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VIA E-MAIL & LACouncilComment.com

October 5, 2021

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Bob Blumenfeld,
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RE: Agenda Item 13 - Crenshaw Crossing Project (SCH No. 2021060246)
3510 and 3606 W. Exposition Boulevard, 3630 and 3642 S. Crenshaw
Boulevard, and 3501 and 3505 W. Obama Boulevard

Dear Chairperson Harris-Dawson and Honorable Members of the PLUM Committee,
On behalf of the **Southwest Regional Council of Carpenters** (“**Commenter**” or “**Southwest Carpenters**”), my Office is submitting these comments on the City of Los Angeles (“**City**” or “**Lead Agency**”) Sustainable Communities Environmental Assessment (“**SCEA**”) for the Crenshaw Crossing Project (SCH No. 2021060246) (“**Project**”). These comments reiterate and supplement comments submitted by Commenter on July 9, 2021 concerning the SCEA (Attachment A).

The Southwest Carpenters is a labor union representing more than 50,000 union carpenters in six states, including California, and has a strong interest in well-ordered land use planning and addressing the environmental impacts of development projects. Individual members of the Southwest Carpenters live, work and recreate in the City and surrounding communities and would be directly affected by the Project’s environmental impacts.

Commenter expressly reserves the right to supplement these comments at or prior to hearings on the Project, and at any later hearings and proceedings related to this Project. Cal. Gov. Code § 65009(b); Cal. Pub. Res. Code § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

Commenters incorporate by reference all comments raising issues regarding the EIR submitted prior to certification of the EIR for the Project. *Citizens for Clean Energy v. City of Woodland* (2014) 225 CA4th 173, 191 (finding that any party who has objected to the Project’s environmental documentation may assert any issue timely raised by other parties).

Moreover, Commenter requests that the Lead Agency provide notice for any and all notices referring or related to the Project issued under the California Environmental Quality Act (“CEQA”), Cal Public Resources Code (“PRC”) § 21000 et seq, and the California Planning and Zoning Law (“Planning and Zoning Law”), Cal. Gov’t Code §§ 65000–65010. California Public Resources Code Sections 21092.2, and 21167(f) and Government Code Section 65092 require agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency’s governing body.

I. **SEGMENTING THE SCEA REVIEW PROJECT AND THE PROJECT APPROVAL DECISION-MAKING VIOLATES CEQA**

A. The City cannot approve the SCEA prior to Project Approval

An agency cannot approve a CEQA document or trigger the statute of limitations by approving the environmental document for a project before it approves the project itself. *Coalition for Clean Air v. City of Visalia* (2012) 209 Cal.App.4th 408, 423-425, fn. 18 (CEQA document cannot be approved, and Notice of Exemption filed before the underlying project actually is approved.)

“Requiring project approval before filing a notice of exemption and triggering the challenge period comports with general principles underlying CEQA. A contrary conclusion would be tantamount to requiring opponents to bring challenges before a project is finally approved, lest they be barred by the statute of limitations. It would also thwart attempts to resolve disputes over a project.” *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 963, fn. 16. “It is not the purpose of CEQA to foment prophylactic litigation.” *Id.*

Here, the City is requesting that the City Council’s PLUM committee unlawfully

approve the Project’s SCEA environmental document before considering approval of the Project itself.

B. The SCEA and the Project Must Be Reviewed by Either The Project’s Decision-Makers or a Lead Agency Legislative Body; the Process of Decision-Making Must Not be Segmented Among Them

CEQA is violated when the authority to approve or disapprove the project is separated from the responsibility to complete the environmental review. *Clews Land & Livestock, LLC v. City of San Diego* (2017) 19 Cal.App.5th 161, 188 (“for an environmental review document to serve CEQA’s basic purpose of informing governmental decision makers about environmental issues, that document must be reviewed and considered by the same person or group of persons who make the decision to approve or disapprove the project at issue”); *Citizens for the Restoration of L Street v. City of Fresno* (2014) 229 Cal.App.4th 340, 360 (CEQA violated where the City Council did not make both decisions. Rather, it considered only the mitigated negative declaration.) As explained in *POET, LLC v. State Air Resources Bd.* (2013) 218 Cal.App.4th 681, 731: “[f]or an environmental review document to serve CEQA’s basic purpose of informing governmental decision makers about environmental issues, that document must be reviewed and considered by the same person or group of persons who make the decision to approve or disapprove the project at issue. In other words, the separation of the approval function from the review and consideration of the environmental assessment is inconsistent with the purpose served by an environmental assessment as it insulates the person or group approving the project 'from public awareness and the possible reaction to the individual members' environmental and economic values.”

C. The City Council SCEA Review Hearing Defeats the Intent of Legislatures Behind LAMC 11.5.

California Public Resources Code Section 21155.2(b)(6) allows a Planning Commission to conduct the hearing instead of its legislative body, as long as there is a local ordinance in place that allows direct appeals of CEQA clearances to the legislative body.

In 2019, the City of Los Angeles passed ordinance No. 186338, to allow direct appeals of CEQA clearances to the City Council. It is codified as CEQA Appeals Code

Section 11.5.13 within Article 1.5 of Chapter 1 (the Zoning Code) of the Los Angeles Municipal Code.

