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May 15, 2023

**Via Email and Online Portal**

Chair Marqueece Harris-Dawson  
Honorable Councilmembers  
City Council Planning and Land Use Management Committee  
City of Los Angeles  
c/o City Clerk  
200 N Spring St, Room 360  
Los Angeles, CA 90012  
**Email:** [clerk.plumcommittee@lacity.org](mailto:clerk.plumcommittee@lacity.org)

Esther Ahn, City Planner  
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**Online Portal:** <https://cityclerk.lacity.org/publiccomment/>

**Re: Los Angeles PLUM Hearing Agenda Item 14 – CREED LA Appeal of the March 2, 2023, City Planning Commission Determination in the Valor Elementary School Project CPC-2022-5865-CU-SPR; ENV-2022-5866-MND**

Dear Chair Harris-Dawson, Councilmembers, and Ms. Ahn:

On behalf of Coalition for Responsible Equitable Economic Development Los Angeles (“CREED LA”), we are writing with regard to Agenda Item 14, CREED LA’s appeal of the City Planning Commission’s March 2, 2023 determination approving the Conditional Use Permit (“CUP”) and Site Plan Review (“SPR”) for the Valor Elementary School Project, CPC-2022-5865-CU-SPR; ENV-2022-5866-MND (“Project”), including the City Planning Commission’s adoption of the Project’s Mitigated Negative Declaration (“MND”), and adoption of Conditions of Approval.<sup>1</sup>

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<sup>1</sup> City of Los Angeles, Letter of Determination, 15526 and 15544 West Plummer Street, Case No. CPC-2022-5865-CU-SPR (March 2, 2023) available at L6420-013j

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The Project proposes to construct a one and two-story, 26.5-foot-tall, elementary school building with 28 classrooms, totaling 23,538 square-feet. for grades transitional kindergarten (“TK”) through 4; a 3,182 square-foot multi-purpose room, administrative spaces, corridors, storage spaces, and covered outdoor dining, and a surface parking lot with an ingress/egress driveway off Plummer Street.<sup>2</sup> The elementary school building would have a total building area of 34,755 sf and would accommodate a maximum enrollment of 552 students. The Project would also include 30,726 sf of open space and landscaping, including two play areas totaling 13,060 square-feet.

On December 14, 2022, CREED LA submitted comments on the MND to the City. On February 15, 2023, the City released a Recommendation Report and a report prepared by Rincon Consultants Inc. for the Project which contained responses to CREED LA’s December 14 MND comments.<sup>3</sup> In our review of the City’s responses we found that the City failed to resolve many of the issues raised in CREED LA’s MND comments. On February 21, 2023, CREED LA submitted a letter to the Planning Commission containing arguments based on substantial evidence supporting a fair argument that the Project would result in significant unmitigated health risk, noise, and public safety impacts. The February 21 letter urged the Commission to remand the Project to staff, and direct staff to prepare an environmental impact report (“EIR”) for the Project pursuant to the California Environmental Quality Act (“CEQA”).<sup>4</sup> On February 23, 2023, the City Planning Commission approved the Project’s CUP, SPR and MND for the Project. The City released a Letter of Determination on March 2, 2023, notifying the public of the Planning Commission’s February 23 decision. Pursuant to the City’s appeal procedures, CREED LA filed an appeal of the Planning Commission’s decision on March 16, 2023.

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<https://planning.lacity.org/pdiscaseinfo/document/MjI1MQ0/fe3b456d-e5a5-4f0e-9fa7-879f1ff43502/pdd>

<sup>2</sup> MND, p .1.

<sup>3</sup> Department of City Planning, Recommendation Report, Valor Elementary School Final IS-MND (ENV-202205866-MND) (February 23, 2023) available at [https://planning.lacity.org/plndoc/Staff\\_Reports/2023/02-23-2023/CPC\\_2022\\_5865.pdf](https://planning.lacity.org/plndoc/Staff_Reports/2023/02-23-2023/CPC_2022_5865.pdf); see also Exhibit E, Rincon Consultants, Responses to CREED LA Comment Letter Dated December 14, 2022 (February 9, 2023) (hereinafter “Rincon”) beginning at pdf. p. 239.

