

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: _____

APN: _____

Project Address: _____

Final Date to Appeal: _____

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: _____

Company/Organization: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone: _____ E-mail: _____

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

Self Other: _____

Is the appeal being filed to support the original applicant's position? YES NO

REPRESENTATIVE / AGENT INFORMATION

Name: _____

Company/Organization: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone: _____ E-mail: _____

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: _____

On a separate sheet provide the following:

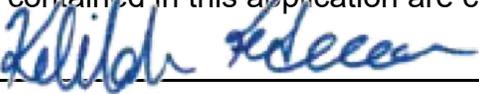
Reason(s) for the appeal

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: _____

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 COMMUNITIES (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.

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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
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City of Los Angeles
221 N Figueroa St Suite 1350
Los Angeles, CA 90012

Re: Appeal of Vesting Tentative Tract No. VTT-83382 for Violet Street Creative Office Campus Project (VTT-83382-1A)

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

Pursuant to Los Angeles Municipal Code Section 13B.7.3.G, Coalition for Responsible Equitable Economic Development Los Angeles (“CREED LA”) appeals the Los Angeles City Planning Commission (“Commission”) decision to approve the Vesting Tentative Tract Map No. 83382-1A for the Violet Street Creative Office Campus Project (VTT-83382; CPC-2021-2231-GPA-VZC-HDVCU-ZV-SPR; ENV-2021-2232-EIR) (“Project”) on November 14, 2024. On January 23, 2025, the Commission advised CREED LA that the Commission approved the Vesting Tentative Tract Map (“VTTM”) 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

The scope of the Commission’s determination for Case No. No. 83382-1A includes approval of a Vesting Tentative Tract Map; certification of the

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

January 31, 2025

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Environmental Impact Report (EIR) No. ENV-2021-2232-EIR (SCH No. 2021110015), dated June 2023, the Final EIR, dated May 2024, and Erratum dated August 2024 (Violet Street Creative Office Campus Project EIR), adoption of Environmental Findings, Statement of Overriding Considerations; and Mitigation Monitoring Program (“MMRP”); and denying the appeal and sustaining the decision of the Advisory Agency dated August 29, 2024. The Commission issued its Letter of Determination (“LOD”) on January 23, 2025. CREED LA appeals all actions taken by the Commission with regard to the Project as described in the LOD.

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 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 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,² Exhibit B,³ and Exhibit C.⁴

As explained herein and in the attached comments, the Commission abused its discretion and failed to proceed in the manner required by law by approving the Project in reliance on a deficient CEQA document and without substantial evidence to support the approval findings.⁵

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 VTTM because the VTTM: 1) is not consistent with numerous General Plan policies⁶ and 2) is not consistent with the Subdivision Map Act which prohibits

² 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).

³ Letter from Kelilah Federman, James Clark, Robert Burt, 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).

⁴ Letter from Kelilah Federman obo CREED LA, to City of Los Angeles, Agenda Item 6 & 7 Violet Street Creative Office Campus (Nov. 13, 2024).

⁵ Code Civ. Proc § 1094.5(b); *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515.

⁶ Cal. Gov. Code § 66473.5.

approval of a VTTM where it is likely to cause serious public health problems.⁷ Here, the Project's diesel particulate matter emissions from construction will result in a serious public health problem associated with cancer risk to infants. In addition, CREED LA's comments demonstrate that the Project does not have sufficient water supply and infrastructure to achieve the minimum necessary fire flow for the Project to protect public safety. In addition, for the reasons detailed herein, the Commission's certification of the Project EIR and associated findings are not supported by substantial evidence.

II. SPECIFIC POINTS AT ISSUE

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.⁸ 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.⁹ 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.¹⁰ 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.¹¹ 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]."¹²

⁷ Cal. Gov. Code § 66474(f).

⁸ Attachment B - Clark Comments, pgs. 3-4 and Exhibit B.

⁹ *Id.*

¹⁰ City of Los Angeles, Revised Appendix FEIR-2 Health Risk Assessment, Violet Street Creative Office Campus Project (Nov. 2023) p. 6.

¹¹ Attachment B - Clark Comments, pgs. 3-4 and Exhibit B.