As the City Council motion¹ that led to the new CEQA Appeal Ordinance notes: “Inasmuch as many types of land use approvals that could qualify as a transit priority project may be eligible for use of a SCEA would not be considered by the City Council as the initial decisionmaker or on appeal, it is inefficient to require a City Council hearing on the SCEA prior to SCEA adoption and project approval.”

The purpose of the ordinance is to avoid exactly this Project’s situation because “[i]n practice in the City, this requirement (Conducting SCEA Hearings by City Council) has resulted in an inefficient work flow whereby the City Council must review the SCEA for a project prior to the project being considered by the applicable decision-making body, which in many cases is not the City Council.”²

II. EXPERTS

This comment letter includes comments from air quality and greenhouse gas experts Matt Hagemann, P.G., C.Hg. and Paul Rosenfeld, Ph.D. concerning the SCEA. Their comments, attachments, and Curriculum Vitae (“CV”) are attached hereto and are incorporated herein by reference as (Attachment B)

After review of the SCEA, the experts concluded that the initial study failed to adequately evaluate the Project’s air quality, health risk, and greenhouse gas impacts. As a result, emissions and health risk impacts associated with construction and operation of the proposed Project are underestimated and inadequately addressed. An EIR should be prepared to adequately assess and mitigate the potential air quality, health risk, and greenhouse gas impacts that the project may have on the surrounding environment.

Matt Hagemann, P.G., C.Hg. (“Mr. Hagemann”) has over 30 years of experience in environmental policy, contaminant assessment and remediation, stormwater compliance, and CEQA review. He spent nine years with the U.S. EPA in the RCRA and Superfund programs and served as EPA’s Senior Science Policy Advisor in the Western Regional Office where he identified emerging threats to groundwater from perchlorate and MTBE. While with EPA, Mr. Hagemann also served as Senior

¹ http://clkrep.lacity.org/online/docs/2018/18-0066_mot_01-23-2018.pdf

² City of Los Angeles Ordinance No. 186338 is available at
http://clkrep.lacity.org/online/docs/2018/18-0066_ORD_186338_11-27-2019.pdf

Hydrogeologist in the oversight of the assessment of seven major military facilities undergoing base closer. He led numerous enforcement actions under provisions of the Resource Conservation and Recovery Act (RCRA) and directed efforts to improve hydrogeologic characterization and water quality monitoring.

For the past 15 years, Mr. Hagemann has worked as a founding partner with SWAPE (Soil/Water/Air Protection Enterprise). At SWAPE, Mr. Hagemann has developed extensive client relationships and has managed complex projects that include consultation as an expert witness and a regulatory specialist, and a manager of projects ranging from industrial stormwater compliance to CEQA review of impacts from hazardous waste, air quality, and greenhouse gas emissions.

Mr. Hagemann has a Bachelor of Arts degree in geology from Humboldt State University in California and a Masters in Science degree from California State University Los Angeles in California.

Paul Rosenfeld, Ph.D. (“Dr. Rosenfeld”) is a principal environmental chemist at SWAPE. Dr. Rosenfeld has over 25 years’ experience conducting environmental investigations and risk assessments for evaluating impacts on human health, property, and ecological receptors. His expertise focuses on the fate and transport of environmental contaminants, human health risks, exposure assessment, and ecological restoration. Dr. Rosenfeld has evaluated and modeled emissions from unconventional oil drilling operations, oil spills, landfills, boilers and incinerators, process stacks, storage tanks, confined animal feeding operations, and many other industrial and agricultural sources. His project experience ranges from monitoring and modeling of pollution sources to evaluating impacts of pollution on workers at industrial facilities and residents in surrounding communities.

Dr. Rosenfeld has investigated and designed remediation programs and risk assessments for contaminated sites containing lead, heavy metals, mold, bacteria, particular matter, petroleum hydrocarbons, chlorinated solvents, pesticides, radioactive waste, dioxins and furans, semi- and volatile organic compounds, PCBs, PAHs, perchlorate, asbestos, per- and poly-fluoroalkyl substances (PFOA/PFOS), unusual polymers, fuel oxygenates (MTBE), among other pollutants, Dr. Rosenfeld also has experience evaluating greenhouse gas emissions from various projects and is an expert on the assessment of odors from industrial and agricultural sites, as well as the evaluation of odor nuisance impacts and technologies for abatement of odorous emissions. As a principal scientist at SWAPE, Dr. Rosenfeld directs air dispersion

modeling and exposure assessments. He has served as an expert witness and testified about pollution sources causing nuisance and/or personal injury at dozens of sites and has testified as an expert witness on more than ten cases involving exposure to air contaminants from industrial sources.

Dr. Rosenfeld has a Ph.D. in soil chemistry from the University of Washington, M.S. in environmental science from U.C. Berkeley, and B.A. in environmental studies from U.C. Santa Barbara.

III. **THE PROJECT SCEA IS INADEQUATE**

A. The SCEA Improperly Labels Mitigation Measures as “Project Design Features”

The SCEA improperly labels mitigation measures as “Project Design Features” or “PDFs.” Some of the specific design features that the project incorporates are related to energy conservation and efficiency, water conservation, water quality, solid waste, transportation and air quality.

