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September 22, 2015

VIA EMAIL AND U.S. MAIL

Rachel Marie Flynn
Director, Planning & Building
City of Oakland
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612
Email: rfflynn@oaklandnet.com

LaTonda D. Simmons
City Clerk
City of Oakland
One Frank H. Ogawa Plaza
First and Second Floors
Oakland, CA 94612
Email: lsimmons@oaklandnet.com

VIA EMAIL ONLY

Mike Rivera, mriviera@oaklandnet.com

Re: Public Records Act Request – 5110 Telegraph Avenue Project, PLN15074

Dear Ms. Flynn, Ms. Simmons and Mr. Rivera:

We are writing on behalf of International Brotherhood of Electrical Workers, Local 595, Plumbers & Steamfitters, Local 342 and Sheet Metal Workers, Local 104 to request any and all public records related to the proposed 5110 Telegraph Avenue Project (PLN15074) by the Nautilus Group/Brian Caruso in Oakland. The Assessor Parcel Numbers for the project site are 014-122600902 and 014-122601300. The proposal is for 185 residential units and 50,000 square feet of commercial space.

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We are making this request pursuant to the California Public Records Act (“Act”),¹ and request the above documents pursuant to section 6253(a) of the Act. In addition, we request these materials pursuant to Article I, section 3(b) of the California Constitution, which provides a constitutional right of access to information concerning the conduct of the government. Article I, section 3(b) provides that any statutory right to information shall be broadly construed to provide the greatest access to government information and further requires that any statute that limits the right of access to information be narrowly construed.

In responding to this request, please bear in mind that any exemptions from disclosure the City may believe to be applicable are to be narrowly construed.² If the City declines to produce any of the requested documents on the grounds of an exemption, please bear in mind that the Public Records Act imposes a duty on the City to distinguish between the exempt and the non-exempt portion of any such records, and to attempt in good faith to redact the exempt portion and to disclose the balance of such documents.³ Please bear in mind further that should the City choose to withhold any document from disclosure, the City has a duty under Government Code section 6255, subd. (a) to “justify withholding any record by demonstrating that the record in question is exempt under express provisions” of the Public Records Act or that “the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.”⁴ The City may not seek recovery of costs for any staff time related to responding to this Public Records Act request.⁵

If any of the requested items are available on the Internet, we request that the City direct us to the appropriate URL web address or other site for accessing the documents. Pursuant to Government Code section 6253.9, if the requested documents are in electronic format and are 10 MB or less (or can be easily broken into chunks of 10 MB or less), please email them as attachments. We request

¹ Gov. Code, §§ 6250, et seq.

² *Marken v. Santa Monica-Malibu Unif. Sch. Dist.* (2012) 202 Cal. App. 4th 1250, 1262; *Citizens for Ceres v. Super. Ct.* (2013) 217 Cal.App.4th 889, 913.

the common interest doctrine cannot apply to communications between a developer and a reviewing public agency made before project approval.

³ Gov. Code § 6253(a).

⁴ *Id.*

⁵ *North County Parents v. Dept. of Education* (1994) 23 Cal.App.4th 144; *County of Los Angeles v. Super. Ct.* (2000) 82 Cal.App.4th 819, 826.

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access to the above documents, including any electronic documents, in their original form, as maintained by the City.⁶

Please use the following contact information for all correspondence regarding these requests:

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Fax: (650) 589-5062

Thank you for your assistance with this matter.

Sincerely,



Janet Laurain
Paralegal

JML:ric

⁶ Gov. Code § 6253.9(a)(1); See *Sierra Club v. Super. Ct.* (2013) 57 Cal. 4th 157, 161.