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November 14, 2014

Los Angeles City Council  
c/o: Los Angeles Development Service Center  
201 N. Figueroa Street, 4th Floor  
Los Angeles, CA 90012

Re: Reasons for Appeal, and Request for Appeal Hearing Concurrent with  
TFAR Hearing (CPC-2013-4125-TDR-MCUP-ZV-SPR)

Dear City Council Members:

The Coalition for Responsible Equitable Economic Development ("CREED LA") appeals the City Planning Commission's October 9, 2014 approval of variances and other concessions for two high-rise development towers, 31 and 40 stories in height, located between South Flower and South Hope Streets, and West 12th Street and West Pico Boulevard, in downtown Los Angeles ("Project"), proposed by Onni Real Estate. CREED LA also contends that the Planning Commission acted based on inaccurate and misleading information regarding the scope of the City's discretion under the Transfer of Floor Area Rights ("TFAR") Ordinance. Because there is significant overlap between the issues raised in this appeal and in the Planning Commission's recommendation to adopt the requested Transfer of Floor Area Rights for the Project, CREED LA requests that the City Council hear both items together at the same hearing.

As explained more fully below, the Planning Commission abused its discretion in granting variances for the Project and allowing other deviations from the City Code and the Downtown Design Guide. As stated in the Municipal Code, a variance is a "special privilege."<sup>1</sup> The Applicant has chosen to design a two-tower high-rise Project that will utilize a large proportion of the City's Convention Center floor area rights. An Applicant's project design decisions alone are not an adequate

<sup>1</sup> Los Angeles Municipal Code ("LAMC") § 12.27.D.

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reason to grant special privileges regarding compliance with the City's development standards. In fact, the TFAR Ordinance expressly states that projects utilizing the City's TFAR option must comply with all such standards. The Applicant here will not suffer unnecessary hardships if the requested variances are denied. There are no special circumstances on the Project site that warrant the variances, and the variances are not required for the preservation and enjoyment of a substantial property right.

CREED LA also opposes the Transfer Plan that the Planning Commission recommended for City Council approval under the TFAR Ordinance. CREED LA urges the City Council to reject the Applicant's request to purchase the City's limited TFAR rights for a project that will deviate from City development standards, given the Applicant's failure to consider providing direct public benefits by committing to local hire and prevailing wages, as encouraged by the Planning Commission and authorized by the TFAR Ordinance. It is within the City Council's discretion to authorize these direct benefits, in lieu of a portion of the Applicant's proffered "public benefits" payment. CREED LA urges City staff and leaders to consult in earnest with the Applicant regarding these issues, in the hopes of expeditiously resolving this appeal.

## **I. INTEREST OF APPELLANT**

CREED LA is an unincorporated association of individuals and labor organizations that may be adversely affected by the City's determinations regarding the Project, and the City's decision to sell valuable floor area rights to the Applicant. CREED LA's mission is to ensure that proposed development projects in the City of Los Angeles foster sustainable communities by minimizing environmental impacts and ensuring community benefits, including the advancement of a safe and skilled construction workforce through job training and career path construction industry jobs that maintain area wage standards and working conditions.

CREED LA's members include the Sheet Metal Workers Local 105, International Brotherhood of Electrical Workers Local 11, Southern California Pipe Trades District Council 16, and their members and their families who live and work in the City of Los Angeles. Individual members of CREED LA and its member organizations include Thomas Brown, Shomari Davis, Luther Medina, and John Ferruccio, who live, work, recreate and raise their families in Los Angeles.



Accordingly, they would be directly affected by the Project's failure to meet the development standards established by the City, and by the City's unwillingness to consult with the Applicant regarding the provision of public benefits for workers. CREED LA has an interest in enforcing City planning standards that encourage sustainable development and a high quality of life for City residents. CREED LA also has an interest in opposing the sale of the City's limited floor area rights to developers who fail to provide public benefits consistent with the TFAR ordinance by committing to local hire and the payment of prevailing wages.