¹² U.S. EPA. 2003. Weight of Evidence For Cancer, cited in Clark Comments, pg. 3.

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].”¹³

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.¹⁴ 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.¹⁵ 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 because the Project is not consistent with the General Plan and is not consistent with the Subdivision Map Act which prohibits approval of a VTTM where it is likely to cause serious public health problems.¹⁶ The Project’s significant health risk impacts contravene General Plan Air Quality Element Policy 1.3.1¹⁷ and result in a significant detriment to the public welfare.

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 Burt of Burt Engineering. The Project’s insufficient

¹³ CARB. 1998. Findings of the Scientific Review Panel on The Report On Diesel Exhaust, cited in Clark Comments, pg. 3.

¹⁴ 14 CCR § 15064(b)(1).

¹⁵ *Id.*

¹⁶ Cal. Gov. Code § 66473.5; 66474(f).

¹⁷ City of Los Angeles, Plan for a Healthy Los Angeles A Health, Wellness, and Equity Element of the General Plan (Nov. 2021) p. 152.

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.”¹⁸ The Staff Report provides that “2 public fire hydrants are required.”¹⁹ Mr. Burttt’s comments provide substantial evidence that the fire hydrants at the Project site exceed maximum spacing requirements.²⁰ 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.²¹ Mr. Burttt 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.²² Mr. Burttt’s comments provide substantial evidence that additional infrastructure improvements including several thousand feet of additional water main upgrades will likely be required.²³

Fire flow infrastructure improvements would result in significant impacts to traffic and transportation, require street excavation and subsequent repair to access water mains.²⁴ 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.²⁵ 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.

¹⁸ DEIR, Appendix J, p. IV.J.1-31.

¹⁹ Staff Report, Exhibit B VTT-83382 LOD and Tract Map VTT-83382-1A, p. 7.

²⁰ **Exhibit B** - Burttt Comments, p. 2.

²¹ **Exhibit B** - Burttt Comments, p. 2.

²² *Id.*

²³ *Id.* at 4.

²⁴ *Id.*

²⁵ *Id.*

EXHIBIT A

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September 6, 2024

UPLOADED VIA ONLINE APPLICATION SYSTEM

<https://planning.lacity.org/oas>

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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 A² 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 policies⁴ 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.