For example, SCEA, pp. 4.0-58 states that “the Project would incorporate an environmentally sustainable design using green building technologies that involve more resource-efficient modes of construction through energy efficiency, water conservation, environmentally preferable building materials, and waste reduction. Sustainability features incorporated into the Project would include the following:

- 20% Improvement on Title 24- 2019 through use of cool roofing and phase change materials (PCMs) for insulation and reflectivity.
- Optimized façade design for maximum daylight and natural ventilation potential, minimum solargain and heat loss.
- Lighting Power Densities at 15% below code or lower.
- Daylight and motion lighting controls which react to variables like such as heat or motion by turning lights on or off.
- Energy Star appliances.
- Building-Level Energy Metering.”

Relying on these PDFs, the DEIR concludes in many instances that the Project’s impacts are less than significant, and that no mitigation is required.

However, it is established that “[a]voidance, minimization and / or mitigation measure’ . . . are not ‘part of the project.’ . . . compressing the analysis of impacts and mitigation measures into a single issue . . . disregards the requirements of CEQA.” (*Lotus v. Department of Transportation* (2014) 223 Cal. App. 4th 645, 656.)

When “an agency decides to incorporate mitigation measures into its significance determination, and relies on those mitigation measures to determine that no significant effects will occur, that agency must treat those measures as though there were adopted following a finding of significance.” (*Lotus, supra*, 223 Cal. App. 4th at 652 [citing CEQA Guidelines § 15091(a)(1) and Cal. Public Resources Code § 21081(a)(1).])

By labeling mitigation measures as project design features, the City violates CEQA by failing to disclose “the analytic route that the agency took from the evidence to its findings.” (Cal. Public Resources Code § 21081.5; CEQA Guidelines § 15093; *Village Laguna of Laguna Beach, Inc. v. Board of Supervisors* (1982) 134 Cal. App. 3d 1022, 1035 [quoting *Topanga Assn for a Scenic Community v. County of Los Angeles* (1974) 11 Cal. 3d 506, 515.]

The SCEA’S use of “Project Design Features” further violates CEQA because such measures would not be included in the Project’s Mitigation Monitoring and Reporting Program CEQA requires lead agencies to adopt mitigation measures that are fully enforceable and to adopt a monitoring and/or reporting program to ensure that the measures are implemented to reduce the Project’s significant environmental effects to the extent feasible. (PRC § 21081.6; CEQA Guidelines § 15091(d).) Therefore, using Project Design Features in lieu of mitigation measures violate CEQA.

B. The SCEA Defers the Development of Environmental Mitigation Measures

The SCEA states that MM-PALEO-1 will consist of “Construction monitoring by a qualified paleontological monitor shall be implemented during all ground-disturbing activities that affect previously undisturbed native soils in areas located five feet below the ground surface or farther and have the potential to contact older Quaternary Alluvium.”³ While the SCEA mentions the requirement of a qualified paleontological monitor in general terms, it fails to commit to specific performance standards.

³ Crenshaw Crossing Project, Sustainable Communities Environmental Assessment. p. 5.0-8. June 2021

CEQA mitigation measures proposed and adopted into an environmental impact report are required to describe what actions that will be taken to reduce or avoid an environmental impact. (CEQA Guidelines § 15126.4(a)(1)(B) [providing “[f]ormulation of mitigation measures should not be deferred until some future time.”].) While the same Guidelines section 15126.5(a)(1)(B) acknowledges an exception to the rule against deferrals, but such exception is narrowly proscribed to situations where “measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way.” (*Id.*) Courts have also recognized a similar exception to the general rule against deferral of mitigation measures where the performance criteria for each mitigation measure is identified and described in the EIR. (*Sacramento Old City Ass’n v. City Council* (1991) 229 Cal.App.3d 1011.)

Impermissible deferral can occur when an EIR calls for mitigation measures to be created based on future studies or describes mitigation measures in general terms but the agency fails to commit itself to specific performance standards. (*Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 281 [city improperly deferred mitigation to butterfly habitat by failing to provide standards or guidelines for its management]; *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 671 [EIR failed to provide and commit to specific criteria or standard of performance for mitigating impacts to biological habitats]; *see also Cleveland Nat’l Forest Found. v San Diego Ass’n of Gov’ts* (2017) 17 Cal.App.5th 413, 442 [generalized air quality measures in the EIR failed to set performance standards]; *California Clean Energy Comm. v City of Woodland* (2014) 225 Cal.App.4th 173, 195 [agency could not rely on a future report on urban decay with no standards for determining whether mitigation required]; *POET, LLC v. State Air Resources Bd.* (2013) 218 Cal.App.4th 681, 740 [agency could not rely on future rulemaking to establish specifications to ensure emissions of nitrogen oxide would not increase because it did not establish objective performance criteria for measuring whether that goal would be achieved]; *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1119 [rejecting mitigation measure requiring replacement water to be provided to neighboring landowners because it identified a general goal for mitigation rather than specific performance standard]; *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 794 [requiring report without established standards is impermissible delay].)

In order to avoid the environmental mitigation measure development to be deferred, the paleontologist retained to conduct monitoring of the Project’s excavation activities must meet the requirements for a “qualified professional paleontologist” pursuant to the 2010 Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources by the Society for Vertebrate Paleontology (Attachment C).

Also, any paleontological monitors conducting full-time monitoring during the Project’s grading and excavation operations must meet the requirements for a “paleontological resource monitor” pursuant to the 2010 Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources by the Society for Vertebrate Paleontology.

Further, the Project’s paleontological monitoring and mitigation must follow at minimum the 2010 Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources by the Society for Vertebrate Paleontology.