## II. REASONS FOR APPEAL

### A. Failure to Require All Parking Spaces in Accordance with City Standards

The Los Angeles Municipal Code mandates that all parking spaces required by City parking standards "shall be provided" by a project.<sup>2</sup> In this case, however, the Planning Commission's Condition of Approval number 9 states that the Project shall provide a *maximum* of 843 parking spaces, including a maximum number of commercial and office spaces.<sup>3</sup> This condition is inconsistent with City standards and should be revised so that no less than 843 total parking spaces must be provided by the Project, including no less than the required number of office and commercial spaces.

### B. Improper Variance Allowing 67% Compact Vehicle Parking

The Project will provide the bare minimum number of parking spaces, using all available reductions under the City Code. Because the Project is in the Central City Area, it qualifies for an overall reduction in the required number of off-street parking spaces. The Project is required to provide only 1.25 spaces for units with more than 3 rooms, and 1 parking space for units with less than 3 rooms.<sup>4</sup> The Applicant has opted to further reduce this amount by 7.3%, by providing increased bicycle parking.<sup>5</sup> The Project will provide no guest parking. In total, the 31- and

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<sup>2</sup> LAMC § 12.21.A(4)(p).

<sup>3</sup> Planning Commission Determination Letter dated October 30, 2014, p. C-3.

<sup>4</sup> LAMC §§ 12.21.A(4)(a), (p).

<sup>5</sup> *Id.* § 12.21.A(4).

40-story high-rise towers will provide 843 parking spaces, with almost 100 of these spaces dedicated to replace existing office parking.<sup>6</sup>

Despite the fact that the Project's location allows the Applicant to provide a bare minimum number of parking spaces, the City Planning Commission approved a variance from Municipal Code section 12.21.A5(c). That section disallows the use of compact parking spaces for residential units, unless a standard space is provided for each unit. Compact parking spaces are 1 foot narrower in width and 3 feet shorter in length than standard spaces.<sup>7</sup> In connection with the variance, the Planning Commission adopted Condition of Approval number 10, allowing 67% of the Project's parking spaces (565 spaces) to be compact in size.<sup>8</sup>

As shown on the Project plans, more than 90% of the compact spaces will be tandem parking spaces that are two spaces deep.<sup>9</sup> It does not appear that tandem parking is appropriate for this Project. The Municipal Code only allows tandem parking for public parking garages (served by an attendant) and private garages serving residential apartments only.<sup>10</sup> The Project will include a private garage serving an office building in addition to apartments, and therefore the Municipal Code provision that allows tandem spaces under certain circumstances does not apply.

In order to approve the parking variance and related condition of approval, the Planning Commission needed to find that there would be "practical difficulties or unnecessary hardships" unless the variance was approved.<sup>11</sup> The only argument put forward for why this factor was met is that the Applicant designed its high-rise towers so that they do not have enough space to provide adequate parking, and the Project is located near public transit.<sup>12</sup> These are not practical difficulties or unnecessary hardships that qualify for a variance.

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<sup>6</sup> Planning Commission Determination Letter dated October 30, 2014, p. F-9.

<sup>7</sup> LAMC § 12.21.A.5(a).

<sup>8</sup> Planning Commission Determination Letter dated October 30, 2014, p. C-3.

<sup>9</sup> Project plans for subterranean and above-ground parking levels, attached hereto.

<sup>10</sup> LAMC § 12.21.A.5(h).

<sup>11</sup> LAMC § 12.27.D.1.

<sup>12</sup> Planning Commission Determination Letter dated October 30, 2014, p. F-28.



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The Municipal Code looks unfavorably on granting a variance “if the conditions creating the need for the variance were self-imposed.”<sup>13</sup> Designing a high-rise without adequate space for parking is a difficulty that is solely of the Applicant’s own making.

The Project’s location near transit is also not enough to justify a variance. The Applicant has already received almost a 50% reduction in the number of required residential parking spaces and another 7.2% reduction by providing bicycle parking spaces, solely due to the Project’s location.<sup>14</sup> The first factor for granting a variance is not met.