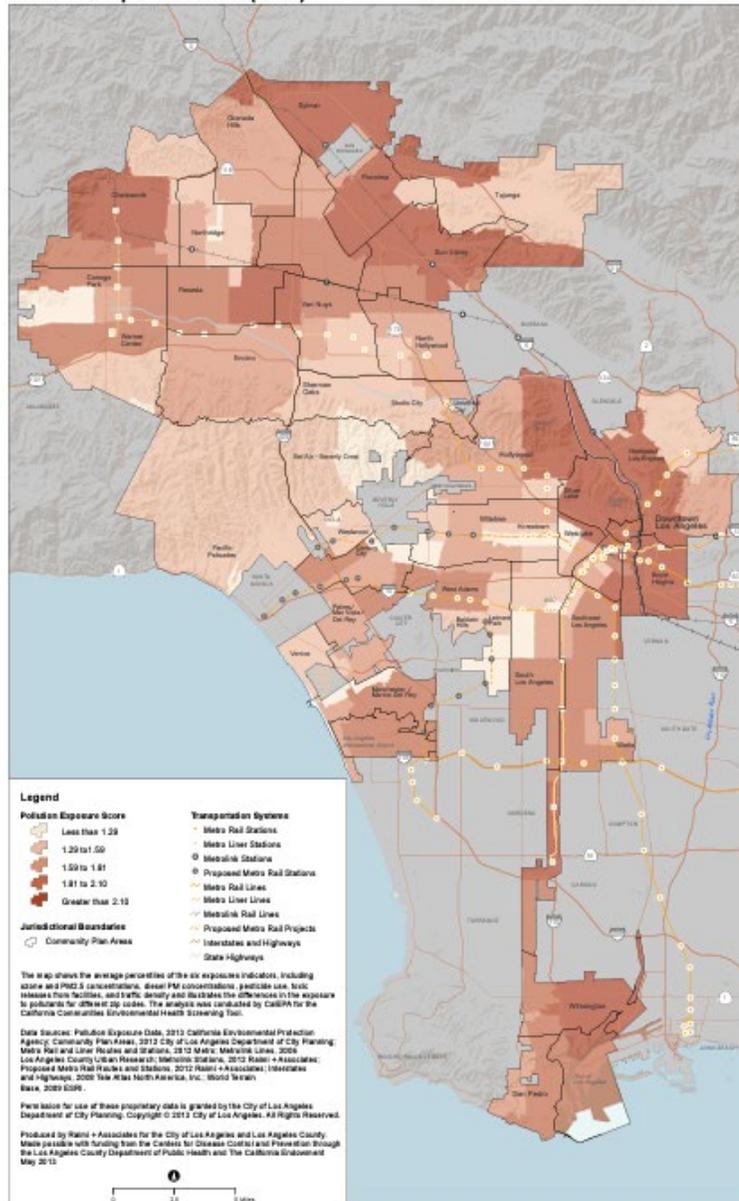
¹⁰ *Id.*

The General Plan provides that it is an objective of the City to “[r]educ[e] 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). (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.

Health Atlas 2013, Map 111
Pollution Exposure Score (2013)



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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

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August 14, 2023

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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 *Stoepthemillenniumhollywood.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 use³⁵; 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 use⁴⁸ 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/crnrr/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.*

August 14, 2023
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Thank you for your consideration of these comments. Please include them in the record of proceedings for the Project.

Sincerely,

A handwritten signature in blue ink, appearing to read 'R. Franco'.

Ariana Abedifard
Richard Franco

Attachment
AA:acp

EXHIBIT A



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, California¹. 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 Noise²

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 Manual³ 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



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

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.

ATTACHMENT B

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June 25, 2024

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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 Act¹ (“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.*

June 25, 2024

Page 2

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.

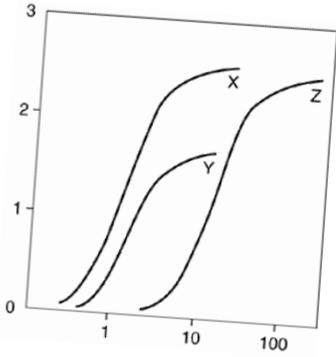
Sincerely,



Richard M. Franco

Attachment
RMF:acp

EXHIBIT A



June 24, 2024

Adams Broadwell Joseph & Cardozo
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 South San Francisco, CA 94080

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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 Exhaust³, 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 Summary⁴, 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 Basin⁵ 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/m³ 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

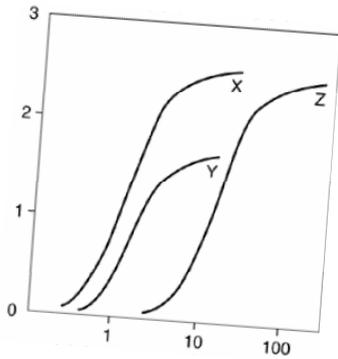
The facts identified and referenced in this comment letter lead me to reasonably conclude that the Project could result in significant impacts if allowed to proceed. A revised FEIR should be prepared to address these substantial concerns.

Sincerely,



Exhibit A:

Curriculum Vitae



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James J. J. Clark, Ph.D.

Principal Toxicologist

Toxicology/Exposure Assessment Modeling

Risk Assessment/Analysis/Dispersion Modeling

Education:

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

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

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

Professional Experience:

Dr. Clark is a well recognized toxicologist, air modeler, and health scientist. He has 20 years of experience in researching the effects of environmental contaminants on human health including environmental fate and transport modeling (SCREEN3, AEROMOD, ISCST3, Johnson-Ettinger Vapor Intrusion Modeling); exposure assessment modeling (partitioning of contaminants in the environment as well as PBPK modeling); conducting and managing human health risk assessments for regulatory compliance and risk-based clean-up levels; and toxicological and medical literature research.

Significant projects performed by Dr. Clark include the following:

LITIGATION SUPPORT

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

Client: Environmental Litigation Group, Birmingham, Alabama

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

Case Result: Settlement in favor of plaintiff.

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

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

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

Case Result: Settlement in favor of plaintiff.

