Communication from Public

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May 31, 2022

Los Angeles City Council
200 North Spring Street
Los Angeles, CA 90012

Re: Sidewalk and Transit Amenities Program
Council File Nos. 20-1536 and 20-1536-S1

Dear Members of the City Council:

This firm represents Summit Media, LLC ("Summit"). On behalf of Summit, we submit the following concerns with the Department of Public Works' ("DPS'") recommendation that the City Council adopt the Initial Study/Mitigated Negative Declaration ("IS/MND") and related items associated with the Sidewalk and Transit Amenities Program ("STAP"), Council File Nos. 20-1536 and 20-1536-S1.

Specifically, an environmental impact report ("EIR") is required for the project. Under the California Environmental Quality Act ("CEQA"), an EIR is required whenever substantial evidence supports a "fair argument" that a proposed project may have a significant effect on the environment, even when other evidence supports a contrary conclusion. *See, e.g., No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 74. This standard creates a "low threshold" for requiring the preparation of an EIR. *Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754. A project does not need to have an "important or momentous effect of semi-permanent duration" to require an EIR. *No Oil, Inc.*, 13 Cal.3d at 87. Rather, an agency must prepare an EIR "whenever it perceives some substantial evidence that a project may have a significant effect environmentally." *Id*. at 85. An EIR is required even if a different conclusion may also be supported by evidence.

Moreover, an agency is not allowed to hide behind its own failure to gather relevant data. "[D]efficiencies in the record may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences." *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311; *see also Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170, 1200 (where a lead agency "failed to consider the whole of the project in its initial study," the agency "failed to proceed in 'a manner required by law' and…therefore abused its discretion").

To lawfully carry out a project based on an MND, a lead agency must approve mitigation measures sufficient to reduce potentially significant impacts "to a point where clearly no significant effects would occur." Cal. Code Regs., tit. 14, section 15071. A lead agency may utilize an MND only if: (1) revisions in the project would mitigate the effects of the proposed project to appoint "where clearly no significant effects on the environment will occur, and (2)

there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment." Cal. Public Resources Code section 21064.5.

The MND here failed to meet the above standards. An MND must include a complete and accurate project description. CEQA Guidelines, section 15071. Yet this MND fails to describe the project in its entirety, analyzing only construction and maintenance impacts and ignoring much of the infrastructure needed to implement STAP. The MND also fails to properly analyze the potentially significant impacts of digital signage, including impacts on aesthetics, lighting, traffic and pedestrian safety, and sensitive receptors.

For these and the additional reasons set forth in the letter from Citizens for a Better Los Angeles dated May 8, 2022 (which Summit joins and incorporates as if fully set forth herein), a full EIR must be completed to identify all the possible negative impacts of STAP and to determine if mitigations can address them.

Very truly yours,

Philip Recht
Partner