The Planning Commission was also required to find “special circumstances” on the Project site, such as lot size, topography, location, or surroundings, which are not present on other sites. There is no substantial evidence that the Project site has any such special circumstances. The only plausible argument for special circumstances is that the Project site includes an existing office building, which will be retained, along with the existing number of parking spaces for the office building.<sup>15</sup> However, the Applicant has chosen to construct two very tall towers on a lot that already has an existing office building and associated parking requirement. The fact that the Applicant chose this lot for such a project, and then designed the Project to provide inadequate space to meet the City’s parking requirements, is a self-imposed condition.

Finally, the Planning Commission was required to make a finding that a variance is needed for the “preservation and enjoyment of a substantial property right” possessed by other similar sites. This has not been shown. The Planning Commission’s written determination notes that three other nearby projects have been granted variances allowing a certain percentage of residential units to have compact parking spaces instead of standard sized spaces. The City approved

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<sup>13</sup> LAMC § 12.27.D.

<sup>14</sup> LAMC §§ 12.21.A.4 (buildings near transit may reduce parking spaces by providing bicycle parking); 12.21.A.4(i) (exception for commercial parking in Downtown Business District); 12.21.A.4(p) (residential parking reduction in Central City Area).

<sup>15</sup> Planning Commission Determination Letter dated October 30, 2014, p. F-29. The other stated reasons include that the Project will provide 843 parking spaces, that the Project is in a transit-oriented location and thus already qualifies for reduced parking requirements, and that the Municipal Code contains minimum parking circulation requirements, none of which is a special circumstance related to the size, topography, location or surroundings of the Project site.

variances allowing 8% of the residential units to have compact parking in the Evo project, 56% of units to have compact parking in the Fashion Institute of Design (FIDM) student housing project, and 26% of units to have compact parking in the Glass Tower project.<sup>16</sup>

None of these prior variances show that others have been granted the same kind of special treatment requested by the Applicant. The Evo project was allowed only 8% compact spaces for residential units, which is significantly less than the 67% percent of compact spaces for all required parking approved for this Project. Furthermore, the Evo project provided 1.37 parking spaces per unit, plus guest parking spaces, which is a significantly higher parking ratio than this Project will provide (1 space per unit with no guest parking).<sup>17</sup>

The Glass Tower project was allowed 26% compact spaces for residential units, which is also much less than the 67% of total parking spaces approved for this Project. The Glass Tower project also provided a ratio of 1.57 parking spaces per unit, plus parking spaces for guests, which is much more parking than will be provided by this Project.<sup>18</sup>

The FIDM project was allowed 56% compact spaces for the 112 residences only, much less than the 67% of total parking spaces approved for this Project. The FIDM project also provided a ratio of 1.5 parking spaces per unit, which is a 50% higher ratio than this Project will provide, plus guest parking and a significant amount of parking for non-residential use.<sup>19</sup> The City authorized 56% of the residential units to use compact spaces because the site was fairly small and was already proposing to provide 4.5 levels of subterranean parking.<sup>20</sup> (In contrast, the proposed Project will provide only 3 levels of subterranean parking for the tallest of the two towers, and 3.5 levels of subterranean parking for the shorter tower.) The Planning Commission found that requiring a full fifth level of subterranean parking would not have been economically feasible for the 112-unit FIDM project.<sup>21</sup> The Planning Commission later noted that the students living on the Project site would be located close to the FIDM campus, and explained that “there are special

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<sup>16</sup> *Ibid.* p. F-31.

<sup>17</sup> <http://pdis.lacity.org/pdf/viewPDF.aspx?Query=Type=PDIS;Doc=9EF3>, pp. 10, 12.

<sup>18</sup> <http://pdis.lacity.org/pdf/viewPDF.aspx?Query=Type=PDIS;Doc=1CF16>, p. 6.

<sup>19</sup> <http://pdis.lacity.org/pdf/viewPDF.aspx?Query=Type=PDIS;Doc=16F12>, p. 6.

<sup>20</sup> *Ibid.*, p. 13.

<sup>21</sup> *Ibid.*



circumstances applicable to the subject property such as location and surroundings relative to the FIDM campus and its related uses that do not apply generally to other property in the same zone and vicinity.”<sup>22</sup>

The Project Applicant would not be deprived of a substantial property right that is possessed by other similar sites if it were required to provide standard sized spaces as required by the Municipal Code. The Project will provide a much lower parking ratio than any of the other projects that received a variance for compact spaces. The City should not approve a variance that allows the highest-known percentage of compact spaces, effectively granting a windfall to a developer who is already receiving significant benefits through the purchase of the City’s TFAR credits.