<sup>4</sup> Pub. Resources Code § 21000 et seq.; 14 Cal. Code Regs. (“C.C.R.”) §§ 15000 et seq. L6420-013j

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On May 11, 2023, the City released an appeal summary and response (“Response”) to CREED LA’s appeal.<sup>5</sup> However, the Response simply restates the City’s original responses from the City’s February 15, Recommendation Report and fails to resolve the issues raised in the appeal. In particular, the City continues to ignore the substantial evidence presented by CREED LA’s experts which supports a fair argument that Project will cause: (1) a significant, unmitigated cancer risk from air pollution emissions to future students and staff, (2) a significant, unmitigated impact from noise, and (3) a potentially significant, unmitigated impact to public safety. Additionally, the City failed to consult with the Department of Toxic Substances Control (“DTSC”) and prepare a preliminary endangerment assessment, in violation of California law.

The City Planning Commission abused its discretion and violated CEQA when it approved the Project’s CUP and SPR for the Project, and adopted the MND, Findings, and Modified Conditions of Approval in violation of CEQA and State and local land use laws. CEQA requires that the potential impacts of this Project be evaluated in an environmental impact report (“EIR”), not in an MND, because substantial evidence exists that the Project may have significant, unmitigated environmental impacts to public health, noise, and public safety that are not adequately disclosed or mitigated by the MND.

## **I. STATEMENT OF INTEREST**

CREED LA is an unincorporated association of individuals and labor organizations formed to ensure that the construction of major urban projects in the Los Angeles region proceed in a manner that minimizes public and worker health and safety risks, avoids, or mitigates environmental and public service impacts, and fosters long-term sustainable construction and development opportunities. The association includes the Sheet Metal Workers Local 105, International Brotherhood of Electrical Workers Local 11, Southern California Pipe Trades District Council 16, and District Council of Iron Workers of the State of California, along with their members, their families, and other individuals who live and work in the Los Angeles region.

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<sup>5</sup> City of Los Angeles, Department of City Planning, CALIFORNIA ENVIRONMENTAL QUALITY ACT (“CEQA”) APPEAL SUMMARY AND STAFF RESPONSE. 15526 & 15544 West Plummer Street; CF 23-0340 (hereinafter “Response”) (May 11, 2023) available at <https://lacity.primegov.com/meeting/attachment/430174.pdf?name=Communication%20from%20Department%20of%20City%20Planning%20dated%205-11-23%20-%20Appeal%20Response.pdf>  
L6420-013j

Individual members of CREED LA and its member organizations, including John Ferruccio, Gerry Kennon and Chris S. Macias 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 on site.

CREED LA has an interest in enforcing environmental laws that encourage sustainable development and ensure a safe working environment for its members. Environmentally detrimental projects can jeopardize future jobs by making it more difficult and more expensive for business and industry to expand in the region, and by making the area less desirable for new businesses and new residents. Continued environmental degradation can, and has, caused construction moratoriums and other restrictions on growth that, in turn, reduce future employment opportunities.

CREED LA supports the development of commercial, mixed use, and educational projects where properly analyzed and carefully planned to minimize impacts on public health, climate change, and the environment. These projects should avoid adverse impacts to air quality, public health, climate change, noise, and traffic, and must incorporate all feasible mitigation to ensure that any remaining adverse impacts are reduced to the maximum extent feasible. Only by maintaining the highest standards can commercial development truly be sustainable.

## **II. AN EIR IS REQUIRED**

CEQA is designed to inform decision-makers and the public about the potential, significant environmental effects of a project.<sup>6</sup> "CEQA's fundamental goal [is] fostering informed decision-making."<sup>7</sup> "The purpose of CEQA is not to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind."<sup>8</sup>

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<sup>6</sup> 14 Cal. Code Regs. ("CEQA Guidelines") § 15002, subd. (a)(1).

<sup>7</sup> *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 402.

<sup>8</sup> *Bozung v. LAFCO* (1975) 13 Cal.3d 263, 283.

CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an EIR, except in certain limited circumstances.<sup>9</sup> The EIR is the very heart of CEQA.<sup>10</sup> The EIR acts like an “environmental ‘alarm bell’ whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return.”<sup>11</sup> The EIR aids an agency in identifying, analyzing, disclosing, and, to the extent possible, avoiding a project’s significant environmental effects through implementing feasible mitigation measures.<sup>12</sup> The EIR also serves “to demonstrate to an apprehensive citizenry that the [agency] has analyzed and considered the ecological implications of its action.”<sup>13</sup> Thus, an EIR “protects not only the environment but also informed self-government.”<sup>14</sup>