C. The SCEA Fails to Incorporate All Feasible Mitigation Measures

The SCEA unlawfully fails to incorporate feasible mitigation measures simply on the basis that the SCEA did not identify a potentially significant impact. For example, Along the numerous mitigation measures from the 2020-2045 RTP/SCS Program that were not incorporated into the Project is **PMM AES-1**. An explanation for doing so states “This mitigation measure is not incorporated, because PRC Section 21099, enacted by Senate Bill 743, and the City’s Zoning Information (ZI) File No. 2452, state that “aesthetic and parking impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area shall not be considered significant impacts on the environment.” Furthermore, the City has determined, based on the analysis of this topic in Section 4.0 of this SCEA that the Project’s impacts would not have an adverse aesthetic effect.” (SCEA pp. 3.0 – 21.) There is no language on PRC Section 21099, Senate Bill 743 or ZI2452 giving an exemption to incorporate mitigation measures.

Another example, under cumulative impact’s PMM GHG-1, the SCEA states that “This mitigation measure is not incorporated because the Project’s generation of GHG emissions would not have a significant impact on the environment as the

Project would not conflict with an applicable plan, policy, or regulation for the purposes of reducing the emissions of GHGs.” (SCEA pp. 3.0 – 51.)

Section 21155.2 subd. (a) is unambiguous in stating that transit priority projects must incorporate “**all feasible mitigation measures**, performance standards or criteria set forth in prior environmental impact reports,” irrespective of whether the SCEA finds a less than significant impact with mitigation. The Project is required to incorporate all feasible mitigation measures, regardless of whether the SCEA identifies a potentially significant impact.

Further, while the SCEA mentions PRC Section 21155.2, it fails to comply with it. For example, “As discussed in Section 3.3 of this SCEA, PRC Section 21155.2 requires that a Transit Priority Project incorporate all feasible mitigation measures, performance standards, or criteria from prior applicable environmental impact reports (EIRs).” (SCEA pp. 4.0 – 42.)

While SCEA Response 2-18 gives examples of some feasible mitigation that were adopted, it provides no answer or reasoning as to the vast majority which not adopted.

D. The Project is Not Exempted From Evaluating Aesthetic Physical Environmental Impacts

Section 21099(d)(1) of the Public Resources Code states that “[a]esthetics and parking impacts of a residential, mixed use residential, or employment center project on an infill site within a transit priority area shall not be considered significant impacts on the environment”

Based on the above, the SCEA fails to evaluate the Project’s physical environmental impacts stating that “ZI No. 2452 requires that projects in transit priority areas (TPA) be evaluated for consistency with relevant City land use plans and regulations governing scenic quality and CEQA requires analysis of aesthetic impacts on cultural resources. Accordingly, evaluation of the Project’s physical impacts associated with aesthetic resources is not required by CEQA and is provided in this Initial Study for informational purposes only” (SCEA, pp. 4.0-4.)

However, PRC Section 21099(d)(1) is not to be interpreted as a complete exemption from ever evaluating and analyzing the aesthetics and parking environmental impacts. The SCEA must show the actual impacts, they have to be evaluated and analyzed on

the SCEA in order to allow the lead agency and the public to make an informed decision.

“CEQA's overriding and primary goal is to protect the physical environment. CEQA defines a “significant effect on the environment” as “substantial, or potentially substantial, adverse changes in physical conditions” (§ 21100. subd. (d) *Pres. Poway v. City of Poway*, (2016) 245 Cal. App. 4th 560, 579, 199.

Under CEQA, the “environment” means “the physical conditions which exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance.” (PRC Section 21060.5.)

PRC Section 15121(a) states that “An EIR is an informational document which will inform the public agency decision makers and the public generally of the significant effects, and describe reasonable alternative to the project.”

Without aesthetics, the SCEA violates PRC Section 15121, because it fails to provide specific information regarding the physical environmental effects associated with development of the Project Site and ways to minimize any significant environmental effects through mitigation measures. Further, the SCEA must have a complete aesthetics analyses so that the impacts are taking in consideration when evaluating and comparing the Project alternatives.

The SCEA must have, at the very least, an aesthetics analysis thoroughly detailing whether except as provided in PRC 21099, would the project aesthetics analysis impact the environment?. This is the same for parking impact analysis, there is no exemption from completing the analysis under Section 21099(d)(1) of the Public Resources Code.

E. The SCEA Fails to Analyze Secondary Parking Impacts

PRC Section 21099(b)(3) states that “This subdivision does not relieve a public agency of the requirement to analyze a project’s potentially significant transportation impacts related to air quality, noise, safety, or any other impact associate with transportation. The methodology established by these guidelines shall not create a presumption that a project will not result in significant impacts related to air quality, noise,, safety, or any other impact associated with transportation.”

For that reason, even when a project’s parking impacts are not to be considered a significant pursuant to PRC Section 21099(d)(1); Secondary parking impacts caused

by traffic congestion resulting from lack of parking must be addressed. Therefore, the SCEA fails to consider the impacts that parking will have on air quality, noise, safety and, any other impact associated with transportation

F. The SCEA Adopts an Improper Environmental Baseline by Failing to Evaluate Existing Conditions at the Project Site

According to PRC Section 15125(a) “An EIR must include a description of the physical environmental conditions in the vicinity of the project. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant. The description of the environmental setting shall be no longer than necessary to provide an understanding of the significant effects of the proposed project and its alternatives. The purposes of this requirement is to give the public and decision makers the most accurate and understandable picture practically possible of the project’s likely near-term and long-term impacts”

“Generally, the lead agency should describe physical environmental conditions as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced” CEQA Guidelines § 15125(a).

