

July 24, 2013

**VIA EMAIL AND HAND DELIVERY**

Los Angeles City Council  
c/o Los Angeles City Council Clerk  
200 N. Spring Street, Room 395  
Los Angeles, California 90012

Re: Response to Jeffer Mangels Butler & Mitchell Geotechnical Peer Review Letter

Dear Honorable City Councilmembers:

This firm represents Millennium Hollywood, LLC (the "Applicant") regarding the proposed Millennium Hollywood Project (the "Project"). The Project involves the construction and operation of a new mixed-use and transit-oriented development anchored by the historic Capitol Records Building. The Project would transform a series of under-utilized parcels into a pedestrian-friendly development located on an approximately 4.47 acre site (the "Project Site") located in the Hollywood area of the City of Los Angeles (the "City").

On the evening before the City Council hearing for the Project, Jeffer Mangels Butler & Mitchell, LLP ("JMBM") submitted a peer review letter from Southwestern Engineering Geology regarding geotechnical issues (the "SEG Letter"). As you know, JMBM is opposing the Project. We have reviewed the letter and consulted with the Applicant's licensed geologist about its validity. The letter does not present new issues. We have already provided substantial evidence that refutes the arguments raised in the SEG letter. In addition, the SEG Letter actually confirms many of the conclusions provided in the Preliminary Geotechnical Engineering Study for the Project prepared in May 2012 (the "Geotechnical Study") and the Fault Investigation Report prepared for the tract map review process in November 2012 (the "Fault Investigation Report") by Langan Engineering & Environmental Services ("Langan"). Nonetheless, we have responded to certain issues in the SEG Letter for the record.

To start with, we clarify that the SEG Letter wrongly assumes that the Fault Investigation Report was a "follow up" to the Geotechnical Study. These two reports are independent. The Geotechnical Study supports the Draft EIR for the Project. The Fault Investigation Report was requested by the Department of Building and Safety during its independent review of the Applicant's tract map application.

Next, it is important to note that the SEG Letter concedes that its positions are based only on peer review of existing documents and are not supported by any subsurface investigation at the Project Site. In stark contrast, the conclusions in the Applicant's reports are

supported by borings taken from the Project Site that were professionally analyzed and radiocarbon dated for accuracy.

The following discussion is organized according to the headings provided in the SEG Letter so there is a point-by-point response to the issues raised.

## The Hollywood Fault Location

The SEG Letter acknowledges right from the start that the "Hollywood fault has been poorly defined in the past" and "lacks detail at the site-specific scale." It then proceeds to reference articles published in the 1930's and 1990's, which are clearly not as persuasive as the Applicant's 2012 subsurface investigation of the Project Site. The Fault Investigation Report reviewed and referenced most of the historical studies mentioned in the SEG Letter. Most importantly, the SEG Letter concedes that all of the historical studies are constrained (due to the lack of subsurface investigation) and therefore can only infer or interpret where the Hollywood fault may be. The Applicant's studies are based on recent subsurface borings. Therefore, the information provided by the Applicant is unequivocally more accurate and definitively demonstrates, within the bounds of the fault investigation, that the Hollywood fault is not located on the Project Site.

## Peer Review Assessment of the Geotechnical Study

To begin, the SEG Letter does nothing more than summarize the methods and findings of the Geotechnical Study. It agrees with the conclusions that the Project Site is not located within an Alquist-Priolo Special Studies Zone area. It also correctly points out that the Geotechnical Study was not intended to be a fault rupture hazard study. Instead, the Geotechnical Study was intended to provide substantial evidence (to support the Draft EIR) of the geologic conditions at the Project Site, which it did adequately. The SEG Letter also confirms that the Geotechnical Study accurately used the City's Graphical Information System ("GIS")-based ZIMAS system to estimate the distance of the Hollywood fault from the Project Site. To clarify, the Geotechnical Study did not use ZIMAS to determine the likelihood of ground rupture, as implied in the SEG Letter. Instead, the fault rupture likelihood conclusions in the Geotechnical Study and Draft EIR were based on a myriad of creditable sources and confirmed by the findings of the Fault Investigation Report.

