts. Thank you for your attention to these comments. Please include them in the record of proceedings for the Project.

**Response to Appeal Comment No. 13**

This comment concludes the letter. Refer to Response to Appeal Comment Nos. 2 through 12, above.

**Appeal Comment No. 14**

**Attachment A**—Adams Broadwell Joseph & Cardozo letter dated August 14, 2023, and Exhibit A—Wilson Ihrig letter dated August 7, 2023 [31 pages]

**Response to Appeal Comment No. 14**

This attachment is the Appellant's August 13, 2023, comment letter. Refer to Response to Comment Nos. 3-1 through 3-45 of Section II, Response to Comments, of the Final EIR, which is hereby incorporated by reference.

**Appeal Comment No. 15**

**Attachment B**—Adams Broadwell Joseph & Cardozo letter dated June 15, 2024; Exhibit A—Clark & Associates letter dated June 24, 2024; and Clark & Associates Exhibits A and B [37 pages]

**Response to Appeal Comment No. 15**

This attachment is the Appellant's June 2024 Letter. Refer to the Response to Comments on the Final EIR memorandum provided to the Department of City Planning on July 19, 2024, which is hereby incorporated by reference.

**Attachments:**

**Exhibit A—CREED LA Appeal Justification Letter (September 6, 2024)**
**Exhibit B—Responses to CREED LA Final EIR Comment Letter (July 19, 2024)**

# Attachments

# Exhibit A

CREED LA Appeal Justification Letter
(September 6, 2024)

ADAMS BROADWELL JOSEPH & CARDOZO
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037
TEL: (650) 589-1660
FAX: (650) 589-5062
kfederman@adamsbroadwell.com

KEVIN T. CARMICHAEL
CHRISTINA M. CARO
THOMAS A. ENSLOW
KELILAH D. FEDERMAN
RICHARD M. FRANCO
ANDREW J. GRAF
TANYA A. GULESSERIAN
DARION N. JOHNSTON
RACHAEL E. KOSS
AIDAN P. MARSHALL
ALAURA R. McGUIRE
TARA C. RENGIFO

*Of Counsel*
MARC D. JOSEPH
DANIEL L. CARDOZO

SACRAMENTO OFFICE
520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4721
TEL: (916) 444-6201
FAX: (916) 444-6209

September 6, 2024

**UPLOADED VIA ONLINE APPLICATION SYSTEM**
https://planning.lacity.org/oas

Vincent P. Bertoni, AICP, Director
Rey Fukuda, Planning Assistant
Kathleen King, City Planner
Department of City Planning
City of Los Angeles
221 N Figueroa St Suite 1350
Los Angeles, CA 90012

Monique Lawshe, President
Elizabeth Zamora, Vice President
Commissioners: Maria Cabildo, Caroline Choe, Martina Diaz, Phyllis Klein, Karen Mack, Michael Newhouse
Los Angeles City Planning Commission

**Re: Appeal of Vesting Tentative Tract No. 83382 for Violet Street Creative Office Campus Project (VTT-83382, ENV-2021-2232-EIR; SCH # 2021110015)**

Dear Director Bertoni, Mr. Fukuda, Ms. King, and City Planning Commissioners:

Pursuant to Los Angeles Municipal Code Section 13B.7.3.G, Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA") appeals the Advisory Agency's decision to approve the Vesting Tentative Tract Map No. 83382 for the Violet Street Creative Office Campus Project (VTT-83382; CPC-2021-2231-GPA-VZC-HDVCU-ZV-SPR; ENV-2021-2232-EIR) ("Project"). On August 29, 2024, the Advisory Agency notified CREED LA that the Advisory Agency approved the Vesting Tentative Tract Map ("VTTM") for the Project to allow for vacation and merger of portions of 7th Place and the Easterly Public Alley into the site; resubdivision of the site into four ground lots; and a Haul Route for the export of up to 144,000 cubic yards of soil.[1]

This letter details 1) the reasons for CREED LA's Appeal, 2) the Specific Points at Issue, and 3) how CREED LA is aggrieved by the Advisory Agency's decision to approve the VTTM. CREED LA provided the City substantial evidence

[1] Letter of Determination, Vesting Tentative Tract No. 83382, Advisory Agency, City of Los Angeles (Mailing Date August 29, 2024).

demonstrating that the Project results in significant environmental impacts requiring recirculation of the EIR. CREED LA's prior comments are concurrently uploaded to the Online Application System as Additional Findings: Attachment A[2] and Attachment B.[3]

## I. REASONS FOR APPEAL

For the reasons detailed herein CREED LA appeals the Advisory Agency's determination on the VTTM because the VTTM: 1) is not consistent with numerous General Plan policies[4] and 2) is not consistent with the Subdivision Map Act which prohibits approval of a VTTM where it is likely to cause serious public health problems.[5] Here, the Project's diesel particulate matter emissions from construction will result in a serious public health problem associated with cancer risk to infants.

## II. STATEMENT OF INTEREST

CREED LA is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public and worker health and safety hazards, and the environmental and public service impacts of the Project. The coalition 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 City of Los Angeles and surrounding areas.

Individual members of CREED LA and its member organizations include Jorge L. Aceves, John P. Bustos, Gerry Kennon, and Chris S. Macias. These individuals live, work, recreate, and raise their families in the City of Los Angeles and surrounding communities. Accordingly, they would be directly affected by the Project's environmental and health and safety impacts. Individual members may

---

[2] Letter from Ariana Abedifard, Richard Franco, Jack Meighan obo CREED LA, to City of Los Angeles, Comments on Draft Environmental Impact Report for the Violet Street Creative Office Campus Project (SCH Number 2022110015; Environmental Case No. ENV -2021-2232-EIR) (Aug. 14, 2023).
[3] Letter from Richard Franco obo CREED LA, to City of Los Angeles, Agenda Item No. 1- June 26, 2024 City of Los Angeles Hearing Officer hearing on Violet Street Creative Office Campus Project (SCH Number 2022110015; Environmental Case No. ENV -2021-2232-EIR) (June 25, 2024).
[4] Cal. Gov. Code § 66473.5.
[5] Cal. Gov. Code § 66474(f).

also work on the Project itself. They will be first in line to be exposed to any health and safety hazards that exist onsite. **CREED LA members may be aggrieved by the approval of the VTTM due to the Project's environmental and health and safety impacts.**

## III. SPECIFIC POINTS AT ISSUE

### A. The VTTM is Not Consistent with the General Plan

The Subdivision Map Act requires a legislative body of a city to deny a vesting tentative map if it finds that the proposed map "is not consistent with applicable general and specific plans."[6] Further the Los Angeles Municipal Code requires a Tentative Tract Map to "substantially comply with the various elements of the City's General Plan."[7] Here, the VTTM is not consistent with several of the City's General Plan policies, including General Plan Air Quality Element Policy 1.3.1, General Plan Framework Element Policy 7.2.14 and other General Plan Goals and Objectives.

General Plan Air Quality Element Policy 1.3.1 requires the City to "[m]inimize particulate emissions from construction sites."[8] The City's failure to adequately mitigate diesel particulate matter ("DPM") emissions associated with the Project results in significant nonconformance with the General Plan. As demonstrated herein and in Dr. Clark's expert consultant reports attached, the Project's construction DPM emissions will result in significant impacts to nearby sensitive receptors, including children, with a cancer risk exceeding South Coast Air Quality Management District ("SCAQMD") thresholds.

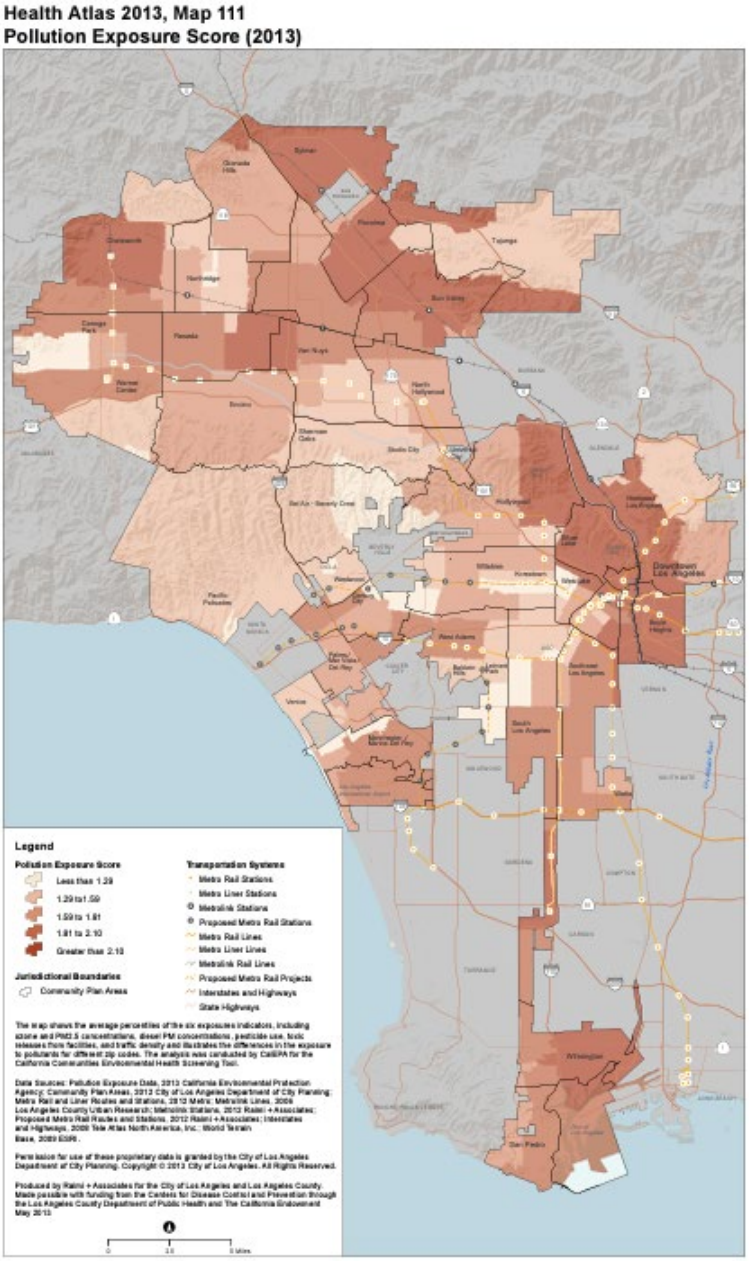
The General Plan Framework Element Policy 7.2.14 requires the City to "[t]ake steps to assure that new industries developed are sensitive to environmental and conservation issues, and that cumulative environmental impacts are addressed."[9] The Project fails to conform with this measure because the Project's DPM emissions exceed Air District thresholds and are therefore not "sensitive to environmental and conservation issues."[10]

---

[6] Cal. Gov. Code § 66474(a).
[7] Los Angeles Municipal Code § 17.52(A)(2).
[8] City of Los Angeles, Plan for a Healthy Los Angeles A Health, Wellness, and Equity Element of the General Plan (Nov. 2021) p. 152.
[9] City of Los Angeles, Plan for a Healthy Los Angeles A Health, Wellness, and Equity Element of the General Plan (Nov. 2021) p. 152.
[10] *Id.*

The General Plan provides that it is an objective of the City to "[r]educe the disparity in communities that are impacted by a high Pollution Exposure Score (exposure to six exposures indicators, including ozone, and PM2.5 concentrations, diesel, PM concentrations, pesticide use, toxic releases from facilities, and traffic density) so that every zip code has a score less than 1.7 (2013 citywide average). (Health Atlas Map 111)."[11] The Project's significant impacts associated with diesel emissions results in nonconformance with this General Plan objective. The map below details that the Project is within an area with a Pollution Exposure Score exceeding 1.7.[12]

[11] *Id.* at 87.
[12] *Id.* at p. 91.




[13]

The General Plan's Health Equity and Wellness Element provides that "the City recognizes the prevalence of incompatible land uses that pose health risks to many Angelenos. This policy calls for land use considerations that protect people,

[13] City of Los Angeles, Plan for a Healthy Los Angeles A Health, Wellness, and Equity Element of the General Plan (Nov. 2021) p. 91.

especially sensitive receptors, through mechanisms that reduce the negative health impacts of incompatible land uses through transitional zoning and land use buffers. Buildings constructed or rehabilitated in close proximity to industrial uses and freeways should incorporate mitigations that are known to protect health and wellbeing; such as air filtration systems, landscaping and vegetation known to absorb pollutants, double-paned windows, and similar strategies."[14] The Project does not include mitigation measures or design features like those listed in this policy to reduce the Project's air quality and public health impacts to bring the Project in conformance with the General Plan.

CREED LA suggested numerous mitigation measures in our comments to the Hearing Officer, including:

1. Require zero-emissions or near-zero emission on-road haul trucks such as heavy-duty trucks with natural gas engines that meet the CARB's adopted optional NOx emissions standard at 0.02 grams per brake horsepower-hour (g/bhp-hr), if and when feasible. At a minimum, require that construction vendors, contractors, and/or haul truck operators commit to using 2017 model year trucks (e.g., material delivery trucks and soil import/export) that meet CARB's 2017 engine emissions standards at 0.01 g/bhp-hr of particulate matter (PM) and 0.20 g/bhp-hr of NOx emissions or newer, cleaner trucks.

2. Provide electric vehicle (EV) Charging Stations for zero emission vehicles.

3. Install Diesel Particulate Filter (DPF) systems or Diesel Oxidation Catalysts on construction equipment that is 50 hp or greater.

4. California regulations limit idling from both on-road and offroad diesel-powered equipment. The California Air Resources Board (CARB) enforces idling limitations and compliance with diesel fleet regulations.

    a. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes [California Code of Regulations, Title 13, sections 2449(d)(3) and 2485]. Provide clear

[14] City of Los Angeles, Plan for a Healthy Los Angeles A Health, Wellness, and Equity Element of the General Plan (Nov. 2021) p. 93.

signage that posts this requirement for workers at the entrances to the site.

b. Provide current certificate(s) of compliance for CARB's In-Use Off Road Diesel-Fueled Fleets Regulation [California Code of Regulations, Title 13, sections 2449 and 2449.1]. For more information contact CARB at 877-593-6677, doors@arb.ca.gov, or www.arb.ca.gov/doors/compliance_cert1.html.

c. Use only construction equipment rated by the United States Environmental Protection Agency as having Tier 4 (model year 2008 or newer) Final or stricter emission limits for all off-road construction equipment.

d. During construction, the construction contractor shall maintain a list of all operating equipment in use on the construction site for verification by the City. The construction equipment list shall state the makes, models, Equipment Identification Numbers, Engine Family Numbers, and number of construction equipment on-site.

5. Limit the daily number of trucks allowed at the Proposed Project to levels analyzed in the CEQA document. If higher daily truck volumes are anticipated to visit the site, the City as the Lead Agency should commit to re-evaluating the Proposed Project through CEQA prior to allowing this land use or higher activity level.

These are but a few examples of feasible mitigation measures that can be utilized to reduce the Project's significant health risks from diesel emissions to bring the Project into compliance with the General Plan's Health Equity and Wellness Element .

Based on the foregoing, the Advisory Agency's approval of the VTTM must be overturned because the VTTM is not consistent with numerous City General Plan policies.

### B. The VTTM Results in Significant Environmental and Public Health Risk

The Subdivision Map Act requires denial of a tentative map where the legislative body of the City finds "[t]hat the design of the subdivision or type of improvements is likely to cause serious public health problems."[15] Here, substantial evidence in CREED LA's prior comments and expert consultant reports, attached, demonstrate that the Project results in a significant health risk. Specifically, the Project's DPM emissions will result in a cancer risk to infants of 130 in one million, well above the SCAQMD's significance threshold of 10 in one million.[16]

In response to CREED LA's prior comments, the City prepared a Health Risk Assessment for the Project.[17] However, that Health Risk Assessment lacks the necessary age sensitivity factors, and provides in part:

> Based on a review of relevant guidance on the applicability of the use of early life exposure adjustments to identified carcinogens, the use of [Age Sensitivity Factors] would not be applicable to this HRA as neither the Lead Agency nor SCAQMD have developed recommendations on whether these factors should be used for CEQA analyses of potential DPM construction or operational impacts. For this assessment, the HRA relied upon USEPA guidance relating to the use of early life exposure adjustment factors (Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens, EPA/630/R-003F) whereby adjustment factors are only considered when carcinogens act "through the mutagenic mode of action." Therefore, early life exposure adjustments were not considered in this HRA.[18]

As demonstrated in CREED LA's prior comments to the City, DPM from the Project's construction phase will result in significant impacts to the most sensitive

---

[15] Cal. Gov. Code § 66474(f).
[16] Attachment B.
[17] City of Los Angeles, Revised Appendix FEIR-2 Health Risk Assessment, Violet Street Creative Office Campus Project (Nov. 2023) p. 6. *Available at*: https://planning.lacity.gov/odocument/5f7430c6-1b00-485d-a5ac-53e509ff5bf1/_2045%20Violet%20Erratum%20No.%201%20Revised%20Appendix%20FEIR-2%20-%20Health%20Risk%20Assessment.pdf.
[18] City of Los Angeles, Revised Appendix FEIR-2 Health Risk Assessment, Violet Street Creative Office Campus Project (Nov. 2023) p. 6.

receptors (i.e., infants) when calculated using the OEHHA-recommended age sensitivity factors, which the City failed to include in its analysis.[19] Dr. James Clark found that the resultant cancer risk to infants is 130 in one million, well above the SCAQMD's significance threshold of 10 in one million.[20] Dr. Clark's analysis provides substantial evidence that a proper health risk analysis reveals a significant health risk from exposure to the Project's diesel emissions.

As Dr. Clark explains, the City's position that an HRAs need only incorporate age adjustment factors when carcinogens act "through the mutagenic mode of action," and its suggestion that DPM is not a mutagenic carcinogen, are not supported by substantial evidence.[21] Dr. Clark cites USEPA's comprehensive review of toxicity data for diesel engine exhaust, which unequivocally found that diesel exhaust is a likely human carcinogen with mutagenic modes of action.[22] As Dr. Clark points out, the basis for this conclusion by USEPA includes "extensive supporting data including *the demonstrated mutagenic and/or chromosomal effects of DE* [diesel exhaust] 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 [emphasis added]."[23] Dr. Clark further explains that the State of California has expressed in similarly explicit language that diesel exhaust is mutagenic: "*diesel exhaust particles or extracts of diesel exhaust particles are mutagenic* 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 [emphasis added]."[24]

The City's position that diesel exhaust is not mutagenic lacks the support of substantial evidence, and is flatly contradicted by scientific evidence provided by Dr. Clark. This is contrary to CEQA's requirement that the determination of whether a project may have a significant effect on the environment be based on scientific and factual data.[25] Accordingly, the HRA should have included age

---

[19] Attachment B - Clark Comments, pgs. 3-4 and Exhibit B.
[20] *Id.*
[21] City of Los Angeles, Revised Appendix FEIR-2 Health Risk Assessment, Violet Street Creative Office Campus Project (Nov. 2023) p. 6.
[22] Attachment B - Clark Comments, pgs. 3-4 and Exhibit B.
[23] U.S. EPA. 2003. Weight of Evidence For Cancer, cited in Clark Comments, pg. 3.
[24] CARB. 1998. Findings of the Scientific Review Panel on The Report On Diesel Exhaust, cited in Clark Comments, pg. 3.
[25] 14 CCR § 15064(b)(1).

sensitivity factors when calculating the Project's health risks from DPM. Utilizing the correct age sensitivity factors, Dr. Clark re-calculated the risks of exposure to DPM from the Project's construction phase and found a significant health risk.[26] Dr. Clark's analysis provides substantial evidence that the Project results in significant public health and safety impacts on the community from exposure to the Project's diesel emissions.

Due to the Project's significant health and safety risk from DPM during the Project's construction phase, the City cannot make the necessary findings to approve the VTTM, and the Advisory Agency's approval of the VTTM must be overturned.

## IV. HOW CREED LA IS AGGRIEVED BY THE DECISION

CREED LA's members live, work, recreate, and raise their families in the City of Los Angeles and communities surrounding the Project site. Thus, 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 onsite. **CREED LA members may be aggrieved by the approval of the VTTM due to the Project's environmental and health and safety impacts.**

## V. CONCLUSION

For the foregoing reasons, the City cannot make the necessary findings to approve the Vesting Tentative Tract Map for the Project due to the Project's significant environmental, air quality, and public health impacts. Thank you for your attention to these comments. Please include them in the record of proceedings for the Project.

Sincerely,

Kelilah D. Federman

Attachments
KDF:acp

---

[26] *Id.*

# ATTACHMENT A

ADAMS BROADWELL JOSEPH & CARDOZO
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037
TEL: (650) 589-1660
FAX: (650) 589-5062
aabedifard@adamsbroadwell.com

ARIANA ABEDIFARD
KEVIN T. CARMICHAEL
CHRISTINA M. CARO
THOMAS A. ENSLOW
KELILAH D. FEDERMAN
RICHARD M. FRANCO
ANDREW J. GRAF
TANYA A. GULESSERIAN
DARION N. JOHNSTON
RACHAEL E. KOSS
AIDAN P. MARSHALL
TARA C. RENGIFO

*Of Counsel*
MARC D. JOSEPH
DANIEL L. CARDOZO

SACRAMENTO OFFICE
520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4721
TEL: (916) 444-6201
FAX: (916) 444-6209

August 14, 2023

**VIA EMAIL AND OVERNIGHT MAIL**
Rey Fukuda
City of Los Angeles, Department of City Planning
221 N. Figueroa Street, Suite 1350
Los Angeles, CA 90012
Email: Rey.Fukuda@lacity.org

**VIA EMAIL ONLY**
Vince Bertoni, Director of Planning
Email: vince.bertoni@lacity.org

**Re**: **Comments on Draft Environmental Impact Report for the Violet Street Creative Office Campus Project (SCH Number 2022110015; Environmental Case No. ENV -2021-2232-EIR)**

Dear Mr. Fukuda, Mr. Bertoni:

We are writing on behalf of the Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA") to comment on the Draft Environmental Impact Report ("DEIR") prepared by the City of Los Angeles ("City") for the Violet Street Creative Office Campus Project (SCH Number 2022110015; Environmental Case No. ENV -2021-2232-EIR) ("Project") proposed by Al Violet, LLC and Al Violet B2, LLC ("Applicants"). We reserve the right to supplement these comments at later hearings and proceedings on the Project.[1]

The Project proposes to develop a new creative office campus with uses spanning existing and proposed buildings on an approximately 273,930 square-foot (6.3-acre) site.[2] Construction of the Project would require the demolition of the existing 25,798 square feet of warehouse uses, 9,940 square feet of office uses, and associated surface parking, all located on the southwest portion of the Project Site.[3]

[1] Gov. Code § 65009(b); PRC § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield ("Bakersfield")* (2004) 124 Cal. App. 4th 1184, 1199-1203; *see Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.
[2] DEIR, pg. II-1.
[3] *Id.*

The remainder of the Project Site is developed with the existing 244,795-square-foot Warner Music Group building (originally the Ford Factory building) and a five-story parking garage (including a roof-top level), which would be retained as part of the Project.[4] The Project proposes a 13-story, approximately 450,599-square-foot building featuring 435,100 square feet of office uses, 15,499 square feet of ground floor retail and/or restaurant uses, and 1,264 automobile parking spaces located in a seven-story parking garage, comprised of one at-grade, two above-grade, and four below-grade levels.[5] The Project also includes approximately 74,018 square feet of outdoor areas.[6] The Project also includes a Future Campus Expansion Phase, which encompasses a potential expansion opportunity for additional office use to be developed on Lot 4.[7] Construction of the Future Campus Expansion Phase would require the demolition of an existing 21,880-square-foot building containing office uses.[8] The precise uses and development plan for the Future Campus Expansion Phase are not known at this time.[9]

Based on our review of the DEIR and available supporting documentation, we conclude that the DEIR fails to comply with the requirements of the California Environmental Quality Act ("CEQA")[10]. The DEIR fails to adequately describe and analyze the Project and its impacts, and fails to propose feasible and enforceable mitigation measures, as required by CEQA. The City may not approve the Project until it revises the DEIR to adequately analyze and mitigate the Project's significant direct, indirect and cumulative impacts and incorporates all feasible mitigation measures to avoid or minimize these impacts to the greatest extent feasible.

We reviewed the DEIR, its technical appendices, and available reference documents with the assistance of noise and vibration expert Jack Meighan. Mr. Meighan's comments and qualifications are attached hereto as Exhibit A and are incorporated by reference as if set forth herein. The City must respond to the expert comments separately and fully.

---

[4] *Id.*
[5] DEIR, pg. I-26.
[6] DEIR, pg. I-8.
[7] DEIR, pg. II-2.
[8] *Id.*
[9] *Id.*
[10] Pub. Resources Code §§ 21000 et seq.; 14 Cal. Code Regs ("CEQA Guidelines") §§ 15000 et seq. ("CEQA Guidelines").

## I. STATEMENT OF INTEREST

CREED LA is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public and worker health and safety hazards, and the environmental and public service impacts of the Project. The coalition 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 City of Los Angeles and surrounding areas.

Individual members of CREED LA and its member organizations include Jorge L. Aceves, John P. Bustos, Gerry Kennon, and Chris S. Macias. These individuals live, work, recreate, and raise their families in the City of Los Angeles 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 onsite.

In addition, 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.

## II. LEGAL BACKGROUND

CEQA requires public agencies to analyze the potential environmental impacts of their proposed actions in an EIR.[11] "The foremost principle under CEQA is that the Legislature intended the act to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language."[12]

CEQA has two primary purposes. First, CEQA is designed to inform decisionmakers and the public about the potential significant environmental effects

---

[11] PRC § 21100.
[12] *Laurel Heights Improvement Assn. v. Regents of Univ. of Cal ("Laurel Heights I")* (1988) 47 Cal.3d 376, 390 (internal quotations omitted).

of a project.[13] "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.'"[14] 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."[15] 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."[16]

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.[17] 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."[18] 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 the greatest extent feasible and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns."[19]

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."[20] 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

---

[13] Pub. Resources Code § 21061; CEQA Guidelines §§ 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.").
[14] *Citizens of Goleta Valley,* 52 Cal.3d at p. 564 (quoting *Laurel Heights I*, 47 Cal.3d at 392).
[15] *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).
[16] CEQA Guidelines § 15003(b).
[17] CEQA Guidelines § 15002(a)(2), (3); *see also Berkeley Jets*, 91 Cal.App.4th at 1354; *Citizens of Goleta Valley*, 52 Cal.3d at p. 564.
[18] CEQA Guidelines § 15002(a)(2).
[19] PRC § 21081(a)(3), (b); CEQA Guidelines §§ 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.
[20] *Berkeley Jets*, 91 Cal.App.4th at p. 1355 (emphasis added) (quoting *Laurel Heights I*, 47 Cal.3d at 391, 409, fn. 12).

thwarting the statutory goals of the EIR process."[21] "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.'"[22]

## III. THE DEIR LACKS AN ACCURATE, COMPLETE AND STABLE PROJECT DESCRIPTION

The DEIR does not meet CEQA's requirements because it fails to include an accurate, complete and stable description of key Project components, rendering the DEIR's impact analysis inadequate. California courts have repeatedly held that "an accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR."[23] CEQA requires that a project be described with enough particularity that its impacts can be assessed.[24] Without a complete, stable and accurate project description, the environmental analysis under CEQA is impermissibly limited, thus minimizing the project's impacts and undermining meaningful public review.[25]

The DEIR does not provide a stable description of the project, as it (1) does not clearly or consistently describe the Project's square footage, and (2) inconsistently describes and analyzes the Future Campus Expansion Phase ("Future Phase").

First, the DEIR's project description does not clearly state the size of the proposed Project and the DEIR's impact analyses use differing descriptions of the size of the project being analyzed. The DEIR states that the Project proposes a new

---

[21] *Berkeley Jets*, 91 Cal.App.4th at p. 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*, 60 Cal.App.4th at p. 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).
[22] *Sierra Club,* 6 Cal.5th at p. 516 (quoting *Laurel Heights I*, 47 Cal.3d at 405).
[23] *Stopthemillenniumhollywood.com v. City of Los Angeles* (2019) 39 Cal.App.5th 1, 17; *Communities for a Better Environment v. City of Richmond* ("*CBE v. City of Richmond*") (2010) 184 Cal.App.4th 70, 85–89; *County of Inyo v. City of Los Angeles* (3d Dist. 1977) 71 Cal.App.3d 185, 193.
[24] CEQA Guidelines § 15124; *see Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376, 192–193; *see also El Dorado County Taxpayers for Quality Growth v. County of El Dorado* (2004) 122 Cal.App.4th 1591, 1597 ("An accurate and complete project description is necessary to fully evaluate the project's potential environmental effects.")
[25] *Id.*

450,599 square foot ("sf") commercial building, consisting of 435,100 sf of office space and 15,499 sf of retail uses.[26] The project description also purports to include the existing 244,795 sf Warner Music Group building, which "would remain with no change in use or alteration of the historic building."[27] Further, the DEIR claims to include in the project description the Future Phase, which would involve demolition of an existing 21,880 sf warehouse building, followed by new construction, for which the "precise uses and development…are not known at this Time."[28] Pursuant to the project description, the DEIR states "the Future Campus Expansion Phase is analyzed as 191,210 square feet of office uses and 20,000 square feet of restaurant uses throughout this DEIR unless otherwise noted."[29]

The above-described components of the Project are summarized in Table II-1 of the DEIR's project description. Table II-1 sets forth a total of 604,182 sf of new floor area for the Project, including the Future Phase and subtracting the square footage that will be demolished.[30] The Project's total square footage, including both the Future Phase and the existing Warner Music building, is stated to be 906,595 sf. Therefore, the DEIR should consistently evaluate a Project consisting of a total of 906,595 sf total floor area (or 604,182 sf to the extent it is analyzing only new net construction.) However, several of the DEIR's impact analyses appear to evaluate a different sized project. For example,

- The Project Transportation Assessment, upon which the DEIR's transportation impacts analysis is based, states that the Project as analyzed in this study involves two different buildout options depending on two different driveway scenarios: one scenario with 435,100 sf of office space and 15,499 sf of retail/restaurant and a second scenario with 432,910 sf of office and 15,499 sf of retail/restaurant.[31] It goes on to say that, including the Future Phase, the Project is analyzed with either 646,301 sf or 626,301 sf of office uses under one driveway scenario and 644,111 sf or 624,111 sf of office uses under the other driveway scenario.[32] None of these scenarios match up with the project description as summarized in Table II-1.

---

[26] DEIR, pg. II-7.
[27] DEIR, pg. II-8.
[28] DEIR, pg. II-10.
[29] *Id.*
[30] DEIR, Table II-1 at pg. II-8.
[31] DEIR Appendix M (Transportation), pgs. 6-7.
[32] DEIR Appendix M (Transportation), pg. 7.

- The Project's energy impact analysis describes the Project as consisting of 646,301 sf office and 15,499 sf retail/restaurant.[33] Though the DEIR does not present the added total, the total square footage with these figures is 661,800 sf. Once again, this figure does not match up with any of the figures in Table II-1.

- The Project's air quality impact analysis describes the Project's square footage as a total of 626,301 sf square feet office use and 35,499 sf square foot retail/restaurant use.[34] Though the DEIR does not present the added total, the total square footage with these figures is 661,800 sf, which, again, does not line up with Table II-1.

- The Project's GHG emissions impact analysis uses two different Project totals: (i) 626,301 sf office use / 35,499 square foot retail/restaurant use[35]; and (ii) 646,201 sf office use / 15,399 square foot retail/restaurant use.[36] As explained above, none of these figures nor their totals match up with Table II-1's figures.

Second, as set forth above, the DEIR states that the Future Phase is analyzed as 191,201 square feet of office uses and 20,000 square feet of restaurant uses throughout the DEIR "unless otherwise noted."[37] By explicitly stating that the Future Phase will not always be analyzed the same way, the DEIR introduces ambiguity and undermines accurate impact assessment. In fact, throughout the DEIR, the Future Phase is sometimes analyzed as a split office-retail/restaurant use and other times as office only use. This flip-flopping is anything but "stable." Indeed, Table II-1 purports to summarize the various Project components and phases, but is internally inconsistent. It shows the Project's proposed floor area for the Future Phase as 211,201 sf of office use only, but in a footnote says that the DEIR analyzes the Future Phase as 191,201 sf of office uses and 20,000 sf of restaurant uses, thereby contradicting itself.[38]

As detailed below, the DEIR recognizes that impacts may differ depending on whether the Future Phase is analyzed as office-use only or is split between office use and restaurant/retail. For example, the DEIR's transportation analysis considers office-use only in assessing freeway safety impacts, because as compared

---

[33] DEIR, pg. IV.C-42.
[34] DEIR, pg. IV.A-48.
[35] DEIR, pg. IV.D-62.
[36] DEIR, pgs. IV.D-65, 70.
[37] DEIR, pg. II-2.
[38] *See* Table II-1. DEIR, pg. II-8.

to the split use version it would "generate the greatest number of trips to the freeway off-ramps."[39] Similarly, the water supply analysis uses the split-use version, because "restaurant uses result in greater water demand than office uses."[40] The DEIR clearly recognizes that the particular land uses assumed for different Project components will affect the impact analyses. This underscores the need for the DEIR to use a consistent and stable project description so that it accurately discloses the Project's expected environmental impacts.

This confusion caused by the shifting project description persists throughout the DEIR. As noted, the Project's water supply and infrastructure impact analysis uses the two different versions of the Future Phase. In the analysis, the DEIR states, "*the Future Campus Expansion Phase is analyzed as 211,201 square feet of office uses throughout this Draft EIR.* However, because restaurant uses result in greater water demand than office uses, the analysis below, as well as the wastewater analysis in Section VI, Other CEQA Considerations, of this Draft EIR, *also analyze an option with 191,201 square feet of office uses and 20,000 square feet of restaurant uses.*"[41] Here, the DEIR's water supply analysis contradicts the project description—which states that, for the Future Phase, the DEIR analyzes 191,201 sf of office uses and 20,000 sf of restaurant uses, *i.e.*, the split use version. In other words, the project description describes the split use version of the Future Phase as the rule, with the office-use only version as the exception. The section quoted above, however, by saying the DEIR generally uses the office only version of the Future Phase, treats the office-only version as the rule and the split use version as the exception.

The Project's Transportation Assessment also assumes that the Future Phase is generally analyzed as office only use, rather than assuming the split use as set out in the Project Description. In the Transportation appendix (Appendix M), it says that "[t]his transportation analysis *generally assumes* the 211,201 additional square feet, referred to as the future campus expansion, to be developed as office but analyzes the 211,201 additional square feet as 191,201 square feet of office and 20,000 square feet of quality restaurant under the VMT analysis for consistency with other sections of the DEIR."[42] Thus, the analysis assumes that the Future Phase will be office only use but analyzes it as split use elsewhere. The DEIR's analysis of two different driveway scenarios as noted above is a further example of how this assumption confuses the DEIR's analysis. Specifically, the analysis includes two versions of the two different driveway scenarios—analyzing each

---

[39] *Id.*
[40] DEIR, pg. IV.J.1-27.
[41] DEIR, pg. IV.J.1-27 (emphasis added).
[42] DEIR Appendix M (Transportation), pg. 7.

scenario with both the office only version and split use version of the Future Phase––thus creating four different analyses making it impossible to tell what version of the Project is actually being proposed by the DEIR.[43]

The Transportation Assessment brings up the Future Phase in its freeway safety analysis and there, too, the analysis is inconsistent. The freeway safety analysis analyzed the office only version of the Future Phase and did not analyze the split use version.[44] The DEIR states that it uses the office-only total figure because it would "generate the greatest number of trips to the freeway off-ramps."[45] Here, the DEIR only analyzes one version of the Future Phase, and which is a different version than used in the vehicular access analysis, while other DEIR sections like the water supply and infrastructure analysis analyze both the split use and office only use.

