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Via E-Mail

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Vice Mayor Arun Goel
Councilmember Melissa Hernandez
Councilmember Jean Josey
Councilmember Shawn Kumagai
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**Re: Comment on the Cambria Hotel Project
(PLPA-2019-00020, PLPA-2019-00044)**

Dear Mayor Haubert, Vice Mayor Goel, Honorable Members of the City Council, Ms. Moore, and Ms. Million:

I am writing on behalf of the Laborers International Union of North America, Local Union No. 304 ("LIUNA") and its members living and/or working in and around the City of Dublin ("LIUNA") regarding the Cambria Hotel Project ("Project") (PLPA-2019-00020, PLPA-2019-00044) proposed by Applicant Jerry Hunt of VP-RPG Dublin, LLC ("Applicant"). The City of Dublin ("City") is proposing to approve the Site Development Review Permit and the Minor Use Permit of the Project without review under the California Environmental Quality Act ("CEQA"), Pub. Res. Code section 21000, et seq., based on the assertion that the Project's potential impacts were studied in the Downtown Dublin Specific Plan Environmental Impact Report ("DDSP EIR") approved in December 2010. The City contends that under CEQA Guidelines section 15182, no further environmental review is required. Given the nature of the

Project, LIUNA disagrees and requests that the City Council approve LIUNA's appeal and deny the Planning Commission's approval of the Site Development Review Permit and Minor Use Permit and direct staff to prepare a project-level EIR to analyze the significant environmental impacts of the Project and to propose all feasible mitigation measures and alternatives to reduce those impacts.

I. The Project is Not Consistent with the DDSP Because the DDSP and its Accompanying EIR Did Not Address and Expressly Deferred Specific Project-Level Impacts.

In the 2010 EIR, the City promised the community that it would revisit key environmental reviews for future individual projects before approving those projects. For example, the DDSP EIR specifically stated that future individual projects under the DDSP would be subject to new project-level emissions thresholds in the Bay Area Air Quality Management District ("BAAQMD") Draft CEQA Guidelines for construction emissions. However, the City failed to conduct a project-level emissions analysis for the Project and compare the Project's construction emissions to the BAAQMD significance thresholds, so expert consulting firm SWAPE did. *See* Air Quality Comment dated March 25, 2020 ("March 25 SWAPE Comment"). SWAPE found that the Project's construction-related VOC emissions exceed the BAAQMD significance threshold of 54 lbs/day, resulting in a significant impact. *Id.*, p. 5.

The DDSP EIR also stated that future projects within the DDSP area would be reviewed on a project-by-project basis for greenhouse gas ("GHG") emissions. However, the City failed to conduct a project-level GHG analysis for the Project, so again, SWAPE conducted an analysis of the Project's GHG emissions, concluding that the Project would emit 1,583 MT CO₂e/year, exceeding the BAAQMD's 1,100 MT CO₂e/year threshold. *Id.*, p. 13.

The DDSP EIR was prepared with the intent for the City to follow up on project-level environmental impacts such as construction emissions and GHG emissions. Here, the City has failed to do this or take into account SWAPE's expert analysis of these impacts. As a matter of fairness, the City should do the project-specific analyses it promised to the public in its 2010 EIR.

II. There is Substantial Evidence of New Information of Substantial Importance, Which was Not Known and Could Not Have Been Known with the Exercise of Reasonable Diligence at the Time the DDSP EIR was Certified as Complete Showing the Project Will Have a Significant Health Risk Impact from its Indoor Air Quality Not Discussed in the DDSP EIR.

LIUNA previously submitted comments on the Project's potential significant health impacts on future employees from formaldehyde emissions that will be emitted by finishing materials used to construct interiors of the hotel as well as the reasonably foreseeable emissions of formaldehyde from furniture and other materials that will be used throughout the hotel. *See* Indoor Environmental Engineering Comment dated March 19, 2020 ("March 19 Offermann

Comment”).