C. Improper Variance Allowing Dispersed Bicycle Parking

The City should not have granted a variance from the requirement that long-term bicycle parking inside a parking garage “shall be located along the shortest walking distance to the nearest pedestrian entrance of the building” and “shall be located on the level of the parking garage closest to the ground floor.”<sup>23</sup> The variance was requested because the Applicant’s Project design leaves little space for the required bicycle parking.<sup>24</sup>

Instead of meeting the location and access standards of the Municipal Code, which are intended to provide convenient access for bicyclists, the variance would allow bicycle parking spaces to be distributed throughout the ten-level parking garage, and accessible only by elevator.<sup>25</sup> Rather than being located closest to the ground level, the majority of long-term bicycle parking spaces would be located on the third and fourth floors both above and below ground.<sup>26</sup>

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<sup>22</sup> *Ibid.*, p. 15.

<sup>23</sup> LAMC § 12.21.A.16(e)(2)(iii).

<sup>24</sup> Planning Commission Determination Letter dated October 30, 2014, p. F-30.

<sup>25</sup> *Ibid.* pp. F-32, F-33.

<sup>26</sup> According to the Project parking plans, attached hereto, 56% of the required long-term bicycle parking spaces will be provided on below-ground parking levels “P3” and “P4” and above-ground parking levels 3 and 4.

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The Planning Commission's decision letter provides examples of other pending and recently approved projects that sought variances to the bicycle parking requirements. The documents referenced in the decision letter are not available on the City's website. In any event, granting bicycle parking variances simply because an Applicant chooses not to provide easy bicycle parking access is contrary to the City's policies encouraging increased bicycle transit. Providing "convenient access from an elevator" for bicycles located four floors from street level, as this Project proposes, does not meet the spirit and intent of the Municipal Code.<sup>27</sup>

D. Improper Variance Allowing Reduction of On-Site Trees

The Applicant is required to provide 183 on-site trees, but is choosing to provide only 89 trees, with the rest planted off site.<sup>28</sup> One reason cited for the variance request is that the Project will not provide the required amount of open space, which reduces the available space for on-site trees.<sup>29</sup> The Planning Commission's decision document does not indicate that other high-rise projects have been granted similar special treatment. The Applicant has chosen to design its Project such that the required amount of open space, and accordingly the required number of on-site trees, are not met. This is a self-imposed condition.

Ironically, the Planning Commission concluded that it would grant the parking variance discussed above due to the relatively "small" size of the Project site, and would grant the tree variance due to the relatively "large" size of the Project site.<sup>30</sup> These conclusions are contradictory, and the findings to support both variances are unsupported.

E. Determination Granting Reduction in Open Space Lacks Details About Common Open Space Requirements for the Rooftop Decks

The Director is allowed to grant a reduction in the amount of required open space of up to 10%, without a variance, "provided that any reduction is to the common open space portion only."<sup>31</sup> Under the Municipal Code, 50 square feet of private open space per unit may be counted toward the total open space

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<sup>27</sup> *Ibid.* p. F-32.

<sup>28</sup> *Ibid.*, p. F-39.

<sup>29</sup> *Ibid.*, p. F-41.

<sup>30</sup> *Ibid.*, pp. F-29, F-40.

<sup>31</sup> LAMC § 12.21.G.3.



requirement, and the rest must be common open space.<sup>32</sup> The Project is required to provide 81,950 square feet of total open space, and the 50-square-foot per unit limitation on private open space means that only 44% of the total open space can be private.<sup>33</sup> The Project is therefore required to provide 56% of its total open space requirement as common open space accessible to all Project residents (45,892 square feet). As acknowledged in the Planning Commission's decision document, the Municipal Code "puts a preference on providing common open space."<sup>34</sup>