These inconsistencies can be found throughout the DEIR. For example, the DEIR's energy impact analysis describes the Project (including the Future Phase) as totaling 646,301 sf office and 15,499 sf retail/restaurant—*i.e.*, uses a total figure for the office use that treats the Future Phase as office use only, departing from the project description's assumption of a split-use version.[46] On the other hand, the air quality impact analysis sticks to a project description that assumes the split use version, describing the Project (including the Future Phase) as a total of 626,301 sf office use and 35,499 sf retail/restaurant use.[47] In the Project's GHG emissions impact analysis, the DEIR uses *both* the split use and the office only version. At one point it describes the Project (including the Future Phase) as proposing 626,301 square feet office use and 35,499 square foot retail/restaurant use [48] but a few pages later, describes it as proposing up to 646,201 square feet of office use and 15,399 square foot retail/restaurant use.[49] This lack of uniformity muddies the waters as to what Project is being analyzed, introducing confusion that prevents clear analysis.

Ultimately the DEIR seems to arbitrarily pick and choose which version of the Future Phase to analyze, sometimes analyzing both versions and other times only one version. This is inconsistent with CEQA's most basic requirement to provide a stable and accurate project description. The City must circulate a revised DEIR that includes a clear and stable project description and clearly defines the Future Phase uses that it purports to analyze.

---

[43] DEIR Appendix M (Transportation), pg. 29.
[44] DEIR Appendix M (Transportation), pg. 38.
[45] *Id.*
[46] DEIR, pg. IV.C-42.
[47] DEIR, pg. IV.A-48.
[48] DEIR, pg. IV.D-62.
[49] DEIR, pgs. IV.D-65, 70.

## IV. THE DEIR FAILS TO ADEQUATELY ANALYZE THE PROJECT'S PLANNED FUTURE CAMPUS EXPANSION PHASE

The Project's Future Phase is not adequately analyzed under CEQA.[50] Under *Laurel Heights*, an EIR must include an analysis of the environmental effects of future expansion or other actions if two conditions are met: (1) the future expansion or action is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects.[51] Under this standard, "the facts of each case will determine whether and to what extent an EIR must analyze future expansion or other action."[52]

### 1. The DEIR Must Include Analysis of The Future Campus Expansion Phase Because It Meets the Two-Part Test Under *Laurel Heights*.

First, the Future Phase is more than just a "reasonably foreseeable consequence of the initial project"; it is a fully anticipated future component of the proposed Project. As stated in the Project Description, "the Project includes a Future Campus Expansion Phase. . . to be developed within Lot 4 of the Project Site."[53] The City even plans to set the Future Phase in motion by demolishing land in anticipation for the Expansion Phase.[54] Thus, the Future Phase is a reasonably foreseeable part of the project.

Second, the Future Phase will indeed "change the scope or nature of the project or its environmental effect." The Future Phase is a significant project; even though the precise uses of the Future Phase are not solidified, the City posits it will include an additional building of 211,201 sf. Demolition of an existing 21,880 sf warehouse building and construction of an additional office building with various uses invariably means increased traffic, noise, air quality impacts, and energy usage, among other things. The Future Phase therefore alters the scope of the project in expanding it significantly and will likely increase the environmental impacts of the Project.

---

[50] *See, Laurel Heights Improvement Assn. v. Regents of Univ. of California* (1988) 47 Cal. 3d 376, *as modified on denial of reh'g* (Jan. 26, 1989).
[51] *Id.* at 396; *see also Nat'l Parks & Conservation Assn. v. Cnty. of Riverside (1996) 42 Cal.App.4th 1505, 1515; Del Mar Terrace Conservancy v. City Council* (1992) 10 Cal.App.4th 712, 730; *San Jose Raptor Rescue Ctr. V. County of Merced* (2007) 149 Cal.App.4th 645, 660.
[52] *Id.*
[53] DEIR, pg. II-10.
[54] DEIR, pg. II-10 ("Construction of the Future Campus Expansion Phase would require the demolition of an existing 21,880-square-foot warehouse building.")

Accordingly, the Future Phase meets the two-part *Laurel Heights* test and must therefore be adequately analyzed in the DEIR.

**2. The DEIR Does Not Adequately Analyze the Future Campus Expansion Phase.**

CEQA does not require "prophecy."[55] Lead Agencies are "not required. . . to commit themselves to a particular use or to predict precisely what the environmental effects, if any, of future activity will be."[56] However, "[t]he fact that precision may not be possible. . . does not mean that no analysis is required. Drafting an EIR ... involves some degree of forecasting. While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can."[57] At the very least, Lead Agencies must discuss "at least the general effects of the reasonably foreseeable future uses of the [Project], the environmental effects of those uses, and the currently anticipated measures for mitigating those effects."[58]

As detailed above, the DEIR contains numerous inconsistencies in describing the Future Phase it purports to analyze. This alone precludes an adequate analysis of the Future Phase as required by *Laurel Heights*. In addition, it is clear that, while claiming to include the Future Phase in its impact analyses, the DEIR does not consistently do so. For example, while the DEIR's air quality analysis purports to calculate emissions specifically anticipating emissions associated with the Future Phase, it is far from clear that the analysis did so. For example, the DEIR's Technical Appendix for Air Quality and Greenhouse Gas Emissions includes the assumptions used in CalEEMod emissions modeling.[59] Those assumption state that the Project will include demolition of 35,738 sf of existing buildings.[60] However, based on Table II-1 of the DEIR's project description, that figure includes demolition of 9,940 sf of existing office space and 25,798 sf of existing warehouse use, *but excludes the demolition of 21,880 sf of building associated with the Future Phase.*[61] Therefore, the DEIR clearly does not analyze all aspects of the Future Phase, and a review of the CalEEMod modeling output files suggests that the new buildings associated with the Future Phase may not have been analyzed either.

---

[55] *Laurel Heights*, 47 Cal. 3d at 398.
[56] *Id.*
[57] *Id.* at 399 (internal quotation marks omitted).
[58] *Id.* at 398.
[59] DEIR Appendix C (Air Quality Analysis Assumptions), pdf pg. 24 of 346.
[60] *Id.*
[61] *See* Table II-1. DEIR, pg. II-8.

To meet the standards set forth in the *Laurel Heights* decision, the DEIR must be revised to provide a clear and stable description of the Future Phase and to properly analyze the Project including the Future Phase. As it stands, the DEIR fails to adequately analyze and disclose the potentially significant impacts of the proposed Project, including the Future Phase.

## V. THE DEIR FAILS TO ADEQUATELY DISCLOSE, ANALYZE AND MITIGATE THE PROJECT'S NOISE IMPACTS

CREED LA's noise and vibration expert Jack Meighan identifies critical flaws in the DEIR's noise and vibration analysis, including omission of a potentially significant impact that would require mitigation.

First, Mr. Meighan identifies a potential undisclosed significant impact.[62] The DEIR concludes that Project construction result in the generation of excessive ground borne vibration.[63] As Mr. Meighan points out, though, the Project's construction vibration impacts analysis lacks consideration of the use of a vibratory roller.[64] Given the Project's plan to demolish existing spaces and create a new pedestrian plaza through grading, a vibratory roller would likely be employed for the Project.[65] And if a vibratory roller is indeed used for the Project, then the use would be considered a significant impact. As Mr. Meighan explains, as per the Federal Transit Administration's guidelines, a vibratory roller generates a Peak Particle Velocity of 0.21 in/sec at 25 feet – the same distance the closest construction site will be from the historic Ford Factory, which adheres to a 0.12 PPV criteria in the DEIR.[66] This implies that using a vibratory roller at this proximity would result in a significant impact.[67] Therefore, the DEIR must disclose the roller's potential use and, if utilized, disclose and mitigate its impact by, for example, establishing a minimum distance requirement for its operation.

Second, Mr. Meighan's analysis reveals a significant concern regarding the lack of proper citation for source noise levels utilized in the DEIR. While the analysis tables in Section 4 attribute the source of sound levels to "AES, 2022" and refer to Appendix I for details, numerous source levels in Appendix I—such as those associated with mechanical equipment, people, speakers, truck loading, trash compactors, and parking lots—are presented devoid of any context or supporting

---

[62] Meighan Comments, pg. 2.
[63] DEIR, pg. IV.F-54.
[64] Meighan Comments, pg. 2.
[65] *Id.*
[66] *Id.*
[67] *Id.*

references.[68] Indeed, as Mr. Meighan points out, without the supporting references "it is impossible to verify the accuracy of the noise source levels or to evaluate the DEIR's noise impacts analysis."[69] Although certain sources, such as off-site traffic noise calculations, construction equipment noise levels, and construction equipment vibration levels, are explicitly cited, Mr. Meighan underscores the necessity of revising the DEIR to explicitly specify the origins of all noise sources.[70] This step is crucial to ensure the use of transparent, reasonable and verifiable noise levels in the assessment.

Mr. Meighan's comments and analysis provide substantial evidence that the Project may have significant unmitigated noise and vibration impacts that are completely unexamined in the DEIR, and explains why the DEIR's operational noise impact analysis is not supported by substantial evidence. The City must revise the DEIR to evaluate the risk of using a vibratory roller and include appropriate mitigation measures and citations.

## VI. THE DEIR IMPROPERLY RELIES ON UNENFORCEABLE PROJECT DESIGN FEATURES TO CONCLUDE THAT THE PROJECT'S IMPACTS ARE LESS THAN SIGNIFICANT

In the DEIR's analyses of the Project's GHG emissions, noise, transportation, and water supply and infrastructure impacts, the DEIR includes measures that are classified as Project Design Features ("PDFs"), even though they serve to mitigate the Project's impacts. The DEIR underestimates the significance of the Project's impacts by using these mitigating PDFs for its initial significance determination. By applying PDFs as mitigation to the Project's unmitigated impacts, the DEIR "compress[es] the analysis of impacts and mitigation measures into a single issue,"[71] in violation of CEQA. This approach is prohibited by CEQA because it fails to inform the public and decision makers of the true severity of an impact.

CEQA requires that an EIR disclose the significance of an impact prior to mitigation.[72] The purpose of this analysis is both to require public disclosure of a project's impacts, and to require the lead agency to "identify and focus on the significant environmental effects of the proposed project."[73] In evaluating the significance of an impact, an EIR must discuss the physical changes in the environment that the project will cause, including:

---

[68] *Id.* at pg. 3.
[69] *Id.*
[70] *Id.*
[71] *Lotus v. Dep't of Transp.* (2014) 223 Cal. App. 4th 645, 656.
[72] 14 CCR § 15126.2.
[73] 14 CCR § 15126.2(a).

> relevant specifics of the area, the resources involved, physical changes, alterations to ecological systems, and changes induced in population distribution, population concentration, the human use of the land (including commercial and residential development), health and safety problems caused by the physical changes, and other aspects of the resource base such as water, historical resources, scenic quality, and public services.[74]

Only after this discussion occurs may the agency identify and apply mitigation measures to reduce potentially significant impacts to less than significant levels.[75] The discussion is rendered meaningless (or, as here, omitted entirely) if the EIR falsely concludes that a project's impact is less than significant based on premature application of mitigation measures.

Moreover, none of these PDFs are incorporated into the DEIR as binding mitigation measures, in further violation of CEQA. CEQA defines mitigation as including any measures designed to avoid, minimize, rectify, reduce, or compensate for a significant impact.[76] The PDFs described in the DEIR are actually mitigation measures because they perform these functions. These PDFs are not designed to simply modify a physical element of the Project, as is inherent in a true project "design feature." The PDFs are designed to reduce impacts. This makes them mitigation measures within the meaning of CEQA. For example, as discussed below, WAT-PDF-1's requirement to use various water conservation techniques is clearly designed as mitigation to reduce the Project's water supply impacts that would result from using equipment with less efficient water conservation controls.

CEQA requires that mitigation measures be fully enforceable through permit conditions, agreements or other legally binding instruments.[77] Because the City has not characterized these PDFs as mitigation measures, they are not binding on the Applicants, and will not be included in the Project's Mitigation Monitoring and Reporting Program ("MMRP"). Reliance on "proposed" nonmandatory and unenforceable PDFs to reduce impacts therefore provides no assurance that the Applicant would later comply with the "design features." The PDFs therefore fail to provide the binding mechanism required by CEQA to compel the Applicant's compliance with mitigation following Project approval.

California courts have made clear that mitigation must be incorporated directly into a project's MMRP to be considered enforceable. In *Lotus v. Department*

---

[74] 14 CCR § 15126.2(a).
[75] 14 CCR § 15126.4.
[76] 14 CCR § 15370.
[77] 14 CCR §15126.4(a)(2).

*of Transportation*,[78] an EIR approved by Caltrans contained several measures "[t]o help minimize potential stress on the redwood trees" during construction of a highway. Although those measures were clearly separate mitigation, the project proponents considered them "part of the project." The EIR concluded that due to the planned implementation of those measures, the project would not result in significant impacts. The Court disagreed, finding that the EIR had "disregard[ed] the requirements of CEQA" by "compressing the analysis of impacts and mitigation measures into a single issue." The Court continued, stating "[a]bsent a determination regarding the significance of the impacts … it is impossible to determine whether mitigation measures are required or to evaluate whether other more effective measures than those proposed should be considered."[79]

Similar to the inadequate analysis contained in the *Lotus* EIR, the DEIR asserts that incorporation of their PDFs would reduce the Project's GHG emissions, noise, transportation, and water supply and infrastructure impacts to less than significant levels prior to mitigation. This approach improperly "compress[es] the analysis of impacts and mitigation measures into a single issue."[80] Even if the DEIR's conclusions were accurate, which is unclear, the PDFs must be incorporated into the Project's MMRP as formal mitigation measures in order to be factored into the City's ultimate significance findings. "Simply stating that there will be no significant impacts because the project incorporates 'special construction techniques' is not adequate or permissible."[81]

The City has a duty to disclose unmitigated impacts and compare them to the applicable significance thresholds before applying mitigation measures. As a result of its improper reliance on PDFs, the DEIR underestimates the true unmitigated that will be generated by the Project. The City has already demonstrated it is aware and capable of excluding PDFs in its impact analysis through its decision to complete its air quality impact analysis without accounting for PDFs.[82] It is unclear why the City is inconsistent in its analyses and did not do the same for these other impact analyses. The DEIR must be revised and recirculated to include an accurate analysis of the Project's air quality impacts, and to require that any and all mitigation measures that are intended to reduce emissions are incorporated as binding mitigation in the Project's MMRP.

---

[78] *Lotus v. Dep't of Transp*. (2014) 223 Cal. App. 4th 645, 651-52.
[79] *Id.*
[80] *Id.* at 656.
[81] *Id.* at 657.
[82] DEIR, pg. IV.A-45 ("To provide a conservative analysis these PDFs were not accounted for in the emissions presented below").

**1. The DEIR's GHG Emissions Impact Analysis Improperly Relies on Project Design Features to Conclude that the Project's Impacts Are Less Than Significant.**

In analyzing the Project's GHG Emissions, the DEIR utilizes WAT-PDF-1 to conclude the Project's impacts are less than significant. Specifically, in calculating the annual GHG emissions from water/wastewater, the project "takes into account Project Design Feature WAT-PDF-1."[83] The DEIR concludes that the "Project GHG emissions from water/wastewater usage would result in a . . . reduction in water/wastewater emissions *with implementation of Project Design Feature WAT-PDF-1*."[84] This approach incorrectly dismisses the significance of the Project's actual, unmitigated emissions. Without disclosing the Project's unmitigated GHG emissions, the DEIR only discloses estimated emissions with the application of WAT-PDF-1. This "downward adjustment" of the Project's emissions artificially reduces their significance. The DEIR failed to undertake the requisite analysis required by CEQA Guidelines Section 15126.2 for the Project's GHG emissions because the DEIR did not disclose the Project's GHG emission impacts prior to incorporating WAT-PDF-1.

**2. The DEIR's Noise Impact Analysis Improperly Relies on Project Design Features to Conclude that the Project's Impacts Are Less Than Significant.**

The DEIR proposes NOI-PDF-1 through NOI-PDF-5 relating to noise and vibration.[85] Because these are not formal mitigation measures, these PDFs are neither mandatory nor enforceable. Nevertheless, the DEIR assumes that the PDFs will be implemented and will reduce the Project's noise and vibration impacts, and are used as support for the conclusion that building damage impacts from on-site construction and impacts from on-site stationary noise sources will be less than significant.

For example, the DEIR uses PDFs to conclude that several on-site stationary noise sources would have less than significant impacts. In regard to noise impacts from mechanical equipment, it concludes that "as provided above in Project Design Feature NOI-PDF-3, all outdoor mounted mechanical equipment will be screened from off-site noise-sensitive receptors by the building roof parapet."[86] With respect to outdoor spaces, it finds that "[a]n additional potential noise source would be the

[83] DEIR, pg. IV.D-76
[84] DEIR, pg. IV.D-81 (emphasis added).
[85] DEIR, pg. IV.F-30
[86] DEIR, pg. IV.F-39.

use of an outdoor sound system" but concludes that "[a]s set forth in Project Design Feature NOI-PDF-5, amplified sound system will be designed so as to not exceed the maximum noise levels as shown in Table IV.F-15."[87] With respect to loading dock and trash collection areas, it finds that noise impacts from loading dock and trash compactor operations would be mitigated because "as provided above in Project Design Feature NOI-PDF-4, the loading area will be acoustically screened from off-site noise-sensitive receptors."[88] Thus, the DEIR relies several times on PDFs to conclude that these various on-site stationary sources will have a less than significant impact. Additionally, in the DEIR's analysis of building damage impacts from on-site construction, it intentionally avoids analyzing impact pile driving vibration because NOI-PDF-2 directs the Project not to include the use of driven (impact) pile systems.[89] These analyses should have been completed without consideration of these PDFs.

As with the DEIR's improper use of PDFs with respect to GHG emission impacts, the DEIR's noise and vibration impact analysis violates CEQA as it improperly "compress[es] the analysis of impacts and mitigation measures into a single issue." The DEIR must be revised to assess and disclose the Project's noise and vibration impacts without consideration of the optional and unenforceable PDFs, and to require that any and all mitigation measures that are intended to reduce noise impacts are incorporated as binding mitigation in the Project's MMRP.

### 3. The DEIR Improperly Relies on a Transportation Project Design Feature to Conclude that the Project's Impacts Are Less Than Significant.

The DEIR proposes TR-PDF-1, which would require a Construction Traffic Management Plan that must be prepared and submitted to LADOT for review and approval before construction begins. In its transportation impact analysis, the DEIR concludes that the Project would not result in inadequate emergency access to the Project Site in part because even if the Project may require temporary lane closures, "the remaining travel lanes would be maintained in accordance with the Project's Construction Management Plan prepared and approved by the LADOT pursuant to Project Design Feature TR-PDF-1."[90] It then concludes that the Project would have less than significant impacts on inadequate emergency access and that no

---

[87] *Id.*
[88] DEIR, pg.IV.F-42
[89] DEIR, pg. IV.F-49.
[90] DEIR, pg. IV.H-35.

mitigation measures are required.[91] In so doing, it improperly relies on the PDF as an assured solution to the Project's potential impact.

The DEIR also relies on TR-PDF-1 in its water supply and infrastructure analysis. In concluding that the Project would not require or result in the relocation or construction of certain facilities that could cause significant environmental effects, it finds that "while trenching and installation activities could temporarily affect traffic flow and access on the adjacent streets and sidewalks, a Construction Traffic Management Plan prepared pursuant to TR-PDF-1 … would ensure the safe and efficient flow of vehicular and pedestrian traffic."[92] Thus, the DEIR fails to analyze or disclose a potentially significant impact through using a temporary, unenforceable PDF as a solution. It then uses that altered analysis to ultimately conclude that Project construction and operational impacts would be less than significant, in violation of CEQA.

For the reasons explained above, the DEIR must be revised and recirculated to assess and disclose the Project's transportation impacts—particularly the impact on emergency access—without consideration of optional and unenforceable PDFs, and to require that any and all mitigation measures that are intended to reduce transportation impacts are incorporated as binding mitigation in the Project's MMRP.

**4. The DEIR's Water Supply and Infrastructure Impact Analysis Improperly Relies on a Project Design Feature to Conclude that the Project's Impacts Are Less Than Significant.**

The DEIR proposes WAT-PDF-1 to address water conservation.[93] The PDF is referenced in the DEIR's calculation of the Project's water demand. Specifically, the DEIR notes the estimated daily water demand "*after* implementation of…water conservation measures included as a project design feature."[94] The DEIR ultimately concludes that "the LADWP would have sufficient water supplies to serve the Project's operational activities and therefore the Project's operation-related water supply impacts would be less than significant."[95] The calculation should have been made without the mitigated effects of the PDF. Since PDFs are not required and unenforceable, it is entirely possible that the Project may not utilize the

---

[91] *Id.*
[92] DEIR, pg. IV.J.1-31 (with respect to Project construction); *see also* DEIR, pg. IV.J.1-32. (same conclusion with respect to Project operations).
[93] DEIR, pg. IV.J.1-29
[94] DEIR pg. IV.J.1-34 (emphasis added).
[95] DEIR pg. IV.J.1-38.

conservation efforts mentioned in the PDF leading to a higher daily water demand than disclosed in the DEIR. In fact, the DEIR explicitly states that these water conservation methods are "voluntary."[96]

For the reasons explained above, the DEIR must be revised to assess and disclose the Project's water supply and infrastructure impacts without consideration of optional and unenforceable PDFs, and to require that any and all mitigation measures that are intended to reduce water supply and infrastructure impacts are incorporated as binding mitigation in the Project's MMRP.

## VII. THE DEIR FAILS TO ANALYZE AND MITIGATE THE PROJECT'S POTENTIALLY SIGNIFICANT HEALTH IMPACTS FROM EMISSIONS

The DEIR's air quality analysis includes the conclusions that Project construction and operation will not expose nearby sensitive receptors to substantial pollutant concentrations, finding that such impacts will be less than significant without mitigation.[97] However, these conclusions are not supported by any analysis of the potential health risks of the Project's emissions to nearby residential receptors. The City's significance determination is not supported by accurate scientific and factual data, as required by CEQA.[98] An agency cannot conclude that an impact is less than significant unless it produces rigorous analysis and concrete substantial evidence justifying the finding.[99]

These standards apply to an agency's analysis of public health impacts of a project under CEQA. In *Sierra Club v. County of Fresno*, the California Supreme Court affirmed CEQA's mandate to protect public health and safety by holding that an EIR fails as an informational document when it fails to disclose the public health impacts from air pollutants that would be generated by a development project.[100] In *Sierra Club*, the Supreme Court held that the EIR for the Friant Ranch Project—a 942-acre master-planned, mixed-use development with 2,500 senior residential units, 250,000 square feet of commercial space, and open space on former agricultural land in north central Fresno County—was deficient as a matter of law in its informational discussion of air quality impacts as they relate to adverse human health effects.[101]

---

[96] DEIR, pg. IV.J.1-29 ("This project design feature identifies the additional (*voluntary*) water conservation measures to be implemented as part of the Project…").
[97] DEIR, pgs. IV.A-59—65.
[98] 14 C.C.R. § 15064(b).
[99] *Kings County Farm Bureau*, 221 Cal.App.3d at 732.
[100] *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 518–522.
[101] *Id.* at 507–508, 518–522.

As the *Sierra Club* 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."[102] The Court concluded that the County's EIR was inadequate for failing to disclose the nature and extent of public health impacts caused by the project's air pollution. As the Court explained, the EIR failed to comply with CEQA because after reading the EIR, "the public would have no idea of the health consequences that result when more pollutants are added to a nonattainment basin."[103] CEQA mandates discussion, supported by substantial evidence, of the nature and magnitude of impacts of air pollution on public health.[104]

Furthermore, in *Berkeley Jets*, the Court of Appeal held that a CEQA document must analyze the impacts from human exposure to toxic substances.[105] In that case, the Port of Oakland approved a development plan for the Oakland International Airport.[106] The EIR admitted that the Project would result in an increase in the release of toxic air contaminants ("TACs") and adopted mitigation measures to reduce TAC emissions, but failed to quantify the severity of the Project's impacts on human health.[107] The Court held that mitigation alone was insufficient, and that the Port had a duty to analyze the health risks associated with exposure to TACs.[108] 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."[109]

Here, the DEIR states that the City did not perform a construction health risk analysis due to the "short-term" nature of construction emissions.[110] It states, "[g]iven the short-term construction schedule of approximately 33 months, the Project would not result in a long-term (i.e., 70-year) source of TAC emissions.

---

[102] *Id.* at 519, citing *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 514–515.
[103] *Id.* at 518. CEQA's statutory scheme and legislative intent also include an express mandate that agencies analyze human health impacts and determine whether the "***environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly***." (Public Resources Code § 21083(b)(3) (emphasis added).) Moreover, CEQA directs agencies 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." (Public Resources Code § 21000(d) (emphasis added).)
[104] *Sierra Club*, 6 Cal.5th at 518–522.
[105] *Berkeley Jets*, 91 Cal.App.4th at 1369–1371.
[106] *Id.* at 1349–1350.
[107] *Id.* at 1364–1371.
[108] *Id.*
[109] 14 C.C.R. § 15003(b).
[110] DEIR, pg. IV.A-61

Additionally, the SCAQMD CEQA Guidance does not require a health risk assessment (HRA) for short-term construction emissions."[111] The City's assertion that it need not evaluate health risks from sources lasting less than 70 years is not supported by substantial evidence, and violates CEQA's requirement to 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.[112] Indeed, California's Office of Environmental Health Hazard Assessment's ("OEHHA") risk assessment guidelines recommend a formal health risk analysis ("HRA") for short-term construction exposures lasting longer than 2 months and that exposures from projects lasting more than 6 months should be evaluated for the duration of the project.[113] As Project construction will last nearly 3 years, CEQA requires that the health risk from each of the construction phases be quantified and disclosed. And under the OEHHA risk assessment guidelines, which are used throughout California for assessing health risks under CEQA, the DEIR should include a quantified HRA to assess risks to nearby sensitive receptors from construction emissions.

In evaluating the impact of potential toxic air contaminant (TAC) emissions, the DEIR concludes that "the Project would not result in the exposure of off-site sensitive receptors to carcinogenic or toxic air contaminants that exceed the maximum incremental cancer risk. . . and potential TAC impacts would be less than significant."[114] In fact, the DEIR asserts that the Project's incremental cancer risk due to TAC emissions would be "well below" 10 in one million, and the cancer burden would be less than 0.5 cancer case.[115] However, these conclusions are not supported by substantial evidence because the City did not actually quantify the cancer risk. With respect to the Project's construction activities, the DEIR states that "the greatest potential for TAC emissions during construction would be from diesel particulate emissions associated with heavy equipment operations."[116] Off-site receptors would therefore be exposed to these diesel particulate emissions ("DPM"). But the DEIR's analysis of LSTs does not quantify DPM or any other TAC emissions, because DPM and other TACs are not criteria pollutants. Therefore, the City's analysis of criteria pollutants does not satisfy its obligation to analyze TACs.

---

[111] *Id.*
[112] *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184.
[113] Office of Environmental Health Hazard Assessment (OEHHA), Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments, February 2015 (OEHHA 2015), Section 8.2.10: Cancer Risk Evaluation of Short Term Projects, pp. 8-17/18; https://oehha.ca.gov/air/crnr/notice-adoption-air-toxics-hot-spots-program-guidance-manual-preparation-health-risk-0.
[114] DEIR, pg. IV.A-65.
[115] DEIR, pg. IV.A-64.
[116] DEIR, pg. IV.A-60.

The DEIR does not further analyze TAC impacts of the construction activities because of the "short-term construction schedule."[117] But as discussed above, since project construction will last nearly 3 years, the City should have analyzed the health risk that will be posed by construction activities during that time.

With respect to the Project's operational activities, the DEIR claims that the activities and land uses associated with the project, including diesel particulate matter from delivery trucks, are "not considered uses that generate substantial TAC emissions,"[118] and therefore did not perform a health risk assessment. The DEIR also acknowledges that SCAQMD recommends a health risk assessment be done for substantial individual sources of DPM, but claims that the Project "would not be expected to generate a large number of heavy duty truck trips" because the Project primarily consists of office and retail use.[119] But the Project may still very well produce some TAC emissions that could potentially increase cancer risk. TACs are emitted from a variety of sources, and the expected source of emissions from truck traffic should be properly analyzed to ensure that it would not result in elevated TAC exposure. The DEIR lacks substantial evidence supporting its conclusion that the Project's TAC emissions will not exceed the maximum incremental cancer risk. Because the DEIR lacks any meaningful analysis of the health risks from exposure to TACs, it fails to meet CEQA's informational standards and the City's significance finding is not supported by substantial evidence. The City must prepare a revised DEIR which fully discloses, analyzes and mitigates its impacts.

Because the DEIR lacks any analysis disclosing health risks from exposure to TACs, it fails to meet CEQA's informational standards and the City's significance finding is not supported by substantial evidence. The City must revise the DEIR to include an analysis of the Project's construction and operation health risks.

## VIII. CONCLUSION

For the reasons discussed above, the DEIR for the Project is wholly inadequate under CEQA. It must be 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 additional public review. Until the DEIR has been revised and recirculated, as described herein, the City may not lawfully approve the Project.

---

[117] DEIR, pg. IV.A-61.
[118] DEIR, pg. IV.A-64.
[119] *Id.*

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

Sincerely,

Ariana Abedifard
Richard Franco

Attachment
AA:acp

# EXHIBIT A

WILSON IHRIG
ACOUSTICS, NOISE & VIBRATION

CALIFORNIA
WASHINGTON
NEW YORK

WI #23-005.21

August 7, 2023

Richard M. Franco
Adams Broadwell Joseph & Cardozo
601 Gateway Blvd., Suite 1000
South San Francisco, CA 94080

**SUBJECT: Comments on Violet Street Creative Office Noise Analysis**

Dear Mr. Franco,

Per your request, we have reviewed the subject matter document for the Violet Street Creative Office Draft Environmental Impact Report (DEIR) in Los Angeles, California[1]. The proposed project involves the demolition of 25,798 square feet of warehouse uses and 9,940 square feet of office space as well as the construction, use and maintenance of a 13-story 450,599 square foot mixed-use building with retail and office uses. The project is surrounded by sensitive uses, most notably apartments directly to the north across 7th street and to the east across Mateo Street.

Wilson Ihrig is an acoustical consulting firm that has practiced exclusively in the field of acoustics since 1966. During our almost 57 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 Roadway Construction Noise Model (RCNM), SoundPLAN, and CadnaA. In short, we are well qualified to prepare environmental noise studies and review studies prepared by others.

## Adverse Effects of Noise[2]

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 levels of industrial noise.

[1] Violet Street Creative Office Campus Project, Draft Environmental Report, City of Los Angeles, June 2023
[2] 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)

**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.

**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.

## Construction Noise and Vibration Analysis Underestimates Potential Impacts

### *Construction Vibration Levels do not Include Worst-Case Sources*

Table IV.F-22 presents Construction Vibration Impacts for building damage that could be potentially caused by the project. However, there is no vibratory roller in the construction analysis. Vibratory rollers are generally used to compact soil, gravel, concrete, asphalt or other materials in road construction. The project calls for the demolition and removal of the existing 25,798 square feet of warehouse uses, 9,940 square feet of office uses, and associated surface parking which would then have to be graded to build a new pedestrian plaza with new materials. As such, it is likely that a vibratory roller would be used in the project. According to the Federal Transit Administration Noise and Vibration Impact Assessment Manual[3] the Vibratory Roller has a Peak Particle Velocity (PPV) 0.21 in/sec at 25 feet. This is the same distance between the closest the construction site will be to the historic Ford Factory at 2060 7th street, which has a stated criteria in the DEIR of 0.12 PPV. This means that the closest potential use of a vibratory roller would be considered a significant impact. As such, the DEIR should be re-written to address whether a vibratory roller will be used during construction, or alternately to disclose the significant impact and propose appropriate mitigation measures, such as a requirement of a minimum distance that a vibratory roller could be used, that would reduce the impact.

[3] https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/research-innovation/118131/transit-noise-and-vibration-impact-assessment-manual-fta-report-no-0123_0.pdf Table 7-4

*Source Noise Levels used in the Analysis are Uncited.*

All Tables in section 4 of the DEIR state the source of the sound level is "AES, 2022. See Appendix I of this Draft EIR." Appendix I details the noise calculation worksheets used to determine noise impacts. Several source levels, such as noise from: mechanical equipment (Appendix I, PDF page 66), people (page 70), speakers (page 76), truck loading (page 95), trash compactors (page 97), and parking lots (page 100) are given without context or supporting references. If these are taken from measurements by AES of each of these sources, this should be stated in either section 4 or in Appendix I. If these levels are from the SoundPLAN program defaults, that should be stated as well. Without supporting references, it is impossible to verify the accuracy of the noise source levels or to evaluate the DEIR's noise impacts analysis. The source for the analysis of off-site traffic noise calculations (FHWA TNM Version 2.5 - Appendix I, PDF page 103), construction equipment noise levels (DEIR, page IV.F-32), and construction equipment vibrations levels (DEIR, page IV.F-49) are explicitly given. The current document recognizes that noise sources are important to properly cite. As such, the DEIR should be revised to explicitly include where all noise sources come from, in order to determine reasonable levels are currently being used.

## Project Design Features are Not Proper Mitigation Measures.

On page IV.F-30 the DEIR includes Project Design Features ("PDFs") that are meant to reduce the impact of noise and vibration. However, these features are not designated as mitigation measures and are therefore not mandatory nor enforceable under CEQA. The DEIR must not merely assume that these features will be implemented without demonstrating how the impacts would be reduced to a level below the "significant impact" threshold. The DEIR should be revised to disclose the Project's noise impacts before applying the PDFs. It should also be revised to include these features as mitigation measures and demonstrate how they would bring the project's impacts to an acceptable or less-than-significant level.

These revisions are necessary to fulfill CEQA's purposes of ensuring that decision-makers have a clear understanding of the available options for minimizing environmental impacts and can make informed choices when approving or denying the project.

## Conclusions

There are several errors and omissions in the DEIR noise analysis. Correcting these would potentially identify several significant impacts which require mitigation.

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

Very truly yours,
WILSON IHRIG

Jack Meighan
Associate

Comments on Violet Street Creative Office Noise Analysis.docx

WILSON IHRIG
ACOUSTICS, NOISE & VIBRATION

# JACK MEIGHAN

*Associate*

Jack joined Wilson Ihrig in 2021 and is an experienced acoustics engineer with expertise in projects involving rail transit systems, highways, CEQA analysis, environmental noise reduction, mechanical drawing reviews, and construction noise and vibration mitigation. He has hands-on experience with project management, including client coordination and presentations, as well as in designing, developing, and testing MATLAB code used in acoustics applications. Additionally, his expertise includes taking field measurements, developing test plans and specifying, purchasing, setting up and repairing acoustic measurement equipment. He has experience in using Traffic Noise Model (TNM), CadnaA, EASE, Visual Basic, LabView, and CAD software.

## Education

- B.S. in Mechanical Engineering, University of Southern California, Los Angeles, CA

## Project Experience

***Metro Regional Connector, Los Angeles CA***
Planned, took, and processed measurements as part of a team to determine the effectiveness of floating slab trackwork for a new subway in downtown Los Angeles that travels below the Walt Disney Concert Hall and the Colburn School of Music.

***Rodeo Credit Enterprise CEQA Analysis for New Construction, Palmdale, CA***
Wrote an accepted proposal and executed it for a noise study project to determine noise mitigation requirements on a new housing development. Led all aspects of the project and managed the budget during all phases of project completion. Completed 5 separate projects of this type for this developer.

***Blackhall Studios, Santa Clarita, CA***
Led the vibration measurement effort for a new soundstage directly adjacent to an existing freight and commuter rail line. Tested equipment, processed data, and analyzed results to determine the vibration propagation through the soil to the proposed soundstage locations, and was part of the team that developed mitigation techniques for the office spaces directly next to the rail line.

***Octavia Residential Condos CEQA Study, San Francisco, CA***
Calculated the STC ratings for the proposed windows to meet Title 24 requirements, modeled the acoustic performance of floor and ceiling structures, researched noise codes, helped with a mechanical design review, and wrote a report summarizing the results for a new Condominium project being developed in San Francisco.

***San Diego International Airport Terminal I Replacement, CA***
Conducted interior noise and vibration measurements, analyzed measurement data to help determine project criteria, modeled the existing and future terminals in CadnaA, and was part of a team that did a complete HVAC analysis of the entire terminal, as part of a CEQA analysis where a new terminal for the airport is being designed.

***Five Points Apartments Noise Study, Whittier, CA***
Took measurements, researched sound data and solutions, and recommended mitigation for a new apartment complex that was located next to an existing car wash, as part of a CEQA review.

