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A PROFESSIONAL CORPORATION

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April 26, 2021

**Via Email and U.S. Mail**William He, Associate Planner  
Brent Cooper, AICP, Community  
Development Director  
City of American Canyon  
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American Canyon, CA 94503  
Email: [wh@cityofamericancanyon.org](mailto:wh@cityofamericancanyon.org);  
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City Clerk  
City of American Canyon  
4381 Broadway, Ste. 201  
American Canyon, CA 94503Email: [cwalton@cityofamericancanyon.org](mailto:cwalton@cityofamericancanyon.org)**RE: Request for Extension of Comment Period for MND for SDG  
Commerce 217 Distribution Center Project (Application PL20-0008),  
Follow Up Request for Access to MND Reference Documents, and  
Access to Responsive Documents Under the California Public  
Records Act**

Dear Mr. He, Mr. Cooper, and Ms. Walton:

We are writing on behalf of the **International Brotherhood of Electrical Workers Local 180, Plumbers & Steamfitters Union Local 343, Sprinkler Fitters Local 483, International Association of Sheet Metal, Air, Rail, and Transportation Workers Local Union 104, and the District Council of Ironworkers** to request that the City extend the public comment period for the SDG Commerce 217 Distribution Center Project (Application PL20-0008) ("Project") by SDG Commerce 330 LLC ("Applicant") by at least thirty days from today's date (April 26, 2021) due to the failure of the City to provide timely access to all documents referenced, incorporated

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by reference, and relied upon in the Mitigated Negative Declaration (“MND”) for the Project, as required under CEQA, and as requested on April 15, 2021.<sup>1</sup>

The extension request is made pursuant to CEQA, which requires that all documents referenced in an environmental review document be made available to the public for the entire comment period.<sup>2</sup> This request is also made pursuant to the CPRA,<sup>3</sup> which requires public records to be “open to inspection at all times during the office hours of the state or local agency” and provides that “every person has a right to inspect any public record.”<sup>4</sup> As the City is aware, public records related to the Project include all documents in actual or constructive possession of the City, which includes the City’s consultants’ files.<sup>5</sup>

On April 15, 2021, our office submitted two letters to the City, the first seeking immediate access to all MND reference documents pursuant to CEQA, and the second seeking immediate access to all public records referring or related to the Project pursuant to the California Public Record Act (“CPRA”).<sup>6</sup> We did not receive any response to the letters. On April 20, 2021, we followed up these letters with an email directed to Mr. He asking for an update on these document requests. We have still received no response from the City regarding either of the record requests or the email.

Without this critical information, our clients and other members of the public are unable meaningfully review and comment on the MND, and are deprived the opportunity to review the supporting information for the MND. Therefore, we renew our request that the City provide us with immediate access to all MND reference documents, as well as to all documents responsive to our CPRA request.

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<sup>1</sup> Letter to William He, City of American Canyon from Darien Key, Adams Broadwell Joseph & Cardozo, Request for Immediate Access to Documents Referenced in the MND for SDG Commerce 217 Distribution Center Project (Application PL20-0008) (Apr. 15, 2021.)

<sup>2</sup> Pub. Res. Code § 21092(b)(1); 14 Cal. Code Regs. § 15072(g)(4).

<sup>3</sup> Gov. Code §§ 6250, et seq.

<sup>4</sup> *Id.* § 6253(a).

<sup>5</sup> *Consolidated Irrigation District v. Superior Court* (2012), 205 Cal.App.4th 697, 710.

<sup>6</sup> Letter to William He, City of American Canyon from Darien Key, Adams Broadwell Joseph & Cardozo, Request for Immediate Access to Public Records – SDG Commerce 217 Distribution Center Project (SCH Number 2020120302; Application PL20-0008) (Apr. 15, 2021.); Letter to William He, City of American Canyon from Darien Key, Adams Broadwell Joseph & Cardozo, Request for Immediate Access to Documents Referenced in the MND for SDG Commerce 217 Distribution Center Project (Application PL20-0008) (Apr. 15, 2021.)

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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 comment.<sup>7</sup> It is also well settled that a CEQA document may not rely on hidden studies or documents that are not provided to the public.<sup>8</sup> By failing to make all documents and underlying data referenced in the MND “readily available” during the current comment period, the City is violating the procedural mandates of CEQA.<sup>9</sup>

Therefore, we respectfully request that the District extend the public review and comment period on the MND for an additional 30 days from the date on which the MND releases all reference documents for public review.

In sum, we request the City:

- 1) Extend the public review and comment period on the MND **for at least 30 days from the date on which the MND releases *all* reference documents** for public review.
- 2) Immediately provide access to the reference documents, as described in our April 15, 2021 letter.
- 3) Immediately provide access to responsive documents pursuant to our CPRA request, as described in our April 15, 2021 letter.

Given the short time before the current comment deadline ends, please contact me as soon as possible with your response to this request, but no later than close of business on **Wednesday, April 28, 2021**.

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<sup>7</sup> *Ultramar v. South Coast Air Quality Man. Dist.* (1993) 17 Cal.App.4th 689, 699.

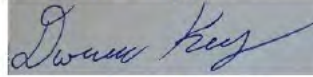
<sup>8</sup> *Santiago County Water District v. County of Orange* (1981) 118 Cal.App.3rd 818, 831 (“Whatever is required to be considered in an EIR must be in that formal report; what any official might have known from other writings or oral presentations cannot supply what is lacking in the report.”).

<sup>9</sup> Pub. Resources Code § 21092(b)(1); 14 C.C.R. § 15072(g)(4).  
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Thank you for your prompt attention and response to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Darien Key", is displayed on a light gray rectangular background.

Darien K. Key  
Associate

DKK:acp

Attachments

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