The SCEA improperly excludes the fact that currently the County is utilizing the Project Site as an interim housing for homeless families, families that would be removed if the Project was to be approved from the environmental baseline for the Project. SCEA at 2.0-6.

However, that description improperly excludes the fact that the County is utilizing the Project Site A’s as interim housing for homeless families, families that would be removed if the Project was to be approved from the environmental baseline for the Project. The County is further using the administrative building as a Covid19 testing site⁴. SCEA at 2.0-6.

The Site is in fact home to twenty (20) families with children⁵, living in separate residential trailers. This isn’t a typical homeless shelter, “[i]nside the residency, was a contemporary style kitchen, decorated bedroom, dining room area, and restroom. Fully stocked with essential living appliances available in each exclusive trailer. Suitable

⁴ See <https://covid19.lacounty.gov/covid19-news/increases-testing-new-community-sites/>

⁵ See <http://ourweekly.com/news/2020/mar/05/ten-more-trailers-arrive-house-homeless-families-s/>

dishes, bedding, and nutritious food awaits the arrival of families who are need of hospitable shelter and lasting peace of mind. One could see volunteers as young as six years old painting welcome signs and decorating pots for plants. Those handmade ornaments will signify sense of a new beginning to the future families progressively moving into these homes.”⁶

In addition to the residences, there is also an office “[t]o help ensure that Safe Landing for Families lives up to its name, the real estate development firm Trammell Crow Co., along with ConAm Building Co. and Unisource Solutions, donated a trailer for the St. Joseph Center staff to use as an office at the site. Meanwhile, the California Community Foundation donated funds for a playground, dog run and patio area.”⁷

While the SCEA speculates that this use is temporary, and claims that removal of this facility for homeless families is inevitable (a disturbing conclusion), CEQA does not allow such speculation on future uses. CEQA simply requires that the City analyze current existing conditions at the time of environmental analysis. Excluding the “interim” use of the Project Site for homeless housing violates CEQA

PRC Section 15121(a) states that “An EIR is an informational document which will inform the public agency decision makers and the public generally of the significant effects, and describe reasonable alternative to the project.”

According to the SCEA responses to comments, “[t]his interim use was not in existence at the time of the commencement of the preparation of the draft SCEA and therefore, pursuant to Section 15125(a)(1), is not included as part of the baseline conditions at the Project Site.” (SCEA Comments and Responses, pp. 21.) However, this is not the case. According to Los Angeles City Planning Website, ENV-2019-5426-SCEA Case Summary and Documents⁸, the Project was not accepted for review until **March 2, 2020**. Media coverage for the interim housing states that “Angelenos answered the social call for action to combat homelessness with local support on

⁶ See <https://lasentinel.net/1-a-community-comes-together-to-construct-safe-landing-housing-project-for-homeless-families.html>

⁷ See news article available at <https://ridley-thomas.lacounty.gov/index.php/governors-trailers-become-a-safe-landing-for-families/>

⁸ <https://planning.lacity.org/pdiscaseinfo/search/encoded/MjMyMTk30>

Saturday, February 15 [of that same year 2020]. A well-orchestrated community event launched the Safe Landing project.”⁹

Regardless of when the Covid-19 testing, the housing interim use, and the drafting of the SCEA all began; by not including these critical environmental baseline information, the SCEA fails to inform the public and decision makers of the Existing Conditions at the Project Site and the overall Project’s Environmental Baseline and the date of commencement of the preparation of the draft SCEA.

A Supplemented SCEA that adequately adopts a proper environmental baseline for the project. should be prepared,

G. The SCEA Fails to Provide a Stable and Consistent Project Description

“[A]n accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient” environmental document. (*County of Inyo v. City of Los Angeles* (1977) 71 Cal. App. 3d 185, 200.) “A curtailed or distorted project description may stultify the objectives of the reporting process” as an accurate, stable and finite project description is necessary to allow “affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the "no project" alternative) and weigh other alternatives in the balance. (*Id.* at 192 – 93.)

The SCEA states that Project Site East is 2.25 acres (98,446.51 sq. ft.) SCEA p. 2.0-19. However, 2.25 Acres equals 98,010 sq. ft. Even if the calculations were approximate. They still remain inconsistent throughout the SCEA.

For example, Table 2.0-2 Project Development Summary, lists the East Site area as 98,188.68 sq. ft. The housing density bonus eligibility must be based on the actual project size, not an approximate or estimate.