***USC Ellison Vibration Survey, Los Angeles, CA***
Conducted vibration measurements as part of a survey to determine the effectiveness of vibration isolation platforms that are used to insulate cell growth in a cancer research facility. Determined the effectiveness and presented this information to the client. Researched and recommended a permanent monitoring system so the client could view data in real time.

***TEN50 Condos 'Popping' Noise Investigation, Los Angeles, CA***
Was part of a team that investigated the noise source of an unwanted popping noise in luxury condos in Downtown Los Angeles. Helped isolate the noise source location with accelerometers to determine where vibrations were occurring first and used an acoustic camera to determine where in the condo the noise was coming from.

***2000 University Project, Berkely, CA***
Wrote a construction noise monitoring plan based on environmental noise calculations, wrote a report summarizing the results, and attending a meeting with the client to discuss options.

---

***Bay Area Rapid Transit (BART) On-Track, CA, San Francisco Bay Area, CA****
Day to day project manager, responsible for meetings, presentations, and coordination with the client for an ongoing noise study on the BART system. Developed MATLAB code to process measurements and determine areas where high corrugation was present, contributing to excessively high in-car noise levels. Performed noise measurements inside both the right of way and the vehicle cabin, in addition to rail corrugation measurements.

***California I-605/SR-60 Interchange Improvement, Los Angeles, CA****
Developed a noise model of the area that predicted sound levels for abatement design, in addition to conducting noise measurements and analysis. Led the Team in use of the FHWA Traffic Noise Model Software for the project, involving three major highways and two busy interchanges extending over 17 miles in southern California.

***Sound Transit On-Track, Seattle, WA****
Took measurements, fixed equipment, and developed software in MATLAB to process Corrugation Analysis Trolley measurements as part of an ongoing noise study on the Sound Transit Link system. Tested vibration data to determine the best measurement and processing techniques to store the data in an online database for in-car measurements.

***LA Metro CRRC Railcar Testing, Los Angeles, CA****
Led the effort to plan the measurements, determine measurement locations and finalize the test plan. Formulated a method to capture speed data directly from legacy train vehicles. Executed noise and vibration specification measurements for new rail cars delivered by CRRC.

***City of Los Angeles, Pershing Square Station Rehabilitation Noise Monitoring, CA****
Built noise models, wrote a construction noise plan, and assisted in on-site construction noise issues as they arose for a renovation of the Pershing Square metro station in downtown Los

** Work done prior to working for Wilson Ihrig*

Angeles. Trained construction personnel in techniques for noise reduction and how to conduct noise monitoring measurements to meet project specifications.

***City of Orange Metrolink Parking Garage Construction Monitoring, CA****
Wrote an adaptive management vibration monitoring plan, set up equipment to monitor live vibration levels, and generated weekly reports as part of an effort to build a new parking garage. Designed, planned, and completed measurements to predict and mitigate pile driving construction impacts at three historic building locations adjacent to the construction site. Coordinated with the client whenever an on-site problem arose.

***LA Metro Westside Subway Construction, Los Angeles, CA****
Planned, organized, and processed noise measurements for the Purple Line extension construction. Implemented both long term microphones to measure noise levels and accelerometers to measure vibration levels in existing subway tunnels. Oversaw noise monitoring at sensitive construction sites for the project and worked with the contractor to find ways to reduce construction noise levels by approximately 10dB.

***Montreal Réseau Express Métropolitain, Canada****
Conducted vibration propagation measurements used to create models to predict operational vibration levels for an under-construction transit line. Managed equipment, solved problems in the field, and wrote parts of the report summarizing the findings of the acoustic study.

***NHCRP Barrier****
Took on-highway measurements and wrote, designed, developed, and tested MATLAB code to identify specific spectrograms to use for analyses for a project evaluating barrier reflected highway traffic noise differences in the presence of a single absorptive or reflective noise barrier.

***Siemens Railcar Testing for Sound Transit, Seattle, WA****
Measured in-car noise and vibration for new rail cars delivered by Siemens. Developed new internal techniques for measurements based on the written specifications. Contributed to the team that helped identify issues that new cars had in meeting the Sound Transit specifications for noise and vibration. Participated in developing the test plan and specified then acquired new equipment for the measurement.

***Toronto/Ontario Eglinton Crosstown Light Rail, Final Design, Canada****
Assisted in vibration propagation measurements, analysis, and recommendations for mitigation for a 12-mile light-rail line both on and under Eglinton Avenue. Set up and ran equipment for at-grade measurements with an impact hammer for underground measurements with an impact load cell that was used during pre-construction borehole drilling.

** Work done prior to working for Wilson Ihrig*

# ATTACHMENT B

ADAMS BROADWELL JOSEPH & CARDOZO
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037
TEL: (650) 589-1660
FAX: (650) 589-5062
rfranco@adamsbroadwell.com

ARIANA ABEDIFARD
KEVIN T. CARMICHAEL
CHRISTINA M. CARO
THOMAS A. ENSLOW
KELILAH D. FEDERMAN
RICHARD M. FRANCO
ANDREW J. GRAF
TANYA A. GULESSERIAN
DARION N. JOHNSTON
RACHAEL E. KOSS
AIDAN P. MARSHALL
TARA C. RENGIFO

*Of Counsel*
MARC D. JOSEPH
DANIEL L. CARDOZO

SACRAMENTO OFFICE
520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4721
TEL: (916) 444-6201
FAX: (916) 444-6209

June 25, 2024

**VIA EMAIL**

Hearing Officer
City of Los Angeles Department of City Planning
Attn: Paul Caporaso
221 N. Figueroa Street, Suite 1350
Los Angeles, CA 90012
Email: Paul.Caporaso@lacity.org

**VIA EMAIL**

Rey Fukuda
City of Los Angeles, Department of City Planning
221 N. Figueroa Street, Suite 1350
Los Angeles, CA 90012
Email: Rey.Fukuda@lacity.org

Re: **Agenda Item No. 1- June 26, 2024 City of Los Angeles Hearing Officer hearing on Violet Street Creative Office Campus Project (SCH Number 2022110015; Environmental Case No. ENV -2021-2232-EIR)**

Dear Mr. Caporaso and Mr. Fukuda:

We are writing on behalf of Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA") in opposition to the Violet Street Creative Office Campus Project (SCH Number 2022110015; Environmental Case No. ENV -2021-2232-EIR) ("Project") proposed by Al Violet, LLC and Al Violet B2, LLC ("Applicants"). The Project appears as agenda item No. 1 for the June 26, 2024 City of Los Angeles ("City") Department of City Planning hearing officer agenda. The hearing officer will take public testimony on behalf of the Los Angeles Planning Commission on the Project's Final Environmental Impact Report ("FEIR") and entitlements including a General Plan Amendment, Vesting Zone and Height District Change, Vesting Conditional Use, Zone Variance, and Site Plan Review.

The City, as lead agency under the California Environmental Quality Act[1] ("CEQA"), prepared the Draft Environmental Impact Report ("DEIR") and FEIR for the Project. CREED LA's comments on the DEIR explained how the DEIR failed to comply with CEQA's requirement to act as an informational document, in that it lacked proper analysis in crucial areas including the Project's impacts on public health and noise. Those comments further explained how these flaws made the

[1] Pub. Resources Code ("PRC") §§ 21000 *et seq.*

DEIR deficient as a matter of law because it failed to properly analyze, disclose and mitigate the Project's potentially significant impacts, and lacked substantial evidence supporting the City's conclusions regarding those impacts.

The City's FEIR includes responses to CREED LA's DEIR comments and purports to address the issues raised. As discussed below however, the FEIR fails to adequately resolve these issues or to mitigate all of the Project's potentially significant impacts. We reviewed the FEIR and available supporting documentation with the assistance of air quality expert James Clark Ph.D.[2] We reserve the right to supplement these comments at a later date, and at any later proceedings related to this Project.[3]

## I. STATEMENT OF INTEREST

CREED LA is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public and worker health and safety hazards, and the environmental and public service impacts of the Project. The coalition 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 City of Los Angeles and surrounding areas.

Individual members of CREED LA and its member organizations include Jorge L. Aceves, John P. Bustos, Gerry Kennon, and Chris S. Macias. These individuals live, work, recreate, and raise their families in the City of Los Angeles 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 onsite.

In addition, 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

---

[2] Dr. Clark's technical comments and curricula vitae are attached hereto as Exhibit A ("Clark Comments").

[3] Gov. Code § 65009(b); PRC § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* ("*Bakersfield*") (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

moratoriums and other restrictions on growth that, in turn, reduce future employment opportunities.

## II. THE CITY HAS NOT COMPLIED WITH CEQA BECAUSE FEIR FAILS TO ADEQUATELY DISCLOSE AND MITIGATE THE PROJECT'S SIGNIFICANT HEALTH RISK IMPACTS

The City may not approve the Project at this time because the FEIR fails to adequately disclose and mitigate the project's significant health risk impacts. CEQA requires that a lead agency evaluate and provide a written response to DEIR comments raising significant environmental issues.[4] Such comments must be addressed in detail and include good faith reasoned analysis; conclusory statements unsupported by facts do not suffice.[5] A lead agency's failure to adequately respond to comments raising significant environmental issues before approving a project frustrates CEQA's informational purposes and renders the EIR legally inadequate.[6] Here, the City failed to adequately respond to CREED LA's DEIR comments with respect to the Project's significant health risks fails to adequately respond lack any reasoned analysis and include wholly conclusory statements unsupported by any facts. The FEIR is therefore legally inadequate under CEQA and the Commission may not certify the FEIR nor grant the requested Project approvals at this time.

CREED LA's comments on the DEIR explained that the City's air quality and health risk analysis failed to address health risks associated with emissions of toxic diesel particulate matter ("DPM") from the Project's construction equipment. The comments explained the California Supreme Court's recognition of CEQA's mandate to protect public health and safety by holding that an EIR fails as an informational document when it fails to disclose the public health impacts from air pollutants that would be generated by a development project.[7] The DEIR stated that the City did not perform a construction health risk analysis because it claimed that the "short-term" nature of construction emissions did not warrant analysis.[8] The DEIR asserted that, "[g]iven the short-term construction schedule of approximately 33 months, the Project would not result in a long-term (i.e., 70-year) source of TAC emissions. Additionally, the SCAQMD CEQA Guidance does not require a health risk assessment (HRA) for short-term construction emissions."[9] CREED LA's DEIR comments explained that the City's position violated CEQA's

---

[4] 14 CCR § 15088(a).
[5] 14 CCR § 15088(c).
[6] *Flanders Found. v. City of Carmel-by-the-Sea* (2012) 202 Cal.App.4th 603, 615-17; *Rural Landowners Ass'n v. City Council* (1883) 143 Cal.App.3d 1013, 1020.
[7] *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 518–522.
[8] DEIR, pg. IV.A-61
[9] *Id.*

requirement to 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.[10]

This failure has not been remedied in the FEIR. In the FEIR's response to comments, the City continues to maintain that it is not required to perform a health risk analysis or otherwise analyze or disclose the health risks from Project construction.[11] Nevertheless, in response to CREED LA's comments, the City included in the FEIR a quantitative health risk analysis ("HRA") "to confirm, as the Draft EIR concludes, that no significant health risk impacts would occur from the Project."[12] This HRA purports to show that the carcinogenic risk from the Project would be a maximum of 1.0 in one million for residents adjacent to the Project site, which is below the applicable South Coast Air Quality Management District ("SCAQMD") significance threshold of 10 in one million for carcinogen exposures.[13]

As discussed below, Dr. Clark reviewed the City's HRA and found that the HRA improperly failed to include age sensitivity factors and as a result, the HRA fails to accurately calculate the risk from Project DPM emissions on residents near the Project site.

### A. The FEIR Fails to Disclose that Diesel Exhaust is a Mutagenic Compound

In performing the HRA, the City's consultant failed to incorporate age sensitivity factors in calculating health risks from DPM. To justify this failure, it claims that HRA's need only incorporate age adjustment factors when carcinogens act "through the mutagenic mode of action."[14] This claim cites a 2006 USEPA Guidance document that identifies several constituents of DPM as exhibiting a mutagenic mode of action; however, the City claims that, to date, the USEPA reports that whole diesel engine exhaust has not been shown to elicit a mutagenic mode of action."[15] In other words, the City's consultant admits that several DPM constituents are known to be mutagenic, but asserts that diesel engine exhaust "as a whole" is not.

---

[10] *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184.
[11] FEIR, pg. II-69.
[12] *Id.*
[13] *Id.*
[14] FEIR, Appendix FEIR-2, Health Risk Assessment, pg. 6.
[15] *Id.*

As Dr. Clark explains, the City's position is not supported by the evidence.[16] He cites USEPA's comprehensive review of toxicity data for diesel engine exhaust, which unequivocally found that diesel exhaust is a likely human carcinogen with mutagenic modes of action. As Dr. Clark points out, the basis for this conclusion by USEPA includes "extensive supporting data including *the demonstrated mutagenic and/or chromosomal effects of DE* [diesel exhaust] 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 [emphasis added]."[17] Dr. Clark further explains that the State of California has expressed in similarly explicit language that diesel exhaust is mutagenic: "*diesel exhaust particles or extracts of diesel exhaust particles are mutagenic* 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 [emphasis added]."[18]

The City's position that diesel exhaust is not mutagenic lacks the support of substantial evidence, and is flatly contradicted by scientific evidence provided by Dr. Clark. This is contrary to CEQA's requirement that the determination of whether a project may have a significant effect on the environment be based on scientific and factual data.[19] Accordingly, the HRA should have included age sensitivity factors when calculating the Project's health risks from DPM.

### B. With Proper Age Sensitivity Factors Applied, the Project HRA Reveals Significant and Unmitigated Health Risks

As Dr. Clark explains, federal (USEPA), state (CA OEHHA) and local (SCAQMD) public health organizations all agree that health risk analysis should include age sensitivity factors when evaluating cancer risks.[20] The importance of using age sensitivity factors in health risk analysis is explained by SCAQMD in its Risk Assessment Procedures guidance document:

> Scientific data have shown that young animals are more sensitive than adult animals to exposure to many carcinogens. Therefore, OEHHA developed ASFs to take into account the increased sensitivity to

[16] Clark Comments, pgs. 2-3.
[17] U.S. EPA. 2003. Weight of Evidence For Cancer, cited in Clark Comments, pg. 3.
[18] CARB. 1998. Findings of the Scientific Review Panel on The Report On Diesel Exhaust, cited in Clark Comments, pg. 3.
[19] 14 CCR § 15064(b)(1).
[20] Clark Comments, pgs. 3-4.

> carcinogens during early-in-life exposure. OEHHA recommends an ASF of 10 for exposures that occur from the third trimester of pregnancy to 2 years, and an ASF of 3 for exposures that occur from 2 years through 15 years of age.[21]

Despite the consensus from regulatory agencies regarding the importance of age sensitivity factors to account for the increased sensitivity of younger receptors, the City's analysis omits this crucial step. Dr. Clark used the City's own HRA, and re-calculated the risks of exposure to DPM from the Project's construction phase to the most sensitive receptors (i.e., infants) using the OEHHA-recommended age sensitivity factors.[22] He found that the resultant cancer risk to infants is 130 in one million, well above the SCAQMD's significance threshold of 10 in one million.[23] Dr. Clark's analysis provides overwhelming evidence that a proper health risk analysis reveals a significant health risk from exposure to the Project's diesel emissions.

### C. The City Must Adopt Feasible Mitigation Measures to Address the Project's Significant Health Risks

CEQA requires lead agencies to avoid or reduce environmental damage when feasible by adoption of all feasible mitigation measures.[24] 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."[25] 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 the greatest extent feasible and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns."[26]

The FEIR for this project currently includes a single Project Design Feature and no enforceable mitigation measure to reduce diesel emissions associated with Project construction. Dr. Clark identifies several commonly used and feasible mitigation measures to reduce construction emissions. These include:

---

[21] SCAQMD. Risk Assessment Procedures For Rules 1401, 1401.1 and 212. Version 8.1. Dated September 2, 2017 pg. 7, cited in Clark Comments pg. 4.
[22] Clark Comments, pgs. 3-4 and Exhibit B.
[23] *Id.*
[24] CEQA Guidelines §§ 15002(a)(2)-(3), 15126.4.
[25] CEQA Guidelines § 15002(a)(2).
[26] PRC § 21081(a)(3), (b); CEQA Guidelines §§ 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.

1. Require zero-emissions or near-zero emission on-road haul trucks such as heavy-duty trucks with natural gas engines that meet the CARB's adopted optional NOx emissions standard at 0.02 grams per brake horsepower-hour (g/bhp-hr), if and when feasible. At a minimum, require that construction vendors, contractors, and/or haul truck operators commit to using 2017 model year trucks (e.g., material delivery trucks and soil import/export) that meet CARB's 2017 engine emissions standards at 0.01 g/bhp-hr of particulate matter (PM) and 0.20 g/bhp-hr of NOx emissions or newer, cleaner trucks.

2. Provide electric vehicle (EV) Charging Stations for zero emission vehicles.

3. Install Diesel Particulate Filter (DPF) systems or Diesel Oxidation Catalysts on construction equipment that is 50 hp or greater.

4. California regulations limit idling from both on-road and offroad diesel-powered equipment. The California Air Resources Board (CARB) enforces idling limitations and compliance with diesel fleet regulations.

    a. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes [California Code of Regulations, Title 13, sections 2449(d)(3) and 2485]. Provide clear signage that posts this requirement for workers at the entrances to the site.

    b. Provide current certificate(s) of compliance for CARB's In-Use Off Road Diesel-Fueled Fleets Regulation [California Code of Regulations, Title 13, sections 2449 and 2449.1]. For more information contact CARB at 877-593-6677, doors@arb.ca.gov, or www.arb.ca.gov/doors/compliance_cert1.html.

    c. Use only construction equipment rated by the United States Environmental Protection Agency as having Tier 4 (model year 2008 or newer) Final or stricter emission limits for all off-road construction equipment.

    d. During construction, the construction contractor shall maintain a list of all operating equipment in use on the construction site for verification by the City. The construction equipment list shall state

the makes, models, Equipment Identification Numbers, Engine Family Numbers, and number of construction equipment on-site.

5. Limit the daily number of trucks allowed at the Proposed Project to levels analyzed in the CEQA document. If higher daily truck volumes are anticipated to visit the site, the City as the Lead Agency should commit to re-evaluating the Proposed Project through CEQA prior to allowing this land use or higher activity level.

These are but a few examples of feasible mitigation measures that can be utilized to reduce the Project's significant health risks from diesel emissions. The City must prepare a revised DEIR that fully analyzes, discloses and mitigates the public health risk from diesel emissions associated with the Project's construction and operations.

## III. CONCLUSION

For the foregoing reasons, the City should revise and recirculate the DEIR with a full analysis of the Project's potentially significant impacts and propose appropriate mitigation.

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

Sincerely,

Richard M. Franco

Attachment
RMF:acp

# EXHIBIT A

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

June 24, 2024

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

**Attn: Mr. Richard Franco**

**Subject: Comment Letter on Final Environmental Impact Report (FEIR) Violet Street Creative Office Campus Project. (2030, 2034, 2038, 2042, 2046, 2054, and 2060 East 7th Street; 715, 721, 725, 729, 733, 777, 801, 805, 809, 813, 817, 821, 825, 827, and 829 East Santa Fe Avenue; 2016, 2020, 2023, 2026, 2027, 2030, 2031, 2034, 2035, 2037,2038, 2040; and 2043 East 7th Place and 2017, 2023, 2027, 2031, 2035, 2039, 2045, and 2051 Violet Street, Los Angeles, California 90021), Los Angeles, CA ENV-2021-2232-EIR.**

Dear Mr. Franco:

At the request of Adams Broadwell Joseph & Cardozo (ABJC), Clark and Associates (Clark) has reviewed materials related to the above referenced project.

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

**Project Description:**

In the Health Risk Assessment for the Violet Street Creative Office Campus Project (Project) prepared by Eyestone Environmental, the Project is described as a new 13-story (including mechanical penthouse), 450,599-square-foot commercial building, featuring up to 435,100 square feet of office uses, 15,499 square feet of ground floor retail and/or restaurant uses, and 1,264 automobile parking spaces in one at-grade, two above-grade, and four below-grade parking

levels within Lot 1 of the Project Site, located at the southwestern corner of the Project Site.

In response to comments from Adams Broadwell Joseph and Cardozo (ABJC) on behalf of the Coalition for Responsible Equitable Economic Development Los Angeles (CREED LA), Eyestone performed an air dispersion model and health risk analysis of the emissions of diesel particulate matter from the Project. Eyestone concluded that the emissions from the Project would not pose a risk above the threshold of significance above the SCAQMD's cancer risk threshold of 10 in 1,000,000. This conclusion is in conflict with the facts provided within the FEIR.

**Specific Comments:**

1. **The HRA Erroneously Claims That Diesel Exhaust Is Not A Mutagenic Compound**

In the Introduction to the Health Risk Assessment prepared for the Project,[1] Eyestone states that based on [*sic,* their] review of relevant guidance on the applicability of the use of early life exposure adjustments to identified carcinogens, the use of these factors would not be applicable to this HRA as neither the Lead Agency nor SCAQMD have developed recommendations on whether these factors should be used for CEQA analyses of potential DPM construction or operational impacts. Eyestone goes on to state that adjustment factors are only considered when carcinogens act "through the mutagenic model of action." Therefore, early life exposure adjustments were not considered in this HRA. [2]

This assertion ignores the substantial evidence in the literature to support the use of early life adjustments. The U.S. EPA and the State of California spent considerable time and resources to evaluate the literature regarding exposure to diesel exhaust (DE) and in particular diesel particulate matter (DPM). In the supporting literature cited by both regulatory bodies, the state of information (all available studies including in vitro (cellular studies) and in vivo studies (whole animal or human

[1] Eyestone. 2023. Health Risk Assessment Violet Street Creative Office Campus Project. Prepared by Eyestone Environmental, LLC. Dated November, 2023. Pg 6

[2] ibid

exposure studies) were summarized. Studies supporting the mutagenic mode of action and not supporting the mutagenic mode of action were evaluated.

The U.S. EPA states clearly in its Weight-of-Evidence Characterization of Diesel Exhaust[3], found at the IRIS website, that "extensive supporting data including the demonstrated mutagenic and/or chromosomal effects of DE (*sic* Diesel Exhaust) 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."

The State of California's Scientific Review Panel's 1998 Report On Diesel Exhaust is very clear about the mode of action for DPM. In the Health Effects Section of the Report's Summary[4], the Board (made up of health scientists including toxicologists) states "Diesel exhaust particles or extracts of diesel exhaust particles are mutagenic 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." Whether one assesses the mode of action through in-vitro studies or in vivo studies it is clear that there is an overwhelming consensus of health scientists and toxicologists that study the matter that DPM meets the criteria for being deemed a mutagenic compound and therefore the use of age sensitivity factors is warranted.

## 2. The HRA Fails To Accurately Calculate The Risk From DPM Emissions On Residents Near The Project Site

The assertion by Eyestone that there is no need to use age adjustment factors since the Lead Agency (the City) and SCAQMD have not developed guidance ignores the standards for CEQA documents commonly prepared in the South Coast Air Basin. A clear example of the use of ASFs in SCAQMD's jurisdiction is the Norwalk Entertainment District Specific Plan. In its 2022 construction activities HRA, the City of Norwalk specifically used the ASFs consistent with the Office of Environmental Health Hazard Assessment's (OEHHA) Air Toxics Hot Spots Program Guidance

[3] U.S. EPA. 2003. Weight of Evidence For Cancer. https://iris.epa.gov/static/pdfs/0642_summary.pdf Pg 11.

[4] CARB. 1998. Findings of the Scientific Review Panel on The Report On Diesel Exhaust as adopted at the Panel's April 22, 1998, Meeting. https://ww2.arb.ca.gov/sites/default/files/classic/toxics/dieseltac/de-fnds.pdf

Manual for the Preparation of Health Risk Assessments and the SCAQMD's Risk Assessment Procedures for Rules 1401, 1401.1, and 212 to ensure that the health impacts from construction activities would assess risks for susceptible subpopulations such as children (see attachment).

Therefore, to be consistent with the SCAQMD's guidance on health risks in the Air Basin[5] which includes ASFs in the calculation of exposure for the maximum individual cancer risk (MICR) and the State's designation of DPM as a mutagenic chemical, the City must evaluate the health risk from exposure to DPM in a manner consistent with the guidance from the State.[6] 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. [7,8,9,10]

Using the residential receptor spreadsheet on page 87 of the pdf version Health Risk Assessment, I have re-calculated the risk from exposure to DPM from the construction phase to the most sensitive receptors (infants). Using the modeled concentration of 0.354 ug/m$^3$ the resultant cancer risk is 130 in 1,000,000, well above the SCAQMD's significance threshold. Based on this analysis it is clear that the City must require a significant amount of mitigation of construction emissions to ensure that the DPM emissions from the Project site do not adversely impact residents. To that end the City must re-evaluate the risk using the ASFs in the calculation of the risks to the residents nearby and present the results in a revised FEIR.

---

[5] SCAQMD. Risk Assessment Procedures For Rules 1401, 1401.1 and 212. Version 8.1. Dated September 2, 2017 pgs 7,12

[6] OEHHA. 2015. *Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments.* Dated February 2015.

[7] *ibid*.

[8] U.S. EPA. 2005. Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens. EPA/630/R-03/003F March 2005. Pg 33.

[9] U.S. EPA. 2011. Age Dependent Adjustment Factor (ADAF) Application.

[10] SCAQMD. Risk Assessment Procedures For Rules 1401, 1401.1 and 212. Version 8.1. Dated September 2, 2017 pgs 7,12

3. **The City Must Include Feasible Mitigation Measures In a Revised DEIR To Ensure That DPM Emissions From The Construction Phase Do Not Adversely Impact The Health Of Residents Near The Project Site**

Reasonable and feasible mitigation measures that have previously been recommended by the California Air Resources Board and the South Coast Air Quality Management District to reduce construction emissions that could be immediately adopted for the Project include:

1. Require zero-emissions or near-zero emission on-road haul trucks such as heavy-duty trucks with natural gas engines that meet the CARB's adopted optional NOx emissions standard at 0.02 grams per brake horsepower-hour (g/bhp-hr), if and when feasible. At a minimum, require that construction vendors, contractors, and/or haul truck operators commit to using 2017 model year trucks (e.g., material delivery trucks and soil import/export) that meet CARB's 2017 engine emissions standards at 0.01 g/bhp-hr of particulate matter (PM) and 0.20 g/bhp-hr of NOx emissions or newer, cleaner trucks4. Include environmental analyses to evaluate and identify sufficient power available for zero emission trucks and supportive infrastructures in the Energy and Utilities and Service Systems Sections in the CEQA document, where appropriate. The Lead Agency should include the requirement of zero-emission or near-zero emission heavy-duty trucks in applicable bid documents, purchase orders, and contracts. Operators shall maintain records of all trucks associated with project construction to document that each truck used meets these emission standards, and make the records available for inspection. The Lead Agency should conduct regular inspections to the maximum extent feasible to ensure compliance.
2. Provide electric vehicle (EV) Charging Stations for zero emission vehicles.
3. Install Diesel Particulate Filter (DPF) systems or Diesel Oxidation Catalysts on construction equipment that is 50 hp or greater.
4. California regulations limit idling from both on-road and offroad diesel-powered equipment. The California Air Resources Board (CARB) enforces idling limitations and compliance with diesel fleet regulations.
    a. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes [California Code of Regulations, Title 13, sections

2449(d)(3) and 2485]. Provide clear signage that posts this requirement for workers at the entrances to the site.

b. Provide current certificate(s) of compliance for CARB's In-Use Off-Road Diesel-Fueled Fleets Regulation [California Code of Regulations, Title 13, sections 2449 and 2449.1]. For more information contact CARB at 877-593-6677, doors@arb.ca.gov, or www.arb.ca.gov/doors/compliance_cert1.html.:

c. Use only construction equipment rated by the United States Environmental Protection Agency as having Tier 4 (model year 2008 or newer) Final or stricter emission limits for all off-road construction equipment.

d. During construction, the construction contractor shall maintain a list of all operating equipment in use on the construction site for verification by the City. The construction equipment list shall state the makes, models, Equipment Identification Numbers, Engine Family Numbers, and number of construction equipment on-site.

5. Limit the daily number of trucks allowed at the Proposed Project to levels analyzed in the CEQA document. If higher daily truck volumes are anticipated to visit the site, the City as the Lead Agency should commit to re-evaluating the Proposed Project through CEQA prior to allowing this land use or higher activity level.

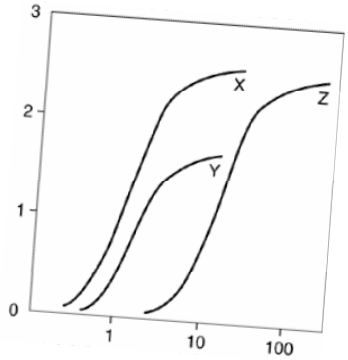
## Conclusion

The facts identified and referenced in this comment letter lead me to reasonably conclude that the Project could result in significant impacts if allowed to proceed. A revised FEIR should be prepared to address these substantial concerns.

Sincerely,

Exhibit A:

Curriculum Vitae




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

# *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 Litgation 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 Immanent 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 (M*t*BE) 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 M*t*BE. 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 M*t*BE, and is suspected to be the primary cause of M*t*BE 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 were 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 Equialency 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.

Rosenfeld, P.E., **Clark, J. J.,** Hensley, A.R., and Suffet, I.H. 2007. "The Use Of An Odor Wheel Classification For The Evaluation of Human Health Risk Criteria For Compost Facilities" Water Science & Technology. 55(5): 345-357.

Hensley A.R., Scott, A., Rosenfeld P.E., **Clark, J.J.J.** 2006. "Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility." The 26th International Symposium on Halogenated Persistent Organic Pollutants – DIOXIN2006, August 21 – 25, 2006. Radisson SAS Scandinavia Hotel in Oslo Norway.

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

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

**Clark, J.J.J**. 2003. "Manufacturing, Use, Regulation, and Occurrence of a Known Endocrine Disrupting Chemical (EDC), 2,4-Dichlorophnoxyacetic 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.

Rosenfeld, P. and **J.J.J. Clark**. 2003. "Understanding Historical Use, Chemical Properties, Toxicity, and Regulatory Guidance" National Groundwater Association Southwest Focus Conference: Water Supply and Emerging Contaminants. Phoenix, AZ. February 21, 2003.

**Clark, J.J.J.**, Brown A. 1999. Perchlorate Contamination: Fate in the Environment and Treatment Options. In Situ and On-Site Bioremediation, Fifth International Symposium. San Diego, CA, April, 1999.

**Clark, J.J.J.** 1998. Health Effects of Perchlorate and the New Reference Dose (RfD). Proceedings From the Groundwater Resource Association Seventh Annual Meeting, Walnut Creek, CA, October 23, 1998.

Browne, T., **Clark, J.J.J.** 1998. Treatment Options For Perchlorate In Drinking Water. Proceedings From the Groundwater Resource Association Seventh Annual Meeting, Walnut Creek, CA, October 23, 1998.

**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.

**Clark, J.J.J.**; Corbett, G.E.; Kerger, B.D.; Finley, B.L.; Paustenbach, D.J. 1996. Dermal Uptake of Hexavalent Chromium In Human Volunteers: Measures of Systemic Uptake From Immersion in Water At 22 PPM. Toxicologist. 30(1):14.

Dodge, D.G.; **Clark, J.J.J.**; Kerger, B.D.; Richter, R.O.; Finley, B.L.; Paustenbach, D.J. 1996. Assessment of Airborne Hexavalent Chromium In The Home Following Use of Contaminated Tapwater. Toxicologist. 30(1):117-118.

Paulo, M.T.; Gong, H., Jr.; **Clark, J.J.J.** (1992). Effects of Pretreatment with Ipratroprium Bromide in COPD Patients Exposed to Ozone. American Review of Respiratory Disease. 145(4):A96.

Harber, P.H.; Gong, H., Jr.; Lachenbruch, A.; **Clark, J.**; Hsu, P. (1992). Respiratory Pattern Effect of Acute Sulfur Dioxide Exposure in Asthmatics. American Review of Respiratory Disease. 145(4):A88.

McManus, M.S.; Gong, H., Jr.; Clements, P.; **Clark, J.J.J.** (1991). Respiratory Response of Patients With Interstitial Lung Disease To Inhaled Ozone. American Review of Respiratory Disease. 143(4):A91.

Gong, H., Jr.; Simmons, M.S.; McManus, M.S.; Tashkin, D.P.; Clark, V.A.; Detels, R.; **Clark, J.J.** (1990). Relationship Between Responses to Chronic Oxidant and Acute

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.

Exhibit B:

DPM Risk Calculations

**Risk Calculations For Diesel Exhaust From Construction Phase**

**$Risk_{inh\text{-}res} = Dose_{air} * CPF * ASF * ED/AT$**

**$Dose_{air} = C_{air} * \{BR/BW\} * A * EF * 10^{-6}$**

| Variable | Description | Units | Value |
|---|---|---|---|
| **$Risk_{inh\text{-}air}$** | Residential inhalation cancer risk | Unitless | Calculated |
| **$Dose_{air}$** | Daily inhalation dose | mg/kg-day | Calculated |
| **CPF** | Inhalation cancer potency factor | $(mg/kg\text{-}day)^{-1}$ | Chemical Specific |
| **ASF** | Age sensitivity factor for a specified age group | Unitless | Calculated |
| **ED** | Exposure duration (in years) for a specified age group | years | Calculated |
| **AT** | Averaging time for lifetime caner risk | years | 70 |
| **FAH** | Fraction of time spent at home | Unitless | Calculated |

| Variable | Description | Units | |
|---|---|---|---|
| **$Dose_{air}$** | Daily inhalation dose | mg/kg-day | |
| **$C_{air}$** | Concentration in air | $ug/m^3$ | 0.354 |
| **{BR/BW}** | Daily Breathing rate normalized to body weight | L/kg body weight-day | |
| **A** | Inhalation absorption fraction | Unitless | |
| **EF** | Exposure frequency (days/365 days) | Unitless | |
| **$10^{-6}$** | migrograms to milligrams conversion, liters to cubic meters conversion | Unitless | |

2.29E+01

**Residential Exposures**

| Age Group | Risk | Age Sensitivity | FAH | ED | CPF | Dose Air | Cair | EF |
|---|---|---|---|---|---|---|---|---|
| 3rd Trimester | 4.81E-06 | 10 | 1 | 0.25 | 1.1 | 1.23E-04 | 0.354 | 0.958904 |
| 0-1 | 5.81E-05 | 10 | 1 | 1 | 1.1 | 3.70E-04 | 0.354 | 0.958904 |
| 1-2 | 5.81E-05 | 10 | 1 | 1 | 1.1 | 3.70E-04 | 0.354 | 0.958904 |
| 2-3 | 8.42E-06 | 3 | 1 | 0.92 | 1.1 | 1.94E-04 | 0.354 | 0.958904 |
| 3-4 | 0.00E+00 | 3 | 1 | 0 | 1.1 | 1.94E-04 | 0.354 | 0.958904 |
| 2<9 | 0.00E+00 | 3 | 0.72 | 0 | 1.1 | 2.92E-04 | 0.354 | 0.958904 |
| 2<16 | 0.00E+00 | 3 | 0.72 | 0 | 1.1 | 2.53E-04 | 0.354 | 0.958904 |
| 16<30 | 0.00E+00 | 1 | 0.73 | 0 | 1.1 | 1.14E-04 | 0.354 | 0.958904 |
| 16-70 | 0.00E+00 | 1 | 0.73 | 0 | 1.1 | 9.84E-05 | 0.354 | 0.958904 |

3rd trimeseter to 3.17 1.30E-04

# Exhibit B

Responses to CREED LA Final EIR
Comment Letter (July 19, 2024)

# MEMORANDUM

**TO:** Hearing Officer

Deputy Advisory Agency

**FROM:** Eyestone Environmental

**SUBJECT:** Violet Street Creative Office Campus Project—Response to Comments on the Final EIR
ENV-2021-2232-EIR

**DATE:** July 19, 2024

---

In accordance with the California Environmental Quality Act (CEQA), a comprehensive Draft Environmental Impact Report (EIR) was prepared for the Violet Street Creative Office Campus Project (Project). The Draft EIR was circulated for public review and comment from June 29, 2023 through August 14, 2023. Following public review of the Draft EIR, the City published a comprehensive Final EIR in June 2024, which included responses to each comment within the five written comment letters received on the Draft EIR during the public comment period.