Next, the SEG Letter mistakenly argues that the 2010 Fault Activity Map prepared by the California Geologic Survey ("CGS") should have been used to locate the Hollywood fault. Per CGS, that map is best used to determine fault "activity," not necessarily location. Per the metadata in the CGS mapping file, the faults "[d]isplay at significantly larger scales and may produce error in location of contacts or faults relative to features contained in other data sets." There is no disagreement that the Hollywood fault is active. However, SEG's reference to a fault "activity" map to determine fault "location" is misplaced. The Geotechnical Study and Fault Investigation Report used proper sources to locate the proximity of the Hollywood fault. SEG closes this section with a recommendation that site-specific assessment should be done to definitively determine the presence of the Hollywood fault. The Applicant did



exactly that. And, the mitigation measures and conditions of approval attached to the Project require additional detailed site investigations before construction.

Then, SEG turns to fault study zones and acknowledges that "there is currently no Earthquake Fault Zone established along the Hollywood fault" based on the Alquist-Priolo Earthquake Fault Zoning Act. The Applicant and the Department of Building and Safety recognized this fact and yet took a conservative approach and performed the Fault Investigation Report nonetheless. The report confirmed that the Hollywood fault was not located on the Project Site within the bounds of the investigation. The SEG Letter also acknowledges that even for sites located clearly within fault zones (which the Project Site is not), fault studies "would be required prior to permitting new construction." We agree. And it is critical to recognize that the Project has several mitigation measures and conditions of approval that require more geologic and seismic study before issuance of grading and building permits. That does not, however, directly relate to the California Environmental Quality Act ("CEQA") review process or the ability of the City to approve the Project at this time.

Moving on, the SEG Letter actually clarifies an important point that the Applicant has repeatedly made: the City's Safety Element Exhibit A, Fault Rupture Study Area Map is not designed to accurately plot sites or measure distances. It is simply to determine generally if a project is in the vicinity of a City-delineated fault zone. The SEG Letter states "[a]ccurately locating a site on this map is challenging" and "regardless of actual site location relative to either zone, all such zones are simply regulatory entities based on planning-level assessments intended to mandate studies where sites lie within certain distances of known faults." Again, we agree and this is why the Department of Building and Safety decided to request the Fault Investigation Report during review of the tract map. The Project Site was close enough to the fault study zone. So, the conservative approach was to prepare a fault investigation. Accordingly, the Applicant prepared the Fault Investigation Report and confirmed the Hollywood fault was not on the Project Site. In this light, any arguments about inaccurately plotting the Project Site on Exhibit A pale in comparison.

The SEG Letter closes by questioning the groundwater data and initial borings associated with the Geotechnical Study. Langan already responded to these claims in a technical memorandum provided to the City Council in response to other project opponents. In short, both the Geotechnical Report and Fault Investigation Study confirmed that soil conditions and groundwater data did not indicate the presence of a fault on the Project Site.

### Peer Review Assessment of the Fault Investigation Report

SEG starts its assessment by reiterating concerns raised about the Geotechnical Study. We find no reason to regurgitate those arguments again. There is substantial evidence in the record already. We note that SEG wrongly claims that Langan did not support its studies with references. To be clear, the Geotechnical Study and the Fault Investigation Report contain a list of numerous references, many of which the SEG Letter itself relies on.

Next, SEG questions why the Fault Investigation Report conducted subsurface borings only on the west side of the Project Site. The answer is simple and based on several facts. One, the east side contains sensitive subsurface structures that constrain boring locations. Two, based on those constraints, the best data could be extracted from the west side. Three, the Hollywood fault is believed to trend west-to-east and therefore exploring the west side sufficiently first could discover the fault headed to the east side. And, four, the Department of Building and Safety has conditioned the Project so that additional geotechnical studies are required, to the Department's satisfaction, before the Project can be built. Therefore, the Fault Investigation is completely sufficient to support the conclusion that the Hollywood fault is not present in the portions of the Project Site investigated.