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

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

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

Case Result: Summary judgment for defendants.

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

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

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

Case Result: Settlement in favor of plaintiff.

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

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

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

Case Result: Settlement in favor of plaintiff.

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

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

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

Case Result: Settlement in favor of plaintiff.

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

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

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

Case Result: Settlement in favor of plaintiff.

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

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

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

Case Result: Settlement in favor of plaintiff.

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

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

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

Case Result: Settlement in favor of plaintiff.

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

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

Case Result: Settlement in favor of defendant.

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

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

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

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

Case Result: Judgement in favor of defendant.

SELECTED AIR MODELING RESEARCH/PROJECTS

Client – Confidential

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

Client – Confidential

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

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

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

Client – City of Santa Monica, Santa Monica, California

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

Client: Omnitrans, San Bernardino, California

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

Client: Confidential, San Francisco, California

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

Client: Confidential, Minneapolis, Minnesota

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

Client – United Kingdom Environmental Agency

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

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

EMERGING/PERSISTENT CONTAMINANT RESEARCH/PROJECTS

Client: Ameren Services, St. Louis, Missouri

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

Client: City of Santa Clarita, Santa Clarita, California

Dr. Clark is managing the oversight of the characterization, remediation and development activities of a former 1,000 acre munitions manufacturing facility for the City of Santa Clarita. The site is impacted with a number of contaminants including perchlorate, unexploded ordinance, and volatile organic compounds (VOCs). The site is currently under a number of regulatory consent orders, including an Imminent and Substantial Endangerment Order. Dr. Clark is assisting the impacted municipality with the development of remediation strategies, interaction with the responsible parties and stakeholders, as well as interfacing with the regulatory agency responsible for oversight of the site cleanup.

Client: Confidential, Los Angeles, California

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

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

Client – Confidential, Los Angeles, California

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

PUBLIC HEALTH/TOXICOLOGY

Client: Brayton Purcell, Novato, California

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

Client: Confidential, San Francisco, California

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

Client: Confidential, San Francisco, California

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

Client: Confidential, San Francisco, California

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

Client: Covanta Energy, Westwood, California

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

Client – United Kingdom Environmental Agency

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

Client – Confidential, Los Angeles, California

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

Client – Confidential, Los Angeles, California

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

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

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

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

Client: Confidential, Los Angeles, California

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

Client: Kaiser Venture Incorporated, Fontana, California

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

RISK ASSESSMENTS/REMEDIAL INVESTIGATIONS

Client: Confidential, Atlanta, Georgia

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

Client: Confidential, Escondido, California

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

Client: Confidential, San Francisco, California

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

Client: Confidential, Bogotá, Columbia

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

Client: Confidential, Los Angeles, California

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

Client: Confidential, Los Angeles, California

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

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

Client: Confidential, Los Angeles, California

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

Client: Confidential, Los Angeles, California

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

Client –Dominguez Energy, Carson, California

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

Kaiser Ventures Incorporated, Fontana, California

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

ANR Freight - Los Angeles, California

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

Kaiser Ventures Incorporated, Fontana, California

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

Unocal Corporation - Los Angeles, California

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

Client: Confidential, Los Angeles, California

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

Client: Confidential, San Francisco, California

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

Client: Confidential, San Francisco, California

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

IT Corporation, North Carolina

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

Professional Associations

American Public Health Association (APHA)

Association for Environmental Health and Sciences (AEHS)

American Chemical Society (ACS)

California Redevelopment Association (CRA)

International Society of Environmental Forensics (ISEF)

Society of Environmental Toxicology and Chemistry (SETAC)

Publications and Presentations:

Books and Book Chapters

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Exhibit B:

DPM Risk Calculations

Risk Calculations For Diesel Exhaust From Construction Phase

$$\text{Risk}_{\text{inh-res}} = \text{Dose}_{\text{air}} * \text{CPF} * \text{ASF} * \text{ED} / \text{AT}$$

$$\text{Dose}_{\text{air}} = \text{C}_{\text{air}} * \{\text{BR}/\text{BW}\} * \text{A} * \text{EF} * 10^{-6}$$