⁹ <https://lasentinel.net/1-a-community-comes-together-to-construct-safe-landing-housing-project-for-homeless-families.html>

H. The SCEA is Inconsistent with the Mid-City Recovery Program FEIR Project Level Mitigation Measure Because Fails to Adopt Mitigation Measures for Housing Displacement

The SCEA fails to take into consideration the existence of Safe Landing Housing Project¹⁰ at the Project site on 3606 W. Exposition Blvd. The Mid-City Recovery Program FEIR Level Mitigation Measures provides for specific measurements regarding housing displacement which the SCEA fails to adopt:

- “HPE1: Housing units displaced within the proposed Recovery Program Area corridors shall be subject to the real property acquisition policies of the Community Redevelopment Agency. This mitigation measure is not incorporated because the Project would consist of the development of new housing and commercial land uses on a site that is currently developed with nonresidential uses and, therefore, no displacement of existing housing would occur.
- HPE2: Since most of the dwelling units to be displaced may be considered affordable housing, this stock of units shall be replaced, at minimum on a one for one basis. Affordability shall be determined per guidance established by U.S. Department of Housing and Urban Development (HUD). This mitigation measure is not incorporated because the Project would consist of the development of new housing and commercial land uses on a site that is currently developed with nonresidential uses and, therefore, no displacement of existing housing would occur.
- Population HPE3: Displaced residents shall receive assistance under the established relocation assistance procedures of the Community Redevelopment Agency of the City of Los Angeles. This mitigation measure is not incorporated because the Project would consist of the development of new housing and

¹⁰ See <https://lasentinel.net/1-a-community-comes-together-to-construct-safe-landing-housing-project-for-homeless-families.html>

commercial land uses on a site that is currently developed with nonresidential uses and, therefore, no displacement of existing housing would occur.” SCEA p. 3.0-115.

I. The SCEA is Inconsistent with the Mid-City Recovery Program FEIR Project Level Mitigation Measure Because Fails to Adopt Mitigation Measures for Housing Displacement

The SCEA fails to take into consideration the existence of Safe Landing Housing Project¹¹ at at the Project site on 3606 W. Exposition Blvd. The Mid-City Recovery Program FEIR Level Mitigation Measures provides for specific measurements regarding housing displacement which the SCEA fails to adopt:

- “HPE1: Housing units displaced within the proposed Recovery Program Area corridors shall be subject to the real property acquisition policies of the Community Redevelopment Agency. This mitigation measure is not incorporated because the Project would consist of the development of new housing and commercial land uses on a site that is currently developed with nonresidential uses and, therefore, no displacement of existing housing would occur.
- HPE2: Since most of the dwelling units to be displaced may be considered affordable housing, this stock of units shall be replaced, at minimum on a one for one basis. Affordability shall be determined per guidance established by U.S. Department of Housing and Urban Development (HUD).

This mitigation measure is not incorporated because the Project would consist of the development of new housing and commercial land uses on a site that is currently developed with nonresidential uses and, therefore, no displacement of existing housing would occur.

¹¹ See <https://lasentinel.net/1-a-community-comes-together-to-construct-safe-landing-housing-project-for-homeless-families.html>

- Population HPE3: Displaced residents shall receive assistance under the established relocation assistance procedures of the Community Redevelopment Agency of the City of Los Angeles.

This mitigation measure is not incorporated because the Project would consist of the development of new housing and commercial land uses on a site that is currently developed with nonresidential uses and, therefore, no displacement of existing housing would occur.” SCEA p. 3.0-115.

J. The Project Has A Significant Impact on Population and Housing

The housing and population impact analysis, second criterion, whether Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere? The SCEA states that there is “No Impact. A significant impact may occur if the Project would result in the displacement of existing housing units, necessitating the construction of replacement housing elsewhere. The Project Site is developed with a vacant administrative building and its associated surface parking lot on the West Site while the East Site is vacant and is currently used by Metro as a construction staging area. There are no residential units or residents on the Project Site.” SCEA p. 4.0-56

First, the administrative building is not vacant, it is a Covid19 testing site¹². Also, the SCEA states that “the County is currently utilizing the parking lot associated with the West Site as a site for interim housing for vulnerable homeless families living on the streets or in their vehicles” SCEA p. 2.0-6

As discussed above, the Site is in fact home to twenty (20) families with children¹³, living in separate residential trailers. This isn’t a typical homeless shelter, “Inside the residency, was a contemporary style kitchen, decorated bedroom, dining room area, and restroom. Fully stocked with essential living appliances available in each exclusive trailer. Suitable dishes, bedding, and nutritious food awaits the arrival of families who are need of hospitable shelter and lasting peace of mind. One could see volunteers as young as six years old painting welcome signs and decorating pots for plants. Those

¹² See <https://covid19.lacounty.gov/covid19-news/increases-testing-new-community-sites/>

¹³ See <http://ourweekly.com/news/2020/mar/05/ten-more-trailers-arrive-house-homeless-families-s/>

handmade ornaments will signify sense of a new beginning to the future families progressively moving into these homes.”¹⁴

In addition to the residences, there is also an office “To help ensure that Safe Landing for Families lives up to its name, the real estate development firm Trammell Crow Co., along with ConAm Building Co. and Unisource Solutions, donated a trailer for the St. Joseph Center staff to use as an office at the site. Meanwhile, the California Community Foundation donated funds for a playground, dog run and patio area.”¹⁵

Therefore, the project site is not vacant, there are residential trailers, residents, an office and, employees.

K. The SCEA Fails to Show Any Housing Density Bonus Calculations to Support the Project’s Density Bonus, Incentives and Waivers

Pursuant to CEQA Guidelines, Section 15124(d)(1)(C), a project description shall contain “A list of related environmental review and consultation requirements required by federal, state, or local laws, regulations, or policies. To the fullest extent possible, the lead agency should integrate CEQA review with these related environmental review and consultation requirements”

The Project claims a density bonus together with a series of incentives. By completely omitting all information relating to density bonus calculations, the SCEA effectively precludes the public and the agency decision makers from being informed of the actual significant effects of the project.