The Planning Commission's decision document denied a variance that would have allowed the Applicant a 17% reduction in open space, where the rooftop decks on both towers would be reserved for use by penthouse residents only.<sup>35</sup> When denying this variance, the Planning Commission noted that the two rooftop decks together encompass a total of 8,628 square feet, and that in order to meet the requirements for a Director-approved reduction in open space of 10% or less, the Applicant would need to provide 5,617 square feet of additional common open space.<sup>36</sup>

The Planning Commission went on to approve a Director's decision allowing a 10% open space reduction, but that decision does not allocate any specific square footage of open space between the rooftop decks on each tower, nor does it state that at least 5,617 square feet of open space must be provided on the rooftop decks. The decision simply states that "as conditioned, a portion of the rooftop decks will be made available to all project residents."<sup>37</sup> There is no Condition of Approval requiring that 5,617 square feet of open space be allocated between both rooftop decks as common open space, to ensure that residents in both towers will have adequate access to the open space required under the Municipal Code. The Director's determination is overly vague and devoid of any enforceable requirements to ensure that the reduction in open space does not exceed 10%.

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<sup>32</sup> *Id.* § 12.21.G.2; Planning Commission Determination Letter dated October 30, 2014, pp. F-35, F-36.

<sup>33</sup> *See* Planning Commission Determination Letter dated October 30, 2014, p. F-36.

<sup>34</sup> *Ibid.*, p. F-36.

<sup>35</sup> *Ibid.*, pp. F-36, F-37.

<sup>36</sup> *Ibid.*

<sup>37</sup> *Ibid.*, p. F-44.

### III. TFAR RECOMMENDATION

#### A. The TFAR Proposal Gives a Windfall to the Applicant

In addition to the points raised below, CREED LA is currently reviewing other aspects of the City's compliance with the TFAR Ordinance. CREED LA reserves the right to raise additional points prior to the City Council's hearing on the TFAR Transfer Plan for the Project.

There are aspects of the Planning Commission's approvals that result in unfair windfalls for the Applicant. First, it is unclear whether the allowable Floor Area Ratio (FAR) for the proposed Project was calculated as a "Transit Area Mixed Use Project" or not.<sup>38</sup> A Transit Area Mixed Use Project is defined as a mixed-use project in the Central City area that is located near a rail transit station and "meets the standards and guidelines in the Downtown Design Guide."<sup>39</sup> A project that qualifies as a Transit Area Mixed Use Project gains a benefit under the TFAR ordinance because the existing allowable Floor Area Ratio is calculated based on the "buildable area" instead of the "lot area." The buildable area is larger than the lot area because it includes the land from the property line to the center line of surrounding public right of ways. As a result, a project utilizing "buildable area" is not required to purchase as many transferrable floor area rights from another site.

The Project does not meet the standards in the Downtown Design Guide, and therefore it does not qualify as a Transit Area Mixed Use Project. The Project does not meet the requirement for a 40-foot setback from the interior property line and any shared alleys, in areas where future adjacent towers could be constructed. The Design Guide states: "Where there is no existing adjacent tower, but one could be constructed in the future, the proposed tower *must* be 40 feet from an interior property line and 40 feet from the alley center line shared with the potential new tower."<sup>40</sup> The purpose of this requirement is to assure a minimum 80-foot distance between high-rise towers for privacy, natural light, air, and an attractive skyline.<sup>41</sup>

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<sup>38</sup> See Planning Commission Determination Letter dated October 30, 2014, p. F-11 (describing the "buildable area" as the lot area, including existing public easements).

<sup>39</sup> LAMC § 14.5.3.

<sup>40</sup> Downtown Design Guide, p. 30 (emphasis added), *available at*: <http://planning.lacity.org/urbanization/dwntwnndesign/TableC.pdf>

<sup>41</sup> *Ibid.*



The Project, however, would provide setbacks of approximately 22 feet from both the interior property line and the adjacent alley.<sup>42</sup>

The Planning Commission accepted the Applicant's argument that the same number of future towers could still be built on the block, notwithstanding this violation. The Applicant's "Tower Spacing" diagram attempts to show that there would be little difference in the number of future towers that could be constructed on the block, but it does so by manipulating the shape, size, and orientation of the hypothetical future towers.<sup>43</sup> The diagram shows that without the setbacks in place for the Project, four towers could be constructed on the block, and with the setbacks in place five towers could possibly be constructed, but the fifth tower would have a floor plate of only 5,800 square feet.<sup>44</sup> The diagram ignores the fact that the floor plate of the fifth tower could be enlarged simply by rotating the orientation of the tower to its left, to comply with the 80-foot tower spacing requirement.<sup>45</sup> The diagram disregards a number of potential variations that could result in more towers constructed on the block, if the setback requirements for this Project were met. In any case, the Project does not meet the required tower spacing standards in the Downtown Design Guide.