LIUNA’s concerns regarding health risks posed by the Project’s formaldehyde emissions are based on the expert analysis and opinions of industrial hygienist and engineer Francis Offermann, PE CIH. Formaldehyde is a potent carcinogen and toxic air contaminant (“TAC”). Mr. Offermann’s comments identified a significant health risk posed by the Project’s emissions of formaldehyde from composite wood products typically used in hotel building construction containing formaldehyde-based glues which off-gas formaldehyde over a very long time period. The formaldehyde emissions are from composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particle board. These materials are commonly used for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims. *Id.*, p. 3. In his March 19 comments, Mr. Offermann concluded that it is likely that the Project will expose future hotel employees of the Project to significant impacts related to indoor air quality, and in particular, emissions of the cancer-causing chemical formaldehyde. *Id.*, p. 4. Assuming they work eight hour days, five days per week, an employee would be exposed to a cancer risk of approximately 16.4 per million, assuming all materials are compliant with the California Air Resources Board’s formaldehyde airborne toxics control measure. *Id.*, p. 4. This is more than the BAAQMD CEQA significance threshold for airborne cancer risk of 10 per million. *Id.*

Despite the City’s duty to investigate issues relating to a project’s potential environmental impacts, the City has, thus far, attempted to deny Mr. Offermann’s expert analysis and his discussion of the 2019 Chan study and has still not considered with any informed expertise the likely impacts of indoor formaldehyde emissions posed by the Project to future employees. *See County Sanitation Dist. No. 2 v. County of Kern*, (2005) 127 Cal.App.4th 1544, 1597–98, (“[U]nder CEQA, the lead agency bears a burden to investigate potential environmental impacts.”). Rather than objectively study this serious health threat, staff denies Mr. Offermann’s expert analysis and the 2019 Chan study without itself bringing any expertise to bear on the Project’s formaldehyde emissions. *See* June 2, 2020 City Council Agenda Packet, p. 307.

Instead of analyzing the Project’s formaldehyde emissions, the City concludes that since the Project is subject to the United States Environmental Protection Agency and other agency regulations, the impacts from the presence of formaldehyde would be less than significant. *Id.* However, this response ignores Mr. Offermann’s expert analysis and the 2019 Chan study. The 2019 Chan study analyzed the indoor concentrations of formaldehyde for homes built between 2011 and 2015, of which most of the homes in the study were constructed with materials that complied with the Airborne Toxic Control Measures (“ATCM”) of the California Air Resources Board (“CARB”) Phase 2 compliant materials. The 2019 Chan study showed that while these buildings had a lower median formaldehyde concentration and cancer risk, the median lifetime cancer risk for homes built with CARB Phase 2 compliant composite wood products still greatly exceeded the OEHHA 10 in a million cancer risk threshold. Mr. Offermann relied in part on the indoor formaldehyde concentrations determined in the 2019 Chan study to conclude that the Project will have similar indoor concentrations of formaldehyde as observed in the Chan study

and exceed the CEQA significance threshold for airborne cancer risk because the building materials and furnishings commonly found in homes that release formaldehyde are also found in hotels. The 2019 Chan study and resulting finding that a project's compliance with CARB Phase 2 compliant materials is not enough to get a project below the cancer risk threshold is new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the DDSP EIR was certified as complete. This new information, as elucidated by Mr. Offermann, shows that the Project will have a significant health risk impact from its indoor air emissions that was not discussed in the DDSP EIR. Therefore, the City must prepare a subsequent EIR for the Project.

III. There is Substantial Evidence of New Information of Substantial Importance, Which was Not Known and Could Not Have Been Known with the Exercise of Reasonable Diligence at the Time the DDSP EIR was Certified as Complete Showing the Project Will Have a Significant Impact on Biological Resources that was Not Discussed in the DDSP EIR.

LIUNA previously submitted comments on the Project's potential impacts on biological resources. *See* Biological Resources Comment dated March 24, 2020 ("March 24 Smallwood Comment"). Ecologist Shawn Smallwood, Ph.D., conducted a review of the proposed Project and relevant documents regarding the Project's impacts on biological resources, noting that the DDSP EIR explicitly did not analyze impacts to biological resources. However, as Dr. Smallwood explains, substantial evidence of new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the DDSP EIR was certified as complete shows the Project may have a significant impact on biological resources that was not discussed in the DDSP EIR.