A public hearing for the Project with the Deputy Advisory Agency and Hearing Officer was held on June 26, 2024. On June 25, 2024, less than 24 hours prior to the hearing, the City received an additional letter from Adams Broadwell Joseph & Cardozo on behalf of CREED LA (the CREED Letter). The CREED Letter is included as Attachment A to this memorandum. Under CEQA, a Lead Agency is not required to provide responses to comments submitted after the close of the Draft EIR comment period. Although not required, this response is being provided in order to ensure that the decision-makers are provided as much information as possible regarding the proposed Project.

Many of the comments from CREED made at the hearing related to the merits of the Project and are not issues directly relevant to the EIR.

Responses to environmental assertions made in the CREED Letter are provided below. None of the comments made at the hearing or in the CREED Letter alter the conclusions or analysis that was set forth in the EIR. Additionally, none of the comments that have been received constitute new significant information warranting recirculation of the Draft EIR as

2121 Rosecrans Avenue, Suite 3355, El Segundo, CA 90245-4744
Phone (424) 207-5333 • Fax (424) 207-5349

set forth in CEQA Guidelines Section 15088.5. Specifically, none of the comments received disclose any new significant impacts or a substantial increase in the severity of an impact already identified in the EIR, nor do the comments contain significant new information that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the Project or a feasible alternative or mitigation measure that the Applicant has declined to adopt.

**Comment Letter No. 1**

Richard M. Franco
obo CREED LA
Adams Broadwell Joseph & Cardozo
601 Gateway Blvd., Ste. 1000
South San Francisco, CA 94080-7037

James J.J. Clark
Clark & Associates
12405 Venice Blvd., Ste. 331
Los Angeles, CA 90066-3803

**Comment No. 1**

We are writing on behalf of Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA") in opposition to the Violet Street Creative Office Campus Project (SCH Number 2022110015; Environmental Case No. ENV-2021-2232-EIR) ("Project") proposed by Al Violet, LLC and Al Violet B2, LLC ("Applicants"). The Project appears as agenda item No. 1 for the June 26, 2024 City of Los Angeles ("City") Department of City Planning hearing officer agenda. The hearing officer will take public testimony on behalf of the Los Angeles Planning Commission on the Project's Final Environmental Impact Report ("FEIR") and entitlements including a General Plan Amendment, Vesting Zone and Height District Change, Vesting Conditional Use, Zone Variance, and Site Plan Review.

The City, as lead agency under the California Environmental Quality Act[1] ("CEQA"), prepared the Draft Environmental Impact Report ("DEIR") and FEIR for the Project. CREED LA's comments on the DEIR explained how the DEIR failed to comply with CEQA's requirement to act as an informational document, in that it lacked proper analysis in crucial areas including the Project's impacts on public health and noise. Those comments further explained how these flaws made the DEIR deficient as a matter of law because it failed to properly analyze, disclose and mitigate the Project's potentially significant impacts, and lacked substantial evidence supporting the City's conclusions regarding those impacts.

The City's FEIR includes responses to CREED LA's DEIR comments and purports to address the issues raised. As discussed below however, the FEIR fails to adequately resolve these issues or to mitigate all of the Project's potentially significant impacts. We reviewed the FEIR and available supporting documentation with the assistance of air quality expert James Clark Ph.D.[2] We reserve the right to supplement these comments at a later date, and at any later proceedings related to this Project.[3]

## I. STATEMENT OF INTEREST

CREED LA is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public and worker health and safety hazards, and the environmental and public service impacts of the Project. The coalition 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 City of Los Angeles and surrounding areas.

Individual members of CREED LA and its member organizations include Jorge L. Aceves, John P. Bustos, Gerry Kennon, and Chris S. Macias. These individuals live, work, recreate, and raise their families in the City of Los Angeles 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 onsite.

In addition, 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.

[1] Pub. Resources Code ("PRC") §§ 21000 et seq.

[2] Dr. Clark's technical comments and curricula vitae are attached hereto as Exhibit A ("Clark Comments").

[3] Gov. Code § 65009(b); PRC § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* ("*Bakersfield*") (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist*. (1997) 60 Cal. App. 4th 1109, 1121.

**Response to Comment No. 1**

This introductory comment is noted for the record and will be made available to the decision-makers for their review and consideration. Specific issues raised by the commenter are addressed in Response to Comment Nos. 2 through 11 below.

**Comment No. 2**

**II. THE CITY HAS NOT COMPLIED WITH CEQA BECAUSE FEIR FAILS TO ADEQUATELY DISCLOSE AND MITIGATE THE PROJECT'S SIGNIFICANT HEALTH RISK IMPACTS**

The City may not approve the Project at this time because the FEIR fails to adequately disclose and mitigate the project's significant health risk impacts. CEQA requires that a lead agency evaluate and provide a written response to DEIR comments raising significant environmental issues.[4] Such comments must be addressed in detail and include good faith reasoned analysis; conclusory statements unsupported by facts do not suffice.[5] A lead agency's failure to adequately respond to comments raising significant environmental issues before approving a project frustrates CEQA's informational purposes and renders the EIR legally inadequate.[6] Here, the City failed to adequately respond to CREED LA's DEIR comments with respect to the Project's significant health risks fails to adequately respond lack any reasoned analysis and include wholly conclusory statements unsupported by any facts. The FEIR is therefore legally inadequate under CEQA and the Commission may not certify the FEIR nor grant the requested Project approvals at this time.

CREED LA's comments on the DEIR explained that the City's air quality and health risk analysis failed to address health risks associated with emissions of toxic diesel particulate matter ("DPM") from the Project's construction equipment. The comments explained the California Supreme Court's recognition of CEQA's mandate to protect public health and safety by holding that an EIR fails as an informational document when it fails to disclose the public health impacts from air pollutants that would be generated by a development project.[7] The DEIR stated that the City did not perform a construction health risk analysis because it claimed that the "short-term" nature of construction emissions did not warrant analysis.[8] The

DEIR asserted that, "[g]iven the short-term construction schedule of approximately 33 months, the Project would not result in a long-term (i.e., 70-year) source of TAC emissions. Additionally, the SCAQMD CEQA Guidance does not require a health risk assessment (HRA) for short-term construction emissions."[9] CREED LA's DEIR comments explained that the City's position violated CEQA's requirement to 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.[10]

This failure has not been remedied in the FEIR. In the FEIR's response to comments, the City continues to maintain that it is not required to perform a health risk analysis or otherwise analyze or disclose the health risks from Project construction.[11] Nevertheless, in response to CREED LA's comments, the City included in the FEIR a quantitative health risk analysis ("HRA") "to confirm, as the Draft EIR concludes, that no significant health risk impacts would occur from the Project."[12] This HRA purports to show that the carcinogenic risk from the Project would be a maximum of 1.0 in one million for residents adjacent to the Project site, which is below the applicable South Coast Air Quality Management District ("SCAQMD") significance threshold of 10 in one million for carcinogen exposures.[13]

As discussed below, Dr. Clark reviewed the City's HRA and found that the HRA improperly failed to include age sensitivity factors and as a result, the HRA fails to accurately calculate the risk from Project DPM emissions on residents near the Project site.

4 14 CCR § 15088(a).

5 14 CCR § 15088(c).

6 *Flanders Found. v. City of Carmel-by-the-Sea* (2012) 202 Cal.App.4th 603, 615-17; *Rural Landowners Ass'n v. City Council* (1883) 143 Cal.App.3d 1013, 1020.

7 *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 518–522.

8 DEIR, pg. IV.A-61

9 *Id.*

10 *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184.

11 FEIR, pg. II-69.

12 *Id.*

13 *Id.*

**Response to Comment No. 2**

The commenter contends that City failed to adequately respond to CREED LA's Draft EIR comments with respect to the Project's significant health risks. Contrary to the opinion expressed in this comment, the Final EIR adequately addresses public comments and has been completed in full compliance with CEQA and there are no deficiencies that need to be remedied.

As more fully discussed in Response to Comment No. 3-36 of the Draft EIR, the Draft EIR correctly identified that proposed construction activities would be limited in duration and considered a short-term source of TAC emissions. SCAQMD's CEQA Air Quality Handbook does not recommend analysis of TACs from short-term construction activities associated with land use development projects. The rationale for not requiring a quantitative health risk assessment (HRA) for construction activities is the limited duration of exposure. According to SCAQMD methodology, which the City has reviewed and agrees with, health effects from carcinogenic air toxics are usually described in terms of individual cancer risk. Specifically, "Individual Cancer Risk" is the likelihood that a person continuously exposed to concentrations of toxic air contaminants (TACs) over a 70-year lifetime will contract cancer based on the use of standard risk assessment methodology.

Because the construction schedule for the Project estimates that the overall construction schedule would be limited to approximately 33 months, construction of the Project would not result in a substantial, long-term (i.e., 70-year) source of TAC emissions. No residual emissions and corresponding individual cancer risk are anticipated after construction as the Project does not include any substantial operational sources of TAC emissions (e.g., warehouse distribution facility). Because there is such a short-term exposure period (approximately three years out of a 70-year lifetime), further evaluation of construction TAC emissions within the Draft EIR was not warranted. This supporting information is consistent with the *L.A. City CEQA Thresholds Guide* in making a case-by-case basis determination of significance. As such, the Draft EIR correctly concluded that Project-related TAC emission impacts during construction would be less than significant and consequently not result in a potential health risk impact.

From an operational standpoint, the Draft EIR also correctly identified that the Project would not support any land uses or activities that would involve the use, storage, or

processing of carcinogenic toxic air contaminants. In addition, the proposed land uses would not generally involve the use of heavy-duty diesel trucks with the exception of delivery trucks. The commenter is referred to SCAQMD guidance below that provides clarification as to when a quantitative HRA may be warranted and, by inference, where one is not warranted:

> The SCAQMD published and adopted the *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*, which provides recommendations regarding the siting of new sensitive land uses near potential sources of air toxic emissions (e.g., freeways, distribution centers, rail yards, ports, refineries, chrome plating facilities, dry cleaners, and gasoline dispensing facilities).[1] The SCAQMD recommends that HRAs be conducted for substantial sources of DPM (e.g., truck stops and warehouse distribution facilities that generate more than 100 trucks per day or more than 40 trucks with operating transport refrigeration units).

As discussed in Response to Comment No. 3-36 of the Final EIR, the Project includes the development of approximately 435,100 square feet of office uses and 15,499 square feet of ground floor retail and/or restaurant uses. A future expansion of the Project would add an additional 211,201 square feet of floor area (conservatively analyzed as 191,201 square feet of office and 20,000 square feet of restaurant uses) resulting in a total new floor area of approximately 661,800 square feet within the Project Site. A conservative estimate of the number of daily truck trips is provided below based on the National Cooperative Highway Research Program (NCHRP) Truck Trip Generation Data.[2]

- Table D-2c of the NCHRP data (Trip Generation Summary—Daily Commercial Vehicle Trips per 1,000 sf of Building Space for Retail (includes restaurants)) provides an average of 0.324 truck trips per 1,000 sf or approximately 11.5 truck trips per day ((35,499 sf/1,000 sf) x 0.324 trips/1,000 sf/day) for the Project's retail/restaurant uses. This assumes that all trucks would be diesel even though

---

[1] SCAQMD, Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning, May 6, 2005.

[2] National Cooperative Highway Research Program (NCHRP) Synthesis 298 Truck Trip Generation Data, 2001, http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_syn_298.pdf.

many retail//restaurant truck deliveries are from smaller gasoline trucks (e.g., UPS or FedEx).

- Table D-2d of the NCHRP data (Trip Generation Summary—Daily Commercial Vehicle Trips per 1,000 sf of Building Space for Office and Services provides 0.039 truck trips per 1,000 sf or approximately 24.4 truck trips per day ((626,301 sf/1,000 sf) x 0.039 trips/1,000 sf/day). Once again, it is conservatively assumed that all of these delivery trucks would be heavy-duty diesel trucks even though many residential truck deliveries are from smaller gasoline or, as is increasingly common, electrical or hybrid-electric trucks (e.g., UPS or FedEx).

As shown above, the Project is conservatively estimated to generate approximately 35 trucks per day during project operations. Based on SCAQMD guidance, which the City, after careful consideration, agrees with, there was no quantitative analysis required for future cancer risk within the vicinity of the Project as the Project is consistent with the recommendations regarding the siting of new sensitive land uses near potential sources of TAC emissions provided in the SCAQMD *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*. Specifically, the Project's operation is not considered to be a substantial source of diesel particulate matter warranting an HRA since daily truck trips to the Project Site would not exceed 100 trucks per day or more than 40 trucks with operating transport refrigeration units. Of note, the Project includes the demolition of 25,798 square feet of warehouse uses and would offset some of the Project generated truck trips.

Based on the above information, the Draft EIR correctly concluded that a quantitative HRA was not warranted.

As further discussed in Response to Comment No. 3-36 of the Final EIR, the Office of Environmental Health Hazard Assessment (OEHHA) adopted a new version of the Air Toxics Hot Spots Program Guidance Manual for the Preparation of Risk Assessments (new Guidance Manual) in March of 2015.[3] The Guidance Manual was developed by OEHHA, in conjunction with CARB, for use in implementing the Air Toxics "Hot Spots" Program (Health

---

[3] See OEHHA, Notice of Adoption of Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments 2015, https://oehha.ca.gov/air/crnr/notice-adoption-air-toxics-hot-spots-program-guidance-manual-preparation-health-risk-0, accessed March 4, 2024.

and Safety Code Section 44360 et seq.). The Air Toxics "Hot Spots" Program requires stationary sources to report the types and quantities of certain substances routinely released into the air. The goals of the Air Toxics "Hot Spots" Act are to collect emission data, to identify facilities having localized impacts, to ascertain health risks, to notify nearby residents of significant risks, and to reduce those significant risks to acceptable levels.

The new Guidance Manual provides recommendations related to cancer risk evaluation of certain short-term projects. As discussed in Section 8.2.10 of the Guidance Manual, "The local air pollution control districts sometimes use the risk assessment guidelines for the Hot Spots program in permitting decisions for short-term projects such as construction or waste site remediation." Short-term projects that would require a permitting decision by SCAQMD typically would be limited to site remediation (e.g., stationary soil vapor extractors) and would not be applicable to the Project. The new Guidance Manual does not provide specific recommendations for evaluation of short-term use of mobile sources (e.g., heavy-duty diesel construction equipment). Therefore, the Guidance Manual's recommendations for quantitative HRAs are not applicable to the Project and do not indicate that a quantitative HRA was either by agency guidance.

In sum, a quantitative HRA is not required by SCAQMD or the *L.A. City CEQA Thresholds Guide*, and no generally applicable guidance for health risk assessments for construction has been adopted by SCAQMD or the City. Nonetheless, as part of the City's effort to carefully consider and thoroughly respond to comments received on the Draft EIR and provide as much information as possible to members of the public and City decisionmakers, a quantitative HRA was prepared pursuant to the California Air Pollution Control Officers Association (CAPCOA) Guidance Document for Health Risk Assessments for Proposed Land Use Projects in response to Comment No. 3-36 of the Draft EIR. This quantitative HRA confirmed, as the Draft EIR had also concluded, that no significant health risk impacts would occur from the Project. The quantitative HRA is provided as Appendix FEIR-2 of the Final EIR. The quantitative HRA demonstrates that carcinogenic risk from the Project (combined construction and operation) would be a maximum of 1.0 in one million for residences located north and east of the Project Site, across 7th Street and Santa Fe Avenue (for combined construction and operational emissions), which is below the applicable SCAQMD significance threshold of 10 in one million for carcinogenic exposure. For chronic non-carcinogenic exposures, the increase in the hazard index was estimated to be less than

the applicable threshold of 1.0 for either chronic or acute effects at sensitive receptors in close proximity to the Project Site, resulting in a less than significant impact.

The specific comments provided by Dr. Clark regarding Appendix FEIR-2 (age sensitivity factors and calculated risk from Project DPM emissions on residents near the Project site) are fully addressed in Response to Comment Nos. 7 through 10, below. In sum, these comments do not provide any substantial evidence that the Draft EIR is inadequate, nor that additional analysis is necessary, nor that recirculation of the Draft EIR is required.

**Comment No. 3**

**A. The FEIR Fails to Disclose that Diesel Exhaust is a Mutagenic Compound**

In performing the HRA, the City's consultant failed to incorporate age sensitivity factors in calculating health risks from DPM. To justify this failure, it claims that HRA's need only incorporate age adjustment factors when carcinogens act "through the mutagenic mode of action."[14] This claim cites a 2006 USEPA Guidance document that identifies several constituents of DPM as exhibiting a mutagenic mode of action; however, the City claims that, to date, the USEPA reports that whole diesel engine exhaust has not been shown to elicit a mutagenic mode of action."[15] In other words, the City's consultant admits that several DPM constituents are known to be mutagenic, but asserts that diesel engine exhaust "as a whole" is not.

As Dr. Clark explains, the City's position is not supported by the evidence.[16] He cites USEPA's comprehensive review of toxicity data for diesel engine exhaust, which unequivocally found that diesel exhaust is a likely human carcinogen with mutagenic modes of action. As Dr. Clark points out, the basis for this conclusion by USEPA includes "*extensive supporting data including the demonstrated mutagenic and/or chromosomal effects of DE* [diesel exhaust] 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 [emphasis added]."[17] Dr. Clark further explains that the State of California has expressed in similarly explicit language that diesel exhaust is mutagenic: "*diesel exhaust particles or extracts of diesel exhaust particles are mutagenic* 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 [emphasis added]."[18]

The City's position that diesel exhaust is not mutagenic lacks the support of substantial evidence, and is flatly contradicted by scientific evidence provided by Dr. Clark. This is contrary to CEQA's requirement that the determination of whether a project may have a significant effect on the environment be based on scientific and factual data.[19] Accordingly, the HRA should have included age sensitivity factors when calculating the Project's health risks from DPM.

[14] FEIR, Appendix FEIR-2, Health Risk Assessment, pg. 6.

[15] *Id.*

[16] Clark Comments, pgs. 2–3.

[17] U.S. EPA. 2003. Weight of Evidence For Cancer, cited in Clark Comments, pg. 3.

[18] CARB. 1998. Findings of the Scientific Review Panel on The Report On Diesel Exhaust, cited in Clark Comments, pg. 3.

[19] 14 CCR § 15064(b)(1).

**<u>Response to Comment No. 3</u>**

The commenter contends that the HRA contained in the Final EIR is inadequate because the Final EIR failed to disclose that diesel exhaust is a mutagenic compound. As more fully explained in Response to Comment No. 8 (below), is an inaccurate characterization of the discussion in the HRA. In addition, the City as the Lead Agency has the discretion to select the appropriate thresholds of significance and methodologies for evaluating a project's impacts including potential impacts related to health risk based on substantial evidence, including the expert opinions of its EIR preparers and City staff. This comment does not provide substantial evidence to demonstrate that the HRA included as Appendix FEIR-2 was required to classify diesel exhaust as a whole to be a mutagenic compound for purposes of preparing a quantitative HRA under CEQA. The comment also does not demonstrate that the City abused its discretion in selecting, based on expert opinion, an appropriate methodology with which to perform the quantitative HRA. In addition, the City's decision to prepare a quantitative HRA in order to fully evaluate and respond to comments received on the Draft EIR (and which ultimately confirmed the conclusion in the Draft EIR) did not deprive the public or decisionmakers of the analysis contained in the HRA.

Dr. Clark's comments regarding his preferred methodology with respect to treating diesel exhaust as a mutagenic compound is noted for the record and will be made available to the decision-makers for their review and consideration. Please refer to Response to Comment No. 8 for additional discussion as to why the City's selected methodology is supported by substantial evidence, including its carefully reasoned decision that diesel exhaust should not be considered as a whole to be a mutagenic compound for purposes of the quantitative HRA that was included as Appendix FEIR-2 to the Final EIR.

**Comment No. 4**

### B. With Proper Age Sensitivity Factors Applied, the Project HRA Reveals Significant and Unmitigated Health Risks

As Dr. Clark explains, federal (USEPA), state (CA OEHHA) and local (SCAQMD) public health organizations all agree that health risk analysis should include age sensitivity factors when evaluating cancer risks.[20] The importance of using age sensitivity factors in health risk analysis is explained by SCAQMD in its Risk Assessment Procedures guidance document:

> Scientific data have shown that young animals are more sensitive than adult animals to exposure to many carcinogens. Therefore, OEHHA developed ASFs to take into account the increased sensitivity to carcinogens during early-in-life exposure. OEHHA recommends an ASF of 10 for exposures that occur from the third trimester of pregnancy to 2 years, and an ASF of 3 for exposures that occur from 2 years through 15 years of age.[21]

Despite the consensus from regulatory agencies regarding the importance of age sensitivity factors to account for the increased sensitivity of younger receptors, the City's analysis omits this crucial step. Dr. Clark used the City's own HRA, and re-calculated the risks of exposure to DPM from the Project's construction phase to the most sensitive receptors (i.e., infants) using the OEHHA-recommended age sensitivity factors.[22] He found that the resultant cancer risk to infants is 130 in one million, well above the SCAQMD's significance threshold of 10 in one million.[23] Dr. Clark's analysis provides overwhelming evidence that a proper health risk analysis reveals a significant health risk from exposure to the Project's diesel emissions.

[20] Clark Comments, pgs. 3–4.

[21] SCAQMD. Risk Assessment Procedures For Rules 1401, 1401.1 and 212. Version 8.1. Dated September 2, 2017 pg. 7, cited in Clark Comments pg. 4.

[22] Clark Comments, pgs. 3–4 and Exhibit B.

[23] *Id.*

**Response to Comment No. 4**

The commenter contends that the HRA contained in the Final EIR is inadequate because age sensitivity factors (ASFs) were not included in the HRA and summarizes Dr. Clark's calculations using ASFs. Please refer to Response to Comment No. 3 regarding the City's discretion to select the appropriate thresholds of significance and methodologies based on substantial evidence, including without limitation the expert opinion of its EIR preparers and City staff. As further explained in the HRA presented as Appendix FEIR-2, and response to comments below, the City specifically considered the possible inclusion of ASFs, and then determined based on substantial evidence that ASFs were not appropriate for inclusion in the quantitative HRA in light of the specific facts applicable to the Project. Dr. Clark's alternative version of the analysis using ASFs is noted for the record and will be made available to the decision-makers for their review and consideration. Please refer to Response to Comment No. 9 for additional discussion of the applicability of ASFs, the discussion of which is incorporated herein by this reference.

**Comment No. 5**

### C. The City Must Adopt Feasible Mitigation Measures to Address the Project's Significant Health Risks

CEQA requires lead agencies to avoid or reduce environmental damage when feasible by adoption of all feasible mitigation measures.[24] 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."[25] 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 the greatest extent feasible and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns."[26]

The FEIR for this project currently includes a single Project Design Feature and no enforceable mitigation measure to reduce diesel emissions associated with Project construction. Dr. Clark identifies several commonly used and feasible mitigation measures to reduce construction emissions. These include:

1. Require zero-emissions or near-zero emission on-road haul trucks such as heavy-duty trucks with natural gas engines that meet the CARB's adopted optional NOX emissions standard at 0.02 grams per brake horsepower-hour (g/bhp-hr), if and when feasible. At a minimum, require that construction vendors, contractors, and/or haul truck operators commit to using 2017 model year trucks (e.g., material delivery trucks and soil import/export) that meet CARB's 2017 engine emissions standards at 0.01 g/bhp-hr of particulate matter (PM) and 0.20 g/bhp-hr of NOX emissions or newer, cleaner trucks.

2. Provide electric vehicle (EV) Charging Stations for zero emission vehicles.

3. Install Diesel Particulate Filter (DPF) systems or Diesel Oxidation Catalysts on construction equipment that is 50 hp or greater.

4. California regulations limit idling from both on-road and offroad diesel-powered equipment. The California Air Resources Board (CARB) enforces idling limitations and compliance with diesel fleet regulations.

    a. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes [California Code of Regulations, Title 13, sections 2449(d)(3) and 2485]. Provide clear signage that posts this requirement for workers at the entrances to the site.

    b. Provide current certificate(s) of compliance for CARB's In-Use Off Road Diesel-Fueled Fleets Regulation [California Code of Regulations, Title 13, sections 2449 and 2449.1]. For more information contact CARB at 877-593-6677, doors@arb.ca.gov, or www.arb.ca.gov/doors/compliance_cert1.html.

    c. Use only construction equipment rated by the United States Environmental Protection Agency as having Tier 4 (model year 2008 or newer) Final or stricter emission limits for all off-road construction equipment.

d. During construction, the construction contractor shall maintain a list of all operating equipment in use on the construction site for verification by the City. The construction equipment list shall state the makes, models, Equipment Identification Numbers, Engine Family Numbers, and number of construction equipment on-site.

5. Limit the daily number of trucks allowed at the Proposed Project to levels analyzed in the CEQA document. If higher daily truck volumes are anticipated to visit the site, the City as the Lead Agency should commit to re-evaluating the Proposed Project through CEQA prior to allowing this land use or higher activity level.

These are but a few examples of feasible mitigation measures that can be utilized to reduce the Project's significant health risks from diesel emissions. The City must prepare a revised DEIR that fully analyzes, discloses and mitigates the public health risk from diesel emissions associated with the Project's construction and operations.

[24] CEQA Guidelines §§ 15002(a)(2)-(3), 15126.4.

[25] CEQA Guidelines § 15002(a)(2).

[26] PRC § 21081(a)(3), (b); CEQA Guidelines §§ 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.

**Response to Comment No. 5**

The commenter notes their description of the general requirement under CEQA that when a lead agency identifies that a project will have a significant impact on the environment, the agency must adopt measures to eliminate or substantially lessen such significant effects on the environment to the extent feasible and that if there are remaining unavoidable significant effects, the lead agency must find before approving the project that those effects are acceptable due to overriding considerations. The commenter suggests examples of certain mitigation measures that would, in its view, reduce construction emissions. Further, the commenter asserts that the Draft EIR must be revised to analyze, disclose, and mitigate the public health risk from the diesel emissions associated with the Project's construction and operations. The commenters statements are contrary to the conclusions of the EIR and the facts of the Project with respect to air quality impacts.

The HRA provided as Appendix FEIR-2 of the Final EIR was done voluntarily by the City in order to thoroughly evaluate and respond to comments received on the Draft EIR and provide as much information as possible to interested members of the public and City decision-makers. The HRA demonstrated, and confirmed the prior conclusions of the Draft EIR, that the Project would not have a significant air quality impact. Therefore no additional mitigation measures are warranted. The HRA demonstrated that health risks from the Project (combined construction and operation) would result in a maximum of 1.0 in one million for residences located north and east of the Project Site, across 7th Street and Santa Fe Avenue. The Project-related incremental cancer risk is below the applicable SCAQMD significance threshold of 10 in one million people.[4] Therefore, while the commenter's suggestions are noted for the record and will be made available to the decision-makers for their review and consideration, no additional mitigation measures are warranted based on the HRA's cancer risk determination or this comment.

**Comment No. 6**

**III. CONCLUSION**

For the foregoing reasons, the City should revise and recirculate the DEIR with a full analysis of the Project's potentially significant impacts and propose appropriate mitigation.

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

**Response to Comment No. 6**

This comment concludes the first part of the comment letter. Refer to Response to Comment Nos. 2 through 5 above and 7 through 11 below.

---

[4] SCAQMD, South Coast AQMD Air Quality Significance Thresholds, April 2019.

**Comment No. 7**

**Attachment—Exhibit A, Clark & Associates, June 24, 2024, letter**

At the request of Adams Broadwell Joseph & Cardozo (ABJC), Clark and Associates (Clark) has reviewed materials related to the above referenced project.

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

**Project Description:**

In the Health Risk Assessment for the Violet Street Creative Office Campus Project (Project) prepared by Eyestone Environmental, the Project is described as a new 13-story (including mechanical penthouse), 450,599-square-foot commercial building, featuring up to 435,100 square feet of office uses, 15,499 square feet of ground floor retail and/or restaurant uses, and 1,264 automobile parking spaces in one at-grade, two above-grade, and four below-grade parking levels within Lot 1 of the Project Site, located at the southwestern corner of the Project Site.

In response to comments from Adams Broadwell Joseph and Cardozo (ABJC) on behalf of the Coalition for Responsible Equitable Economic Development Los Angeles (CREED LA), Eyestone performed an air dispersion model and health risk analysis of the emissions of diesel particulate matter from the Project. Eyestone concluded that the emissions from the Project would not pose a risk above the threshold of significance above the SCAQMD's cancer risk threshold of 10 in 1,000,000. This conclusion is in conflict with the facts provided within the FEIR.

**Response to Comment No. 7**

This comment introduces the attachment and indicates that Clark & Associates is working at the request of attorneys for CREED. Refer to Response to Comment Nos. 8 through 11 below for specific issues raised by the commenter.

**Comment No. 8**

**Specific Comments:**

1. **The HRA Erroneously Claims That Diesel Exhaust Is Not A Mutagenic Compound**

In the Introduction to the Health Risk Assessment prepared for the Project,[1] Eyestone states that based on [sic, their] review of relevant guidance on the applicability of the use of early life exposure adjustments to identified carcinogens, the use of these factors would not be applicable to this HRA as neither the Lead Agency nor SCAQMD have developed recommendations on whether these factors should be used for CEQA analyses of potential DPM construction or operational impacts. Eyestone goes on to state that adjustment factors are only considered when carcinogens act "through the mutagenic model of action." Therefore, early life exposure adjustments were not considered in this HRA.[2]

This assertion ignores the substantial evidence in the literature to support the use of early life adjustments. The U.S. EPA and the State of California spent considerable time and resources to evaluate the literature regarding exposure to diesel exhaust (DE) and in particular diesel particulate matter (DPM). In the supporting literature cited by both regulatory bodies, the state of information (all available studies including in vitro (cellular studies) and in vivo studies (whole animal or human exposure studies) were summarized. Studies supporting the mutagenic mode of action and not supporting the mutagenic mode of action were evaluated.

The U.S. EPA states clearly in its Weight-of-Evidence Characterization of Diesel Exhaust[3], found at the IRIS website, that "extensive supporting data including the demonstrated mutagenic and/or chromosomal effects of DE (sic Diesel Exhaust) 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."

The State of California's Scientific Review Panel's 1998 Report On Diesel Exhaust is very clear about the mode of action for DPM. In the Health Effects Section of the Report's Summary[4], the Board (made up of health scientists including toxicologists) states "Diesel exhaust particles or extracts of diesel exhaust particles are mutagenic 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." Whether one assesses the mode of action through in-vitro studies or in vivo studies it is clear that there is an overwhelming consensus of health scientists and toxicologists that study the matter that DPM meets the criteria for being deemed a mutagenic compound and therefore the use of age sensitivity factors is warranted.

[1] Eyestone. 2023. Health Risk Assessment Violet Street Creative Office Campus Project. Prepared by Eyestone Environmental, LLC. Dated November, 2023. Pg 6

[2] *ibid*

[3] U.S. EPA. 2003. Weight of Evidence For Cancer. https://iris.epa.gov/static/pdfs/0642_summary.pdf Pg 11.

[4] CARB. 1998. Findings of the Scientific Review Panel on The Report On Diesel Exhaust as adopted at the Panel's April 22, 1998, Meeting. https://ww2.arb.ca.gov/sites/default/files/classic/toxics/dieseltac/de-fnds.pdf

**Response to Comment No. 8**

The commenter disputes the methodology used in the HRA contained in the Final EIR, and states the commenter's opinion that, based on portions of two studies referenced by this comment (each of which are addressed below), the HRA should have considered DPM and diesel exhaust to be mutagenic compounds and that, on such basis, the HRA should have applied age sensitivity factors.[5] Eyestone Environmental considered this approach, and respectfully disagrees with the commenter's opinion for the reasons described below and in the HRA.

It is acknowledged that there is some scientific uncertainty regarding the health effects of DPM and diesel exhaust and the appropriateness, or lack thereof, of incorporating early-life exposure adjustments. There is therefore a variety of methodologies that have been recognized by regulatory agencies with expertise in these matters, and not all experts agree on the preferred approach. This uncertainty and the variability of methodologies was noted

[5] Diesel engine exhaust is a complex mixture of airborne particles and gases. Diesel particulate matter (DPM), composed of elemental carbon particles and adsorbed organic compounds, is the most frequently determined measure of diesel exhaust and the measure reported in toxicological studies of diesel engine exhaust. For the purposes of this discussion, the two terms are used interchangeably.

in the HRA included as Appendix FEIR-2. For example, page 5 of the HRA cites to the South Coast Air Quality Management District (SCAQMD) Staff Report presented to the SCAQMD Governing Board[6] regarding the Final Environmental Assessment for Proposed Amended Rules to Implement OEHHA Revisions to the Air Toxics Hot Spots Program Risk Assessment Guidelines and proposed amendments to Rule 1401.[7] As discussed therein, SCAQMD staff, in response to public comment in connection with toxic air contaminant exposures under Rule 1401, indicated that the "SCAQMD staff will evaluate a variety of options on how to evaluate health risks under the Revised OEHHA Guidelines under CEQA. The SCAQMD staff will conduct public workshops to gather input before bringing recommendations to the Governing Board." As noted in the HRA, thus far, SCAQMD has not conducted such workshops nor developed policy pertaining to the applicability of applying the 2015 OEHHA Guidance for CEQA purposes.

The discussion below illustrates why the studies selectively quoted by the commenter do not provide substantial evidence that age sensitivity factors were warranted in this HRA. *USEPA Guidance Indicates that Early Life Exposure Adjustments Are Warranted Only In Limited Circumstances, Not Applicable Here, for Compounds Exhibiting a Mutagenic Mode of Action*

First, USEPA guidance relating to the use of early life exposure adjustments (*Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens, EPA/630/R-003F*)[8] are considered when carcinogens act "through the mutagenic mode of action." This USEPA guidance specifically noted that this approach provides public health conservatism. As reported:

> *The Agency considered both the advantages and disadvantages of extending the recommended, age dependent adjustment factors for carcinogenic potency to carcinogenic agents for which the mode of action remains unknown. EPA*

---

[6] SCAQMD, Governing Board Meeting Agenda: June 5, 2015 (Agenda Item No. 28), www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2015/2015-jun1-028.pdf?sfvrsn=9.

[7] Prior to the 2015 OEHHA Guidelines, ASFs were not included in previous OEHHA guidance (Air Toxics Hot Spots Program Guidance Manual for the Preparation of Risk Assessments (2003 Guidance Manual).

[8] USEPA, Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens, March 2005, www3.epa.gov/airtoxics/childrens_supplement_final.pdf.

> *recommends these factors only for carcinogens acting through a mutagenic mode of action based on a combination of analysis of available data and long-standing science policy positions that set out the Agency's overall approach to carcinogen risk assessment, e.g., the use of a linear, no threshold extrapolation procedure in the absence of data in order to be health protective. In general, the Agency prefers to rely on analyses of data rather than on general defaults. When data are available for a susceptible lifestage, they should be used directly to evaluate risks for that chemical and that lifestage on a case-by-case basis. In the case of nonmutagenic carcinogens, when the mode of action is unknown, the data were judged by EPA to be too limited and the modes of action too diverse to use this as a category for which a general default adjustment factor approach can be applied. In this situation per the Agency's Guidelines for Carcinogen Risk Assessment, a linear low-dose extrapolation methodology is recommended. It is the Agency's long-standing science policy position that use of the linear low-dose extrapolation approach (without further adjustment) provides adequate public health conservatism in the absence of chemical-specific data indicating differential early-life susceptibility or when the mode of action is not mutagenicity.*

In other words, this USEPA Guidance acknowledges that not all carcinogenic agents act through a mutagenic mode of action. The USEPA Guidance indicates that for carcinogenic agents for which the mode of action remains unknown (that is, for carcinogenic agents that have not been established to be mutagenic), USEPA's position is that "linear low-dose extrapolation", "without further adjustment", provides adequate public health conservatism. Therefore, this USEPA Guidance supports the methodology that was recommended by Eyestone Environmental' s air quality experts and which was accordingly used to prepare the quantitative HRA that was included in Appendix FEIR-2.