An EIR is required if “there is substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment.”<sup>15</sup> The EIR aids an agency in identifying, analyzing, disclosing, and, to the extent possible, avoiding a project’s significant environmental effects through implementing feasible mitigation measures.<sup>16</sup> In very limited circumstances, an agency may avoid preparing an EIR by issuing a negative declaration, a written statement briefly indicating that a project will have no significant impact. Because “[t]he adoption of a negative declaration . . . has a terminal effect on the environmental review process” by allowing the agency to dispense with the duty to prepare an EIR, negative declarations are allowed only in cases where there is not even a “fair argument” that the project will have a significant environmental effect.<sup>17</sup>

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<sup>9</sup> See, e.g., Pub. Resources Code, § 21100.

<sup>10</sup> *Dunn-Edwards v. Bay Area Air Quality Management Dist.* (1992) 9 Cal.App.4th 644, 652.

<sup>11</sup> *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1220.

<sup>12</sup> Pub. Resources Code § 21002.1(a); CEQA Guidelines § 15002(a), (f).

<sup>13</sup> *No Oil, Inc. v. City of Richmond* (1974) 13 Cal.3d 68, 86.

<sup>14</sup> *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.

<sup>15</sup> Pub. Resources Code, § 21080, subd. (d) (emphasis added); CEQA Guidelines, § 15064; see also *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 927; *Mejia v. City of Richmond* (2005) 13 Cal.App.4th 322.

<sup>16</sup> Pub. Resources Code, § 21002.1, subd. (a); CEQA Guidelines, § 15002, subd. (a) & (f).

<sup>17</sup> *Citizens of Lake Murray v. San Diego* (1989) 129 Cal.App.3d 436, 440; Pub. Resources Code, §§ 21100, 21064.

Under the fair argument standard, a lead agency “shall” prepare an EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment.<sup>18</sup> The phrase “significant effect on the environment” is defined as “a substantial, or potentially substantial, adverse change in the environment.”<sup>19</sup> In certain circumstances, a project with potentially significant impacts can be modified by the adoption of mitigation measures to reduce the impacts to a level of insignificance. In such cases, an agency may satisfy its CEQA obligation by preparing a mitigated negative declaration.<sup>20</sup> A mitigated negative declaration, however, is subject to the fair argument standard. Thus, an MND is inadequate, and an EIR is required, whenever substantial evidence in the record supports a “fair argument” that significant impacts may occur, even with the imposition of mitigation measures.

The “fair argument” standard is an exceptionally “low threshold” favoring environmental review in an EIR rather than a negative declaration.<sup>21</sup> The “fair argument” standard requires the preparation of an EIR if any substantial evidence in the record indicates that a project may have an adverse environmental effect.<sup>22</sup> As a matter of law, substantial evidence includes both expert and lay opinion.<sup>23</sup> Even if other substantial evidence supports the opposite conclusion, the agency nevertheless must prepare an EIR.<sup>24</sup> Under the “fair argument” standard, CEQA always resolves the benefit of the doubt in favor of the public and the environment.

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<sup>18</sup> Pub. Resources Code §§21080(d), 21082.2(d); 14 Cal. Code Reg. §§ 15002(k)(3), 15064(f)(1), (h)(1); *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1993) 6 Cal.4th 1112, 1123; *No Oil, Inc. v. City of Richmond* (1974) 13 Cal.3d 68, 75, 82; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1601-1602.

<sup>19</sup> Pub. Resources Code, § 21068.

<sup>20</sup> Pub. Resources Code, § 21064.5; CEQA Guidelines, § 15064, subd. (f)(2).

<sup>21</sup> *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928.

<sup>22</sup> CEQA Guidelines, § 15064, subd. (f)(1); *Pocket Protectors v. City of Sacramento*, *supra*, 124 Cal.App.4th at 931.

<sup>23</sup> Pub. Resources Code, § 21080, subd. (e)(1); CEQA Guidelines, § 15064, subd. (f)(5).

<sup>24</sup> *Arviv Enterprises v. South Valley Area Planning Comm.* (2002) 101 Cal.App.4th 1333, 1346; *Stanislaus Audubon v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens v. City of Encinitas* (1994) 29 Cal.App.4th 1597.

