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Via Email

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Planning Commission
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City of Santa Clara
Community Development Department
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Re: Supplemental Comments on LIUNA, Local 270 Appeal of Initial Study/Mitigated Negative Declaration for the 2305 Mission College Boulevard Data Center Project, CEQ2017-01034; File No(s): PLN2017-12535 (SCH2018032008). Request for Environmental Impact Report.

Dear Chair Akezi, Planning Commissioners, and Mr. Le:

I am writing on behalf of the **Laborers International Union of North America, Local Union 270** and its members living in Santa Clara County and the City of Santa Clara ("LIUNA"), regarding the 2305 Mission College Boulevard Data Center, PLN-2017-12535, CEQ2017-01034 and SCH2018032008, including all actions related or referring to the demolition of the current two-story 358,000 square feet ("sf") office/R&D building and development and construction of a two-story 495,610 sf data center building on APN 104-13-096 in the City of Santa Clara ("Project"). On

April 24, 2018, LIUNA timely filed an appeal of the Architectural Approval of the Project. LIUNA has had an opportunity to review the additional information provided by staff just prior to the meeting of the Architectural Committee, review the recent staff packet prepared for the appeal, and engaged its expert consultant to review the most recent air emission modeling and inputs identified in response to our previous comments and have the following additional comments on the Project's air quality impacts.

As explained in our initial comment letter, the City may not rely upon an IS/MND if the City is presented with substantial evidence of a fair argument that a Project may have a significant environmental impact. In order to avoid an EIR, the City must be able to say with certainty that the Project will be mitigated "to a point where clearly no significant effect on the environment would occur, and... 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." Public Resources Code §§ 21064.5 and 21080(c)(2); *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 331. Where the lead agency's experts and commenters' experts present conflicting evidence on the extent of a project's environmental impacts, the lead agency must treat those potential impacts as significant and prepare an EIR. CEQA Guidelines § 15064(f)(5); Pub. Res. Code § 21080(e)(1); *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 935.

The staff report prepared just prior to the Architectural Committee meeting disclosed for the first time the construction timelines applicable to the Project. We asked expert consultant Soil Water Air Protection Enterprise ("SWAPE") to conduct a follow-up review of the air pollution modeling conducted for the Project based on the newly disclosed demolition and construction worksheet. SWAPE's supplemental comments are attached hereto as Exhibit A. SWAPE's review of those construction timelines has identified a significant discrepancy between the newly disclosed timelines and construction timelines used as inputs for the CalEEMod modeling relied upon by the Initial Study/Mitigated Negative Declaration ("IS/MND") prepared for the Project. The demolition and construction timeline worksheet provided by the staff report indicates a total construction schedule extending for an additional 61 days longer than the CalEEMod modeling inputs. SWAPE Supp. Comment, pp. 1-4. That means that 61 days of pollution emissions that will occur during the Project's demolition and construction phase were not accounted for in the CalEEMod modeling relied upon by the IS/MND. As a result, the IS/MND's air pollution evaluation and the conclusion that no significant impacts will result from the project is not supported by substantial evidence.

SWAPE re-ran the CalEEMod modeling for the Project and calculated the average daily emissions of air pollutants that would result during the Project's

construction based on the construction timeline worksheets disclosed by staff. The modeling run conducted by SWAPE using those inputs resulted in an estimated emission of 84 pounds per day (“lbs/day”) of nitrogen oxides (“NOx”) without any mitigation. Thus, applying the correct number of days of construction adds 9 lbs/day of NOx to the 75 lbs/day estimated by the IS/MND. IS/MND, p. 8. SWAPE also ran the modeling applying the mitigation measures identified in the IS/MND. SWAPE Supp. Comment, p. 5. Rather than the IS/MND’s estimated 51 lbs/day of NOx emissions after mitigation is applied, applying the construction timelines disclosed by staff results in a CalEEMod calculation of NOx emissions of 57 lbs/day, exceeding the BAAQMD’s threshold of significance of 54 lbs/day for NOx emissions. The discrepancy between the CalEEMod inputs relied upon by the IS/MND and the worksheet disclosed by staff, and the new modeling run based on the newly disclosed worksheet showing NOx emissions above the BAAQMD significance threshold, is substantial evidence of a fair argument that the Project’s NOx emissions may have a significant impact on the environment requiring the preparation of an EIR.

In addition, the IS/MND fails to contain a legally and factually sufficient cumulative air pollution impact analysis. “Cumulative impacts’ refer to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.” 14 CCR § 15355. “The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. 14 CCR § 15355(b). “Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.” *Id.* See e.g. *Communities for a Better Environment v. Cal. Resources Agency* (2002) 103 Cal.App.4th 98, 117.

The City of Santa Clara is currently home to 37 or more data centers. See <https://jointventure.org/about-us/profiles/42-about-us/profiles/1043-meet-larry-owens-silicon-valley-power>. As SWAPE’s supplemental comment points out, at least 13 other data centers have been proposed or constructed in the City of Santa Clara within about 1.5 miles of the Project site. SWAPE Supp. Comment, pp. 5-8. Each of those data centers emits air pollutants from its emergency generators and traffic. Indeed, the IS/MND calculates that the Project will emit a daily average of 51 lbs/day of NOx from its generators alone – just under the BAAQMD significance threshold of 54 lbs/day. Combined with the other 37 data centers, it is likely that emissions of NOx may be cumulatively significant. *Id.* Likewise, each of those data centers is demanding power from the local Silicon Valley Power gas-fired power plants, including for example the 147-MW Donald Von Raesfeld Power Plant, which in turn are emitting NOx and other air pollutants to the air quality basin. See *id.*, p. 9. In addition to the Project, at least one other data center proposed to be located in

Santa Clara is going through CEQA review – the Coresite SV8 Data Center Project. See <http://santaclaraca.gov/government/departments/community-development/planning-division/ceqa-documents>. Presumably many more are in the planning phase. Neither the direct or indirect air pollution emissions are discussed in the IS/MND nor is any effort made to assess the cumulative emissions this concentration of data centers is and will have on additional emissions from Silicon Valley Power's plants and the region's air quality. The direct emissions from hundreds of emergency generators and other pollution sources at 37 or more data centers in Santa Clara must be quantified and assessed for cumulative air impacts. Likewise, the indirect pollution emissions that are and will occur at Silicon Valley Power's gas-fired power plants must be quantified and included in any sufficient cumulative air pollution analysis. The absence of any effort to disclose and quantify these potential cumulative air pollution impacts is a significant legal deficiency with the IS/MND and results in a fair argument of potential significant impacts requiring an EIR to be prepared and circulated.

For the foregoing reasons, the IS/MND for the Project should be withdrawn. An EIR should be prepared and the draft EIR should be circulated for public review and comment in accordance with CEQA. An EIR is necessary to analyze the Project's potential significant air pollution impacts. The EIR must propose all feasible mitigation measures and alternatives to reduce the Project's significant impacts. Thank you for considering our comments.

Sincerely,



Michael R. Lozeau
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Counsel for LIUNA Local 270