*The Commenter Appears to Conflate the USEPA's Weight of Evidence Conclusion that Diesel Exhaust is Likely to Be Carcinogenic to Humans with a Conclusion (not made by the USEPA) that Diesel Exhaust Exhibits a Mutagenic Mode of Action*

Second, the commenter appears to confuse or conflate the USEPA's "weight of evidence" judgment that diesel exhaust is "likely to be carcinogenic to humans", with a hypothetical conclusion—that is not contained in the IRIS Assessment—that diesel exhaust exhibits a mutagenic mode of action. More specifically, the USEPA Integrated Risk Information System (IRIS) Chemical Assessment Summary for Diesel Engine Exhaust (IRIS Assessment), which is extensively referenced in Comment No. 8, concludes, in part, based on the weight-of-evidence judgement of the likelihood that DE is a human carcinogen and states that "diesel exhaust (DE) *is likely to be carcinogenic to humans* by inhalation from environmental exposures."[9] However, this conclusion of the IRIS Assessment is different than a conclusion that diesel exhaust as a whole is a mutagenic compound. This difference is critical to a judgment as to whether it would be analytically appropriate for the HRA to include age sensitive factors when analyzing the effects of diesel exhaust.

It is acknowledged that, as this comment identifies, USEPA's IRIS Assessment has identified as "lines of evidence" for its overarching conclusion that, for example, there is "strong but less than sufficient evidence for a causal association between [diesel exhaust] exposure and increased lung cancer risk among workers in varied occupations where exposure to DE occurs; [and there is] extensive supporting data including the demonstrated mutagenic and/or chromosomal effects of [diesel exhaust] 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."[10] These facts were considered by Eyestone Environmental and the City in the preparation of the HRA. In fact, the HRA expressly disclosed that certain organic constituents of diesel exhaust—comprising less than one percent of diesel exhaust particulate mass—exhibit mutagenic modes of action. Therefore, the comment is incorrect when it asserts that the HRA ignored this issue, or ignored the evidence in the literature that might support the use of early life adjustments.

---

[9] USEPA, National Center for Environmental Assessment, Integrated Risk Information System (IRIS), Diesel Engine Exhaust United States, last Updated February 28, 2003, p. 11, https://iris.epa.gov/static/pdfs/0642_summary.pdf.

[10] *Ibid*.

*The Commenter Fails to Acknowledge and/or Give Sufficient Weight to the Substantial Scientific Uncertainty Noted in the USEPA IRIS Assessment*

Third, in Eyestone Environmental's judgment, as informed by the expertise of Mark Hagmann, P.E., the commenter fails to give sufficient weight to (nor in many cases does the commenter even acknowledge) other information set forth in the IRIS Assessment which indicates that it has not been established that diesel exhaust as a whole exhibits a mutagenic mode of action. Mr. Hagmann's resume is included as Attachment B of this response.

For example, while the IRIS Assessment indicates that the "qualitative evidence for potential human carcinogenicity is considered strong … inferences are involved and uncertainties are present." The IRIS Assessment goes on to describe this uncertainty at length:

> *First, there has been a considerable scientific debate about the significance of the available human evidence for a causal association between occupational exposure and increased lung cancer risk. Some experts view the evidence as weak and/or inconsistent while others consider the evidence compelling, due to a lack of consensus about whether the effects of smoking and other potential confounders have been adequately accounted for in key studies, and the lack of agreed-upon historical DE exposure data for the key studies. These issues highlight the difficulty in delineating an exposure-based dose-response relationship. In addition, while the mode of action for lung tumors in rats at high DE exposures is sufficiently understood, the mode of action for the DE lung cancer risk in humans is not known. To date, available evidence for the role of both the adsorbed organics and the carbon core particle has only been shown under high-exposure experimental animal test conditions. There is virtually no information about the relative role of DE constituents in mediating carcinogenic effects at the low-exposure levels or in humans. Data gaps also limit conclusions regarding the full extent of DE's carcinogenic potential. These limitations include lack of knowledge concerning the susceptibility of young animals to DE's carcinogenic effects relative to more mature animals, the human carcinogenic potential of DE by oral and dermal exposures, and the inconclusive epidemiologic evidence for DE being associated with other forms of cancer.*

> In other words, the studies included in the IRIS Assessment indicate that a mutagenic mode of action has been identified in rats following high DE exposures, but no such mode of action has been identified in humans [“*the mode of action for the DE lung cancer risk in humans is not known” … “There is virtually no information about the relative role of DE constituents in mediating carcinogenic effects at the low-exposure levels or in humans.”]*

Additionally, we emphasize that, as discussed in Appendix FEIR-2 at page 6, for diesel particulates, polycyclic aromatic hydrocarbons (PAHs), and their derivatives, which are known to exhibit a mutagenic mode of action, comprise less than one percent of the exhaust particulate mass.[11] Given that the estimate of the increased cancer risk from inhalation exposure is expressed in terms of total diesel particulate, in Eyestone Environmental’ s expert judgment, it is not reasonable to apply mutagenic mode of action to the total amount of diesel particulate.

In sum, while the IRIS Assessment (and the HRA) acknowledges that there is strong evidence of diesel exhaust carcinogenicity, substantial uncertainty remains about the mode of action for diesel exhaust as a whole. Furthermore, and contrary to what is implied by this comment, USEPA’s IRIS Assessment does not provide guidance in support of the use of age sensitive factors for diesel exhaust or purport that whole diesel engine exhaust has shown to elicit a mutagenic mode of action.[12]

*The State of California’s Scientific Review Panel’s 1998 Report on Diesel Exhaust Relied on Substantially the Same Studies and Included the Same Degree of Uncertainty as Noted Above in the USEPA’s IRIS Assessment*

Fourth, the comment also referred to the State of California’s Scientific Review Panel’s 1998 Report on Diesel Exhaust (the “1998 Report”), which suffers from the same uncertainties as noted above. More specifically, the 1998 Report was based on many of the

---

[11] United States Environmental Protection Agency, Health Assessment Document for Diesel Engine Exhaust (EPA/600/8-90/057F), 2002.

[12] United States Environmental Protection Agency, National Center for Environmental Assessment, Integrated Risk Information System (IRIS), Diesel Engine Exhaust, Last Updated February 28, 2003, p. 12, https://iris.epa.gov/static/pdfs/0642_summary.pdf.

same studies that were cited in USEPA's IRIS Assessment and thus the same response applies. In addition, the 1998 Report acknowledges under Exposure Related Conclusions (Item 4) that "The organic fraction consists of soluble organic compounds such as aldehydes, alkanes and alkenes, and high-molecular weight PAH and PAH-derivatives, such as nitro-PAHs. Many of these PAHs and PAH-derivatives, especially nitro-PAHs, have been found to be potent mutagens and carcinogens." This conclusion regarding diesel exhaust by the State of California's Scientific Review Panel is consistent with what was emphasized in Appendix FEIR-2 at page 6, in which PAHs and their derivatives, which are known to exhibit a mutagenic mode of action, comprise less than 1 percent of the exhaust particulate mass. The commentor is also referred to Page 22 of USEPA's IRIS Assessment, in which additional context is provided regarding mutagenicity data. The IRIS Assessment states: "The application of mutagenicity data to the question of the potential carcinogenicity of diesel engine exhaust is based on the premise that genetic alterations are found in all cancers and that several of the chemicals found in diesel engine exhaust possess mutagenic activity in a variety of genetic assays. These genetic alterations can be produced by gene mutations, deletions, translocations, aneuploidy, or amplification of genes; hence, no single genotoxicity assay should be expected to either qualitatively or quantitatively predict rodent carcinogenicity. With diesel engine exhaust or other mixtures, additional complications arise because of the complexity of the material being tested." Again, this information, when applied in conjunction with the USEPA guidance relating to the use of early life exposure adjustment factors (Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens, EPA/630/R-003F), supports the methodology used in the HRA. This is particularly true because, as provided as Appendix FEIR-2, PAHs, and their derivatives, which are known to exhibit a mutagenic mode of action, comprise less than one percent of the exhaust particulate mass. This comment, and the referenced studies, do not provide substantial evidence that whole diesel engine exhaust has been shown to elicit a mutagenic mode of action, nor that age sensitivity factors are warranted in this HRA.

Moreover, based on a review of relevant guidance on the applicability of the use of early life exposure adjustments to identified carcinogens, the use of these factors would not be applicable to the HRA provided in the Final EIR. Indeed, neither the Lead Agency nor SCAQMD, have developed generally applicable recommendations on whether these factors should be used for CEQA analyses of potential DPM construction or operational impacts.

In sum, neither of the studies cited in this Comment No. 8 are sufficient to indicate that diesel exhaust as a whole should be treated as having a mutagenic mode of action, and these studies therefore do not support the commenter's belief that a different methodology than the one adopted by the City should have been used.

*In Contrast to the Inapplicable or Inconclusive Studies Cited by the Commenter, Applicable Guidance Supports the Methodology Applied in the HRA*

USEPA Guidance also supports the methodology used in the HRA. For example, for the HRA prepared in the Final EIR, the HRA relied upon USEPA guidance relating to the use of early life exposure adjustment factors (Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens, EPA/630/R-003F) whereby adjustment factors are only considered when carcinogens act "through the mutagenic mode of action." As discussed above, PAHs and their derivatives within diesel particulate, which are known to exhibit a mutagenic mode of action, comprise less than one percent of the exhaust particulate mass. In sum, the alternative methodology requested by the commenter and the background studies referenced by the commenter (including the USEPA and the 1998 Report) were carefully considered by the air quality experts that prepared the HRA. However, in the expert judgment of the City's air quality experts, the totality of prior studies regarding the mutagenic mode of action of diesel exhaust *as a whole*, and the specific circumstances applicable to the Project, indicate that early life exposure adjustments are not appropriate for use in the HRA presented as Appendix FEIR-2. No information in the CREED Letter alters this conclusion or analysis.

**Comment No. 9**

**2. The HRA Fails To Accurately Calculate The Risk From DPM Emissions On Residents Near The Project Site**

The assertion by Eyestone that there is no need to use age adjustment factors since the Lead Agency (the City) and SCAQMD have not developed guidance ignores the standards for CEQA documents commonly prepared in the South Coast Air Basin. A clear example of the use of ASFs in SCAQMD's jurisdiction is the Norwalk Entertainment District Specific Plan. In its 2022 construction activities HRA, the City of Norwalk specifically used the ASFs consistent with the Office of Environmental Health Hazard Assessment's (OEHHA) *Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments* and

the SCAQMD's Risk Assessment Procedures for Rules 1401, 1401.1, and 212 to ensure that the health impacts from construction activities would assess risks for susceptible subpopulations such as children (see attachment).

Therefore, to be consistent with the SCAQMD's guidance on health risks in the Air Basin[5] which includes ASFs in the calculation of exposure for the maximum individual cancer risk (MICR) and the State's designation of DPM as a mutagenic chemical, the City must evaluate the health risk from exposure to DPM in a manner consistent with the guidance from the State.[6] 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.[7,8,9,10]

Using the residential receptor spreadsheet on page 87 of the pdf version Health Risk Assessment, I have re-calculated the risk from exposure to DPM from the construction phase to the most sensitive receptors (infants). Using the modeled concentration of 0.354 ug/m$^3$ the resultant cancer risk is 130 in 1,000,000, well above the SCAQMD's significance threshold. Based on this analysis it is clear that the City must require a significant amount of mitigation of construction emissions to ensure that the DPM emissions from the Project site do not adversely impact residents. To that end the City must re-evaluate the risk using the ASFs in the calculation of the risks to the residents nearby and present the results in a revised FEIR.

[5] SCAQMD. Risk Assessment Procedures For Rules 1401, 1401.1 and 212. Version 8.1. Dated September 2, 2017 pgs 7,12

[6] OEHHA. 2015. *Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments*. Dated February 2015.

[7] *ibid*.

[8] U.S. EPA. 2005. Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens. EPA/630/R-03/003F March 2005. Pg 33.

[9] U.S. EPA. 2011. Age Dependent Adjustment Factor (ADAF) Application.

[10] SCAQMD. Risk Assessment Procedures For Rules 1401, 1401.1 and 212. Version 8.1. Dated September 2, 2017 pgs 7,12

**Response to Comment No. 9**

The commenter again asserts his objection to the methodology selected by the City, and asserts that because a different lead agency has apparently selected the methodology he prefers on a factually distinguishable project, the City of Los Angeles must make that same choice of methodologies on this Project. The commenter's assertions are without merit.

The commenter then provides his calculation of the risk exposure to DPM, using commenter's preferred methodology (with the application of ASFs). As documented extensively throughout this response to comment, Eyestone Environmental respectfully disagrees with the commenter's preferred methodology for the reasons stated herein. Furthermore, the commenter did not implement his preferred methodology correctly. Table 8.4 of the OEHHA's *Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments* provides a fraction of time at home (FAH) of 0.85 for 0 to 2 years and 0.72 for 2 to 16 years of age. The commenter used an FAH of 1, which is only applicable for when a school is within the one in a million cancer risk isopleth. Since the commentor did not provide any risk isopleths, use of an FAH of 1 is not applicable to the analysis and overstates the risk. In addition, the commenter assumed a construction duration of 38 months even though as discussed in Response to Comment No. 2, the construction schedule for the Project estimates that the overall construction schedule would be limited to approximately 33 months. An assumed longer construction duration would also overstate the Project-related cancer risk. As discussed in Response to Comments No. 2 and 8, a quantified HRA using ASFs is not required, is not warranted under the facts of the Project, and the City as the Lead Agency has the discretion to select the appropriate thresholds of significance and methodologies based on substantial evidence for evaluating a project's impacts including potential impacts related to health risk. Please refer to Response to Comment No. 8 as to why the commenter incorrectly asserts that the State has designated DPM as a mutagenic chemical. We also note that the commenter's generalized statement to the "State's designation of DPM as a mutagenic compound' is unclear and appears unwarranted. No such designation by the State has been made, and the limited discussion of DPM in the 1998 Report has been fully addressed above.

When considering the methodology the commenter prefers, it is important to understand the purpose of the OEHHA guidance regarding mutagenic compounds and related age sensitivity factors cited in this comment as it is not applicable to the Project.

OEHHA adopted the Air Toxics Hot Spots Program Guidance Manual for the Preparation of Risk Assessments (2003 Guidance Manual) in October of 2003. The Guidance Manual was developed by OEHHA, in conjunction with the California Air Resources Board (CARB), for use in implementing the Air Toxics "Hot Spots" Program (Health and Safety Code Section 44360 et. seq.). The Air Toxics "Hot Spots" Program requires certain stationary sources to report the types and quantities of certain substances routinely released into the air. The goals of the Air Toxics "Hot Spots" Program are to collect emission data, to identify facilities having localized impacts, to ascertain health risks, to notify nearby residents of significant risks, and to reduce those significant risks to acceptable levels.

OEHHA adopted a new version of the *Air Toxics Hot Spots Program Guidance Manual for the Preparation of Risk Assessments* (2015 Guidance Manual) in March of 2015. CARB acknowledges that the Guidance Manual does not include guidance for projects prepared under the auspices of CEQA and that it would be "handled by individual [Air Pollution Control] Districts." As noted by CARB,

*The Air Toxics "Hot Spots" Information and Assessment Act (AB 2588, 1987, Connelly) was enacted in September 1987. Under this, stationary sources are required to report the types and quantities of certain substances their facilities routinely release into the air. Emissions of interest are those that result from the routine operation of a facility or that are predictable, including but not limited to continuous and intermittent releases and process upsets or leaks…*

*The Act requires that toxic air emissions from stationary sources (facilities) be quantified and compiled into an inventory according to criteria and guidelines developed by the ARB, that each facility be prioritized to determine whether a risk assessment must be conducted, that the risk assessments be conducted according to methods developed by OEHHA….*

There are two broad classes of facilities subject to the AB 2588 Program: Core facilities and facilities identified within discrete industry-wide source categories. Core facilities subject to AB 2588 compliance are sources whose criteria pollutant emissions (particulate matter, oxides of sulfur, oxides of nitrogen, and volatile organic compounds) are 25 tons per year or more as well as those facilities whose criteria pollutant emissions are 10 tons per year or more but less than 25 tons per year. Industry-wide source facilities are classified as

smaller operations with relatively similar emission profiles (e.g., auto body shops, gas stations, and dry cleaners using perchloroethylene).

The emissions generated from the construction and subsequent occupancy of an office and commercial development project (such as the proposed Project) are not classified as core operations, nor are they subject to industry-wide source evaluation.

The intent in developing the 2015 Guidance Manual was to provide HRA procedures for use in the Air Toxics Hot Spots Program or for the permitting of certain new or modified stationary sources. As noted above, the Project is not a new or modified stationary source that requires air quality permits to construct or operate. Air districts are to determine which facilities will prepare an HRA based on a prioritization process. The 2015 Guidance Manual also provides recommendations related to cancer risk evaluation of short-term projects regarding certain stationary sources. As discussed in Section 8.2.10 of the 2015 Guidance Manual, "[t]he local air pollution control districts sometimes use the risk assessment guidelines for the Hot Spots program in permitting decisions for short-term projects such as construction or waste site remediation." Short-term projects that would require a permitting decision by SCAQMD typically would be limited to site remediation (e.g., stationary soil vapor extractors) and would not be applicable to the Project. The 2015 Guidance Manual also does not provide specific recommendations for evaluation of short-term use of mobile sources (e.g., heavy-duty diesel construction equipment). Thus, the 2015 Guidance Manual and, as noted below, the SCAQMD Risk Assessment Procedures for *1401, 1401.1, 1402, and 212 A-8*, are inapplicable as a factual matter to the proposed Project and the HRA, and does not support the commenter's opinion that age adjustment factors should have been utilized.

OEHHA's *Air Toxics Hot Spots Program Guidance Manual for the Preparation of Risk Assessments* (2015 Guidance Manual).[13]I provides age sensitivity factors to account for potential increased sensitivity of early-in-life exposure to carcinogens. For risk assessments conducted under the auspices of AB 2588, a weighting factor is applied to all carcinogens

---

[13] Office of Environmental Health Hazard Assessment, Air Toxicology and Epidemiology, Adoption of Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments. March 6, 2015, https://oehha.ca.gov/air/crnr/notice-adoption-air-toxics-hot-spots-program-guidance-manual-preparation-health-risk-0.

regardless of purported mechanism of action. In comments presented to the SCAQMD Governing Board (Meeting Date: June 5, 2015, Agenda No. 28) relating to toxic air contaminant exposures under Rules 1401 (New Source Review of Toxic Air Contaminants), use of the 2015 OEHHA guidelines and their applicability for projects subject to CEQA, as they relate to the incorporation of early-life exposure adjustments, it was reported that:

*The Proposed Amended Rules are separate from the CEQA significance thresholds. The Response to Comments Staff Report PAR 1401, 1401.1, 1402, and 212 A - 8 June 2015 SCAQMD staff is currently evaluating how to implement the Revised OEHHA Guidelines under CEQA. The SCAQMD staff will evaluate a variety of options on how to evaluate health risks under the Revised OEHHA Guidelines under CEQA. The SCAQMD staff will conduct public workshops to gather input before bringing recommendations to the Governing Board.*

SCAQMD, as a commenting agency, has not conducted public workshops nor developed policy relating to the applicability of applying the 2015 OEHHA guidance for projects prepared by other public/lead agencies subject to CEQA.

To emphasize variability in methodology for conducting HRAs, regulatory agencies throughout the State of California including the Department of Toxic Substances Control (DTSC) which is charged with protecting individuals and the environment from the effects of toxic substances and responsible for assessing, investigating and evaluating sensitive receptor populations to ensure that properties are free of contamination or that health protective remediation levels are achieved, have adopted the U.S. Environmental Protection Agency's (USEPA's) policy in the application of early-life exposure adjustments. As discussed above, USEPA guidance relating to the use of early life exposure adjustments (*Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens, EPA/630/R-003F*) are considered only when carcinogens act "through the mutagenic mode of action." As discussed extensively throughout this comment, in Eyestone Environmental's expert judgment, as informed by the expertise of Mark Hagmann, P.E., and a review of the cited literature, early life exposure adjustments are not required, nor are they warranted, for DPM emissions.

The commentor provides an example of a Lead Agency (City of Norwalk) choosing to use ASFs consistent with OEHHA *Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments* and the SCAQMD's Risk Assessment Procedures

for Rules 1401, 1401.1, and 212 in an HRA for the Norwalk Entertainment District Specific Plan. Contrary to what is stated in this comment, the referenced HRA was not included as an attachment to this comment letter and, therefore, the comment is ambiguous. However, this example simply highlights that Lead Agencies have the discretion to select the appropriate thresholds of significance and methodologies for evaluating a project's impacts including potential impacts related to health risk. This example does not support a conclusion that SCAQMD (or any other agency with jurisdiction over the Project) has developed and provided binding guidance to the City of Los Angeles that it must use ASFs in CEQA documents related to land use development projects, and the commenter cites to no other such legal requirement. Dr. Clark's opinion regarding the use of ASFs is noted for the record and will be made available to the decision-makers for their review and consideration.

**Comment No. 10**

**3. The City Must Include Feasible Mitigation Measures In a Revised DEIR To Ensure That DPM Emissions From The Construction Phase Do Not Adversely Impact The Health Of Residents Near The Project Site**

Reasonable and feasible mitigation measures that have previously been recommended by the California Air Resources Board and the South Coast Air Quality Management District to reduce construction emissions that could be immediately adopted for the Project include:

1. Require zero-emissions or near-zero emission on-road haul trucks such as heavy-duty trucks with natural gas engines that meet the CARB's adopted optional $NO_X$ emissions standard at 0.02 grams per brake horsepower-hour (g/bhp-hr), if and when feasible. At a minimum, require that construction vendors, contractors, and/or haul truck operators commit to using 2017 model year trucks (e.g., material delivery trucks and soil import/export) that meet CARB's 2017 engine emissions standards at 0.01 g/bhp-hr of particulate matter (PM) and 0.20 g/bhp-hr of $NO_X$ emissions or newer, cleaner trucks4. [sic] Include environmental analyses to evaluate and identify sufficient power available for zero emission trucks and supportive infrastructures in the Energy and Utilities and Service Systems Sections in the CEQA document, where appropriate. The Lead Agency should include the requirement of zero-emission or near-zero emission heavy-duty trucks in applicable bid documents, purchase orders, and contracts. Operators shall maintain records of all trucks associated with project construction to document that

each truck used meets these emission standards, and make the records available for inspection. The Lead Agency should conduct regular inspections to the maximum extent feasible to ensure compliance.

2. Provide electric vehicle (EV) Charging Stations for zero emission vehicles.

3. Install Diesel Particulate Filter (DPF) systems or Diesel Oxidation Catalysts on construction equipment that is 50 hp or greater.

4. California regulations limit idling from both on-road and offroad diesel-powered equipment. The California Air Resources Board (CARB) enforces idling limitations and compliance with diesel fleet regulations.

   a. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes [California Code of Regulations, Title 13, sections 2449(d)(3) and 2485]. Provide clear signage that posts this requirement for workers at the entrances to the site.

   b. Provide current certificate(s) of compliance for CARB's In-Use Off-Road Diesel-Fueled Fleets Regulation [California Code of Regulations, Title 13, sections 2449 and 2449.1]. For more information contact CARB at 877-593-6677, doors@arb.ca.gov, or www.arb.ca.gov/doors/compliance_cert1.html.: [sic]

   c. Use only construction equipment rated by the United States Environmental Protection Agency as having Tier 4 (model year 2008 or newer) Final or stricter emission limits for all off-road construction equipment.

   d. During construction, the construction contractor shall maintain a list of all operating equipment in use on the construction site for verification by the City. The construction equipment list shall state the makes, models, Equipment Identification Numbers, Engine Family Numbers, and number of construction equipment on-site.

5. Limit the daily number of trucks allowed at the Proposed Project to levels analyzed in the CEQA document. If higher daily truck volumes are anticipated to visit the

site, the City as the Lead Agency should commit to re-evaluating the Proposed Project through CEQA prior to allowing this land use or higher activity level.

**Response to Comment No. 10**

The commenter states that the City must adopt feasible mitigation measures to ensure that DPM emissions do not adversely impact the health of residents near the Project Site, and suggests specific measures. This comment reiterates the comment made under Comment No. 5. Accordingly, the Response to Comment No. 5 is incorporated herein by this reference. As noted above, the quantitative HRA demonstrates that carcinogenic risk from the Project (combined construction and operation) would be a maximum of 1.0 in one million for residences located north and east of the Project Site, across 7th Street and Santa Fe Avenue (for combined construction and operational emissions), which is below the applicable SCAQMD significance threshold of 10 in one million for carcinogenic exposure. For chronic non-carcinogenic exposures, the increase in the hazard index was estimated to be less than the applicable threshold of 1.0 for either chronic or acute effects at sensitive receptors in close proximity to the Project Site, resulting in a less than significant impact. No additional mitigation measures are warranted based on the HRA's cancer risk determination, the non-cancer exposure risk, determination, nor this comment.

**Comment No. 11**

**Conclusion**

The facts identified and referenced in this comment letter lead me to reasonably conclude that the Project could result in significant impacts if allowed to proceed. A revised FEIR should be prepared to address these substantial concerns.

**Exhibit A—James J.J. Clark Curriculum Vitae** (19 pages)

**Exhibit B—DPM Risk Calculations** (2 pages)

**Response to Comment No. 11**

This comment concludes the attachment. Refer to Response to Comment Nos. 7 through 10 above for specific issues raised by the commenter. For the reasons stated above, and incorporated herein by this reference, no revised FEIR is warranted.

# Attachments

# Attachment A

Adams Broadwell Joseph & Cardozo
Comment Letter, June 25, 2024

ADAMS BROADWELL JOSEPH & CARDOZO
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037
TEL: (650) 589-1660
FAX: (650) 589-5062
rfranco@adamsbroadwell.com

ARIANA ABEDIFARD
KEVIN T. CARMICHAEL
CHRISTINA M. CARO
THOMAS A. ENSLOW
KELILAH D. FEDERMAN
RICHARD M. FRANCO
ANDREW J. GRAF
TANYA A. GULESSERIAN
DARION N. JOHNSTON
RACHAEL E. KOSS
AIDAN P. MARSHALL
TARA C. RENGIFO

*Of Counsel*
MARC D. JOSEPH
DANIEL L. CARDOZO

SACRAMENTO OFFICE
520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4721
TEL: (916) 444-6201
FAX: (916) 444-6209

June 25, 2024

**VIA EMAIL**

Hearing Officer
City of Los Angeles Department of City Planning
Attn: Paul Caporaso
221 N. Figueroa Street, Suite 1350
Los Angeles, CA 90012
Email: Paul.Caporaso@lacity.org

**VIA EMAIL**

Rey Fukuda
City of Los Angeles, Department of City Planning
221 N. Figueroa Street, Suite 1350
Los Angeles, CA 90012
Email: Rey.Fukuda@lacity.org

Re: **Agenda Item No. 1- June 26, 2024 City of Los Angeles Hearing Officer hearing on Violet Street Creative Office Campus Project (SCH Number 2022110015; Environmental Case No. ENV -2021-2232-EIR)**

Dear Mr. Caporaso and Mr. Fukuda:

We are writing on behalf of Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA") in opposition to the Violet Street Creative Office Campus Project (SCH Number 2022110015; Environmental Case No. ENV -2021-2232-EIR) ("Project") proposed by Al Violet, LLC and Al Violet B2, LLC ("Applicants"). The Project appears as agenda item No. 1 for the June 26, 2024 City of Los Angeles ("City") Department of City Planning hearing officer agenda. The hearing officer will take public testimony on behalf of the Los Angeles Planning Commission on the Project's Final Environmental Impact Report ("FEIR") and entitlements including a General Plan Amendment, Vesting Zone and Height District Change, Vesting Conditional Use, Zone Variance, and Site Plan Review.

The City, as lead agency under the California Environmental Quality Act[1] ("CEQA"), prepared the Draft Environmental Impact Report ("DEIR") and FEIR for the Project. CREED LA's comments on the DEIR explained how the DEIR failed to comply with CEQA's requirement to act as an informational document, in that it lacked proper analysis in crucial areas including the Project's impacts on public health and noise. Those comments further explained how these flaws made the

[1] Pub. Resources Code ("PRC") §§ 21000 *et seq.*

DEIR deficient as a matter of law because it failed to properly analyze, disclose and mitigate the Project's potentially significant impacts, and lacked substantial evidence supporting the City's conclusions regarding those impacts.

The City's FEIR includes responses to CREED LA's DEIR comments and purports to address the issues raised. As discussed below however, the FEIR fails to adequately resolve these issues or to mitigate all of the Project's potentially significant impacts. We reviewed the FEIR and available supporting documentation with the assistance of air quality expert James Clark Ph.D.[2] We reserve the right to supplement these comments at a later date, and at any later proceedings related to this Project.[3]

## I. STATEMENT OF INTEREST

CREED LA is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public and worker health and safety hazards, and the environmental and public service impacts of the Project. The coalition 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 City of Los Angeles and surrounding areas.

Individual members of CREED LA and its member organizations include Jorge L. Aceves, John P. Bustos, Gerry Kennon, and Chris S. Macias. These individuals live, work, recreate, and raise their families in the City of Los Angeles 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 onsite.

In addition, 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

---

[2] Dr. Clark's technical comments and curricula vitae are attached hereto as Exhibit A ("Clark Comments").

[3] Gov. Code § 65009(b); PRC § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* ("*Bakersfield*") (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

moratoriums and other restrictions on growth that, in turn, reduce future employment opportunities.

## II. THE CITY HAS NOT COMPLIED WITH CEQA BECAUSE FEIR FAILS TO ADEQUATELY DISCLOSE AND MITIGATE THE PROJECT'S SIGNIFICANT HEALTH RISK IMPACTS

The City may not approve the Project at this time because the FEIR fails to adequately disclose and mitigate the project's significant health risk impacts. CEQA requires that a lead agency evaluate and provide a written response to DEIR comments raising significant environmental issues.[4] Such comments must be addressed in detail and include good faith reasoned analysis; conclusory statements unsupported by facts do not suffice.[5] A lead agency's failure to adequately respond to comments raising significant environmental issues before approving a project frustrates CEQA's informational purposes and renders the EIR legally inadequate.[6] Here, the City failed to adequately respond to CREED LA's DEIR comments with respect to the Project's significant health risks fails to adequately respond lack any reasoned analysis and include wholly conclusory statements unsupported by any facts. The FEIR is therefore legally inadequate under CEQA and the Commission may not certify the FEIR nor grant the requested Project approvals at this time.

CREED LA's comments on the DEIR explained that the City's air quality and health risk analysis failed to address health risks associated with emissions of toxic diesel particulate matter ("DPM") from the Project's construction equipment. The comments explained the California Supreme Court's recognition of CEQA's mandate to protect public health and safety by holding that an EIR fails as an informational document when it fails to disclose the public health impacts from air pollutants that would be generated by a development project.[7] The DEIR stated that the City did not perform a construction health risk analysis because it claimed that the "short-term" nature of construction emissions did not warrant analysis.[8] The DEIR asserted that, "[g]iven the short-term construction schedule of approximately 33 months, the Project would not result in a long-term (i.e., 70-year) source of TAC emissions. Additionally, the SCAQMD CEQA Guidance does not require a health risk assessment (HRA) for short-term construction emissions."[9] CREED LA's DEIR comments explained that the City's position violated CEQA's

---

[4] 14 CCR § 15088(a).
[5] 14 CCR § 15088(c).
[6] *Flanders Found. v. City of Carmel-by-the-Sea* (2012) 202 Cal.App.4th 603, 615-17; *Rural Landowners Ass'n v. City Council* (1883) 143 Cal.App.3d 1013, 1020.
[7] *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 518–522.
[8] DEIR, pg. IV.A-61
[9] *Id.*

requirement to 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.[10]

This failure has not been remedied in the FEIR. In the FEIR's response to comments, the City continues to maintain that it is not required to perform a health risk analysis or otherwise analyze or disclose the health risks from Project construction.[11] Nevertheless, in response to CREED LA's comments, the City included in the FEIR a quantitative health risk analysis ("HRA") "to confirm, as the Draft EIR concludes, that no significant health risk impacts would occur from the Project."[12] This HRA purports to show that the carcinogenic risk from the Project would be a maximum of 1.0 in one million for residents adjacent to the Project site, which is below the applicable South Coast Air Quality Management District ("SCAQMD") significance threshold of 10 in one million for carcinogen exposures.[13]

As discussed below, Dr. Clark reviewed the City's HRA and found that the HRA improperly failed to include age sensitivity factors and as a result, the HRA fails to accurately calculate the risk from Project DPM emissions on residents near the Project site.

### A. The FEIR Fails to Disclose that Diesel Exhaust is a Mutagenic Compound

In performing the HRA, the City's consultant failed to incorporate age sensitivity factors in calculating health risks from DPM. To justify this failure, it claims that HRA's need only incorporate age adjustment factors when carcinogens act "through the mutagenic mode of action."[14] This claim cites a 2006 USEPA Guidance document that identifies several constituents of DPM as exhibiting a mutagenic mode of action; however, the City claims that, to date, the USEPA reports that whole diesel engine exhaust has not been shown to elicit a mutagenic mode of action."[15] In other words, the City's consultant admits that several DPM constituents are known to be mutagenic, but asserts that diesel engine exhaust "as a whole" is not.

---

[10] *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184.
[11] FEIR, pg. II-69.
[12] *Id.*
[13] *Id.*
[14] FEIR, Appendix FEIR-2, Health Risk Assessment, pg. 6.
[15] *Id.*

As Dr. Clark explains, the City's position is not supported by the evidence.[16] He cites USEPA's comprehensive review of toxicity data for diesel engine exhaust, which unequivocally found that diesel exhaust is a likely human carcinogen with mutagenic modes of action. As Dr. Clark points out, the basis for this conclusion by USEPA includes "extensive supporting data including *the demonstrated mutagenic and/or chromosomal effects of DE* [diesel exhaust] 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 [emphasis added]."[17] Dr. Clark further explains that the State of California has expressed in similarly explicit language that diesel exhaust is mutagenic: "*diesel exhaust particles or extracts of diesel exhaust particles are mutagenic* 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 [emphasis added]."[18]

The City's position that diesel exhaust is not mutagenic lacks the support of substantial evidence, and is flatly contradicted by scientific evidence provided by Dr. Clark. This is contrary to CEQA's requirement that the determination of whether a project may have a significant effect on the environment be based on scientific and factual data.[19] Accordingly, the HRA should have included age sensitivity factors when calculating the Project's health risks from DPM.

### B. With Proper Age Sensitivity Factors Applied, the Project HRA Reveals Significant and Unmitigated Health Risks

As Dr. Clark explains, federal (USEPA), state (CA OEHHA) and local (SCAQMD) public health organizations all agree that health risk analysis should include age sensitivity factors when evaluating cancer risks.[20] The importance of using age sensitivity factors in health risk analysis is explained by SCAQMD in its Risk Assessment Procedures guidance document:

> Scientific data have shown that young animals are more sensitive than adult animals to exposure to many carcinogens. Therefore, OEHHA developed ASFs to take into account the increased sensitivity to

[16] Clark Comments, pgs. 2-3.
[17] U.S. EPA. 2003. Weight of Evidence For Cancer, cited in Clark Comments, pg. 3.
[18] CARB. 1998. Findings of the Scientific Review Panel on The Report On Diesel Exhaust, cited in Clark Comments, pg. 3.
[19] 14 CCR § 15064(b)(1).
[20] Clark Comments, pgs. 3-4.

> carcinogens during early-in-life exposure. OEHHA recommends an ASF of 10 for exposures that occur from the third trimester of pregnancy to 2 years, and an ASF of 3 for exposures that occur from 2 years through 15 years of age.[21]

Despite the consensus from regulatory agencies regarding the importance of age sensitivity factors to account for the increased sensitivity of younger receptors, the City's analysis omits this crucial step. Dr. Clark used the City's own HRA, and re-calculated the risks of exposure to DPM from the Project's construction phase to the most sensitive receptors (i.e., infants) using the OEHHA-recommended age sensitivity factors.[22] He found that the resultant cancer risk to infants is 130 in one million, well above the SCAQMD's significance threshold of 10 in one million.[23] Dr. Clark's analysis provides overwhelming evidence that a proper health risk analysis reveals a significant health risk from exposure to the Project's diesel emissions.