**III. SUBSTANTIAL EVIDENCE SUPPORTS A FAIR ARGUMENT THAT THE PROJECT MAY RESULT IN SIGNIFICANT IMPACTS REQUIRING AN EIR AND THE CITY LACKS SUBSTANTIAL EVIDENCE TO RELY ON AN MND**

**A. There is Substantial Evidence Demonstrating that the Project May Cause a Significant, Unmitigated Cancer Risk from Exposure to Air Pollution**

The Response states that the health risk posed to future students and staff at the Project site from exposure to high air pollution concentrations, including diesel particulate matter (“DPM”) emissions, would be less than significant with the use of MERV 13 air filters inside the school buildings.<sup>25</sup> We previously explained that the MND’s conclusion is unsupported and that the City failed to analyze or mitigate effects of human exposure to background levels of air pollution in the Project area.

Substantial evidence supports a fair argument that development of the Project will place children and staff in an area of high air pollution concentrations. CREED LA’s expert, Dr. James Clark, found that according to the Multiple Air Toxics Exposure Study V (“MATES V”) prepared by the South Coast Air Quality Management District (“SCAQMD”), the cumulative cancer risk from air pollutants in the area of the Project is 413 in 1,000,000. Diesel particulate matter (“DPM”) accounts for approximately 65 percent of that risk, or 268 in 1,000,000, while the 145 in 1,000,000 comes from benzene, formaldehyde and other gasses which will not be treated with the MERV filters proposed as mitigation for the Project. Even assuming that the MERV 13 filters at the site would reduce the cancer risk from DPM by 90 percent, the cumulative risk to students and staff will still exceed the SCAQMD threshold of 100 in 1,000,000, resulting in a significant impact.

The Response states that the MATES V study relied upon by Dr. Clark does not apply to the Project site because the monitoring station relied upon by the study is 2.3 miles away from the Project site.<sup>26</sup> However, the Response provides no calculations or supporting evidence that the background risk level at the Project site is not 413 in 1,000,000. Additionally, the Response ignores the evidence provided

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<sup>25</sup> Responses, p. 2.

<sup>26</sup> Response, p. 2.

by Dr. Clark that DPM is not the only risk driver at the Project site and that the proposed installation of MERV 13 filters will not reduce the cancer risk to students and staff in the classrooms (unless doors and windows are closed 100% of the time) or outside on the playground.

The City must prepare an EIR that includes disclosure and analysis of the potentially significant health risk impacts to future students and staff at the Project site and require additional mitigation to reduce the Project's health risks from air pollution.

## **B. The City Failed to Perform a Preliminary Endangerment Assessment**

CREED LA previously presented substantial evidence supporting a fair argument that the City is required to consult with the DTSC and prepare a Preliminary Endangerment Assessment for the Project. The Applicant failed to comply with this requirement, and the City Planning Commission failed to require the Applicant to provide evidence demonstrating compliance. As a result, the Project fails to comply with both the Education Code and CEQA because the Project may result in a significant, unmitigated health risk to students and teachers.<sup>27</sup>

As a condition of receiving state funding for school construction projects pursuant to California Education Code Chapter 12.5 section 17078.52, a charter school must complete the three-step process outlined in Education Code § 17213.1 and assess whether there has been a release of hazardous waste at a school site.<sup>28</sup> As explained in our prior comments, the process requires consultation with DTSC and to enter into an Environmental Oversight Agreement with DTSC, then contract with a qualified environmental consultant to prepare an assessment according to DTSC guidelines.<sup>29</sup>

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<sup>27</sup> PRC § 21002.1(c) (projects must comply with other laws).

<sup>28</sup> Ed. Code, §§ 17078.52 and 17213.1 *see also* DTSC, Environmental Assessments For Charter School Sites Fact Sheet available at <https://dtsc.ca.gov/environmental-assessments-for-charter-school-sites-fact-sheet/>

<sup>29</sup> Ed. Code §17213.1(a)(4)(B).



The Applicant asserts that consultation with DTSC is not required because no Charter Schools Facilities Program (“CSFP”) funds would be used for the construction of the Project<sup>30</sup>, despite the fact that the Applicant’s 2022-2023 operational budget includes a line item for Proposition 1D grants to fund school construction projects, noting that \$26,971,711 in assets are restricted for construction.<sup>31</sup>

The City’s Response fails to include a response to this issue. The City has not provided evidence that no state funds will be used for the construction of the Project and has not completed the required consultation with DTSC. Absent such evidence, it is reasonably foreseeable that such funds may be used, and a PEA would therefore be required. If the City intends to rely on this assertion, the Applicant must provide a guarantee that no State funds will be used for Project construction, otherwise, the City must conduct the necessary consultation with DTSC prior to Project approval.

