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May 22, 2017

**Via Electronic and U.S. Mail**

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Re: Request for Extension of Public Comment Period on 2nd and PCH Project DEIR (SCH No. 2014031059)

Dear Mr. Kim, Mr. Chalfant, and Mr. Cun:

On behalf of the **Coalition for Responsible Equitable Economic Development ("CREED LA")**, we submit the following request for extension on the draft environmental impact report ("DEIR") prepared by the City of Long Beach ("City") for the 2nd and PCH Project (SCH No. 2014021059) ("Project").

CREED LA respectfully requests that the City extend the public comment period on the DEIR by 15 days to June 20, 2017. This request is warranted because the City has failed to provide the public with all documents referenced or relied upon in the DEIR for the entire public comment period, as required by the

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California Environmental Quality Act (“CEQA”).<sup>1</sup> 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.<sup>2</sup> As noted by leading CEQA commentators:

[CEQA] appears to compel agencies to make available for public review all documents on which agency staff or consultants expressly rely in preparing [an environmental document]. In light of case law emphasizing the importance of ensuring that the public can obtain and review documents on which agencies rely for the environmental conclusions (see, e.g., *Emmington v. Solano County Redevelopment Agency* (1st Dist. 1987) 195 Cal.App.3d 491, 502-503), agencies, to be prudent, should ensure that they comply literally with this requirement.<sup>3</sup>

The City’s website purports to provide the following documents:

- Appendix A, Part 1 - IS, NOP, NOP Comment Letters (Appendices A.1 and A.2)
- Appendix A, Part 2 - IS, NOP, NOP Comment Letters (Appendix A.3)
- Appendix J, Part 1 - Phase I ESA
- Appendix J, Part 2 - Phase I ESA (Appendices A D)
- Appendix J, Part 3 - Phase I ESA (Appendix D) (Continued)
- Appendix J, Part 4 - Phase I ESA (Appendix D) (Continued)
- Appendix J, Part 5 - Phase I ESA (Appendix E)
- Appendix J, Part 6 - Phase I ESA (Appendix F)
- Appendix J, Part 7 - Phase I ESA (Appendix F) (Continued)
- Appendix J, Part 8 - Phase I ESA (Appendix F) (Continued)
- Appendix J, Part 9 - Phase I ESA (Appendix F) (Continued)
- Appendix J, Part 10 - Phase I ESA (Appendices G & H)
- Appendix J, Part 11 - Phase I ESA (Appendices I K)
- Appendix K, Part 1 - Phase II ESA

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<sup>1</sup> See Pub. Resources Code, § 21092, subd. (b)(1); CEQA Guidelines, § 15072, subd. (g)(4).

<sup>2</sup> *Ultramar v. South Coast Air Quality Management Dist.* (1993) 17 Cal.App.4th 689.

<sup>3</sup> Remy, Thomas, Moose and Manley, *Guide to the California Environmental Quality Act*, p. 300 (Solano Press, 2007).

- Appendix K, Part 2 - Phase II ESA (Appendices A C)
- Appendix K, Part 3 - Phase II ESA (Appendix D)
- Appendix R, Part 1 - Traffic Impact Analysis
- Appendix R, Part 2 - Traffic Impact Analysis (Appendices A C)
- Appendix R, Part 3 - Traffic Impact Analysis (Appendices D E.I)
- Appendix R, Part 4 - Traffic Impact Analysis (Appendices E.II F)
- Appendix R, Part 5 - Traffic Impact Analysis (Appendices G H)
- Appendix R, Part 6 - Traffic Impact Analysis (Appendix I)
- Appendix R, Part 7 - Traffic Impact Analysis (Appendix J)
- Appendix W, Part 1 - Project Alternatives Traffic Analysis
- Appendix W, Part 2 - Project Alternatives Traffic Analysis (Appendices A B.III)
- Appendix W, Part 3 - Project Alternatives Traffic Analysis (Appendices B.IV F.VI)

However, the links provided by the City direct users to an error message that states “www.lbds.info sent an invalid response.”<sup>4</sup> The adequacy of the DEIR cannot be determined without these missing documents.

A 15-day extension is also warranted due to the City’s failure to notify CREED LA of the release of the DEIR. On December 8, 2016, CREED LA requested written notice of any documents released pursuant to the California Environmental Quality Act.<sup>5</sup> CREED LA was not notified when the DEIR was released to the public on April 21, 2017 and only learned of the document after attending a Planning Commission Study Session on Thursday, May 18, 2017. Accordingly, the City failed to comply with its duty under Public Resources Code Section 21092, subdivision (b)(3).

Because the City has not yet provided the public with all documents referenced in the DEIR and has failed to provide notice to CREED LA, we respectfully request that the comment period be extended by 15 days.<sup>6</sup> **Please provide your response to our request for an extension by the close of**

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<sup>4</sup> See, e.g., <http://www.lbds.info/civica/filebank/blobdload.asp?BlobID=6506>

<sup>5</sup> See Attachment A, letter from Jeff Modrzejewski to LBDS Records Coordinator, December 8, 2016, re: Public Records Act Request and Request for Mailed Notice of Public Hearings and Actions- 6400 E. Pacific Coast Highway (Application Number 1609-22).

<sup>6</sup> This request assumes that the City will correct the defective web links as quickly as possible. If the missing documents are not provided within a reasonable period of time, an additional extension may be warranted.

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**business on May 23, 2017.** I can be reached at (916) 444-6201 if you have any questions regarding this request. Thank you for your prompt attention to this matter.

Sincerely,



Natalie B. Kuffel

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