In addition to that, the SCEA relies on irrelevant statutes. For example, on the project description, the SCEA states that it is seeking density bonus compliance “Pursuant to Los Angeles Municipal Code (LAMC) Section 12.25 A.25. SCEA p. 2.0-4. However, LAMC Section 12.25 is irrelevant to the Project’s density bonus compliance or calculation.

This reliance on inapplicable statutes takes place throughout the SCEA; including on the approval actions section, (SCEA p. 2.0-29).

¹⁴ See <https://lasentinel.net/l-a-community-comes-together-to-construct-safe-landing-housing-project-for-homeless-families.html>

¹⁵ See <https://ridley-thomas.lacounty.gov/index.php/governors-trailers-become-a-safe-landing-for-families/>

For these reasons, the SCEA must show actual density bonus calculations as well as legal basis for it

L. A Density Bonus Calculation Must be Made for Each Project Site

According to Government Code Section 65915(h)(4)(i) “For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels.”

Since Project Site East and Project Site West are separated by Crenshaw Blvd. they are not contiguous and therefore their density bonus calculations must be established separately.

Each of the sites have different land use entitlements needs and basis for their density bonus incentives. A different area size calls for a different amount of density bonus and incentives. For example, unlike the East Site, the West site requires height incentives for the low scale residential buildings along Victoria Avenue as well as a 7% density bonus. SCEA, p. 2.0-4.

Further, even when the Project is not claiming a density bonus, the calculation is necessary in order to comply with LAMC’s Height Increase Incentive Limits as mentioned below under the height increase limitation.

M. The SCEA’s Failure to Round Up the Density Calculations that Result in Fractional Units Violate the Density Bonus Law

The state Density Bonus Law, in Government Code §65915(f)(5) requires that "All density calculations resulting in fractional unit shall be rounded up to the next whole number."

The SCEA states that the project will be “a mixed-use project including 401 residential units, with approximately 15 percent of the total units (61 units) reserved for Very-Low Income households and 5 percent of the total units (20 units) reserved for a range of Very-Low to Low-Income households” SCEA, p. 1.0-1

While, 15% of 401 is 60.15 and it was accurately rounded up to 61 units; 5% of the 401 total units is 20.05 and it should therefore be rounded up to 21 units pursuant to the Density Bonus Law. See Government Code §65915(f)(5) (“All density calculations resulting in fractional units shall be rounded up to the next whole number.”).

For these reasons, in order to receive three concessions or incentives, the project must dedicate 82 units to low income and not 81 as stated on the SCEA.

N. The SCEA’S Cumulative Effect Analysis is Inadequate

According to CEQA Guidelines Section 15130(b)(1) there are two elements necessary for an adequate discussion of significant cumulative effects; Either a list of past, present and future projects producing related or cumulative project Cumulative Effects Related Projects. Or, a summary of projections contained in an adopted local, regional or statewide plan, or related planning document, that describes or evaluates conditions contributing to the cumulative effect.

The SCEA fails to consider any projections in its cumulative effect analysis. For example, the four mixed use projects below are located by within the vicinity of the Project

- 3518 Crenshaw Blvd. Los Angeles, CA 90016. A transit oriented community project holding 81 units, nine of which are designated for extremely low-income households, and about 3,900 square feet of ground-floor commercial space.
- 4242 Crenshaw Blvd. Los Angeles, CA 90008. Close to the future Leimert Park light rail station, a development with 124 units 11 of them for very low income households and 6,000 square feet of space for storefronts.
- 6320 Crenshaw Blvd. Los Angeles, CA 90043. Near the Hyde Park station, 24 apartments and about 670 square feet of retail space.
- 3600 Stocker St. Los Angeles, CA 90056. Near the future Martin Luther King Jr. station, a proposed five-story mixed-use apartment project. The project would rise just south of the Baldwin Hills Crenshaw Plaza mall and include 69 apartments, six of them for tenants with very low incomes plus, 52 parking spaces

The SCEA should consider the above projects on for cumulative effect analysis

IV. **THE PROJECT’S ANTICIPATED LAND USE ENTITLEMENTS ARE UNLAWFUL**

A. The Alcoholic Beverage Consumption Master Conditional Use Permits Violate the Crenshaw Corridor Specific Plan

Pursuant to CEQA Guidelines, Section 15124(d)(1)(C), a project description shall contain “A list of related environmental review and consultation requirements required by federal, state, or local laws, regulations, or policies. To the fullest extent possible, the lead agency should integrate CEQA review with these related environmental review and consultation requirements”¹⁶The SCEA states that “Pursuant to LAMC Section 12.24 W.1, a Master Conditional Use Permit for the sale of a full-line of alcoholic beverages for on-site consumption for up to six (6) establishments”¹⁶The City’s Municipal Code requires a conditional use permit (“CUP” or “Conditional Use”) for the sale or dispensing of alcoholic beverages, including beer and wine. LAMC § 12.24(W).

The City is required to deny a CUP unless 1) “the project will enhance the built environment in the surrounding neighborhood,” 2) “the project’s location, size, height, operations and other significant features . . . [are] compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety” and 3) “the project substantially conforms with the purpose, intent and provisions of the General Plan, the applicable community plan, and any applicable specific plan.”