### **C. The Project May Result in a Significant, Unmitigated Impact from Noise**

We previously provided substantial evidence showing the MND’s failure to provide an adequate baseline noise analysis, resulting in a failure to disclose the noise impacts from construction and operation of the Project. This remains a significant, unmitigated impact that the City has failed to disclose.

Additionally, CREED LA’s experts determined that the Project’s construction and operational noise impacts remain significant and unmitigated notwithstanding the mitigation measures proposed in the MND and the Project’s conditions of approval.

The Response fails to provide evidence that the noise study provides an accurate baseline and fails to provide evidence that the Project’s noise will be effectively mitigated by the conditions of approval and site design. The City must correct the errors in the noise analysis in an EIR for the Project in order to determine the Project’s noise impacts.

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<sup>30</sup> City Planning Commission, February 23, 2023, Agenda Item 7, Day of Submissions, pdf. p. 66 available at <https://planning.lacity.org/dcpapi/meetings/document/addtldoc/64833>

<sup>31</sup> Bright Star Schools, 2022-2023 Budget Report on the Financial Statement (“Auditor’s Report”) (June 30, 2022) pp. 7 and 11. Available at [https://brightstarschools.org/files/galleries/2022\\_Audited\\_Financials.pdf](https://brightstarschools.org/files/galleries/2022_Audited_Financials.pdf)

**D. The Project May Result in a Significant, Unmitigated Public Safety Impact**

We previously provided substantial evidence showing the City failed to proceed in the manner required by law by failing to analyze consistency with the Mission Hills-Panorama City-North Hills Community Plan's public protection policies and lacks substantial evidence to support its conclusion that the Project's public services impacts would be less than significant. In particular, the City failed to analyze whether consultation with LAPD regarding the Project's design and layout will result in changes to the Project design or require additional police services to support the Project. A CEQA document must consider the effect of changes to the environment that can result from the expansion of services.<sup>32</sup> The City Planning Commission failed to require this analysis before approving the Project.

The Response states that "[t]here are no specific requirements per the Mission Hills – Panorama City – North Hills Community Plan nor the requested Conditional Use and Site Plan Review entitlements to directly involve the LAPD for the proposed project."<sup>33</sup> The Response obscures the issue and fails to respond to CREED LA's comments.

The Project is located within the area covered by the Mission Hills-Panorama City-North Hills Community Plan ("Community Plan") which includes goals and objectives to ensure proper police protection of new developments.<sup>34</sup> The Community Plan includes the following policies and related programs that are applicable to the Project:

- 8-2.2 Ensure that landscaping around buildings be placed so as not to impede visibility.
  - Program: Discretionary land use reviews and approvals by the Department of City Planning with consultation from the Los Angeles Police Department.

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<sup>32</sup> *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553.

<sup>33</sup> Response, p. 3.

<sup>34</sup> City of Los Angeles, Mission Hills-Panorama City-North Hills Community Plan (1999) p. III-16, available at [https://planning.lacity.org/odocument/fee68461-843f-48da-92e9-49a01d1f09e3/Mission\\_Hills-Panorama\\_City-North\\_Hills\\_Community\\_Plan.pdf](https://planning.lacity.org/odocument/fee68461-843f-48da-92e9-49a01d1f09e3/Mission_Hills-Panorama_City-North_Hills_Community_Plan.pdf)

- 8-2.3 Ensure adequate lighting around residential, commercial, and industrial buildings in order to improve security.
  - Program: Discretionary land use reviews and approvals by the Department of City Planning with consultation from the Los Angeles Police Department.<sup>35</sup>

Policies 8-2.2 and 8-2.3 both include a program requirement that consultation be completed with LAPD as part of a project's land use review process in order to ensure the safety of the future occupants of a project, in this case children and teachers primarily. The Response states that the Conditions of Approval for the Project include a provision requiring development of a security plan in consultation with LAPD prior to the issuance of a certificate of occupancy from the Building Department.<sup>36</sup> However, as outlined above, and in CREED LA's prior comments on the Project, this approach improperly defers required analysis of the Project's potential impacts to public services that may be uncovered during LAPD's review of the Project and defers mitigation measures that may be required through consultation with LAPD. For example, LAPD's review of the project may find that additional lighting is necessary for the Project to protect the students and staff, this would in turn increase the Project's energy use and GHG impacts. Similarly, consultation with LAPD may require alteration to the Project's landscaping plan changing the number of protected trees and shrubs to be replaced resulting in nonconformance with the City's tree protection policies.<sup>37</sup> The Response is silent on these issues.

