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November 14, 2016

### VIA EMAIL AND MAIL

Mayor Libby Schaaf and honorable City Council Members Dan Kalb, Abel J. Guillén, Lynette Gibson McElhaney, Annie Campbell Washington, Noel Gallo, Desley Brooks, Larry Reid, Rebecca Kaplan

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### **Re: 14th & Alice Appeal (Project Case No. PLN15-320)**

Dear Mayor Libby Schaaf, Honorable City Council Members, Mr. Vollman:

Appellant **Oakland Residents for Responsible Development** ("Residents") submits this response to the October 24, 2016 Agenda Report regarding Project Case No. PLN15-320, 14th & Alice Appeal ("Project"), and the CEQA Analysis prepared by the City of Oakland ("City") for the Project pursuant to the California Environmental Quality Act ("CEQA").<sup>1</sup>

Residents and its expert consultants from Soil / Water / Air Protection Enterprise ("SWAPE") reviewed the October 24, 2016 Agenda Report for the November 14, 2016 Special City Council Meeting along with its attachments, including the October 21, 2016 Memorandum from ICF International (Attachment

<sup>1</sup> Pub. Resources Code ("PRC") §§ 21000 et seq.; 14 Cal. Code Regs. ("CCR") §§15000 et seq. 3506-013acp

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B to the Agenda Report) ("ICF Memorandum"). Based on our legal and technical review, Residents has concluded that the City has adequately addressed the issues raised in our prior comments and our July 1, 2016 appeal.

In response to our comments and appeal, the City:

- Clarified the amount of architectural coating and mitigation that would be used for the Project and revised its air quality analysis to demonstrate that volatile organic compounds would not exceed construction air emissions thresholds.
- Prepared a health risk assessment ("HRA") in response to our specific comments concerning diesel particulate matter and other construction-related emissions.
- Corrected an error in the HRA analysis, which had indicated that the Project would cause significant health risks. Once corrected, the HRA demonstrated that the Project did not pose a significant health risk assuming compliance with mitigation measure, SCA-AIR-1.
- Conducted additional research and investigation with regard to the feasibility of obtaining Tier 4 construction equipment. The City provided letters from subcontractors submitted by the Applicant indicating the availability of some (but not all) Tier 4 construction equipment for Project construction.

With respect to the Tier 4 equipment issue, Residents urges the City to ensure that all construction equipment utilized for Project construction will be Tier 4. The subcontractor letters provided by the Applicant do not list all equipment needed for the Project. Although Residents remains concerned that the City has not incorporated adequate enforcement mechanisms into the proposed Project approvals and Project mitigation measures to ensure that the Applicant will comply with the SCA-AIR-1 requirement to use Tier 4 equipment, in this case, Residents is relying in good faith on the City's obligation to monitor Project construction activities. We continue to encourage the City to implement enforceable construction monitoring plans and equipment tracking to ensure that all construction equipment is Tier 4.

With respect to other projects, Residents thanks the City for its substantive responses to concerns Residents has raised. For example, for the 2400 Valdez

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project, the City clarified the amount of excavation and revised its analysis of greenhouse gas emissions. For the Jack London Square 4<sup>th</sup> and Madison project, the City, in response to Residents' comments, prepared an updated construction emissions model, which corrected numerous errors in the City's original analysis. These factors included correcting the concentration of volatile organic compounds in architectural coatings, clarifying construction activities associated with site preparation and building demolition, removing a duplicative reduction in traffic emissions and using the appropriate default construction durations. The revised air modeling showed that the project's construction emissions would be less than significant. Due to our involvement and the City's positive responses during the review processes, greater protections for worker safety, public health, and the environment have been implemented.

We thank the City for taking seriously the legal and technical issues identified in our comments and appeal, and for its thorough and good faith responses and additional investigations. In light of the City's response to our comments and appeal, we hereby withdraw our appeal of the 14th and Alice Project and encourage the City to actively monitor the construction activity at the project site to ensure SCA-AIR-1 compliance.

Sincerely,



Linda T. Sobczynski

LTS:acp