Second, the Planning Commission's decision to grant numerous variances and other deviations from City standards for this Project, solely because of the extra density allowed under the TFAR, has provided the Applicant with a windfall, which makes the price for the TFAR rights undervalued. The TFAR Ordinance requires that as a condition of approval of a TFAR transfer, a project "must comply with any applicable urban design standards and guidelines adopted for the area, including the Downtown Design Guide."<sup>46</sup> As discussed above, the Project does not comply with numerous applicable City standards, including vehicle parking, bicycle parking, open space, trees, and tower spacing. This allows the Applicant to save money by requesting variances, deviations, and allowances that save money for the Applicant, while benefitting from the extra value brought to the Project site by the TFAR transfer. The City should not approve the sale of its limited TFAR rights for this Project.

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<sup>42</sup> Planning Commission Determination Letter dated October 30, 2014, p. F-8.

<sup>43</sup> Tower Spacing Diagram, attached hereto.

<sup>44</sup> *Ibid.*

<sup>45</sup> See *ibid.*

<sup>46</sup> LAMC § 14.5.6.B.2(b)(2).

B. The City Has Authority to Negotiate the Project's Public Benefits

In addition to other fees collected by the City, the Applicant will make a \$1.6 million TFAR transfer payment to the City, which the City must use to provide public benefits.<sup>47</sup> The Applicant also proposes to make a \$2.9 million public benefit payment to the City, also for the provision of public benefits. Finally, the Applicant will provide \$2.9 million in public benefit payments to four projects: the Los Angeles Streetcar project, the Broadway Streetscapes project, the Pershing Square Renew project, and the L.A. Neighborhood Initiative "way finding" project.<sup>48</sup> All four of these improvement projects are located near the Project site, and they will therefore benefit not just the public, but also the Applicant.

There are numerous ways in which the City could ensure that the public benefits provided by this Project support the City's struggling construction workers, and not just the transit systems and streetscapes that surround the Project site. For instance, the City has the authority to allocate *either* the transfer payment or the public benefit payment to the four projects identified by the Applicant, thereby freeing up the remaining amount for the provision of direct public benefits that support the local construction workforce. The City Council may also approve more than a 50% provision of direct public benefits, by authorizing the Applicant to hire locally and pay prevailing wages, instead of making a public benefit payment to the City.<sup>49</sup>

At the Planning Commission hearing, the Planning Commissioners expressed strong concerns about the Applicant's refusal to provide direct public benefits to the construction workers of Los Angeles. City staff advised the Commissioners, however, that the Planning Commission and even the City Council had very little discretion to address the public benefits proposed by the Applicant. City staff suggested that the City's decision-making powers, even for a project that proposes to use City-owned TFAR credits, are limited only to the findings set forth in the TFAR Ordinance, and those findings do not give the City the authority to direct

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<sup>47</sup> LAMC § 14.5.12; Planning Commission Determination Letter dated October 30, 2014, p. F-16.

<sup>48</sup> *Ibid.*

<sup>49</sup> LAMC §§ 14.5.3 (defining "public benefit" using examples, half of which are direct benefits to people, such as local hire and prevailing wages, and the other half infrastructure improvements); 14.5.9 B (City Council can approve more than a 50% provision of direct public benefits, rather than a payment).



what kinds of public benefits a project will provide. We do not agree with the staff's limited view of the scope of the City's discretion in this matter.

