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August 14, 2019

VIA EMAIL:

Leonard Bechet
Community Development Department
City of Burbank
150 N. Third Street PO Box 6459
Burbank, CA 91510-6459
lbechet@burbankca.gov

**Re: Comments on the 777 North Front Street Project (Project No. 170001265);
Recirculated Draft EIR (SCH # 2018041012);**

Dear Mr. Bechet:

On behalf of UNITE HERE Local 11 ("Local 11") and residents Cristian Castillo and Benito Soto (collectively "Commentors"), this Office respectfully provides the City of Burbank ("City") the following comments, including expert air quality and greenhouse gas ("GHG") comments attached hereto as Exhibit A, regarding the Recirculated Draft Environmental Impact Report ("RDEIR") for the referenced mixed-use development ("Project").

In short, while we are pleased that the City recirculated the DEIR in response to our original comment letter dated May 6, 2019, the RDEIR fails to fully address Commentors' concerns regarding the Project's compliance with the California Environmental Quality Act ("CEQA"). For example, in our May 6th letter, Commentors raised concerns regarding the lack of sufficient affordable units proposed in either the Project or alternatives, potential land use impacts resulting from said lack of affordable units, and the need for a CEQA-compliant Statement of Overriding Considerations—none of which is addressed in the RDEIR. Also in the May 6th letter, Commentors included expert comments regarding the DEIR's inadequate air quality and GHG analysis. While the RDEIR included new modeling and analysis, experts have found similar flaws in the new modeling/analysis, as fully explained in the attached expert letter. Given the RDEIR fails to address these issues, Commentors renew their comments in the original May 6th letter, as well as the supplemental comments submitted herewith.

Commentors respectfully appreciate the opportunity to provide these comments. Local 11 works to make Burbank a place of opportunity for all – a place where its members can work and afford to live. Local 11, therefore, is a stakeholder in this Project, and its members including hundreds who live or work in the City join together to fight for improved land use and housing policies. Making these comments to public officials in connection with matters of public concern about affordable housing and compliance with zoning rules is protected by the First Amendment, the *Noerr-Pennington* doctrine and is within the core functions of the union.



Again, like the DEIR, the RDEIR is fundamentally flawed because the RDEIR fails to properly analyze the Project's land use, air quality, and GHG impacts; consider a reasonable range of alternatives, or provide sufficient information regarding a potential Statement of Overriding Consideration.

The Project approvals are discretionary, not by right. Absent compliance with the issues discussed herein and previously submitted comments, the City should reject the Project. The City has clear legal authority to disapprove the Project and demand more for its residents. Commentors respectfully request that the City recirculate a DEIR that address the issues discussed herein and the enclosed expert comment letter.

Commentors reserve the right to supplement these comments at future hearings and proceedings for this Project. *See Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal.App.4th 1109, 1120 (CEQA litigation not limited only to claims made during EIR comment period).

Finally, on behalf of Commentors, this Office requests, to the extent not already on the notice list, all notices of CEQA actions, Project hearings and any approvals, Project CEQA determinations, or public hearings to be held on the Project under state or local law requiring local agencies to mail such notices to any person who has filed a written request for them. *See* Pub. Res. Code §§ 21080.4, 21083.9, 21092, 21092.2, 21108, 21167(f) and Gov. Code § 65092. Please send notice by electronic and regular mail to: Gideon Kracov, Esq., 801 S. Grand Avenue, 11th Fl., Los Angeles, CA 90017, gk@gideonlaw.net (cc: jordan@gideonlaw.net).

Sincerely,



Gideon Kracov
Attorney for Commentors

ATTM:

Exhibit A: Expert Comment of SWAPE dated August 14, 2019