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February 27, 2018

Via Email and U.S. Mail

Mr. David Sanchez
Senior Planner
City of Pasadena
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Pasadena, CA 91101
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Mr. David Reyes, Director
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City of Pasadena
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Re: Request to Extend the Public Review Period for the Draft Sustainable Communities Environmental Assessment- 3200 E. Foothill Boulevard Mixed Use Project

Dear Mr. Sanchez and Mr. Reyes:

On behalf of Coalition for Responsible Equitable Economic Development ("CREED LA"), we respectfully request that the City of Pasadena ("City") extend the public review and comment period for the Draft Sustainable Communities Environmental Assessment ("SCEA") for the 3200 E. Foothill Boulevard Mixed Use Project (APNs 5752-023-039 and 5752-023-044) ("Project") by at least 30 days due to the City's failure to provide timely access to the supporting documents referenced in the Draft SCEA. This request is made pursuant to the California Environmental Quality Act, Pub. Resources Code ("PRC") §§ 21000 et seq. ("CEQA") Section 21092(b)(1), which requires that "all documents referenced in the draft environmental impact report or negative declaration" be available for review and "readily accessible" during the entire comment period.¹ Section 21155.2 requires that notice of a draft Sustainable Communities Environmental Assessment be provided "in the same manner as required for an environmental impact report pursuant to Section 21092".² It also requires a Draft SCEA to be circulated for public comment "for a period of not less than 30 days."³

¹ PRC §§ 21092(b)(1); 14 Cal. Code Regs. ("CCR") § 15087(c)(5).

² PRC § 21155.2(b)(3)

³ *Id.*

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On February 21, 2018, we submitted a letter to the City requesting “immediate access to any and all documents referenced or relied upon” in the SCEA, pursuant to CEQA Section 21092(b)(1).⁴ The next day, on February 22, 2018, the City’s clerk office sent us two documents from the City’s May 2016 city council meeting regarding the project. The City provided no other documents. In response to our follow up emails and phone calls, Ms. Elidia Gonzalez from the City replied, on February 23, 2018, “[w]e are currently working on getting all the information for PRA0008921. We have a due date of March 1, 2018.”⁵ On the same date, Mr David Gonzales from the City planning department replied that the City will provide the SCEA documentation digitally on Monday, February 26.

On February 26, after the end of the working day, the City sent us a link to the “Draft SCEA Documentation.” The link contains documents that appear in the reference list of the SCEA.

However, the SCEA references numerous critical documents that are *not* included in the file that was provided to us by the city. Those documents are highly relevant to CREED LA’s and the public’s review of the SCEA hazardous materials, air quality, water quality and other impact analyses for the Project. They include many project-specific and site-specific studies and reviews.

The following documents, all referenced in the SCEA, are examples of documents missing from the City’s response:

- *Draft Removal Action Workplan Former Naval Information Research Foundation Under Sea Center* (Ninyo & Moore. 2017) (the city has only provided a letter from the DTSC approving the plan, but not the plan itself).
- *Memorandum, Defense Environmental Restoration Program (DERP) Report for Army Corps of Engineers, Formerly Used Defense Sites (FUDS) Site No. J09CA105200, December 1992-April 1994*, prepared by Wheeler and Gray.
- *Space Bank, Ltd, Phase I Environmental Assessment Final Report, February 10, 1994*, prepared by Tetra Tech, Inc..

⁴ Letter from Adams, Broadwell, Joseph & Cardozo re Request for Immediate Access to Documents Referenced Draft Sustainable Communities Environmental Assessment– 3200 E. Foothill Boulevard Mixed Use Project (APNs 5752-023-039 and 5752-023-044). (February 21, 2018)

⁵ Email from Elidia Gonzalez, City of Pasadena, February 23, 2018.