### C. The City Must Adopt Feasible Mitigation Measures to Address the Project's Significant Health Risks

CEQA requires lead agencies to avoid or reduce environmental damage when feasible by adoption of all feasible mitigation measures.[24] 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."[25] 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 the greatest extent feasible and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns."[26]

The FEIR for this project currently includes a single Project Design Feature and no enforceable mitigation measure to reduce diesel emissions associated with Project construction. Dr. Clark identifies several commonly used and feasible mitigation measures to reduce construction emissions. These include:

---

[21] SCAQMD. Risk Assessment Procedures For Rules 1401, 1401.1 and 212. Version 8.1. Dated September 2, 2017 pg. 7, cited in Clark Comments pg. 4.
[22] Clark Comments, pgs. 3-4 and Exhibit B.
[23] *Id.*
[24] CEQA Guidelines §§ 15002(a)(2)-(3), 15126.4.
[25] CEQA Guidelines § 15002(a)(2).
[26] PRC § 21081(a)(3), (b); CEQA Guidelines §§ 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.

1. Require zero-emissions or near-zero emission on-road haul trucks such as heavy-duty trucks with natural gas engines that meet the CARB's adopted optional NOx emissions standard at 0.02 grams per brake horsepower-hour (g/bhp-hr), if and when feasible. At a minimum, require that construction vendors, contractors, and/or haul truck operators commit to using 2017 model year trucks (e.g., material delivery trucks and soil import/export) that meet CARB's 2017 engine emissions standards at 0.01 g/bhp-hr of particulate matter (PM) and 0.20 g/bhp-hr of NOx emissions or newer, cleaner trucks.

2. Provide electric vehicle (EV) Charging Stations for zero emission vehicles.

3. Install Diesel Particulate Filter (DPF) systems or Diesel Oxidation Catalysts on construction equipment that is 50 hp or greater.

4. California regulations limit idling from both on-road and offroad diesel-powered equipment. The California Air Resources Board (CARB) enforces idling limitations and compliance with diesel fleet regulations.

    a. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes [California Code of Regulations, Title 13, sections 2449(d)(3) and 2485]. Provide clear signage that posts this requirement for workers at the entrances to the site.

    b. Provide current certificate(s) of compliance for CARB's In-Use Off Road Diesel-Fueled Fleets Regulation [California Code of Regulations, Title 13, sections 2449 and 2449.1]. For more information contact CARB at 877-593-6677, doors@arb.ca.gov, or www.arb.ca.gov/doors/compliance_cert1.html.

    c. Use only construction equipment rated by the United States Environmental Protection Agency as having Tier 4 (model year 2008 or newer) Final or stricter emission limits for all off-road construction equipment.

    d. During construction, the construction contractor shall maintain a list of all operating equipment in use on the construction site for verification by the City. The construction equipment list shall state

the makes, models, Equipment Identification Numbers, Engine Family Numbers, and number of construction equipment on-site.

5. Limit the daily number of trucks allowed at the Proposed Project to levels analyzed in the CEQA document. If higher daily truck volumes are anticipated to visit the site, the City as the Lead Agency should commit to re-evaluating the Proposed Project through CEQA prior to allowing this land use or higher activity level.

These are but a few examples of feasible mitigation measures that can be utilized to reduce the Project's significant health risks from diesel emissions. The City must prepare a revised DEIR that fully analyzes, discloses and mitigates the public health risk from diesel emissions associated with the Project's construction and operations.

## III. CONCLUSION

For the foregoing reasons, the City should revise and recirculate the DEIR with a full analysis of the Project's potentially significant impacts and propose appropriate mitigation.

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

Sincerely,

Richard M. Franco

Attachment
RMF:acp

# EXHIBIT A

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

June 24, 2024

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

**Attn: Mr. Richard Franco**

**Subject: Comment Letter on Final Environmental Impact Report (FEIR) Violet Street Creative Office Campus Project. (2030, 2034, 2038, 2042, 2046, 2054, and 2060 East 7th Street; 715, 721, 725, 729, 733, 777, 801, 805, 809, 813, 817, 821, 825, 827, and 829 East Santa Fe Avenue; 2016, 2020, 2023, 2026, 2027, 2030, 2031, 2034, 2035, 2037,2038, 2040; and 2043 East 7th Place and 2017, 2023, 2027, 2031, 2035, 2039, 2045, and 2051 Violet Street, Los Angeles, California 90021), Los Angeles, CA ENV-2021-2232-EIR.**

Dear Mr. Franco:

At the request of Adams Broadwell Joseph & Cardozo (ABJC), Clark and Associates (Clark) has reviewed materials related to the above referenced project.

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

**Project Description:**

In the Health Risk Assessment for the Violet Street Creative Office Campus Project (Project) prepared by Eyestone Environmental, the Project is described as a new 13-story (including mechanical penthouse), 450,599-square-foot commercial building, featuring up to 435,100 square feet of office uses, 15,499 square feet of ground floor retail and/or restaurant uses, and 1,264 automobile parking spaces in one at-grade, two above-grade, and four below-grade parking

levels within Lot 1 of the Project Site, located at the southwestern corner of the Project Site.

In response to comments from Adams Broadwell Joseph and Cardozo (ABJC) on behalf of the Coalition for Responsible Equitable Economic Development Los Angeles (CREED LA), Eyestone performed an air dispersion model and health risk analysis of the emissions of diesel particulate matter from the Project. Eyestone concluded that the emissions from the Project would not pose a risk above the threshold of significance above the SCAQMD's cancer risk threshold of 10 in 1,000,000. This conclusion is in conflict with the facts provided within the FEIR.

**Specific Comments:**

1. **The HRA Erroneously Claims That Diesel Exhaust Is Not A Mutagenic Compound**

In the Introduction to the Health Risk Assessment prepared for the Project,[1] Eyestone states that based on [*sic,* their] review of relevant guidance on the applicability of the use of early life exposure adjustments to identified carcinogens, the use of these factors would not be applicable to this HRA as neither the Lead Agency nor SCAQMD have developed recommendations on whether these factors should be used for CEQA analyses of potential DPM construction or operational impacts. Eyestone goes on to state that adjustment factors are only considered when carcinogens act "through the mutagenic model of action." Therefore, early life exposure adjustments were not considered in this HRA. [2]

This assertion ignores the substantial evidence in the literature to support the use of early life adjustments. The U.S. EPA and the State of California spent considerable time and resources to evaluate the literature regarding exposure to diesel exhaust (DE) and in particular diesel particulate matter (DPM). In the supporting literature cited by both regulatory bodies, the state of information (all available studies including in vitro (cellular studies) and in vivo studies (whole animal or human

[1] Eyestone. 2023. Health Risk Assessment Violet Street Creative Office Campus Project. Prepared by Eyestone Environmental, LLC. Dated November, 2023. Pg 6

[2] ibid

exposure studies) were summarized. Studies supporting the mutagenic mode of action and not supporting the mutagenic mode of action were evaluated.

The U.S. EPA states clearly in its Weight-of-Evidence Characterization of Diesel Exhaust[3], found at the IRIS website, that "extensive supporting data including the demonstrated mutagenic and/or chromosomal effects of DE (*sic* Diesel Exhaust) 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."

The State of California's Scientific Review Panel's 1998 Report On Diesel Exhaust is very clear about the mode of action for DPM. In the Health Effects Section of the Report's Summary[4], the Board (made up of health scientists including toxicologists) states "Diesel exhaust particles or extracts of diesel exhaust particles are mutagenic 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." Whether one assesses the mode of action through in-vitro studies or in vivo studies it is clear that there is an overwhelming consensus of health scientists and toxicologists that study the matter that DPM meets the criteria for being deemed a mutagenic compound and therefore the use of age sensitivity factors is warranted.

## 2. The HRA Fails To Accurately Calculate The Risk From DPM Emissions On Residents Near The Project Site

The assertion by Eyestone that there is no need to use age adjustment factors since the Lead Agency (the City) and SCAQMD have not developed guidance ignores the standards for CEQA documents commonly prepared in the South Coast Air Basin. A clear example of the use of ASFs in SCAQMD's jurisdiction is the Norwalk Entertainment District Specific Plan. In its 2022 construction activities HRA, the City of Norwalk specifically used the ASFs consistent with the Office of Environmental Health Hazard Assessment's (OEHHA) Air Toxics Hot Spots Program Guidance

[3] U.S. EPA. 2003. Weight of Evidence For Cancer. https://iris.epa.gov/static/pdfs/0642_summary.pdf Pg 11.

[4] CARB. 1998. Findings of the Scientific Review Panel on The Report On Diesel Exhaust as adopted at the Panel's April 22, 1998, Meeting. https://ww2.arb.ca.gov/sites/default/files/classic/toxics/dieseltac/de-fnds.pdf

Manual for the Preparation of Health Risk Assessments and the SCAQMD's Risk Assessment Procedures for Rules 1401, 1401.1, and 212 to ensure that the health impacts from construction activities would assess risks for susceptible subpopulations such as children (see attachment).

Therefore, to be consistent with the SCAQMD's guidance on health risks in the Air Basin[5] which includes ASFs in the calculation of exposure for the maximum individual cancer risk (MICR) and the State's designation of DPM as a mutagenic chemical, the City must evaluate the health risk from exposure to DPM in a manner consistent with the guidance from the State.[6] 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. [7,8,9,10]

Using the residential receptor spreadsheet on page 87 of the pdf version Health Risk Assessment, I have re-calculated the risk from exposure to DPM from the construction phase to the most sensitive receptors (infants). Using the modeled concentration of 0.354 ug/m$^3$ the resultant cancer risk is 130 in 1,000,000, well above the SCAQMD's significance threshold. Based on this analysis it is clear that the City must require a significant amount of mitigation of construction emissions to ensure that the DPM emissions from the Project site do not adversely impact residents. To that end the City must re-evaluate the risk using the ASFs in the calculation of the risks to the residents nearby and present the results in a revised FEIR.

---

[5] SCAQMD. Risk Assessment Procedures For Rules 1401, 1401.1 and 212. Version 8.1. Dated September 2, 2017 pgs 7,12

[6] OEHHA. 2015. *Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments.* Dated February 2015.

[7] *ibid*.

[8] U.S. EPA. 2005. Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens. EPA/630/R-03/003F March 2005. Pg 33.

[9] U.S. EPA. 2011. Age Dependent Adjustment Factor (ADAF) Application.

[10] SCAQMD. Risk Assessment Procedures For Rules 1401, 1401.1 and 212. Version 8.1. Dated September 2, 2017 pgs 7,12

3. **The City Must Include Feasible Mitigation Measures In a Revised DEIR To Ensure That DPM Emissions From The Construction Phase Do Not Adversely Impact The Health Of Residents Near The Project Site**

Reasonable and feasible mitigation measures that have previously been recommended by the California Air Resources Board and the South Coast Air Quality Management District to reduce construction emissions that could be immediately adopted for the Project include:

1. Require zero-emissions or near-zero emission on-road haul trucks such as heavy-duty trucks with natural gas engines that meet the CARB's adopted optional NOx emissions standard at 0.02 grams per brake horsepower-hour (g/bhp-hr), if and when feasible. At a minimum, require that construction vendors, contractors, and/or haul truck operators commit to using 2017 model year trucks (e.g., material delivery trucks and soil import/export) that meet CARB's 2017 engine emissions standards at 0.01 g/bhp-hr of particulate matter (PM) and 0.20 g/bhp-hr of NOx emissions or newer, cleaner trucks4. Include environmental analyses to evaluate and identify sufficient power available for zero emission trucks and supportive infrastructures in the Energy and Utilities and Service Systems Sections in the CEQA document, where appropriate. The Lead Agency should include the requirement of zero-emission or near-zero emission heavy-duty trucks in applicable bid documents, purchase orders, and contracts. Operators shall maintain records of all trucks associated with project construction to document that each truck used meets these emission standards, and make the records available for inspection. The Lead Agency should conduct regular inspections to the maximum extent feasible to ensure compliance.
2. Provide electric vehicle (EV) Charging Stations for zero emission vehicles.
3. Install Diesel Particulate Filter (DPF) systems or Diesel Oxidation Catalysts on construction equipment that is 50 hp or greater.
4. California regulations limit idling from both on-road and offroad diesel-powered equipment. The California Air Resources Board (CARB) enforces idling limitations and compliance with diesel fleet regulations.
    a. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes [California Code of Regulations, Title 13, sections

2449(d)(3) and 2485]. Provide clear signage that posts this requirement for workers at the entrances to the site.

b. Provide current certificate(s) of compliance for CARB's In-Use Off-Road Diesel-Fueled Fleets Regulation [California Code of Regulations, Title 13, sections 2449 and 2449.1]. For more information contact CARB at 877-593-6677, doors@arb.ca.gov, or www.arb.ca.gov/doors/compliance_cert1.html.:

c. Use only construction equipment rated by the United States Environmental Protection Agency as having Tier 4 (model year 2008 or newer) Final or stricter emission limits for all off-road construction equipment.

d. During construction, the construction contractor shall maintain a list of all operating equipment in use on the construction site for verification by the City. The construction equipment list shall state the makes, models, Equipment Identification Numbers, Engine Family Numbers, and number of construction equipment on-site.

5. Limit the daily number of trucks allowed at the Proposed Project to levels analyzed in the CEQA document. If higher daily truck volumes are anticipated to visit the site, the City as the Lead Agency should commit to re-evaluating the Proposed Project through CEQA prior to allowing this land use or higher activity level.

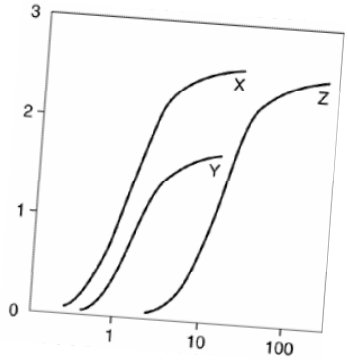
## Conclusion

The facts identified and referenced in this comment letter lead me to reasonably conclude that the Project could result in significant impacts if allowed to proceed. A revised FEIR should be prepared to address these substantial concerns.

Sincerely,

Exhibit A:

Curriculum Vitae




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

# *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 Litgation 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 Immanent 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 (M*t*BE) 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 M*t*BE. 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 M*t*BE, and is suspected to be the primary cause of M*t*BE 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 were 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 Equialency 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.

Rosenfeld, P.E., **Clark, J. J.,** Hensley, A.R., and Suffet, I.H. 2007. "The Use Of An Odor Wheel Classification For The Evaluation of Human Health Risk Criteria For Compost Facilities" Water Science & Technology. 55(5): 345-357.

Hensley A.R., Scott, A., Rosenfeld P.E., **Clark, J.J.J.** 2006. "Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility." The 26th International Symposium on Halogenated Persistent Organic Pollutants – DIOXIN2006, August 21 – 25, 2006. Radisson SAS Scandinavia Hotel in Oslo Norway.

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

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

**Clark, J.J.J**. 2003. "Manufacturing, Use, Regulation, and Occurrence of a Known Endocrine Disrupting Chemical (EDC), 2,4-Dichlorophnoxyacetic 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.

Rosenfeld, P. and **J.J.J. Clark**. 2003. "Understanding Historical Use, Chemical Properties, Toxicity, and Regulatory Guidance" National Groundwater Association Southwest Focus Conference: Water Supply and Emerging Contaminants. Phoenix, AZ. February 21, 2003.

**Clark, J.J.J.**, Brown A. 1999. Perchlorate Contamination: Fate in the Environment and Treatment Options. In Situ and On-Site Bioremediation, Fifth International Symposium. San Diego, CA, April, 1999.

**Clark, J.J.J.** 1998. Health Effects of Perchlorate and the New Reference Dose (RfD). Proceedings From the Groundwater Resource Association Seventh Annual Meeting, Walnut Creek, CA, October 23, 1998.

Browne, T., **Clark, J.J.J.** 1998. Treatment Options For Perchlorate In Drinking Water. Proceedings From the Groundwater Resource Association Seventh Annual Meeting, Walnut Creek, CA, October 23, 1998.

**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.

**Clark, J.J.J.**; Corbett, G.E.; Kerger, B.D.; Finley, B.L.; Paustenbach, D.J. 1996. Dermal Uptake of Hexavalent Chromium In Human Volunteers: Measures of Systemic Uptake From Immersion in Water At 22 PPM. Toxicologist. 30(1):14.

Dodge, D.G.; **Clark, J.J.J.**; Kerger, B.D.; Richter, R.O.; Finley, B.L.; Paustenbach, D.J. 1996. Assessment of Airborne Hexavalent Chromium In The Home Following Use of Contaminated Tapwater. Toxicologist. 30(1):117-118.

Paulo, M.T.; Gong, H., Jr.; **Clark, J.J.J.** (1992). Effects of Pretreatment with Ipratroprium Bromide in COPD Patients Exposed to Ozone. American Review of Respiratory Disease. 145(4):A96.

Harber, P.H.; Gong, H., Jr.; Lachenbruch, A.; **Clark, J.**; Hsu, P. (1992). Respiratory Pattern Effect of Acute Sulfur Dioxide Exposure in Asthmatics. American Review of Respiratory Disease. 145(4):A88.

McManus, M.S.; Gong, H., Jr.; Clements, P.; **Clark, J.J.J.** (1991). Respiratory Response of Patients With Interstitial Lung Disease To Inhaled Ozone. American Review of Respiratory Disease. 143(4):A91.

Gong, H., Jr.; Simmons, M.S.; McManus, M.S.; Tashkin, D.P.; Clark, V.A.; Detels, R.; **Clark, J.J.** (1990). Relationship Between Responses to Chronic Oxidant and Acute

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.

Exhibit B:

DPM Risk Calculations

**Risk Calculations For Diesel Exhaust From Construction Phase**

**$Risk_{inh\text{-}res} = Dose_{air} * CPF * ASF * ED/AT$**

**$Dose_{air} = C_{air} * \{BR/BW\} * A * EF * 10^{-6}$**

| Variable | Description | Units | Value |
|---|---|---|---|
| **$Risk_{inh\text{-}air}$** | Residential inhalation cancer risk | Unitless | Calculated |
| **$Dose_{air}$** | Daily inhalation dose | mg/kg-day | Calculated |
| **CPF** | Inhalation cancer potency factor | $(mg/kg\text{-}day)^{-1}$ | Chemical Specific |
| **ASF** | Age sensitivity factor for a specified age group | Unitless | Calculated |
| **ED** | Exposure duration (in years) for a specified age group | years | Calculated |
| **AT** | Averaging time for lifetime caner risk | years | 70 |
| **FAH** | Fraction of time spent at home | Unitless | Calculated |

| Variable | Description | Units | |
|---|---|---|---|
| **$Dose_{air}$** | Daily inhalation dose | mg/kg-day | |
| **$C_{air}$** | Concentration in air | $ug/m^3$ | 0.354 |
| **{BR/BW}** | Daily Breathing rate normalized to body weight | L/kg body weight-day | |
| **A** | Inhalation absorption fraction | Unitless | |
| **EF** | Exposure frequency (days/365 days) | Unitless | |
| **$10^{-6}$** | migrograms to milligrams conversion, liters to cubic meters conversion | Unitless | |

2.29E+01

**Residential Exposures**

| Age Group | Risk | Age Sensitivity | FAH | ED | CPF | Dose Air | Cair | EF |
|---|---|---|---|---|---|---|---|---|
| 3rd Trimester | 4.81E-06 | 10 | 1 | 0.25 | 1.1 | 1.23E-04 | 0.354 | 0.958904 |
| 0-1 | 5.81E-05 | 10 | 1 | 1 | 1.1 | 3.70E-04 | 0.354 | 0.958904 |
| 1-2 | 5.81E-05 | 10 | 1 | 1 | 1.1 | 3.70E-04 | 0.354 | 0.958904 |
| 2-3 | 8.42E-06 | 3 | 1 | 0.92 | 1.1 | 1.94E-04 | 0.354 | 0.958904 |
| 3-4 | 0.00E+00 | 3 | 1 | 0 | 1.1 | 1.94E-04 | 0.354 | 0.958904 |
| 2<9 | 0.00E+00 | 3 | 0.72 | 0 | 1.1 | 2.92E-04 | 0.354 | 0.958904 |
| 2<16 | 0.00E+00 | 3 | 0.72 | 0 | 1.1 | 2.53E-04 | 0.354 | 0.958904 |
| 16<30 | 0.00E+00 | 1 | 0.73 | 0 | 1.1 | 1.14E-04 | 0.354 | 0.958904 |
| 16-70 | 0.00E+00 | 1 | 0.73 | 0 | 1.1 | 9.84E-05 | 0.354 | 0.958904 |

3rd trimeseter to 3.17 1.30E-04

# Attachment B

Mark Hagmann Résumé

eyestone ENVIRONMENTAL

# MARK HAGMANN, P.E.

*Director of Air Quality*

Mark Hagmann has over 25 years of technical and supervisory experience related to the preparation of air quality technical studies for toxic air contaminants, criteria pollutants, and greenhouse gases (GHG). He has extensive knowledge of the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) regulatory process and the rules and regulations established by the South Coast Air Quality Management District. He has prepared Air Quality Impact Assessments (AQIA) and Health Risk Assessments (HRAs) required under various state and federal environmental regulations including NEPA and CEQA, RMPP, Cal ARP, AB2588, and Proposition 65. He has also conducted GHG analyses consistent with State, regional and local guidance. Mr. Hagmann has extensive expertise with all applicable modeling tools including CalEEMod, EMFAC, AERMOD, HARP, Cal3QHC, CALINE4, and EDMS. Mr. Hagmann was also selected by the SCAQMD to provide CEQA-Air Quality Specialist consulting services related to SCAQMD dispersion modeling, HRAs, and GHG analyses and GHG mitigation and monitoring plans.

**EDUCATION**

Graduate Study, Environmental Engineering, University of Central Florida, Design of Air Pollution Controls and Atmospheric Dispersion, 1995

B.S., Environmental Engineering, University of Florida, 1994

**PROFESSIONAL EXPERIENCE**

10131 Constellation Boulevard High-Rise Residential Project (EIR)

Arts Club West Hollywood (EIR)

Ascon Landfill Remedial Action Plan (EIR)

Boyle Heights Mixed-Use Community Project (EIR)

Carson Marketplace (EIR)

Chula Vista Eastern Urban Center Sectional Planning Area EIR

Columbia Square Project (EIR)

Convention and Event Center Project (EIR)

Crossroads Hollywood (EIR)

Disney | ABC Studios at The Ranch (EIR)

Douglas Park Project (EIR and Addendum)

Forest Lawn Memorial-Park–Hollywood Hills Master Plan (EIR)

Getty Villa Master Plan (EIR)

Grand Central Creative Campus (EIR)

Harvard Westlake Middle School (EIR)

Il Villaggio Toscano Project (EIR)

LAX Master Plan (EIR/EIS)

LAX South Airfield Project (EIR/EIS)

Los Angeles Sports and Entertainment Complex (EIR)

Lytle Creek Specific Plan (EIR)

New Century Plan at Westfield Century City (EIR)

Sunset Millennium (EIR)

The Grand Avenue Project (EIR)

USC Specific Plan (EIR)

USC Health Sciences Campus (EIR)

Village at Playa Vista (EIR)

**PROFESSIONAL AFFILIATIONS**

Registered Professional Engineer (P.E.), State of California, #C60002

# Attachment 4

November 2024 Eyestone Environmental Memorandum

# MEMORANDUM

**TO:** More Song, Department of City Planning

**FROM:** Eyestone Environmental

**SUBJECT:** Violet Street Creative Office Campus Project—VTT-83382
ENV-2021-2232-EIR

**DATE:** November 13, 2024

---

In accordance with the California Environmental Quality Act (CEQA), a comprehensive Draft Environmental Impact Report (Draft EIR) was prepared for the Violet Street Creative Office Campus Project (Project). The Draft EIR was circulated for public review and comment from June 29, 2023, through August 14, 2023. Following public review of the Draft EIR, the City published a comprehensive Final EIR in June 2024, which included responses to each comment within the five written comment letters received on the Draft EIR during the public comment period. The Draft EIR and Final EIR are collectively referred to below as the EIR.

A public hearing for the Project with the Deputy Advisory Agency and Hearing Officer was held on June 26, 2024. On June 25, 2024, less than 24 hours prior to the hearing, the City received an additional letter from Adams Broadwell Joseph & Cardozo on behalf of CREED LA with attachments (Appellant's June 2024 Letter). Responses to this letter were submitted to the City on July 19, 2024 (July 2024 Eyestone Environmental Memorandum). These responses, which are included as Attachment 1, demonstrate that the impact conclusions in the EIR are accurate and that none of the comments in the Appellant's June 2024 Letter constitute new significant information warranting recirculation of the Draft EIR as set forth in CEQA Guidelines Section 15088.5.

Subsequent to the Deputy Advisory Agency and Hearing Officer hearing, a Letter of Determination was issued on August 29, 2024. On September 6, 2024, Adams Broadwell Joseph & Cardozo filed an appeal on behalf of CREED LA. The appeal includes an appeal justification letter dated September 6, 2024 with attachments (Appeal Justification). Responses to the Appeal Justification, which are included as Attachment 2, were provided to the City on October 1, 2024 (October 2024 Eyestone Environmental Memorandum). As detailed in the responses, the EIR continues to fully satisfy the requirements of CEQA, and the issues raised in the appeal are not supported by substantial evidence.

2121 Rosecrans Avenue, Suite 3355, El Segundo, CA 90245-4744
Phone (424) 207-5333 • Fax (424) 207-5349

On November 12, 2024, the Appellant filed additional comments with attachments on behalf of CREED LA regarding the Staff Report prepared for the November 14, 2024 City Planning Commission hearing and the EIR (November 12 Appeal Letter). Responses to the November 12, 2024 Appeal Letter are provided below. As detailed in the responses, most of the comments in the November 12 Appeal Letter are repetitive of the appeal and previous comment letters submitted by CREED LA and have previously been addressed by the analysis in the EIR, as clarified and amplified by the responses provided in Attachment 1 and Attachment 2. In addition, the EIR continues to fully satisfy the requirements of CEQA. The issues raised by CREED LA in the appeal as well as in the November 12 Appeal Letter are not supported by substantial evidence.

In summary, none of the comments made by the Appellant's June 2024 Letter, Appeal Justification, or November 12 Appeal Letter alter the conclusions or analysis that was set forth in the EIR, nor in the August 29, 2024 Letter of Decision and the City's findings set forth therein. Both the EIR and the Advisory Agency's Letter of Decision are supported by substantial evidence. Additionally, none of the comments that have been received constitute new significant information warranting recirculation of the Draft EIR as set forth in CEQA Guidelines Section 15088.5.

**November 12, 2024 CREED LA Comment Letter**

Kelilah D. Federman
obo CREED LA
Adams Broadwell Joseph & Cardozo
601 Gateway Blvd., Ste. 1000
South San Francisco, CA 94080-7037

J.J.J. Clark
Clark & Associates
12405 Venice Blvd., PMB 331
Los Angeles, CA 90066-3803

Robert E. Burtt
Burtt Engineering
120 Village Sq., #150
Orinda, CA 94563-2502

**<u>November 12 CREED LA Letter Comment No. 1</u>**

On behalf of the Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA"), we submit these comments in support of CREED LA's appeal of the City of Los Angeles ("City") Advisory Agency's August 29, 2024 approval of the Violet Street Creative Office Campus Project (VTT-83382; CPC-2021-2231-GPA-VZC-HDVCU-ZV-SPR; ENV-2021-2232-EIR) ("Project") located at 2045 Violet Street (2030–2060 East 7th Street; 715–829 East Santa Fe Avenue; 2016–2040 and 2023–2043 East 7th Place; and 2017–2051 Violet Street), Los Angeles, CA 90021.

On September 6, 2024, CREED LA appealed the Advisory Agency's decision on the grounds that 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.[1] The Staff Report prepared for the November 14, 2024 City Planning Commission hearing on CREED LA's appeal ("Staff Report")[2] relies on unsupported and outdated studies and fail to disclose or mitigate the

Project's potentially significant fire hazard, air quality, health risk, land use, and public utilities impacts. The FEIR's analysis and mitigation of these impacts remain substantially inaccurate and incomplete, failing to comply with the requirements of CEQA. As a result of these significant and unmitigated impacts, the City cannot make the requisite findings under the Los Angeles Municipal Code ("LAMC") to make the approvals. CREED LA's comments on the DEIR, FEIR, and on appeal demonstrate that the FEIR fails to comply with CEQA. CREED LA's appeal provided substantial evidence that the Project (1) is not consistent with numerous General Plan policies and (2) is not consistent with the Subdivision Map Act which prohibits approval of a VTTM where it is likely to cause serious public health problems.[3] In addition, these comments demonstrate that the Project does not have sufficient water supply and infrastructure to achieve the minimum necessary fire flow for the Project.

The City Planning Commission ("Commission") cannot uphold the Advisory Agency's approval due to the unresolved errors and omissions in the FEIR and Staff Report. These errors must be remedied in a revised EIR which fully discloses and mitigates the Project's potentially significant environmental and public health impacts. **CREED LA respectfully requests that the Commission uphold CREED LA's appeal, vacate the Advisory Agency's approval of the Project, and direct staff to revise and recirculate the EIR for public review.**

[1] Code Civ. Proc § 1094.5(b); *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515.

[2] City of Los Angeles, Department of City Planning, Appeal Recommendation Report VTT-83382-1A ENV-2021-2232-EIR (Nov. 14, 2024) (hereinafter "Staff Report").

[3] Cal. Gov. Code § 66473.5; 66474(f).

**Response to November 12 CREED LA Letter Comment No. 1**

Contrary to this comment, the EIR was prepared in full compliance with CEQA and City requirements and none of the comments herein provide substantial evidence to demonstrate that significant impacts of the Project are not disclosed in the EIR. In particular, refer to the responses below which amplify and briefly summarize the totality of information in the EIR regarding how the Project would not result in significant impacts associated with fire hazards, air quality, health risk or utilities. As such, these comments do not constitute new significant

information warranting recirculation of the Draft EIR as set forth in CEQA Guidelines Section 15088.5.

**November 12 CREED LA Letter Comment No. 2**

### A. The Project Results in Significant Health Risk Impacts

The Staff Report does not remedy the FEIR's failure to analyze and mitigate the Project's significant health risk impacts. Dr. James Clark found that the City's adherence to Southern California Air Quality Management District (SCAQMD) Rule 403 would not adequately mitigate impacts associated with diesel particulate matter ("DPM") emissions. DPM is a toxic air contaminant. The City's failure to mitigate DPM emissions results in the Project's nonconformance with General Plan Air Quality Element Policy 1.3.1[4]

Further, the City's position that diesel exhaust is not mutagenic lacks substantial evidence, and is flatly contradicted by scientific evidence provided by Dr. Clark. The City's conclusion is contrary to CEQA's requirement that the determination of a project's significant effect on the environment be based on scientific and factual data.[5] Accordingly, the health risk assessment for the Project should have included age sensitivity factors when calculating the Project's health risks from DPM. Utilizing the correct age sensitivity factors, Dr. Clark re-calculated the risks of exposure to DPM from the Project's construction phase and found a significant health risk.[6] Dr. Clark's analysis provides substantial evidence that the Project results in significant public health and safety impacts on the community from exposure to the Project's diesel emissions. Due to the Project's significant health and safety risk from DPM during the Project's construction phase, the City cannot make the necessary findings to approve the VTTM, and the Advisory Agency's approval of the VTTM must be overturned.

[4] City of Los Angeles, Plan for a Healthy Los Angeles A Health, Wellness, and Equity Element of the General Plan (Nov. 2021) p. 152.

[5] 14 CCR § 15064(b)(1).

[6] Exhibit A—Clark Comments, p. 1.

**Response to November 12 CREED LA Letter Comment No. 2**

The commenter repeats its prior contention regarding the Project's health risk impacts that had previously been included in the Appellant's September 2024 Letter (referred to above as the Appeal Justification) and was fully addressed in Response to Appeal No. 3 in the October 2024 Eyestone Environmental Memorandum. The specific comments from Dr. Clark referenced in this comment are the same as in the Appellant's September 2024 Letter (Appeal Comment No. 3) regarding the Appellant's preferred methodology for calculating risk from Project DPM emissions on residents near the Project Site and provide the same information that had previously been included with the Appellant's June 2024 Letter, and which were fully addressed in Response to Comment Nos. 7 through 10 in the July 2024 Eyestone Environmental Memorandum. In addition, Dr. Clark's comments are further addressed below in Response to November 12 CREED LA Letter Comment Nos. 2 through 2. In brief summary, the Project's analysis of air quality impacts to sensitive receptors and the associated HRA demonstrate that air quality impacts would be less than significant (i.e., would not exceed SCAQMD thresholds) and the Appellant has not presented credible evidence to the contrary.

**November 12 CREED LA Letter Comment No. 3**

**B. The City Lacks Substantial Evidence to Demonstrate that Fire Flow Requirements Can be Served by Project Infrastructure**

Following CREED LA's appeal, and upon further investigation with the assistance of Fire Protection Engineer and Fire Flow Expert Robert Burtt of Burtt Engineering, CREED LA found that substantial infrastructure improvements are required for the Project to comply with LAMC Fire Code. These issues are not analyzed in the FEIR and the infrastructure improvements are not required as Conditions of Approval. The DEIR provides that "the Project Site currently does not have adequate fire flow to demonstrate compliance with the standards specified in LAMC Section 57.507.3.1."[7] The Staff Report provides that "2 public fire hydrants are required."[8] Mr. Burtt's comments provide substantial evidence that the fire hydrants at the Project site exceed maximum spacing requirements. Therefore, additional infrastructure improvements are required, including the installation of up to 6–10 additional hydrants adjacent to the Project site and the replacement of existing hydrant infrastructure with 4-inch x 4-inch double fire hydrants to meet LAMC hydrant type and spacing

requirements for the Project.[9] Mr. Burtt found that the FEIR and Staff Report lack substantial evidence to show that the planned upgrade of 400 feet of water main in 7th Place to 12-inch ductile main would provide adequate fire flow.[10] Mr. Burtt's comments provide substantial evidence that additional infrastructure improvements including several thousand feet of additional water main upgrades will likely be required.[11]

Fire flow infrastructure improvements would result in significant impacts to traffic and transportation, require street excavation and subsequent repair to access water mains.[12] Excavation would require demolition, disruption, and removal of portions of the street along the entire length of water main upgrade, and would entail excavation and removal asphalt, soils, and trench backfill materials.[13] New, upsized piping would likely be required, along with new trench backfill, soil, compaction, and new street asphalt work along the entire length of work. This information must be analyzed in a revised and recirculated EIR which accurately addresses and mitigates the potentially significant impacts associated with fire flow infrastructure and construction and installation of the upgrades to achieve the minimum necessary fire flow for the Project.

For the foregoing reasons, the City cannot make the necessary findings to approve the Vesting Tentative Tract Map for the Project due to the Project's significant environmental, air quality, public health, and utility impacts. Thank you for your attention to these comments. Please include them in the record of proceedings for the Project.

7 DEIR, Appendix J, p. IV.J.1-31.

8 Staff Report, Exhibit B VTT-83382 LOD and Tract Map VTT-83382-1A, p. 7.

9 Exhibit B—Burtt Comments, p. 2.

10 *Id.*

11 *Id.* at 4.

12 *Id.*

13 *Id.*

**Response to November 12 CREED LA Letter Comment No. 3**

This comment stating that the EIR lacks substantial evidence to demonstrate that fire flow requirements can be served by Project infrastructure is incorrect. Fire flows required by the City for the Project and associated infrastructure needed to provide those fire flows are clearly discussed in Section IV.J.1, Utilities and Services Systems – Water Supply and Infrastructure of the Draft EIR. The analysis in this section is based on the more detailed analysis included in the Water Utility Technical Report prepared by KHR Associates (KHR), which is included in Appendix K of the Draft EIR. KHR has decades of experience with the City in identifying infrastructure requirements associated with fire flow and has a clear understanding of the process by which the infrastructure is determined. Furthermore, KHR has reviewed the comments from the Appellant and its consultant Robert E. Burtt, P.E. and has provided a detailed response (refer to Attachment 3) demonstrating how these comments related to fire flow infrastructure are merely speculative.