On March 18, 2019, the tricolored blackbird was listed as threatened under the California Endangered Species Act ("CESA"). *See* State and Federally Listed Endangered and Threatened Animals of California, p. 11, available at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109405&inline>. eBird records reveal that the tricolored blackbird has been observed west and east of Dublin, so therefore likely flies across Dublin during dispersal and migration. March 24 Smallwood Comment, pp. 4, 5. Dr. Smallwood states that the Project's glass windows, which will be in the tricolored blackbird aerosphere, would likely kill some of them, resulting in a potentially significant impact on that threatened species. *Id.*, p. 5.

Additionally, Dr. Smallwood noted that within the last year, the scientific community has learned that human actions are cumulatively contributing to the rapid decline of birds across North America. Rosenburg et al. (2019) quantified a 29% decline of overall bird abundances across North America over the last 48 years. One of the leading causes of bird mortality contributing to this decline is collisions with windows, and Dr. Smallwood indicates that the Project, as proposed, will result in significant impacts on birds colliding with the Project's clear glass windows. March 24, Smallwood Comment, p. 9. Specifically, Dr. Smallwood predicts "69 bird deaths per year" due to the Project. *Id.*

Despite the City's duty to investigate issues relating to a project's potential environmental impacts, the City has, thus far, attempted to deny Dr. Smallwood's expert analysis and refuses to consider with any informed expertise the Project's likely impacts of window collisions to the recently listed tri-colored blackbird or other birds. The City asserts that it is not required to analyze impacts on birds due to collisions with glass windows and these impacts are not new information without providing any information justifying these conclusions. *See* June 2, 2020 City Council Agenda Packet, p. 307. The City also states the Project's exterior façade incorporates aluminum panels with low reflectivity glass that would reduce the occurrence of bird strikes yet provides no evidence to support this assertion or guarantee that low reflectivity glass will ultimately be used on the Project. *Id.* The City should analyze this in a project-level CEQA review.

IV. There are Substantial Changed Circumstances Requiring Major Revisions to the DDSP EIR Due to a Substantial Increase in the Severity of Previously Identified Transportation and Circulation Significant Effects.

LIUNA previously submitted comments on the substantial changed circumstances requiring major revisions to the DDSP EIR due to a substantial increase in the severity of the significant transportation and circulation effects identified in the DDSP EIR. *See* Transportation and Circulation Comment dated March 24, 2020 ("March 24 Smith Comment"). Traffic engineer Dan Smith reviewed the proposed Project and relevant documents regarding the Project's impacts on traffic and circulation, concluding that the traffic and circulation circumstances in the DDSP area have significantly changed and are substantially more severe since the DDSP EIR's 2010 analysis of these impacts. Mr. Smith concluded that the problem with the DDSP EIR's analysis is that additional major projects have been approved in Dublin alone since 2010, many of them not on the entitled projects listed in the DDSP EIR and many requiring General Plan Amendments. *Id.*, p. 2.

Despite the City's duty to investigate issues relating to a project's potential environmental impacts, the City has, thus far, attempted to deny Mr. Smith's expert analysis. The City claims a supplementary traffic analysis for the 2014 DDSP Amendment found no new or substantially more severe significant impacts would result from the 2014 DDSP amendment. *See* June 2, 2020 City Council Agenda Packet, p. 310. However, the City fails to make the 2014 traffic study available for analysis to interested parties or the City Council and at least two very large projects with traffic overlap in the DDSP area, the Kaiser Permanent Medical Complex approved in 2016 and the recently approved Pleasanton Costco, were not addressed in the DDSP EIR or 2014 Amendment. The DDSP EIR already identified significant traffic impacts, and the additional significant traffic impacts identified by Mr. Smith are substantial changed circumstances that require major revisions to the DDSP EIR.

IV. CONCLUSION

The City has not met the criterion under CEQA Guidelines section 15182 and therefore

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cannot use section 15182 to relieve the City from conducting project-level CEQA review for the Project. LIUNA therefore respectfully requests the City Council to approve its appeal. Thank you for your attention to these comments. Please include this letter and all attachments hereto in the record of proceedings for this project.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paige Fennie".

Paige Fennie

Lozeau | Drury LLP