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- *UST Closure Report, Removal and Disposal of One 2,000-Gallon and Two 200-Gallon Underground Storage Tanks, NIRF Under Sea Center, October 2, 1998*, prepared for US Army Corps of Engineers, prepared by Maness Corporation.
- *Draft Site Investigation Report, NIRF Under Sea Center Site Inspection, Pasadena, California, DERP-FUDS Project Number J09CA105200, June, 1999*, prepared by US Army Corps of Engineers.
- *Phase I Environmental Site Assessment Report, Space Bank, Ltd., June 21, 1999*, prepared by ATC Associates, Inc..
- *Draft Site Investigation Report and Site Assessment, NIRF Undersea Center, Pasadena, California, prepared for US Army Corps of Engineers, Los Angeles District, July 12, 2002*, prepared by Science Applications International Corporation (SAIC).
- *Final Report, Nonpoint Source Pollution of the Stormwater Drainage System, Naval Information Research Foundation, Undersea Center (AKA NOTS Pasadena), Prepared for US Army Corps of Engineers, December, 2003*, prepared by SAIC.
- *Draft Final Preliminary Endangerment Assessment (PEA) Report, NIRF Undersea Center, Pasadena, California, August 2005*, US Army Corps of Engineers (ACE), Los Angeles District, prepared by Enviroguide.
- *Expedited Phase 2 Environmental Site Assessment Report, Space Bank Mini Storage, February 1, 2006*, prepared by SECOR International, Incorporated
- *Expedited Phase I Environmental Site Assessment Report, Space Bank Mini Storage, March 30, 2006*, prepared by SECOR International, Incorporated
- *Final Focused Site Investigation, Naval Information Research Foundation (NIRF), Undersea Center, Pasadena, California, November 2006*, prepared for US Army Corps of Engineers, prepared by Innovative Technical Solutions, Inc..
- *Soil Vapor Survey Report, Former NIRF Site, April 13, 2007*, prepared by Kennedy/Jenks Consultants.
- *Environmental Summary Report, Former NIRF Site/Space Bank, May 22, 2007*, prepared by Kennedy/Jenks Consultants.
- *Draft Final Phase I Environmental Site Assessment, Space Bank Mini Storage Facility, April 17, 2008*, prepared by Ninyo & Moore.
- *Tenant History Report, Space Bank Facility, July 3, 2008*, prepared by Kennedy/Jenks Consultants.

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- *Removal Action Workplan (RAW), Former Naval Information Research Foundation Under Sea Center (AKA Space Bank Mini Storage Facility, June 16, 2017, prepared by Ninyo & Moore.*
- *Draft Final Remedial Investigation and Feasibility Study (RI/FS), Former Naval Information Research Foundation Undersea Center (AKA Space bank Mini Storage Facility), December 11, 2017, prepared by Ninyo & Moore.*
- *Review of Remedial Investigation and Feasibility Study Report for the Former Naval Information Research Foundation Under Sea Center (AKA Space Bank Mini Storage Facility), DTSC, February 22, 2017.*
- *Executed Amendment to Agreement and Covenant Not to Sue, DTSC, December 13, 2017.*
- *2017a. Department of Transportation. Transportation Impact Analysis (TIA). Outside of CEQA Analysis Category 2. Document.*

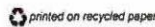
Without access to these documents during the public comment period on the Draft SCEA, CREED LA members and other members of the public are precluded from having the meaningful opportunity to comment on the SCEA that is required by CEQA. The City's failure to make the underlying SCEA documents available during the entire comment period makes public review particularly burdensome in this case because of the SCEA's reliance on missing documents for significance determinations and mitigation measures to address the Project's potentially significant impacts on the environment with regard to hazardous materials, air and water quality impacts, and other resources.

Without having access to these documents, CREED LA members and other members of the public are unable to evaluate the accuracy of the City's hazardous substances analysis, or the efficacy of the City's proposed mitigation measures to address the Project's potentially significant impacts. Additionally, the size of the SCEA and of the many documents on which the City is relying for its CEQA analysis, combined with the Project site's complex history, make it impossible to effectively comment on the SCEA without the referenced documents by the current comment deadline of March 9, 2018.

The courts have held that the failure to provide even a few pages of a CEQA document for a portion of the CEQA review period invalidates the entire CEQA process, and that such a failure must be remedied by permitting additional public

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comment.⁶ It is also well settled that a CEQA document may not rely on hidden studies or documents that are not provided to the public.⁷ By failing to make all documents referenced in the Draft SCEA “readily available” during the current comment period, the City is violating the procedural mandates of CEQA, to the detriment of those members of the public who wish to meaningfully review and comment on the Draft SCEA.

Accordingly, we request that:

- 1) The City immediately provide us with access to the missing documents requested in our February 21, 2018 immediate access request, as well as in this letter.
- 2) The City extend the public review and comment period on the SCEA for at least 30 days from the date on which the City releases all the referenced documents for public review.

Given the shortness of time before the current comment deadline, please contact me as soon as possible with your response to this request, but no later than **Wednesday, February 28, 2018.**

Please feel free to call or email with any questions: Tel: (650) 589-1660, Email: nlotan@adamsbroadwell.com. Thank you for your prompt attention and response to this matter.

Sincerely,

Nirit Lotan
Tanya Gulesserian

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⁶ *Ultramar v. South Coast Air Quality Man. Dist.* (1993) 17 Cal.App.4th 689, 699.

⁷ *Santiago County Water District v. County of Orange* (1981) 118 Cal.App.3rd 818, 831 (“Whatever is required to be considered in an EIR must be in that formal report; what any official might have known from other writings or oral presentations cannot supply what is lacking in the report.”).

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