As a result, the MND fails to demonstrate consistency with mandatory public protection policies in the Community Plan, in violation of CEQA and land use law. The City Council must correct this error by requiring an EIR be prepared for the Project.

#### **E. The City Planning Commission Erred by Making Unsupported Findings to Approve the Project**

The Project requires a CUP to allow development of a public school in the RA-1 zone pursuant to LAMC § 12.24.<sup>38</sup> The MND fails to accurately disclose and

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<sup>35</sup> Community Plan, p. III-16.

<sup>36</sup> Response, p. 3.

<sup>37</sup> "[P]rotected tree/shrub removals would be replaced at a 1:4 ratio by planting 36 trees on-site. Non-protected tree removals would be replaced at a 1:1 ratio by planting 32 trees on-site." MND, p. 20

<sup>38</sup> LAMC § 12.24(U)(24).

mitigate significant impacts, as discussed in our comments to the City. Therefore, the Project fails to meet the LAMC requirements to obtain a CUP. LAMC § 12.24(E) requires the following findings be made to approve the CUP:

- (1) that the project will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city, or region;
- (2) that the project's location, size, height, operations, and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety; and
- (3) that the project substantially conforms with the purpose, intent and provisions of the General Plan, the applicable community plan, and any applicable specific plan.

CREED LA demonstrated that the Project **will** adversely affect public health due to the Project's proximity to I-405 and the unmitigated impacts to future students and school staff, **will** adversely affect adjacent properties due to unmitigated noise impacts and, and **does not** comply with the applicable community plan by failing to consult with LAPD prior to Project approval.

The City Planning Commission abused its discretion by making Finding No. Two and approving the Project despite substantial evidence in the record supporting a fair argument that the Project would adversely affect the surrounding neighborhood and affect public health, welfare, and safety.

#### IV. CONCLUSION

As a result of these errors, the City Planning Commission's adoption of the MND, Findings, and Modified Conditions of Approval, and its approval of the Project's Conditional Use Permit and Site Plan Review violated CEQA. The City Council must uphold this appeal and require an EIR be prepared for the Project prior to reconsideration by the City.

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We urge the City Council to grant CREED LA's appeal and order the preparation of an EIR for the Project. Thank you for your attention to this important matter.

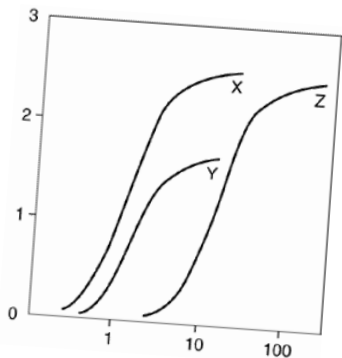
Sincerely,

A handwritten signature in blue ink that reads "Kevin Carmichael". The signature is written in a cursive, flowing style.

Kevin Carmichael

KTC:ljl

# ATTACHMENT 1



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May 13, 2023

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**Attn: Mr. Kevin Carmichael**

**Subject: Response To CEQA Appeal Summary and Staff  
Response. 15526 & 15544 West Plummer Street; CF 23-  
0340**

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Dear Mr. Carmichael:

At the request of Adams Broadwell Joseph & Cardozo (ABJC), Clark and Associates (Clark) has reviewed the Appeal Summary and Staff Report Response regarding the above referenced project.

The Staff's analysis again ignores the substantial evidence previously detailed in my comment letter that mitigation measures outlined by the Proponent (installation of MERV 13 filtration system) to reduce the cumulative air quality impacts fail to protect the students and staff, a clearly unacceptable risk. MERV 13 technology reduces particulate matter and not vapors/gases in the classrooms. The MERV technology will not reduce the outdoor air exposure of the students and staff.

The proximity to the freeway ensures that students and staff will be exposed to the freeway emissions (primary source of DPM and VOCs) continuously. Unless the mitigation measures include a prohibition of students and staff from opening the doors or windows, and prevents them from going outside for breaks, this mitigation measure will only be a partial impact on the risk to the students and staff. The City must re-evaluate the significant impacts identified in this letter by requiring the preparation of an EIR and outline additional measures to protect the staff and students from their exposure to air toxins that will not be controlled by the planned mitigation measure.

Sincerely,