In addition , the Municipal Code requires the City to deny a CUP if the sale or dispensing of alcohol will 1) “adversely affect the welfare of the pertinent community,” 2) “result in an undue concentration of premises for the sale or dispensing for consideration of alcoholic beverages, . . . in the area of the City involves, giving consideration to applicable State laws and to the California Department of Alcoholic Beverage Control’s guidelines for undue concentration . . .” and 3) will not detrimentally affect nearby residentially zoned communities in the area of the City involved.” LAMC § 12.24(W)(1)(a).

The SCEA as well as the City’s Staff Report for the hearing on this CUP fail to present evidence of or findings that the Project meets the municipal code requirements for its proposed land use entitlements.

¹⁶ Crenshaw Crossing Project, Sustainable Communities Environmental Assessment. p. 2.0-4. June 2021

Under LAMC Section 12.24 W alcohol sales “may be permitted in any zone, unless restricted to certain zones or locations...” The project falls within the Crenshaw Corridor Specific Plans which restricts off-site alcohol sales.

“In addition to compliance with the South Los Angeles Alcohol Sales Specific Plan, in all Subareas, the establishment of any new Off-Site Alcohol Sales use shall be limited to a maximum of one such use for every ½ mile (2640 foot) radius area”¹⁷

Therefore, the discretionary land use entitlement of providing six off-site alcoholic sale licenses violates LAMC and Crenshaw Corridor Specific Plan

B. The Height Increase Incentive Violates the Crenshaw Corridor Specific Plan

Pursuant to CEQA Guidelines, Section 15124(d)(1)(C), a project description shall contain “[a] list of related environmental review and consultation requirements required by federal, state, or local laws, regulations, or policies. To the fullest extent possible, the lead agency should integrate CEQA review with these related environmental review and consultation requirements”

The Project is “located within the Transit Oriented Development (TOD) Area of Subarea A of the Crenshaw Corridor Specific Plan”¹⁸ which allows for a maximum of a 75 feet in height.

The SCEA indicates a request for approval of an “[o]n-menu incentive to allow an increase in height of an additional 11 feet over the otherwise permitted 75 feet for the main buildings and an additional increase in height of an additional 4 feet over the otherwise permitted 30 feet for the low-scale residential buildings along Victoria Avenue”¹⁹

The SCEA fails to analyze LAMC Section 12.22 A.25(f)(5)’s limit on height increases which limits “[a] percentage increase in the height requirement in feet equal to the percentage of Density Bonus for which the Housing Development Project is eligible.”

¹⁷ Crenshaw Corridor Specific Plan Section 6(b)(a). Available at: https://planning.lacity.org/odocument/1a56c703-04d2-4947-9a25-a42b978c3ea4/Crenshaw_Corridor_Specific_Plan.pdf

¹⁸ Crenshaw Crossing Project, Sustainable Communities Environmental Assessment. p. 2.0-7. June 2021

¹⁹ Crenshaw Crossing Project, Sustainable Communities Environmental Assessment. p. 2.0-4. June 2021

The SCEA seeks “an increase in height of an additional 11 feet over the otherwise permitted 75 feet for the main buildings” SCEA p. 2.0-4 That is a 14.67% height increase.

A proper bonus density calculation is needed in order to determine if the height increase complies with Section 12.22.A.25(f)(5)’s regulation limiting height increases to the percentage of Density Bonus for which the Project is eligible. Approval of this discretionary entitlement conflicts with the Specific Plan and a proper density calculation must be established as not to violate LAMC.

C. The SCEA Seeks Incentives and Concessions in Excess of Those Allowed Under the Density Bonus Law

Density Bonus Incentives and Concessions are granted under Government Code Section 65915 and LAMC 11.22.E.1 based on a specific Percentage of Affordable Housing Units allocated. For Projects allocating 15% of the total residential units to very low income, are granted three incentives or concessions.

The SCEA’s Project Description. SCEA p. 2.0-4 states that it is seeking three (3) incentives, however, as shown on the list below, the SCEA is actually seeking twice as many incentives. Grouping incentive into three bullets does not automatically reduce the number of incentive asked for.

1. On-menu incentive to allow an increase in height of an additional 11 feet over the otherwise permitted 75 feet for the main [East Site] buildings and
2. On-menu incentive to allow an increase in height of an additional 11 feet over the otherwise permitted 75 feet for the main [West Site] buildings and
3. An additional increase in height of an additional 4 feet over the otherwise permitted 30 feet for the low-scale residential buildings along Victoria Avenue; and
4. On-menu incentive to reduce LAMC open space requirement of 23,850 sq. ft. for the West Site by twenty percent (20%) for a total required open space of 19,080 sq. ft.; and

5. Off-menu incentive to allow forty-three percent (43%) or 88 parking spaces of the 203 primary residential parking spaces on the West Site and
6. thirty-four percent (34%) or 55 parking spaces of the 159 primary residential parking spaces on the East Site to be compact spaces, in lieu of the required primary standard residential space.

If the City has any questions or concerns, feel free to contact my Office.

Sincerely,



Mitchell M. Tsai

Attorneys for Southwest Regional

Council of Carpenters

Attached:

July 9, 2021 Southwest Regional Council of Carpenters Comment Letter Concerning the SCEA (Attachment A)

September 09, 2021 Letter from SWAPE to Mitchell Tsai (Attachment B)

Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources by the Society for Vertebrate Paleontology (Attachment C)