As documented in KHR's response in Attachment 3, the Water Utility Technical Report was prepared based on substantial coordination with the Los Angeles Fire Department (LAFD) and the Los Angeles Department of Water and Power (LADWP) and included Fire Flow Availability Requests (IFFAR) and Service Advisory Requests (SAR). Based on this coordination and associated documentation, the EIR stated that 12,000 gallons per minute (gpm) available to any block from 8 fire hydrants flowing simultaneously would be required for the Project. Contrary to the comment's assertion that the EIR stated that the existing infrastructure would provide this flow, Section IV.J.1, Utilities and Services Systems – Water Supply and Infrastructure and the Water Utility Technical Report clearly stated that a water main upgrade would be required for approximately 400 feet on 7th Place to meet the 12,000 gpm fire flow requirement. As discussed in KHR's response in Attachment 3, based on the information from LADWP, this water main upgrade was likely due to the fact that the existing fire hydrant at that location is nearly at the end of the 8" main, which is not looped. Subsequently, based on additional correspondence with LADWP, cost estimates for this water main upgrade and associated costs were provided by LADWP and included in the Water Utility Technical Report. The work and coordination by KHR was sound and reflects the typical coordination process for determining fire flows and any associated upgrades to meet those fire flows. The statements in this comment and the comments from Mr. Burtt that additional infrastructure would be required are entirely speculative.

The comment that fire flow infrastructure improvements would result in significant impacts to traffic and transportation is also incorrect. The water main upgrade on 7th Place is primarily located within the Project Site. While some off-site work would occur, the Draft EIR at Section IV.J.1, Utilities and Services Systems – Water Supply and Infrastructure, page IV.J.1-32, clearly disclosed that "limited and temporary off-site trenching associated with upgrades to adjacent water mains" would occur, but would result in less than significant impacts due to the location of these activities within already developed areas, as well as the limited scope of the activities. In addition, as part of the Project (TR-PDF-1) a Construction Traffic Management Plan would be implemented to ensure safe and efficient access during construction of the Project. As such, no significant traffic impacts would result. Furthermore, the construction equipment associated with the water main upgrade is already accounted for in the overall construction equipment assumptions. As such, there are no significant construction-related impacts that would result from the water main upgrade, the impacts of which have been fully analyzed and disclosed in the EIR.

For the foregoing reasons, there is no substantial evidence to support the comments that the Project will result in significant environmental, air quality, public health, and utility impacts. As such, there is also no substantial evidence to support the the comment that the City cannot make the necessary findings to approve the Vesting Tentative Tract Map for the Project.

**November 12 CREED LA Letter Comment No. 4**

**Exhibit A—Clark & Associates Letter dated November 11, 2024**

At the request of Adams Broadwell Joseph & Cardozo (ABJC), Clark and Associates (Clark) has reviewed materials related to the above referenced project. After reviewing the City of Los Angeles (the City) Department of City Planning Appeal Recommendation Report, it is clear that a revised EIR must be prepared to correct the deficiencies in the EIR and the Report regarding mitigation measures, the use of age sensitivity factors in health risk assessments, and the final calculation of cancer risks from exposure to diesel particulate matter (DPM).

**Response to November 12 CREED LA Letter Comment No. 4**

This comment introduces the attachment and indicates that Clark & Associates is working at the request of attorneys for CREED. Refer to Response to November 12 CREED LA Letter Comment Nos. 3 through 3 below for specific issues raised by the commenter

**November 12 CREED LA Letter Comment No. 5**

**1. Staff Response 1: Compliance With Dust Control Measures**

On page A-4 staff asserts "the Project's compliance with dust control regulations and emission reduction measures would be consistent with Objective 1.3 and Policy 1.3.1 by reducing particulate pollutants from unpaved areas and construction sites. As indicated in the Draft EIR, the Project would adhere to the Southern California Air Quality Management District (SCAQMD) Rule 403, implementing best practices for dust management, and utilizing cleaner construction equipment, thereby minimizing particulate emissions." SCAQMD Rule 403's stated purpose is to reduce the amount of particulate matter entrained in the ambient air as a result of anthropogenic fugitive dust sources by requiring actions to prevent, reduce or mitigate fugitive dust emissions. Fugitive dust in Rule 403 is defined "as any solid particulate matter that becomes airborne, other than that emitted from an exhaust stack, directly or indirectly as a result of the activities of any person." The exclusion of material from an exhaust stack in the Rule clearly means that DPM, which is by definition emitted from an exhaust stack or tailpipe is clearly not covered by Rule 403. Project DPM emissions are therefore not mitigated by Rule 403 and remain significant.

**Response to November 12 CREED LA Letter Comment No. 5**

This comment generally repeats assertions in Appellant's September 2024 Letter (Appeal Comment No. 3) which specifically focused on the Project's consistency with General Plan Air Quality Element Policy 1.3.1 which requires the City to "[m]inimize particulate emissions from construction sites." As discussed in Response to Appeal No. 3 in the October 2024 Eyestone Environmental Memorandum, this City policy falls under the City's General Plan Air Quality Element Objective 1.3 which is specific to "particulate air pollutants emanating from unpaved areas, parking lots, and construction sites." The response then provided a detailed discussion of how the Project would comply with SCAQMD Rule 403 and would be

consistent with Objective 1.3 and Policy 1.3.1. The response did not contend, as inaccurately suggested in November 12 CREED LA Letter Comment No. 5, that DPM from tailpipes should somehow be subject to SCAQMD Rule 403 (Fugitive Dust). As stated above, Objective 1.3 is specific to unpaved areas, parking lots, and construction sites.

In addition, this comment disregards the portion of Comment No. 5, which additionally noted that the Project would require the construction contractor(s) to comply with the applicable provisions of the CARB In-Use Off-Road Diesel Vehicle Regulation. And, this comment further disregards the detailed references in the Draft EIR which accurately show that construction-related daily maximum regional construction emissions would not exceed any of the SCAQMD daily significance thresholds; that Project-related PM10 and PM2.5 resulted in approximately 10 percent of the corresponding SCAQMD regional significance threshold; that the maximum daily localized emissions from Project construction and LSTs would not exceed the SCAQMD-recommended localized screening thresholds; and, that Project-related PM10 and PM2.5 resulted in approximately 32 and 38 percent of the corresponding SCAQMD localized significance threshold, respectively.

As a result, this comment erroneously asserts that DPM emissions remain significant and not mitigated.

As additionally discussed in Response to Comment No. 5 of the Responses to the Appellant's June 2024 Letter on the Final EIR, the commenter's statements are contrary to the conclusions of the EIR and the facts of the Project with respect to health risk impacts (DPM emissions). The HRA provided as Appendix FEIR-2 of the Final EIR was done voluntarily by the City in order to thoroughly evaluate and respond to comments received on the Draft EIR and provide as much information as possible to interested members of the public and City decision-makers. The HRA demonstrated, and confirmed the prior conclusions of the Draft EIR, that the Project would not have a significant health risk impact. Therefore, DPM emissions would not be significant and no additional mitigation measures as suggested by the Appellant in their prior comments, are warranted. The HRA demonstrated that health risks from the Project (combined construction and operation) would result in a maximum of 1.0 in one million for residences located north and east of the Project Site, across 7th Street and Santa Fe Avenue. The Project-related incremental cancer risk is below the applicable SCAQMD significance threshold of 10 in one million people.

**November 12 CREED LA Letter Comment No. 6**

**2. Staff Response 2: Use of Age Sensitivity Factors In HRA/Input Values To HRA**

The Staff's response regarding the use of age sensitivity factors (ASFs) ignores the well-established practice of incorporating ASFs in HRA of mutagenic compounds. The Staff asserts that "for diesel particulates, polycyclic aromatic hydrocarbons, and their derivatives, which are known to exhibit a mutagenic mode of action, comprise less than one percent of the exhaust particulate mass.[1] Given that the estimate of the increased cancer risk from inhalation exposure is expressed in terms of total diesel particulate, it is not reasonable to apply mutagenic mode of action to the total amount of diesel particulate." This specious argument is not supported by the well documented analyses from U.S. EPA and the State of California which included epidemiological data as well as in vivo and in vitro studies of exposure to DPM.

U.S. EPA and the State of California spent considerable time and resources to evaluate the literature regarding exposure to diesel exhaust (DE) and in DPM, and determined that there was "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."

The State of California's Scientific Review Panel's 1998 Report On Diesel Exhaust is very clear about the mode of action for DPM. In the Health Effects Section of the Report's Summary[14], the Board (made up of health scientists and toxicologists) states "Diesel exhaust particles or extracts of diesel exhaust particles are mutagenic 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."

Therefore, to be consistent with the SCAQMD's guidance on the preparation of health risk analyses in the Air Basin[15] which includes ASFs in the calculation of exposure for the maximum individual cancer risk (MICR) and the State's designation of DPM as a mutagenic

chemical, the City must evaluate the health risk from exposure to DPM in a manner consistent with State guidance.[16]

Using the modeled concentrations of DPM (0.354 ug/m$^3$) from the City's HRA, the Project's resultant cancer risk is 130 in 1,000,000, well above the SCAQMD's significance threshold. Several of the input values, including the frequency at home (FAH) and the exposure duration were input based on the values report in the DEIR and FEIR (construction duration for the ED). OEHHA recommends a value of 1.0 for scenarios where children are living and going to school in areas with risks in excess of 1 in 1,000,000. Based on the screening results of this Project it was clear that the nearby residents would be within the 1 in 1,000,000 zone.

Staff reported a different value for the construction phase of 30 months. Even if the exposure duration is shortened to 30 months, the exposure in the community (based on the use of the ASFs and the age of the sensitive populations) would still exceed 10 in 1,000,000. Changing the FAH to the standard values does not take the risk below the significance threshold. (see table below).

| Age Group | Risk Per Million | Age Sensitivity | FAH | ED | CPF | Dose Air | Cair | EF |
|---|---|---|---|---|---|---|---|---|
| 3rd Trimester | 4 | 10 | 0.85 | 0.25 | 1.1 | 1.23E-04 | 0.354 | 0.958904 |
| 0-1 | 49 | 10 | 0.85 | 1 | 1.1 | 3.70E-04 | 0.354 | 0.958904 |
| 1-2 | 49 | 10 | 0.85 | 1 | 1.1 | 3.70E-04 | 0.354 | 0.958904 |
| 2-3 | 2 | 3 | 0.72 | 0.25 | 1.1 | 1.94E-04 | 0.354 | 0.958904 |

Based on this analysis it is clear that even when the values critiqued by the City in my analysis of the risk are changed there will still be a significant risk to nearby residence from exposure to DPM from the construction phase of the Project.

Regardless of whether the Project is a stationary source regulated under the Toxic Hot Spots Program, the methodology outlined by the OEHHA for preparation of health risk assessments under the Toxic Hot Spots Program is utilized frequently by regulatory agencies throughout California in the preparation of CEQA compliant analyses. The example I previously provided included the use of ASFs in the Norwalk Entertainment District Specific Plan. In its 2022 construction activities HRA, the City of Norwalk specifically used the ASFs consistent

with the OEHHA Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments and the SCAQMD's Risk Assessment Procedures for Rules 1401, 1401.1, and 212 to ensure that the health impacts from construction activities would assess risks for susceptible subpopulations such as children.

### 3. Conclusion

The facts identified and referenced in this letter lead me to reasonably conclude that the Staff's Report has not addressed the well-supported concerns regarding the exposure of residents near the Project to toxic air contaminants that will result in significant impacts if allowed to proceed.

[1] [footnote missing]

[14] CARB. 1998. Findings of the Scientific Review Panel on The Report On Diesel Exhaust as adopted at the Panel's April 22, 1998, Meeting. https://ww2.arb.ca.gov/sites/default/files/classic/toxics/dieseltac/de-fnds.pdf

[15] SCAQMD. Risk Assessment Procedures For Rules 1401, 1401.1 and 212. Version 8.1. Dated September 2, 2017 pgs 7,12

[16] OEHHA. 2015. Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments. Dated February 2015.

[14] City of Los Angeles, Plan for a Healthy Los Angeles A Health, Wellness, and Equity Element of the General Plan (Nov. 2021) p. 93.

**<u>Response to November 12 CREED LA Letter Comment No. 6</u>**

The commenter repeats its prior contention that the HRA contained in the Final EIR is inadequate because the Final EIR failed to disclose that diesel exhaust is a mutagenic compound and the HRA did not incorporate ASFs. As more fully explained in Response to Comment No. 8 of the July 2024 Eyestone Environmental Memorandum, the Appellant's comment is an inaccurate characterization of the discussion in the HRA. In addition, the City as the Lead Agency has the discretion to select the appropriate thresholds of significance and methodologies for evaluating a project's impacts, including potential impacts related to health risk, based on substantial evidence, including the expert opinions of its EIR preparers and City staff. This comment does not provide substantial evidence to demonstrate that the

HRA included as Appendix FEIR-2 was required to classify diesel exhaust as a whole to be a mutagenic compound for purposes of preparing a quantitative HRA under CEQA. The comment also does not demonstrate that the City abused its discretion in selecting, based on its evaluation of expert opinion and other substantial evidence, an appropriate methodology with which to perform the quantitative HRA. As documented extensively in Response to Comment No. 9 of the July 2024 Eyestone Environmental Memorandum, the City respectfully disagrees with the commenter's preferred methodology for the reasons stated therein. Dr. Clark's opinion regarding the use of ASFs is noted for the record and will be made available to the decision-makers for their review and consideration.

In addition, the City's decision to prepare a quantitative HRA in order to fully evaluate and respond to comments received on the Draft EIR (and which ultimately confirmed the conclusion in the Draft EIR) did not deprive the public or decisionmakers of the analysis contained in the HRA. Please refer to Response to Comment No. 8 of the July 2024 Eyestone Environmental Memorandum, which responds to the Appellant's June 2024 Letter on the Final EIR for additional discussion as to why the City's selected methodology is supported by substantial evidence, including the City's carefully reasoned decision that diesel exhaust should not be considered as a whole to be a mutagenic compound for purposes of the quantitative HRA that was included as Appendix FEIR-2 to the Final EIR.

To provide additional responses to this comment and provide additional information for the benefit of decision-makers and the public, the July 2024 Eyestone Environmental Memorandum is attached to this Memorandum, and is incorporated in full by this reference.

**<u>November 12 CREED LA Letter Comment No. 7</u>**

**Exhibit B—Burtt Engineering letter dated November 11, 2024**

Per your request, I have reviewed the Violet Street Office Campus Project (the "Project") and the Environmental Impact Report (the "EIR") relative to the fire flow and response distance requirements of the Project in the City of Los Angeles (the "City"). The EIR includes the Draft Environmental Impact Report (the "Draft EIR") and the Final Environmental Impact Report (the "Final EIR"). The Project represents a unique and unusual construction development with significant fire water demand under California Code of Regulations and City of Los

Angeles Municipal Code (LAMC). Overall, there are several outstanding items within the Project documentation that appear to require further consideration in accordance with the provided Los Angeles Fire Department (LAFD) requirements, California Code of Regulations, LAMC, and the EIR to ensure that the minimum standards of fire hazard safety are maintained for the Project.

Required Fire Flow Availability

The EIR states that at least 12,000 GPM of water shall be required for the Project's fire flow in accordance with the LAFD correspondence. Page 3 of Appendix J: *Los Angeles Fire Department Letter* of the Draft EIR states: "the required fire-flow for this project has been set at **12,000 G.P.M. available to any block (where local conditions indicate that consideration must be given to simultaneous fires, [an] additional 2,000 to 8,000 G.P.M. will be required)**." Based on information provided throughout the report, there is no substantial evidence that existing infrastructure can provide the required fire flow for the Project. Page 1 of the Appendix K: *Water Utility Technical Report* confirms that at least "400 feet of water main in 7th Place would be required to be upgraded … resulting in … construction-related impacts". Page IV.G.1-22 of the Draft EIR reiterates "the Project Site does not currently have adequate fire flow to demonstrate compliance with LAMC Section 57.507.3", and will require infrastructure improvements to comply with LAMC Section 57.507.3. This provides substantial evidence that infrastructure improvements are required for the Project.

Furthermore, there is substantial evidence that additional infrastructure improvements beyond those noted in the EIR may be required, and there is not substantial evidence that the water main infrastructure improvements noted in the EIR will provide adequate fire flow for the Project. Page IV.J.1-31 of the Draft EIR state that the LADWP outlines that "the Project would be required to upgrade 400 feet of water main in 7th Place to 12-inch ductile main which would provide the adequate [fire] flow". However, the IFFAR and documentation provided in the EIR by LADWP does not appear to provide any substantial evidence or analysis to confirm that 400 feet of water main upgrade are sufficient. The IFFAR dated February 26, 2024 only provides substantial evidence that the existing infrastructure is insufficient, but does not provide evidence that the proposed infrastructure upgrades would provide adequate fire flow. IFFAR and LADWP state that a flow of 1,500 GPM throughout

all flowing hydrants could not be achieved (Hydrant F-14543 could only provide 950 with all hydrants flowing). No statements analyzing the effects of the necessary water main upgrades have been provided.

Additionally, there is substantial evidence that additional infrastructure improvements beyond those noted in the EIR are likely required. Page IV.G.1-22 of the Draft EIR states “the Project Site does not currently have adequate fire flow to demonstrate compliance with LAMC Section 57.507.3”, and will require infrastructure improvements to comply with LAMC Section 57.507.3. LAMC Table 57.507.3.1, correspondence with LAFD (Appendix J), and the Los Angeles Zone Information and Map Access System (ZIMAS) indicate that the Project would be considered “High Density Industrial and Commercial". In accordance with LAMC Table 57.507.3.2, to achieve required fire flow, fire hydrants adjacent to the Project shall be spaced no greater than 300 feet apart, and shall be of type 4-inch x 4-inch double fire hydrants.

In accordance with the Appendix C—*Water System Maps* within Appendix K: *Water Utility Technical Report*, it appears that the fire hydrants at the Project site exceed maximum spacing requirements (Figure 1). Therefore, there is substantial evidence that additional infrastructure improvements may be required, including the installation of up to 6–10 additional hydrants throughout the community directly adjacent to the Project site and the replacement of existing hydrant infrastructure with 4-inch x 4-inch double fire hydrants to meet LAMC hydrant type and spacing requirements for the Project.

# MEMORANDUM

November 13, 2024
Page 18

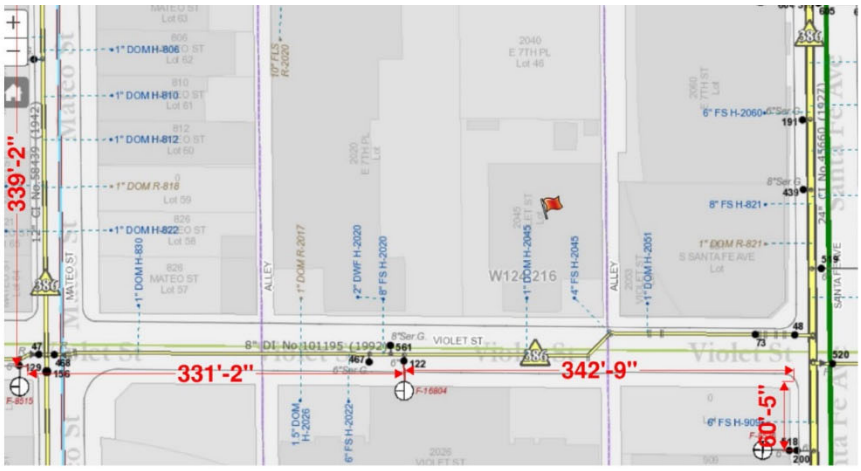



*Figure 1.* Appendix C – *Water System Map* within Appendix K: *Water Utility Technical Report. Fire hydrant spacing exceeding 300 feet between hydrants.*

Page IV.G.1-23 of the Draft EIR also states that "in accordance with LAFD Regulation No. 10 Option 2, the Project will incorporate a fire sprinkler suppression system to reduce or eliminate the public hydrant demands … subject to LAFD review and approval." However, LAMC Section 57.507.3 does not provide for modification or reduction of fire flow when fire sprinkler systems are present. LAMC Section 57.507.3 requires the minimum fire flow to be provided, regardless of fire sprinkler installation. Furthermore, fire flow and fire hydrant requirements are required in accordance with the California Fire Code (CFC) and LAMC.

Fire sprinkler requirements (NFPA 13) and standpipe requirements (NFPA 14) are separate from fire flow requirements, and do not limit the fire flow requirements. Additionally, LAFD Regulation No. 10 Option 2 as referenced applies only to Emergency Helicopter Landing Facilities. A minimum fire flow of 12,000 GPM is required for the Project in accordance with the review and written guidance provided by LAFD. The existing fire flow infrastructure for the Project does not meet minimum fire flow requirements as provided by the LAFD, and appears to not meet maximum hydrant spacing requirements.

<u>Potential Infrastructure Upgrades / Requirements</u>

The EIR and evidence provided suggests that the Project water main infrastructure will require substantial and extensive improvement to provide the minimum required fire flow of

12,000 GPM and the maximum hydrant spacing of 300 feet in all areas adjacent to the Project site. In accordance with the IFFAR provided by the LADWP, the fire flow supply for the site appears to be approximately 11,450 GPM. This is approximately 550 GPM below the required fire flow for the site. While 400 feet of infrastructure improvement is suggested within the EIR, no substantial evidence or secondary IFFAR has been provided confirming that 400 feet of infrastructure improvement would be sufficient to achieve 12,000 GPM of fire flow (an additional 550 GPM for the Project). At least several thousand feet of additional water main upgrades may be required.

Furthermore, in accordance with LAMC Table 57.507.3.2, to achieve required fire flow fire hydrant spacing adjacent to the Project, hydrants shall be spaced no greater than 300 feet apart, and shall be of type 4-inch x 4-inch double fire hydrants. This will likely require an additional 6–10 hydrants be installed throughout the community directly adjacent to the Project site to meet minimum required hydrant spacing for the Project. Installation of the hydrants would require approximately 300 to 400 feet of additional trenching, with significant impacts to traffic, local pedestrians and vehicles, and require street excavation and subsequent repair to access water mains. Additional hydrants and infrastructure upgrades are anticipated to be required along Violet Street, S Santa Fe Avenue, Mateo Street, 7th Street, and E 7th Street. Once additional hydrants are added, additional analysis should be provided to confirm the most demanding fire flow scenario. Hydrants spaced closer together in accordance with the requirements of LAMC Table 57.507.3.2 will likely significantly increase the water supply demand on the existing infrastructure along Violet Street, S Santa Fe Avenue, Mateo Street, 7th Street, and E 7th Street as each water main will supply more hydrants. Given that existing infrastructure does not meet minimum fire flow requirements, once fire hydrants are added to meet spacing requirements, it is highly likely that significant infrastructure improvements would likely be required throughout the area around the Project to provide minimum required fire flow. While additional study is needed to determine the full extent of the improvements required for this specific project, this may include infrastructure upgrades of several thousand feet of water main along Violet Street, Mateo Street, and/or 7th Street.

Such improvements would have significant impacts to traffic, local pedestrians and vehicles, and require street excavation and subsequent repair to access water mains. Excavation would require demolition, disruption, and removal of portions of the street along the entire

length of water main upgrade, including removal asphalt, soils, and trench backfill materials. New, upsized piping would likely be required, along with new trench backfill, soil, compaction, and new street asphalt work along the entire length of work. Traffic control would be required for the duration of the infrastructure improvement project, with careful protection and control to prevent congestion or accidents due to street lane closures. We would suggest further investigation, calculations, and review of the required infrastructure upgrades and severity of the impacts that would occur from construction and installation of the upgrades to achieve the minimum necessary fire flow for the Project.

Conclusion

Fire flow is a critical piece of infrastructure that represents the minimum required amount of water needed during an emergency fire event to safely assist with extinguishing a fire and achieving public safety. The minimum fire flow for the Project is required to be 12,000 GPM in accordance with the LAFD and the City of Los Angeles Municipal Code, and is critical to public safety. Inadequate fire flow can result in a hazard and danger to public safety, occupant safety, firefighter safety, and the safety of adjoining properties and the community. If inadequate fire flow is present, significant hazards that may arise including, but not limited to:

- Increased Fire Severity: Deficiencies in available firefighter water may result in the potential for extended fire growth and fire spread as less water is available to suppress the fire, posing an immediate threat to the safety of occupants and neighboring properties.

- Limited Firefighting Capabilities: Firefighters rely on adequate fire flow to combat fires. Deficit fire flow may hinder firefighting efforts to contain and extinguish fires promptly.

- Increased Loss of Life and Property: Inadequate fire flow may result in decreased effectiveness of firefighting efforts, increasing the risk of loss of life and property in the event of a fire emergency.

- Increased Risk of Fire Spread: Inadequate fire flow may increase the likelihood of fire spreading to adjacent properties, increasing fire risks for the area and community.

The Project EIR clearly states that at least 12,000 GPM of water shall be required for the Project's fire flow in accordance with the LAFD correspondence. Page 3 of Appendix J: Los Angeles Fire Department Letter of the Draft EIR states: "the required fire-flow for this project has been set at **12,000 G.P.M. available to any block**". The Project IFFAR and Page IV.J.1-31 of the Draft EIR state that the Project existing infrastructure can provide up to 11,450 GPM, before additional hydrants are added to meet hydrant spacing requirements. However, there is no evidence provided indicating that the Project's existing infrastructure can provide 12,000 GPM of fire flow. Furthermore, once additional hydrants are added throughout the surrounding neighborhood to provide the minimum safe hydrant spacing in accordance with LAMC Table 57.507.3.2, it is highly likely that the water supply demand on the existing infrastructure along Violet Street, S Santa Fe Avenue, Mateo Street, 7th Street, and E 7th Street will significantly increase as each water main will supply more hydrants. To achieve the additional fire flow required to the project site, it is likely that at least a thousand to several thousands of linear feet of water main would require upgrade.

**Response to November 12 CREED LA Letter Comment No. 7**

Refer to Response to November 12 CREED LA Letter Comment No. 3 above, and the detailed response prepared by KHR included in Attachment 3. As demonstrated therein, the detailed analysis of fire flow and related fire infrastructure improvements included in the Water Utility Technical Report prepared by KHR is accurate and complete and is based on specific coordination and input from LAFD and LADWP. The statements from Mr. Burtt that additional infrastructure would be required are entirely speculative. Furthermore, the statements about the Project resulting in fire safety and fire life impacts are unfounded. Rather, the Project will be required to comply with the City's fire flow and related fire-safety requirements and implementation of these requirements will be assured as part of the City's building permit process.

**Attachments:**

**Attachment 1 - Responses to CREED LA June 2024 Comment Letter**
**Attachment 2 - Responses to CREED LA Appeal Justification Letter**
**Attachment 3 – Supporting Documentation from KHR Regarding Water System improvements**

# Attachment 5

Supporting Documentation from SGH
Regarding Fire Flow

28 March 2025

Stephanie Eyestone-Jones
Eyestone Environmental
2121 Rosecrans Avenue
Suite 3355
El Segundo, CA 90245

Project 250280 – Fire Life Safety and Fire Access General Code Consulting Services, Entitlements Phase, 2045 E. Violet Street Project, Los Angeles, CA

Re: Fire Water Flow Evaluation

Dear Stephanie:

Simpson Gumpertz & Heger Inc. (SGH) has been asked to review and respond to the issues raised in the correspondence from Burtt Engineering dated 11 November 2024. SGH has applied our understanding of the applicable City of Los Angeles Building and Fire Codes and experience working within the jurisdiction to available documentation for the proposed project to be located at 2045 East Violet Street, a new office and commercial development, and prepared this letter to document our review of the prior existing analysis set forth in the 2045 Violet Street Draft Environmental Impact Report (EIR). Our qualifications to review this material are provided as Attachment A to this letter.

## 1. DISCUSSION

### 1.1 Analysis of Burtt Engineering Fire Flow / Fire Response Engineering Opinion Letter

The Engineering Opinion Letter prepared by Burtt Engineering, dated 11 November 2024, identifies the importance of fire flow infrastructure and associated fire hazards. Following SGH's review of the project scope, existing conditions, and applicable code requirements, we offer herein a more comprehensive, project-specific evaluation of fire flow considerations. Note that the fire code official must be made aware of fire flow measurements (water supply test) per Los Angeles Fire Code (LAFC) Section 507.4, and these tests must be conducted no more than six months prior to submittal of the working plan to be valid. (See City of Los Angeles amendments to National Fire Protection Association (NFPA) 13 §28.1.3(18)(e).)

The Burtt Engineering letter presents a number of statements, each of which is addressed by SGH in Table 1 and in subsequent sections of this letter.

**Table 1 – Response Summary**

| Burtt Engineering Letter Statement | SGH Follow Up |
|---|---|
| The project represents a "unique and unusual construction and development with significant fire water demand under California Code of Regulations and City of Los Angeles Municipal Code." | The proposed project materials, use, and scale are consistent with projects typically found in urban areas. Fire flow requirements (based on use and distance from the nearest fire station) are significant and are beyond the available infrastructure in adjacent streets; however, surrounding areas have sufficient water supplies consistent with urban projects of this scale. |
| If inadequate water flow is present, then potential fire severity is increased. Specifically: "Deficiencies in available firefighter water may result in the potential for extended fire growth and fire spread as less water is available to suppress the fire, posing an immediate threat to the safety of occupants and neighboring properties." | While the statement is accurate in principle, it does not reflect the specific features of the proposed building or address the proposed condition relative to the existing conditions on the site. The new construction will be of noncombustible Type I construction, fully protected by a new NFPA 13-compliant automatic sprinkler system, and will conform prescriptively to the fire separation distance requirements of the current California Building Code with respect to building-to-building fire exposure. These fire protection features—when combined with a fire flow volume appropriate for sprinkler system operation and subject to approval by the Los Angeles Fire Department (LAFD) Hydrants and Access Unit—represent a material improvement over existing site conditions (see Sections 1.1 and 1.2 for further discussion). |
| If inadequate water flow is present, then potential fire severity is increased. Firefighting capabilities will be limited. Specifically: "Firefighters rely on adequate fire flow to combat fires. Deficit fire flow may hinder firefighting efforts to contain and extinguish fires promptly." | This statement is accurate. The project will not proceed to construction without a required fire flow determination approved by the LAFD Hydrants and Access Division based on application of the fire code and testing of the installed condition (in accordance with LAFC Section 507). |
| If inadequate water flow is present, then potential loss of life and property is increased. Firefighting capabilities will be limited. Specifically: "Inadequate fire flow may result in decreased effectiveness of firefighting efforts, increasing the risk of loss of life and property in the event of a fire emergency." | Consistent with the preceding statements, the combination of code-compliant new construction and a fire water supply accepted by the responding fire department satisfies the standard of care for new buildings within the City of Los Angeles (see additional discussion in Section 1.5). |
| If inadequate water flow is present, the risk of fire spread is increased. Specifically: "Inadequate fire flow may increase the likelihood of fire spreading to adjacent properties, increasing fire risks for the area and community." | Refer to the response provided for the first statement in this table. The proposed project represents an improvement over existing conditions with respect to potential fire spread (see additional discussion in Section 1.6). |

| Burtt Engineering Letter Statement | SGH Follow Up |
|---|---|
| A fire flow of 12,000 gpm is necessary for the site and will be required. | The proposed building, viewed in isolation, prescriptively requires no more than 6,000 to 12,000 gpm under the applicable fire code. This statement references the conservative assessment of fire flow and water capacity needed. |
| At least a thousand linear feet of water main require an upgrade. | The statements provided by Burtt Engineering are not accompanied by supporting rationale or analysis. In contrast, SGH has identified water main upgrade approaches that achieve prescriptive compliance and are suitable for presentation to the LAFD.<br><br>The presence of robust water main infrastructure (existing mains at Santa Fe Avenue and Mateo Street), as documented in the Information of Fire Flow Availability and Fire Service Pressure Flow Report results, support limited pipe replacement and connections to these systems as the preferred approach to meeting LAFD requirements for the permitting of this proposed building. |
| Six to ten additional hydrants may be required. | SGH has identified hydrant placement approaches that achieve prescriptive compliance and are suitable for presentation to the LAFD. These options involve new and existing hydrants locations. |

### 1.2 Reduction in Combustibility with Type I Construction

One of the most significant safety improvements this project brings is a change in building construction type to Type I (fire-resistive) construction. Type I structures are built primarily of noncombustible materials like reinforced concrete and protected steel, which can withstand extremely high temperatures without collapsing. In contrast, the quality and fire performance of the existing older structures (concrete tilt wall warehouse and industrial buildings) currently occupying this space do not exceed the performance of the proposed project.

By eliminating nearly all combustible structural materials, the new Type I building greatly reduces the risk of a large, spreading fire. Importantly, Type I construction also carries inherent fire resistance ratings in its components (columns, floors, walls are typically rated two to three hours or more). This means that even if a fire occurs, the structure itself will compartmentalize and resist fire spread for a lengthy period. The building's design will include fire-rated walls and floors that act as barriers, confining a fire to a limited area. In practical terms, a fire in a Type I building will stay localized longer and be less intense than it would in a comparable wood building. The greatly reduced combustibility of the structure is a fundamental improvement that lowers the overall fire hazard for this project and its neighbors.

### 1.3 Fire Protection Enhancements: Automatic Sprinkler System

Modern fire protection engineering strongly favors active suppression systems. The Violet Street project will be equipped with an automatic fire sprinkler system throughout. A comprehensive, code-compliant sprinkler system (designed to NFPA 13 standards) is one of the most effective safeguards against building fires. Sprinklers attack a fire in its earliest stages, often extinguishing or controlling it before the fire department arrives. According to NFPA data, in buildings with sprinklers, 97% of fires are confined to the room where they started, compared to only 71% in buildings without automatic suppression. In a majority of those cases, roughly 80%, a single sprinkler head is enough to control the fire.[1] This illustrates a dramatic enhancement in suppression effectiveness: a fire that would otherwise grow and spread (demanding thousands of gallons per minute from hoses) is instead quickly contained by a few dozen gallons per minute from one or two sprinkler heads.

The new office campus's sprinkler system will dramatically reduce fire risk for occupants and adjacent properties. In the event of a fire, sprinklers will activate within moments of heat rise, dousing the flames and preventing flashover. This not only protects lives and property, but also greatly reduces the amount of water firefighters would need from hydrants. A sprinkler-controlled fire simply does not require the high volumes of water that an unchecked blaze would. Furthermore, the building will include other active fire protection features, such as manual fire alarms and standpipe systems, all of which improve the effectiveness and speed of emergency response. These active systems, combined with the noncombustible construction, form a multi-layered defense against fire. It is also worth noting that the existing buildings (and many older buildings in the vicinity) do not have such sprinkler systems in place, meaning the project will significantly improve the level of fire protection relative to current conditions.

### 1.4 Water Supply Upgrades and Fire Flow Improvements

We acknowledge that the LAFD has indicated a desired fire flow on the order of 12,000 gpm for this project's vicinity; this is reflected in the existing Draft EIR. The project is undertaking infrastructure upgrades that will meaningfully improve the available fire flow beyond what exists today. In coordination with the Los Angeles Department of Water and Power (LADWP), the development will upgrade 400 ft of water main in the area (along Seventh Place) to a new 12 in. diameter ductile iron main, or as needed. This replacement of an older, smaller main with a larger 12 in. main is a significant improvement, as larger water mains can deliver much higher volumes of water to hydrants. According to the LADWP analysis included in the project's EIR, this upgrade is expected to provide the necessary fire flow for the project's needs. In addition, the project will install or replace on-street fire hydrants as required, ensuring that new hydrants meet the City's standard (4 in. x 4 in. double-outlet hydrants) and are spaced within 300 ft of the building per code. This means more hydrants and better water pressure serving the site and its surroundings than the current layout, which in some spots exceed spacing guidelines.

---

[1] McGee, T., *U.S. Experience with Sprinklers*, National Fire Protection Association, 1 April 2024.

The net effect of these water system upgrades is a safer situation for everyone. Currently, the site's vicinity has been identified as having insufficient fire flow under today's standards (indeed, the EIR notes that the existing infrastructure cannot provide the 12,000 gpm without improvements). By investing in new water mains and hydrants, the project will remedy this deficiency. It is important to recognize that the current condition without the project is worse, with lower flow and older hydrants, whereas with the project, the infrastructure will be modernized and more robust. In short, the project is committed to meeting code requirements as closely as possible, and the community will be far better protected with the new water improvements than it is today.

### 1.5 Regulatory Considerations and Performance-Based Fire Safety

We understand that local fire codes (such as Los Angeles Municipal Code Section 57.507.3) establish prescriptive minimum fire flow values to ensure a conservative safety margin. These requirements are taken seriously, and the project's design and mitigation measures have been developed in consultation with LAFD to meet the intent of those regulations. It is important to clarify, however, that compliance with fire safety codes is not measured by water flow alone. Modern codes and fire engineering practice embrace a performance-based approach, recognizing that a combination of factors (construction type, built-in suppression, and compartmentation) together determine the true safety of a building.