The City *owns* the TFAR credits that this Applicant needs to build its Project. In May 2014, the City accepted the transfer of the remaining Convention Center floor area rights that were owned by the former Community Redevelopment Agency. The City now owns all of the floor area rights that are subject to transfer from the Convention Center. The City's decision to sell those rights to a particular developer is within the sound and exclusive discretion of the City's decision-makers. According to staff, this is the first high-rise tower development requesting to purchase the City's TFAR credits from the Convention Center. The City should not hesitate to ensure that these limited credits are used for projects that provide sufficient public benefits, and that comply with the City's development standards.

1. *The Planning Commission's Authority*

To approve a TFAR transfer, the Planning Commission must find that the proposed transfer of floor area rights: (1) "is appropriate for the long-term development of the Central City"; (2) is consistent with the purposes and objectives of the City Center Redevelopment Plan; (3) serves the public interest by providing public benefits as required by the TFAR ordinance; and (4) is in conformance with relevant policy documents adopted by the City.<sup>50</sup> Moreover, the Planning Commission "may require additional conditions" to ensure consistency with the Redevelopment Plan and Community Plan, and to "secure appropriate development in harmony with" the General Plan.<sup>51</sup>

The long-term development of the Central City will depend on a viable construction workforce, and it is appropriate for the City to sell its limited TFAR credits for projects that will provide a range of public benefits, including support of the local workforce. The objectives of the City Center Redevelopment Plan include "providing a full range of employment opportunities for persons of all income levels," "providing the public and social services and facilities necessary to address the needs of the various social, medical and economic problems of Central City residents," and "establishing an atmosphere of cooperation among residents,

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<sup>50</sup> LAMC § 14.5.6 B.4(a) (referencing § 14.5.6 B.2(a).)

<sup>51</sup> LAMC § 14.5.6 B.4(b)(2).

workers, developers, businesses, special interest groups, and public agencies.”<sup>52</sup> The Applicant’s refusal to consider the provision of public benefits through the use of local hire and prevailing wages does not meet these objectives, and the Planning Commission was within its discretion to consider these issues, contrary to the advice of staff.

## 2. *The City Council’s Authority*

The City Council must make the same findings as the Planning Commission, and therefore is subject to the same considerations discussed above. Moreover, the TFAR Ordinance requires consultation between the Applicant and the City Council District in which the Project is proposed (District 14, José Huizar), to identify “development issues” associated with the Project, including the public benefits that the Project will provide.<sup>53</sup> The TFAR Ordinance specifically defines “public benefits” to include local hire and the payment of prevailing wages.<sup>54</sup> The TFAR Ordinance therefore contemplates that the City will play a significant role in developing the public benefits to be provided by a project that chooses to utilize the TFAR process. Councilman Huizar should exercise this authority and request further consultation with the Applicant regarding the Project’s provision of direct public benefits.

The City Council ultimately has the “authority,” not the obligation, to approve or disapprove a proposed TFAR Transfer Plan.<sup>55</sup> That approval can be made “with conditions.”<sup>56</sup> The City Council has discretion to approve more than a 50% provision of direct public benefits by the Applicant, and the City can use either of the two TFAR payments to fund the four streetscape and transit projects supported by the Applicant. The City should negotiate with the Applicant to ensure that this Project provides direct public benefits including local hiring and the payment of prevailing wages.

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<sup>52</sup> [http://www.crala.org/internet-site/Projects/City\\_Center/upload/citycenter.pdf](http://www.crala.org/internet-site/Projects/City_Center/upload/citycenter.pdf), p. 3. The Community Plan does not directly address prevailing wages because the Redevelopment Agency’s policy was to require prevailing wages on all redevelopment projects. <http://www.crala.org/internet-site/Documents/upload/Prevailing-Wage-Policy.pdf>

<sup>53</sup> LAMC § 14.5.5.

<sup>54</sup> LAMC § 14.5.3.

<sup>55</sup> *Id.* § 14.5.6.B.

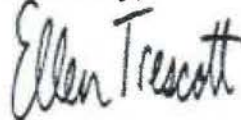
<sup>56</sup> *Id.*



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Thank you for your consideration of the important issues raised in this appeal.

Sincerely,

A handwritten signature in cursive script that reads "Ellen Trescott". The signature is written in dark ink and is positioned directly below the word "Sincerely,".

Ellen L. Trescott

ELT:ljl

cc: Michael LoGrande, Director of City Planning  
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