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**RE: SUNROAD CENTRUM RESIDENTIAL, PHASE 6 - PROJECT NO. 565879
REQUEST FOR ENVIRONMENTAL IMPACT REPORT**

Honorable Members of the Planning Commission:

This letter is submitted on behalf of **Laborers International Union of North America, Local 89**, and its members living in and near the City of San Diego (collectively "LIUNA") regarding the **SUNROAD CENTRUM RESIDENTIAL, PHASE 6 - PROJECT NO. 565879 ("Project")**. The Project proponent requests a VESTING TENTATIVE MAP to consolidate five parcels into two parcels and create 442 residential condominium units and one commercial condominium; and a PLANNED DEVELOPMENT PERMIT to demolish an asphalt parking lot and construct a 554,640-square-foot, seven-story multi-family residential apartment building over three levels of parking, the lowest level being subterranean. The parking structure would provide 802 car parking spaces, 25 of which are designated for electric vehicle charging stations, 46 motorcycle parking spaces, and 218 bicycle parking spaces.

The City seeks to rely on an addendum to an environmental impact report certified in 1997 – more than 20 years ago – for the New Century Center Master Plan

("1997 EIR"). This is legally improper since the 1997 EIR did not analyze the Project at all. However 1997 EIR analyzed use of the Project site for a mix of retail, commercial and industrial uses – not the residential uses now proposed for the site. Therefore, the 1997 EIR has no informational value.

The City also seeks to rely on a mitigated negative declaration certified 16 years ago in 2002 for the Sunroad Centrum project ("2002 MND"). Although that document proposed residential uses for the Project site, it did not analyze the proposed Project. Also, pursuant to the recent Supreme Court case of *Friends of the College of San Mateo Gardens v. San Mateo County Community College District* (2016) 1 Cal.5th 937, since the City is relying on a prior MND, it must apply the lenient "fair argument" standard to the current addendum.

LIUNA hereby requests that the City of San Diego ("City") prepare an environmental impact report ("EIR") to analyze the significant environmental impacts of the Project and to propose all feasible mitigation measures and alternatives to reduce those impacts. The City may not rely on the 1997 EIR and 2002 MND for several reasons, including but not limited to the following:

1. Neither the 1997 EIR nor the 2002 MND analyzed this Project. The documents conducted only very broad program level analysis and did not analyze Project-level impacts. A prior CEQA document may only be used for a later project that is "essentially the same project" as was analyzed in the prior document. *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1320; *American Canyon Community v. American Canyon*, 145 Cal.App.4th 1062. The 1996 EIR did not analyze the Project at all. The 1996 EIR proposed a mix of retail, commercial and industrial uses for the site, while the proposed Project is entirely residential.
2. The Project will have many significant environmental impacts that were not analyzed in the 1997 EIR. For example, the Project will have significant impacts related to indoor air quality that were not analyzed in the 1997 EIR or the 2002 MND. We submit herewith, comments of indoor air quality expert Francis "Bud" Offerman, who concludes that residents of the Project are likely to experience cancer risks from formaldehyde ranging from 125 to 180 per million – far above the 10 per million CEQA significance threshold set by the South Coast Air Quality Management District ("SCAQMD"). Diesel engine exhaust associated with the construction and operation of the Project will also create cancer risks above CEQA significance thresholds. These significant environmental impacts must be analyzed and mitigated in an EIR.
3. There are many mitigation measures that are now feasible that were not feasible or did not exist in 1997 or 2002. For example, the Project could

offset its air pollution and greenhouse gas emissions in part by installing solar photovoltaic panels, using only Tier 4 construction equipment, operating only 2010 or better diesel trucks, using only electrified forklifts and related equipment, and many other measures that were not feasible in 1997. Mr. Offermann suggests numerous mitigation measures to reduce cancer risks from formaldehyde such as enhanced air ventilation, and the use of no-added formaldehyde wood products. A new EIR is required to analyze these measures.

4. There are numerous changed circumstances that have occurred since 1997 that require renewed environmental review. For example, traffic in the area is much heavier not than in 1997, population has grown in the area, there are new sensitive receptors that did not exist in 1997, there may be additional sensitive plant or animal species that were not in the site in 1997.

For the above and other reasons, the City must prepare an EIR to analyze and mitigate the impacts of the Project. The City may not rely on the 21-year old 1997 EIR.

ANALYSIS

CEQA contains a strong presumption in favor of requiring a lead agency to prepare an EIR. This presumption is reflected in the fair argument standard. Under that standard, a lead agency must prepare an EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment. (Pub. Res. Code § 21082.2; *Laurel Heights Improvement Ass'n v. Regents of the University of California* (1993) ("Laurel Heights II") 6 Cal. 4th 1112, 1123; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 82; *Quail Botanical Gardens v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602.)

The City contends that no CEQA review is required. CEQA section 15183 states:

In approving a project meeting the requirements of this section, a public agency shall limit its examination of environmental effects to those which the agency determines, in an initial study or other analysis:

- (1) Are peculiar to the project or the parcel on which the project would be located,
- (2) Were not analyzed as significant effects in a prior EIR on the zoning action, general plan or community plan with which the project is consistent,

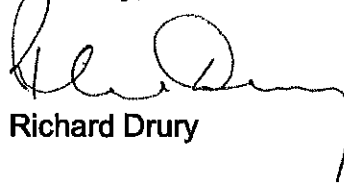
- (3) Are potentially significant off-site impacts and cumulative impacts which were not discussed in the prior EIR prepared for the general plan, community plan or zoning action, or
- (4) Are previously identified significant effects which, as a result of substantial new information which was not known at the time the EIR was certified, are determined to have a more severe adverse impact than discussed in the prior EIR.

14 CCR § 15183(b).

Here, it does not appear that the City made a determination as to whether there are environmental effects "peculiar to the project" or whether the other factors in § 15183(b) are met, as case law requires. See *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1407. Nor does it appear that, in the alternative, the City found that the impact of the Project "has been addressed as a significant effect in the prior EIR, or can be substantially mitigated by the imposition of uniformly applied development policies or standards." 14 CCR § 15183(c). Nor has the City explained why the Project otherwise meets the requirements of § 15183. Indeed, § 15183(j) specifically provides: "This section does not affect any requirement to analyze potentially significant offsite or cumulative impacts if those impacts were not adequately discussed in the prior EIR." It does not appear that the City has analyzed the impacts specific to this Project in the prior EIR.

The 1997 EIR does not discuss this residential Project at all. The 2002 MND discusses residential uses generally but nowhere discusses the Project here at issue. Both documents fail to analyze numerous significant environmental impacts of the Project and fail to propose mitigation measures that are feasible today, but were not feasible 20 years ago. A full CEQA analysis is required.

Sincerely,



Richard Drury