In fact, many fire codes explicitly allow reductions in the mandated fire flow when additional safety systems are in place. For example, the International Fire Code (Appendix B, adopted in many jurisdictions) allows up to a 50 to 75% reduction in required fire flow for buildings protected by an approved automatic sprinkler system. This reduction reflects the real-world performance of sprinklers in controlling fires. While Los Angeles's specific municipal code may not formally incorporate the same reduction, the underlying principle is that a fully sprinklered, fire-resistive building simply does not need the same volume of external water as an unsprinklered one to achieve an equivalent level of safety. Additionally, the project is adhering to all California Fire Code and LAFD requirements through a holistic strategy. Beyond just adding water mains and hydrants, the building itself is designed to prevent and contain fire spread. As noted, fire-rated construction will compartmentalize the structure, limiting a fire's growth. This passive protection is complemented by the active sprinkler suppression and alarm systems. Together, these measures drastically reduce the likelihood that a fire would grow large enough to demand the full theoretical 12,000 gpm from the public hydrants.

It is also important to note that the fire flow requirement in the code is meant as a general guideline to provide adequate available water in worst-case scenarios (for instance, a major fire involving multiple structures simultaneously). In this case, the risk of a conflagration is mitigated by the project's advanced protections. During the design process, a fire safety plan that meets or exceeds code intent will be coordinated with the fire department. In summary, the focus should be on the outcome: a building that will perform extremely well in a fire emergency. By all measures of outcome (fire spread, occupant safety, firefighter safety), this project will far exceed the performance of the existing structures, even if on paper the fire flow number is approached via a combination of infrastructure and built-in systems rather than infrastructure alone.

### 1.6 Community Safety Benefits of Modern Construction and Infrastructure

From a broader community perspective, the Violet Street Project will bring tangible fire safety benefits to the neighborhood. First, the investment in upgraded water infrastructure (new water main and hydrants) will improve fire protection not just for the project, but for nearby properties as well. In the event of a fire in the area (even in an older adjacent building), firefighters will now have higher-pressure hydrants and greater flow at their disposal, thanks to the improvements funded by this project. In effect, the development is helping to strengthen the local municipal water grid for emergency services. This is a public safety upgrade that comes at no cost to the City, yet will serve the community for decades to come. Second, replacing old, low-rise industrial structures with a state-of-the-art, code-compliant building reduces the overall fire hazard in the area.

Older buildings, with aging fire safety systems, generally present a higher risk of rapid fire development and potential fire spread to adjacent structures. In contrast, the proposed building will be constructed of noncombustible materials, incorporate fire-resistive assemblies, and be equipped with a new, fully compliant automatic sprinkler system. These features significantly reduce the likelihood of ignition and limit the potential for fire to extend beyond the structure.

The building will also be equipped with modern fire alarm systems capable of providing early notification to both occupants and the fire department, supporting timely evacuation and emergency response. Additionally, the inclusion of current life safety features, such as multiple enclosed exit stairways, emergency lighting, and code-compliant egress provisions, will offer a substantially higher level of occupant protection compared to many existing older buildings.

Collectively, these measures enhance fire containment, reduce the potential impact on neighboring properties, and provide a superior level of life safety for occupants, visitors, and the surrounding community. This project is essentially bringing a 21st century standard of fire safety to this location. The improved safety of building occupants also benefits the community and first responders. It means fewer and smaller fires, lower chances of fire spread, and reduced strain on firefighting resources. All of these outcomes align with the City's goals of protecting public safety.

## 2. CONCLUSIONS

SGH has conducted an analysis of fire hydrant availability, water supply adequacy, and fire department response for the proposed Violet Street project. The specific characteristics of the building limit fire spread and fire suppression system demands. Fire flow requirements for this development, classified under industrial and commercial use, prescriptively range from 6,000 gpm to 12,000 gpm, requiring at least four to six hydrants operating simultaneously. While the existing hydrant infrastructure provides some coverage, preliminary findings indicate that at least two additional hydrants with some expansion and replacement of fire protection piping will be required to meet prescriptive fire flow requirements.

LAFD Hydrants and Access Unit review in accordance with the LAFC, as discussed above, and anticipated infrastructure upgrades, including a new 12 in. water main and hydrant spacing adjustment as discussed in the Draft EIR, are expected to enhance overall fire protection

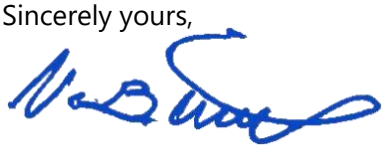
functionality. The proposed water main upgrade and hydrant additions will substantially improve water supply reliability; this can be confirmed when the final available fire flow is determined through a Service Area Request with updated flow test data. Even if the final flow rate does not reach the 12,000 gpm threshold referenced in other discussions, the project's fire safety strategy incorporates multiple performance-based fire protection measures, including automatic sprinklers, compartmentation, and fire-rated construction, which reduce the reliance on hydrant water supply for fire suppression.

Ultimately, the Violet Street project enhances fire safety in the area by introducing a noncombustible, fully sprinklered structure, improving local water infrastructure, and increasing hydrant capacity. These improvements will provide substantial fire protection benefits for both the development and the surrounding community. While final compliance determinations will be made by LAFD and other relevant authorities, the project is expected to significantly exceed existing fire protection conditions and align with modern fire safety best practices.

## 2.1 Limitations

This analysis is specific to the reviewed documents and this specific project and site. Evaluation or review of any facilities system(s), feature(s), or component(s) not specifically included herein are beyond the scope of this analysis. Final determination of code compliance will be made by the Authorities Having Jurisdiction, whose interpretation of code provisions may differ from that of SGH.

Sincerely yours,



Nathan B. Wittasek, P.E., CFEI, CASp
Principal
CA License No. 1534 (Fire Protection)
I:\BOS\Projects\2025\250280.00-VIOL\WP\003rNBWittasek-L-250280.00.cc.docx

# Attachment A


# Nathan B. Wittasek

**P.E., LEED AP, CASp**

Principal

**T:** 213.271.1932

**E:** nbwittasek@sgh.com


### REGISTRATIONS

**Professional Engineer**

| | | |
|---|---|---|
| AZ | CA | CO |
| FL | GA | ID |
| NV | OR | WA |
| WY | | |

### OTHER

Certified Access Specialist (CASp)

Certified Fire & Explosions Investigator (CFEI)

Deputy Building Inspector, Smoke Control, City of Los Angeles (P031371)

Hazardous Waste Operations and Emergency Response Training in accordance with OSHA 29

CFR 1910.120, 1926.65

LEED Accredited Professional

National Council of Examiners for Engineering and Surveying (NCEES)

### EDUCATION

**Worcester Polytechnic Institute, Worcester, MA**

M.S. in Fire Protection Engineering, 1997

B.S. in Civil Engineering, 1995

Nate Wittasek brings a practical, science-based approach to fire protection engineering, reflecting his diverse training and experiences in academia, code consulting for new and existing facilities, performance-based fire protection engineering, resiliency design, and fire service. His experience includes failure analysis, fire engineering, hazardous materials and operations, systems design and building codes, and accessibility consulting for commercial, residential, and infrastructure projects in North America, Europe, Asia, and the Middle East. Nate specializes in fire life safety systems and approaches used in academic buildings and campuses, assembly and performance venues, cultural heritage facilities, historic structures, institutional facilities, laboratories, multi-family dwellings, and tall buildings.

## Experience

- Simpson Gumpertz & Heger Inc. (SGH). From 2016 to present.
- Exponent. From 2011 to 2016.
- Arup. From 2003 to 2011.
- RJA Group. From 1997 to 2003.
- Auburn Fire Department. From 1994 to 1997.
- Worcester Polytechnic Institute. From 1995 to 1997.

## Airports and ground transportation

Accessibility compliance, integration of security requirements with means of egress for large populations, smoke and air movement in below-ground tunnels, terminal spaces and stations, zoned notification, and means of egress:

- **Burbank Airport, Hangar Renovation, Burbank, CA**
- **Confidential Prototype Fixed Guideway Transportation System, CA and NV**
- **Emirates International Lounge, Los Angeles, CA**
- **John Wayne Airport, Security Retrofit, Santa Ana, CA**
- **John F. Kennedy Airport JetBlue Terminal, New York, NY**
- **Los Angeles Airport, Automated People Mover, Los Angeles, CA**
- **Los Angeles Airport, Central Utility Plan, Los Angeles, CA**
- **Los Angeles Airport, ConRAC Facility, Los Angeles, CA**
- **Los Angeles Airport, Terminal 7/8 Renovation and Expansion, Los Angeles, CA**
- **Los Angeles Airport, Security Retrofit, Los Angeles, CA**
- **Los Angeles Union Station Master Plan, Los Angeles, CA**
- **Ninoy Aquino International Airport, Terminal 3, Manila, Philippines**
- **San Luis Land Port of Entry, San Luis, AZ**
- **Southwestern Yard, Los Angeles, CA**
- **Westside Purple Line Extension Maintenance Facility, Division 20, Los Angeles, CA**
- **Port Authority Trans-Hudson (PATH), World Trade Center Station, New York, NY**

## Archival, data, and information infrastructure

Accessibility compliance, alternative suppression systems, fire alarm and notification, fire and materials, flammability of materials, fuel storage, generator reliability, integrated security and fire systems, smoke control, stack systems, and very early smoke detection:

- **AT&T/Quest Telephone Exchange Facility, Phoenix, AZ**
- **Confidential Cloud Data Center, San Jose, CA**
- **Pasadena Central Library Renovation, Pasadena, CA**
- **University of Utah, Marriott Library, Salt Lake City, UT**
- **University of California, Los Angeles (UCLA), Southern Regional Library Facility, Los Angeles, CA**
- **Woodbury University, Library Renovation, Burbank, CA**

## Assembly and performing arts

Accessibility compliance, assembly means of egress optimization, compartmentation considerations, fire detection and alarm, fireproofing, fire sprinkler systems, interior finish, proscenium protection, scenery protection, acoustic systems integration, smoke control (exhaust and venting), zoned egress:

- **Anaheim Convention Center, Anaheim, CA**
- **Crypto.com Arena, Los Angeles, CA**
- **Fashion Show Mall, Las Vegas, CA**
- **Facebook Event Center, Menlo Park, CA**
- **Harrah's Chester Downs Casino and Racetrack, Chester, PA**
- **Hollywood Athletic Club, Los Angeles, CA**
- **Idyllwild Arts Academy, Performing Arts Center, Idyllwild, CA**
- **Jack's Urban Meeting Place, Boise, ID**
- **Kirk Douglas Theater, Culver City, CA**
- **Kodak Theater, Los Angeles, CA**
- **MGM Mansion, Las Vegas, NV**
- **NFL Stadium Structural Fire Engineering, Inglewood, CA**
- **Pala Casino Expansion, Temecula, CA**
- **Project 115 Theme Park, Tianjin, China**
- **Segerstrom Center for the Arts at OCPAC, Costa Mesa, CA**
- **Skirball Cultural Center, Los Angeles, CA**
- **SoFi Stadium, Los Angeles, CA**
- **Staples Center, Los Angeles, CA**
- **Tempe Center for the Arts, Tempe, AZ**
- **Tropicana Casino and Resort, Las Vegas, CA**
- **Universal City Walk, Universal City, CA**
- **University of La Verne, Sports Science and Athletics Pavilion, La Verne, CA**
- **Venetian Macau, Macau SAR, China**
- **Walt Disney Concert Hall, Los Angeles, CA**

- **Wynn Encore, Las Vegas, NV**
- **Wynn Resort, Macau SAR, China**

## Creative office

Accessibility compliance, means of egress, construction type analysis, smoke control, interior finish studies, art installations, fire protection systems design:

- **Apple Inc., Culver City Office Building, Culver City, CA**
- **Culver Studios (Multiple Buildings), Culver City, CA**
- **Directors Guild of America, Los Angeles, CA**
- **Facebook, West Campus (Various Buildings), Menlo Park, CA**
- **Facebook, Dumbarton, Fremont, CA**
- **Facebook, Burlingame Campus, Burlingame, CA**
- **Facebook, Menlo Park (Buildings 20, 21, 22, 27, 28, 61,62, 63), Menlo Park, CA**
- **Facebook, Los Angeles Airport, Los Angeles, CA**
- **Meta (Facebook), Windsurfer Campus, Menlo Park, CA**
- **Ivy Station, Culver City, CA**
- **MU11, Inglewood, CA**
- **Netflix Animation Studios, Burbank, CA**
- **Netflix, ICON and CUE Creative Office Buildings, Los Angeles, CA**
- **Netflix, Serrano Office Building, Los Angeles, CA**
- **Nissan/Infiniti, Downtown Los Angeles, Los Angeles, CA**
- **Pier 70, Office Building Adaptive Reuse, San Francisco, CA**
- **Press Mixed-Use Office Buildings, Costa Mesa, CA**
- **Santa Monica Airport, Office Building Adaptive Reuse, Santa Monica, CA**
- **Santa Monica Post Office, Adaptive Reuse, Santa Monica, CA**
- **Second Century Complex, Burbank, CA**
- **Sunset Bronson Studios, Historic Renovation, Los Angeles, CA**
- **The Culver Studios, Culver City, CA**
- **The French Market, West Hollywood, CA**
- **The Lane Building, Los Angeles, CA**
- **Water's Edge 3, Los Angeles, CA**

## Cultural resource facilities

Accessibility compliance, compartmentation, high-value contents, fire suppression in sensitive spaces, occupant movement and means of egress, smoke control (exhaust method), system reliability, and very early smoke detection:

- **830 South Flower Street, Historic Renovation, Los Angeles, CA**
- **Academy Museum of Motion Pictures, Arts, and Sciences, Los Angeles, CA**
- **Asian Art Museum, Renovation and Addition, San Francisco, CA**
- **Budokan Community Center, Los Angeles, CA**
- **California Academy of Sciences, San Francisco, CA**

- **California Museum of Science & Industry, Los Angeles, CA**
- **Children's Museum of Los Angeles, Los Angeles, CA**
- **Christ and St. Luke's Church, Norfolk, VA**
- **Fresno Metropolitan Museum, Fresno, CA**
- **Garfield Building, Los Angeles, CA**
- **Getty Center Museum, Los Angeles, CA**
- **Glendale Central Library, Glendale, CA**
- **Griffith Observatory Renovation, Los Angeles, CA**
- **Guggenheim Abu Dhabi, United Arab Emirates**
- **Hammer Museum (Various Renovations), Los Angeles, CA**
- **Idyllwild Performing Arts Center, Idyllwild, CA**
- **John Chamberlain Building, Oak Street, Marfa, TX**
- **Los Angeles County Museum of Art, Building for Permanent Collection, Los Angeles, CA**
- **Los Angeles County Museum of Art, Broad Contemporary Art Museum, Los Angeles, CA**
- **Los Angeles County Museum of Contemporary Art (MOCA), Geffen Contemporary Renovation Study, Los Angeles, CA**
- **Los Angeles County Museum of Art East and West, Los Angeles, CA**
- **Los Angeles Mikvah Society, Los Angeles, CA**
- **L. Ron Hubbard Hall, Clearwater, FL**
- **Lucas Museum of Narrative Art, Los Angeles, CA**
- **Luxury Residential Condo Tower, Henderson, NV**
- **Mariposa Lilly Affordable Housing, Los Angeles, CA**
- **Museo Soumaya, Mexico City, Mexico**
- **National Palace Museum, Taipei, Taiwan**
- **Orange County Museum of Art, Costa Mesa, CA**
- **Pershing Square Renovation Study, Los Angeles, CA**
- **Resnick Campus and Synagogue, Los Angeles, CA**
- **Shanghai Scienceland Museum, Shanghai, China**
- **Timken Museum of Art, Expansion Project, San Diego, CA**

## Educational

Accessibility compliance, dormitory fire protection, fire access, fire construction assemblies, hazardous materials management, means of egress, hazardous materials management, fire protection systems, and smoke control systems:

- **Art Center College of Design, Mullin Transportation Design Center, Pasadena, CA**
- **Art Center College of Design, Miscellaneous Buildings, Pasadena, CA**
- **California Institute of Technology, Jet Propulsion Laboratory, Pasadena, CA**
- **California State University, Channel Islands Gateway Hall, Camarillo, CA**
- **California State University, Long Beach, FA1, UTC, and Library, Long Beach, CA**
- **California State University, Long Beach Science II Building, Long Beach, CA**
- **California Institute of Technology, Walter and Leonore Annenberg Center, Pasadena, CA**

- **Center for Early Education, Alternative Means and Methods and Fire Access, West Hollywood, CA**
- **Colburn School, Student Housing, Los Angeles, CA**
- **Community College of Southern Nevada, Science Classroom Building, Las Vegas, NV**
- **The Cooper Union, Academic Building, New York, NY**
- **California State University, Miscellaneous Buildings, Los Angeles, Northridge, and Camarillo, CA**
- **Emerson College, Los Angeles Center, Los Angeles, CA**
- **Los Angeles Unified School District, Miscellaneous Buildings, Los Angeles, CA**
- **Los Angeles Unified School District, Graham Elementary School, Los Angeles, CA**
- **Los Angeles Unified School District, Paul Revere Charter Middle School, Los Angeles, CA**
- **Marlborough School Renovations, Los Angeles, CA**
- **Case Western Reserve University, Peter B. Lewis Weatherhead School of Management, Cleveland, OH**
- **Pomona College, Biology Building/Seaver South Renovation, Pomona, CA**
- **Santa Monica College, KCRW Facility, Santa Monica, CA**
- **Soka University of America, Multiple Buildings, Aliso Viejo, CA**
- **Stanford Research Institute, Menlo Park, CA**
- **Whittier College, Stauffer Science Center, Whittier, CA**
- **University of California, Berkeley, Gateway, Berkeley, CA**
- **UCLA, Basketball Practice Facility, Los Angeles, CA**
- **UCLA, Broad Art Center, Los Angeles, CA**
- **UCLA, Big Ten Network Study, Los Angeles, CA**
- **UCLA, Biomedical Sciences Research Building (SRB2), Los Angeles, CA**
- **UCLA, Easton Stadium Master Plan, Los Angeles, CA**
- **UCLA, Landfair & Glenrock Housing Complex, Los Angeles, CA**
- **UCLA, Margan Apartments, Los Angeles, CA**
- **UCLA, Murphey Hall, Los Angeles, CA**
- **UCLA, Music Facility, Los Angeles, CA**
- **UCLA, Northwest Housing Complex, Los Angeles, CA**
- **UCLA, Ostin Music Center Addition, Los Angeles, CA**
- **UCLA, Southwest Housing Complex, Los Angeles, CA**
- **UCLA, Wooden Recreation and Sports Center Renovation, Los Angeles, CA**
- **University of California San Diego, Canyon Vista Marketplace, San Diego, CA**
- **University of California Santa Cruz, Kresge College Academic Building, Santa Cruz, CA**
- **University of Nevada, Las Vegas Science, Engineering & Technology Building, Las Vegas, NV**
- **University of South Florida, Judy Genshaft Honors College Building, Tampa, FL**
- **University of Texas, Performance Hall at the Arts & Performance Complex, Dallas, TX**
- **University of Utah, Marriott Library Renovation, Salt Lake City, UT**
- **University of South Florida, Judy Genshaft Honors College, Tampa, FL**
- **Woodbury University, Architecture Studio, Burbank, CA**

## Energy infrastructure

Accessibility compliance, explosion prevention, fire exposure analysis, flammable and combustible liquids storage, flammable and explosive gas protection, manual suppression:

- **Carson Oil Well Study, Torrance, CA**
- **Metro Division 16, Rail Maintenance Building, Los Angeles, CA**
- **Metro Division 20, Rail Maintenance Building, Los Angeles, CA**
- **Miscellaneous Oil Well Exposure Studies, Brea, Huntington Beach, and Long Beach, CA**
- **PXP Mass Notification Assessment, Los Angeles, CA**
- **Recology Recycling Facility, Los Angeles, CA**
- **Confidential Battery Manufacturing Facility**

## Health care

Accessibility compliance, compartmentation and fire resistive construction strategies, Joint Commission on Accreditation of Healthcare Organizations (JCAHO) accreditation and National Fire Protection Association (NFPA) 101 compliance, means of egress, Office of Statewide Health Planning and Development (OSHPD) 1, 2, and 3 implementation, and suite design:

- **Cedars Sinai, Tenant Improvements for Miscellaneous Buildings, Los Angeles, CA**
- **Good Samaritan, Medical Office Building, Los Angeles, CA**
- **Kaiser Foundation Hospital, Panorama City Medical Center, Panorama City, CA**
- **Kaiser Permanente, Sand Canyon Central Plant, Irvine, CA**
- **Momentum Innovative Disability Services, Chatsworth, CA**
- **Placer County, Health and Human Services Center, CA**
- **Quest Diagnostics Facility, Valencia, CA**
- **Quest Diagnostics Laboratory, San Juan Capistrano, CA**
- **St. Joseph Hospital, Medical Office Building, Orange, CA**
- **St. Jude Hospital, Los Angeles, CA**
- **U.S. Department of Veterans Affairs, CA**
- **U.S. Vets, West Los Angeles Veterans Administration Campus, Building 300, Los Angeles, CA**
- **West Los Angeles Veterans Administration Campus, Building 300, Los Angeles, CA**
- **West Los Angeles Veterans Administration Campus, Building 210, Los Angeles, CA**
- **West Los Angeles Veterans Administration, Campus Housing Development, Los Angeles, CA**
- **Yorba Linda Clinic, Yorba Linda, CA**

## High-rise commercial, residential, and hotel

Accessibility compliance, design, and implementation of high-rise building systems and approaches, including smoke control, means of egress, fire safety systems, structural fire engineering, and alternative means and methods approaches:

- **1527 Lincoln Boulevard, Santa Monica, CA**
- **1801 Santa Monica Boulevard, Santa Monica, CA**
- **1819 Santa Monica Boulevard, Santa Monica, CA**
- **3030 Nebraska Avenue, Parcels 1A, 2A, 3, and 3A, Santa Monica, CA**
- **3122 Nebraska Avenue + 1832 Franklin Street, Santa Monica, CA**
- **3700 Wilshire Boulevard, Los Angeles, CA**

- **8300 Sunset Boulevard, Los Angeles, CA**
- **801 S Broadway Renovation, Los Angeles, CA**
- **1120 S Grand South Park (AVEN), Los Angeles, CA**
- **3033 Wilshire, Los Angeles, CA**
- **Al Dana at Raha Beach, Abu Dhabi, United Arab Emirates**
- **Amazon LAX35, Building J, Culver City, CA**
- **Anchorage Marriott, Anchorage, AK**
- **Barrington Plaza, Los Angeles, CA**
- **Burbank Studios Office Buildings, Burbank, CA**
- **California Natural Resources Headquarters, Sacramento, CA**
- **Caltrans, District 7 Headquarters Building, Los Angeles, CA**
- **Coliseum Mixed-Use Development, Los Angeles, CA**
- **Confidential Resort Hotel, Aspen, CO**
- **Cook County Administration Building, Chicago, IL**
- **The Grand LA (Parcel Q), Los Angeles, CA**
- **Gayley at Wilshire Residential High Rise, Los Angeles, CA**
- **Grand Californian Hotel, Anaheim, CA**
- **Hilton Canopy Sacramento, Sacramento, CA**
- **Hollywood and Highland Marriott Renaissance Hotel, Hollywood, CA**
- **Housing Bank of Trade and Finance, Amman, Jordan**
- **Horizons Luxury Condominiums, San Diego, CA**
- **Lost Spirits Distillery at Area15, Las Vegas, NV**
- **Marina Tower, Abu Dhabi, United Arab Emirates**
- **Metropolis Residential & Hotel Towers (Phases 1 and 2), Los Angeles, CA**
- **Natural Resources Headquarters Building, Sacramento, CA**
- **NFL Studio and Office Building, Inglewood, CA**
- **Nissan Downtown Los Angeles, Sales and Maintenance Facility, Los Angeles, CA**
- **Orange Station Boutique Hotel, Saint Petersburg, FL**
- **Pacific Design Center Red Building, West Hollywood, CA**
- **Park Place Luxury Condominiums, Irvine, CA**
- **Relativity Space Inc., Building 2, Long Beach, CA**
- **Riviera Hotel and Casino Crocus City, Moscow, Russia**
- **Sacramento Hilton Canopy, Sacramento, CA**
- **Salesforce Tower, Door Fireproofing Monitoring, San Francisco, CA**
- **San Francisco Design Center, San Francisco, CA**
- **San Jose City Hall and Civic Center, San Jose, CA**
- **Sienna Hotel & Casino, Reno NV**
- **Sony Office Building, Culver City, CA**

- **South Coast Plaza, Costa Mesa, CA**
- **Sunset Bronson ICON tower (Netflix), Los Angeles, CA**
- **Tributary Clubhouse, Driggs, ID**
- **Pendry Hotel, West Hollywood, CA**
- **The Press, Costa Mesa, CA**
- **The Shores Santa Monica Apartments at the Beach, Santa Monica, CA**
- **Torre Reforma, Mexico City, Mexico**
- **Torre Quadrata, Mexico City, Mexico**
- **Vermont Corridor Site 2, Los Angeles, CA**
- **Wilshire Crescent Heights Mixed-Use, Los Angeles, CA**
- **Wilshire Grand Center, Los Angeles, CA**
- **Wilshire La Jolla Residential High-Rise, Los Angeles, CA**
- **Wilshire Vermont Mixed-Use Development, Los Angeles, CA**
- **Wolf Valley Town Center, Temecula, CA**
- **(W)rapper Office Building, Los Angeles, CA**

## Litigation support

Experience with litigation support inclusive of arbitration, deposition, and trial testimony. Accessibility compliance, fire life safety-focused litigation related to accessibility noncompliance, building defects analysis, origin and cause investigation, and injury and systems failure analysis:

- **Wildland Fire Science and Code Litigation Support Services**

## Science and technology

Accessibility compliance, fire protection systems specification, fire-resistive construction, hazardous materials management, hazardous processes, passive barrier optimization:

- **41 Cooper Square Laboratory and Classroom Building, New York, NY**
- **California Air Resources Board, Testing and Research Facility, Riverside, CA**
- **Confidential Laboratory Buildings for Artificial Intelligence Research and Defense Light Manufacturing, CA, and WA**
- **Keysight Technologies, Fabrication Facility Risk Assessment, Santa Rosa, CA**
- **Jet Propulsion Laboratory, Miscellaneous Structures, Pasadena, CA**
- **J. Vernon Luck Science Building, Los Angeles, CA**
- **Lawrence Berkley Livermore National Laboratory, Miscellaneous Buildings, Berkely, CA**
- **UCLA, Semel Nexus Renovation Study, Los Angeles, CA**
- **University of Nevada Science, Engineering & Technology Building, Las Vegas, NV**

## Secure facilities

Accessibility compliance, integration of life safety with security, fire barrier implementation, high-rise requirements, means of egress analysis, and smoke control (pressurization and exhaust):

- **Los Angeles U.S. Federal Courthouse, Los Angeles, CA**
- **New Madera Courthouse, Madera, CA**
- **New U.S. Embassy, Riyadh, Saudi Arabia**
- **Olympic Police Facility, Los Angeles, CA**

- **Ontario Town Center, A, Ontario, CA**
- **Riverside District Attorney's Office, Riverside, CA**
- **San Jose City Hall and Civic Center, San Jose, CA**
- **U.S. Land Port of Entry, Modernization and Expansion, Champlain, NY**
- **U.S. Land Port of Entry, Modernization and Expansion, Otay Mesa, CA**
- **U.S. Embassy in London (Competition), London, UK**
- **U.S. Embassy in Beirut, Lebanon**
- **U.S. Embassy in Riyadh, Saudi Arabia**

## Sound stage, production office, mill, and studio complexes

Accessibility compliance, consulting for studio complex designs that require unique approaches to means of egress design, fire life safety systems, and accessibility based on requirements derived from the California Building and Fire Codes as well as related National Fire Protection Association standards. These facilities must be flexible and cost-effective while meeting rigorous standards of safety and operator standards:

- **CBS Television Studios, Los Angeles, CA**
- **Cinespace Catalina Project, Woodland Hills, CA**
- **Confidential Studio Complex, Santa Clarita, CA**
- **Confidential Studio Complex, Burbank, CA**
- **Manhattan Beach Studios, Manhattan Beach, CA**
- **Miscellaneous Sound Stage Renovations, Los Angeles, CA**
- **Sunset Gower Studios, Los Angeles, CA**
- **Sunset Las Palmas Studios, Los Angeles, CA**
- **Sony Pictures Studios, Culver City, CA**
- **Universal Studios, Universal City, CA**
- **Warner Bros, Burbank, CA**

## Recent expert witness and/or litigation support cases

- **Lola Hill, Guardian of William Morris, Jr. v. DJK Enterprises, Inc., et al.**
  - Case No.: CJ-14-120
  - District Court of Pontotoc County, State of Oklahoma
  - Expert Witness Deposition Date: 30 June 2016
- **Wilshire Vermont Housing Partners, L.P. v. Taisei Construction Co., et al.**
  - Case No.: BC504178
  - Superior Court of the State of California for the County of Los Angeles
  - Trial Date: 17 May 2016
  - Expert Witness Depositions (multiple dates)
- **People of the State of California v. Wilshire Vermont, et al.**
  - Case No.: 9CJ01162
  - Superior Court of the State of California for the County of Los Angeles
  - Expert Witness Depositions (multiple dates)
- **Avril Gerscovich (minor) v. Douglas Emmett, Inc., et al.**

- Case No.: BC532451
- Superior Court of the State of California for the County of Los Angeles
- Expert Witness Deposition Date: 15 November 2016
- Testimony at trial

- **Tubbs Fire and PG&E Corporation (Chapter 11)**
  - Case No.: 19-30088
  - United States Bankruptcy Court, Northern District of California
  - Related to the October 2017 Tubbs Fire
  - No Expert Witness Deposition
- **Barrington Plaza Tenant Association v. Douglas Emmett, Inc. and Barrington Pacific, LLC**
  - Case No.: 23STCV13323 (Lead Case)
  - Superior Court of the State of California for the County of Los Angeles
  - Trial Date: 15 April 2024
- **McGuire Builders, Inc. v. Case Owner, LLC, et al.**
  - Case No.: 1220071184 (JAMS Arbitration – Los Angeles)
  - No Expert Witness Deposition or Trial at this time
  - Ongoing

***General Note: Ongoing work related to notices of alleged defects and commencement of contractual dispute resolutions in Arizona and California***

## Honors and awards

- Commendation by the Chief of the Auburn Fire Department
- UCLA Extension Architecture + Interior Design Instructor of the Year, 2013
- *Consulting – Specifying Engineer Magazine,* "40 under 40" Award, 2009
- Best Technical Paper in Conference, "Submersible Oil Well Study," *Proceedings of the Third International Conference on Fire Research and Engineering,* October 1999
- Salamander Honorary Fire Protection Engineering Society
- Tau Beta Pi Engineering Honor Society
- Chi Epsilon Engineering Honor Society
- Skull Senior Honor Society

## Professional activities

- Council on Tall Buildings and Urban Habitat (CTBUH): Fire Safety Committee.
- International Code Council (ICC): Member.
- National Fire Protection Association (NFPA): Member.
- NFPA 101 Technical Committee on Fire Protection Features: Chair.
- NFPA 5000 Technical Committee on Fire Protection Features: Chair.
- National Association of Fire Investigators (NAFI): Member.
- Society of Fire Protection Engineers (SFPE): Professional Member.
- Tall Building Fire Safety Network: Member.

## Presentations

- **Wittasek, N.B.,** "Time and the Tall Building – Time Saving Technologies that Preserve Lives and Enhance Safety in Recently Constructed Tall Buildings," presentation at the Third International Tall Building Fire Safety Conference, London, U.K, July 2015.
- **Wittasek, N.B.,** "Tall Building Life Safety Systems: An Engineering Perspective of Key Challenges," presentation at 2nd International Tall Building Fire Safety Conference, London, U.K, June 2014.
- **Wittasek, N.B.,** "Navigating the Complexities of Accessibility in Existing Buildings," presentation for AIA | LA Continuing Education Series, Los Angeles, CA, March 2012.
- **Wittasek, N.B.,** "The 2010 CBC & ADA Accessibility in Existing Buildings," presentation for AIA | LA Continuing Education Series, Los Angeles, CA, September 2011.
- **Wittasek, N.B.,** "It's Your Time and Money – Accessibility Errors and Omissions," presentation at Mobius LA, Los Angeles, CA, June 2010.
- **Wittasek, N.B.,** "Simulating Building Evacuation Using an Agent-Based Approach," presentation at Human Behaviour in Fires Symposium, Cambridge, UK, July 2009.
- **Wittasek, N.B.,** "Accessibility from the Outside In," presentation for AIA Continuing Education Series, Los Angeles, CA, September 2009.
- **Wittasek, N.B.,** "Accessibility in New and Existing Assembly Occupancies: From the Front to the Back of House," presentation for AIA Continuing Education Series, Los Angeles, CA, January 2009.
- **Wittasek, N.B.,** "Accessibility in New Retail Establishments: Walking through your Friendly Neighborhood Shops," presentation for AIA Continuing Education Series, Los Angeles, CA, January 2009.
- **Wittasek, N.B.,** "Provisions of the 2007 CBC that Cause the Most Confusion," presentation at Mobius LA, Los Angeles, CA, 2008.
- **Wittasek, N.B.,** "Heat," presentation at Pasadena Art Center College of Design, Pasadena, CA, 2008.
- **Wittasek, N.B.,** "Building Codes and Design," presentation at Sci-Arc, Los Angeles, CA, 2007, 2008, and 2016.
- **Wittasek, N.B.,** "Sustainable Development in the United Arab Emirates," presentation at University of Southern California Los Angeles, CA, 2008.

## Books

- **Wittasek, N.B. and J. Gentile,** *Interactive Guide to the 2012 International Building Code, an Illustrated Checklist*, International Code Council, 2013.
- **Wittasek, N.B., J. Tubbs, and B. Meacham,** *Egress Design Solutions: A Guide to Evacuation and Crowd Management Planning*, John Wiley & Sons, 2007.

## Publications

- **Wittasek, N.B., and K.M. Black**, "Choosing Active and Passive Fire Protection Systems," *Consulting-Specifying Engineer*, May 2021.
- **Wittasek, N.B.,** "Best Practices for Design Smoke Control Systems," *Consulting-Specifying Engineer*, May 2020.
- **Wittasek, N.B. and K.J. LaMalva,** "New Standardization for Structural Fire Protection Variances," *Building Safety Journal*, May 2020.
- **Wittasek, N.B.,** "Common Smoke Control Approaches in High-Rise Buildings," *Consulting-Specifying Engineer,* May 2019.
- **Wittasek, N.B.,** "Challenges with Tall Building Design: Are we Creating Risk by Introducing Unnecessary Complexity?," *Proceedings of the 2nd International Tall Building Fire Safety Conference*, 17-20 June 2014.
- **Wittasek, N.B. and D. Jacoby,** "New Fire Alarms for Old Buildings," *Consulting Specifying Engineer*, 15 February 2010.
- **Wittasek, N.B.,** "Model Behaviour," *The Economist Technology Quarterly*, 7 March 2009.
- **Wittasek, N.B., and D. Gemeny,** "Fire Test Data for Design Firms – A Perspective from One Practitioner," *ASTM's Role in Performance-Based Fire Codes and Standards, ASTM STP 137*, November 1999: 47-57.

- **Wittasek, N.B.,** "Life Safety Considerations in the Health Care Environment," *ASHRAE Technical Forum*, 2003.
- **Wittasek, N.B. and J. Tubbs,** "Submersible Oil Well Study," *Proceedings of the 3rd International Conference on Fire Research and Engineering*, October 1999.
- **Wittasek, N.B., R.D. Pehrson, and J.R. Barnett,** "Computational Fluid Dynamics Modeling of Post-Crash Vehicle Fires," *General Motors Corporation*, Docket No. NHTSA-1998-3588-209, May 1997.
- **Wittasek, N.B.,** "Analysis and Comparison of Marine Fire Testing Regulations and Procedures," *M.S. Thesis,* Worcester Polytechnic Institute, 1996.