Variable	Description	Units	Value	Variable	Description	Units
Risk _{inh-air}	Residential inhalation cancer risk	Unitless	Calculated	Dose _{air}	Daily inhalation dose	mg/kg-day
Dose _{air}	Daily inhalation dose	mg/kg-day	Calculated	C _{air}	Concentration in air	ug/m ³
CPF	Inhalation cancer potency factor	(mg/kg-day) ⁻¹	Chemical Specific	{BR/BW}	Daily Breathing rate normalized to body weight	L/kg body weight-day
ASF	Age sensitivity factor for a specified age group	Unitless	Calculated	A	Inhalation absorption fraction	Unitless
ED	Exposure duration (in years) for a specified age group	years	Calculated	EF	Exposure frequency (days/365 days)	Unitless
AT	Averaging time for lifetime cancer risk	years	70	10 ⁻⁶	micrograms to milligrams conversion, liters to cubic meters conversion	Unitless
FAH	Fraction of time spent at home	Unitless	Calculated	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 trimester to 3.17	1.30E-04							

EXHIBIT B

ADAMS BROADWELL JOSEPH & CARDOZO

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November 12, 2024

Of Counsel

MARC D. JOSEPH
DANIEL L. CARDOZO

Via Email and Overnight Mail

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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 1.3.1⁴

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 Burt of Burt 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. Burt'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. Burt 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. Burt'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** - Burt Comments, p. 2.

¹⁰ *Id.*

¹¹ *Id.* at 4.

¹² *Id.*

¹³ *Id.*

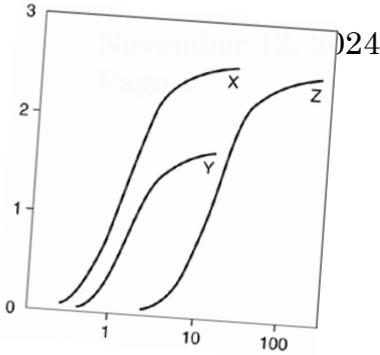


Exhibit A

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

Attn: Ms. Kelilah Federman

Clark & Associates
 Environmental Consulting, Inc.

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

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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 Summary¹⁴, 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 Basin¹⁵ 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/m³) 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.

November 12, 2024

Page 6

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,



November 12, 2024

Page 7

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.

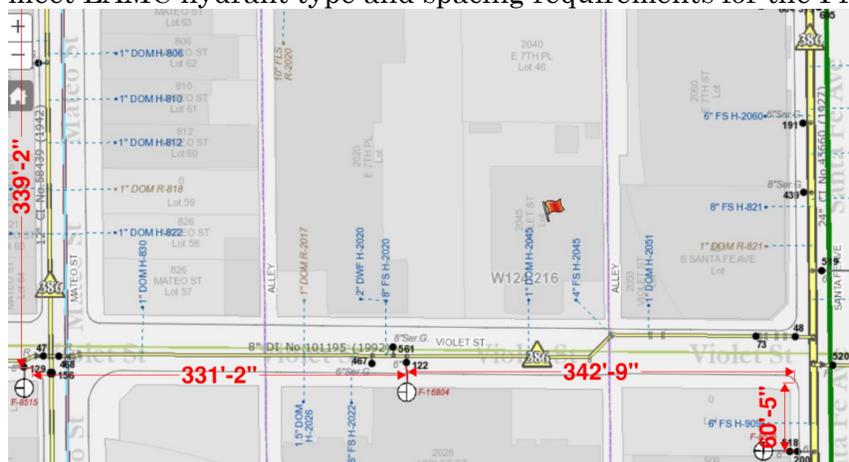


Figure 1. Appendix C – *Water System Map* within Appendix K: *Water Utility Technical Report*. Fire hydrant spacing exceeding 300 feet between hydrants.

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. Burt, P.E., *Fire Protection Engineer*

EXHIBIT C

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November 13, 2024

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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 7¹, 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).
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(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 entitlements⁹ 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).

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. 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 VTTM due to the Project's significant environmental and public health and safety impacts.**

IV. 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 and safety impacts. The City cannot make the necessary findings to certify and adopt the EIR No. ENV-2021-2232-EIR (SCH No. 2021110015) due to 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