In addition, SEG claims the Fault Investigation Report is dismissive of other available literature. This is not true. The report summarizes, assesses relevance, and cites to many on the Hollywood fault. The important point to recognize is that the fundamental purpose of the Fault Investigation Report is to analyze geologic material extracted from the Project Site. That is the "hard evidence" for a fault presence determination. Therefore, SEG's pining over other conjectured articles is neither warranted nor required.

SEG then questions methodology. The methodology used in the Fault Investigation Report follows professional standards and industry protocols. Also, the Department of Building and Safety vetted and concurred with the methodology. We point out that the author of the SEG Letter also authored an article regarding the challenges inherent in the peer review process. He states that "[d]isagreements that arise over interpretation are common" and that "[c]ommonly the data do not allow a clear resolution of those disagreements." (Challenges in Peer Review of Fault-Rupture Hazard Studies for Engineering Mitigation, C. Sexton, Environmental & Engineering Geoscience, February 2010, incorporated by reference herein.) The methodology arguments in the SEG Letter are the classic "battle of the experts" and are framed within the four corners of the Project opponent's letter. Simply, the methodology used in the Fault Investigation Report was professional and reliable.

Next, SEG presents a series of arguments regarding the limits of the field investigation. As discussed above, the portions of the Project Site investigated were selected for specific reasons and the material recovered was sufficient to support conclusions of no active faulting on the Project Site. Equally important, it is key to understand that the City has conditioned the Project to require further studies in areas of the Project Site not studied during the Fault Investigation Report. Therefore, SEG's recommendations regarding additional studies outside the limits of the Fault Investigation Report are already integrated into the Project requirements.

Wrapping up, SEG questions the interpretation of recovered geologic materials and again recommends additional exploration. The Fault Investigation Report comprehensively discusses how and why the recovery samples demonstrate no active faulting on the Project Site. To summarize, the boring method used in the field was industry standard (and adjusted to optimize recovery results when needed) to obtain the best samples. The soils were radiocarbon dated for accuracy. The soil profiles and age of overlying materials demonstrated lack of faulting. Groundwater data indicated lack of barriers and faulting.



Overall, the laboratory analysis and hard evidence clearly indicated there was no active faulting on the Project Site. Even still, the Project will be subject to additional geotechnical and seismic investigation before development.

## Peer Review Conclusions and Rebuttal

The SEG Letter presents five conclusions, which we take in turn below.

First, the SEG Letter recommends additional exploration on portions of the Project Site. As discussed above, the City has conditioned the Project to provide additional studies before construction to the satisfaction of the Department of Building and Safety. Second, SEG questions the alluvial soil profiles. Plate 2 in the Fault Investigation Report clearly illustrates that soil profiles under the Project Site are largely consistent and do not evidence faulting. Third, SEG claims the groundwater evaluation is incomplete. Both the Geotechnical Study and the Fault Investigation Report assessed groundwater, which is only one component of accurately assessing faulting presence. The groundwater evidence, in conjunction with several other geotechnical data, supports the conclusions that active faulting is not present. Fourth, SEG concedes that there is no consensus on the actual location of the Hollywood fault and references conjectured evidence and inferred fault locations. Simply, there is no stronger evidence of possible fault location than the on-site borings performed by the Applicant's licensed geologist and engineers. That evidence indicates no active faulting within the limits of the investigation. Fifth, SEG ponders that boring for other projects in the area indicates faulting on the Project Site and recommends additional exploration of the Project Site. Again, it is critical to note that evidence from other sites cannot be more conclusive than borings from the recent site-specific explorations performed on the Project Site. In addition, the Project must comply with several conditions and mitigation measures that require additional studies before project construction. Therefore, for purposes of CEQA review and obtaining entitlements, the existing body of geotechnical evidence is more than sufficient to proceed with project approval.

In closing, the administrative record contains substantial evidence to support approval of the Project. The Draft EIR contains exhaustive analysis and the Final EIR provides good-faith reasoned responses. The evidence proffered by project opponents has been soundly refuted. Therefore, we respectfully request that the City Council certify the EIR and approve the Project without delay.

Very truly yours,



Alfred Fraijo Jr.  
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP