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March 21, 2023

Via Email

Marqueece Harris-Dawson, Chair
Monica Rodriguez, Councilmember
Katy Yaroslavsky, Councilmember
John S. Lee, Councilmember
Heather Hutt, Councilmember
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Re: Comment on Sustainable Communities Environmental Assessment, The Parks in L.A. Project (ENV-2019-2568-SCEA) (PLUM Committee Agenda Item No. 6)

Dear Honorable Councilmembers Harris-Dawson, Rodriguez, Yaroslavsky, Lee, and Hutt, and Ms. Dang:

I am writing on behalf of **Supporters Alliance for Environmental Responsibility ("SAFER")** regarding the Sustainable Communities Environmental Assessment ("SCEA") prepared for The Parks in L.A. Project (ENV-2019-2568-SCEA), including all actions related or referring to the proposed construction of a mixed-use development consisting of 251 apartment units and 40,500 square feet of commercial uses, located at 3431-3455 West 8th Street and 749, 765 & 767 South Harvard Boulevard, in the City of Los Angeles ("Project"), which is being heard on March 21, 2023 by the Planning and Land Use Management ("PLUM") Committee as Agenda Item No. 6.

After reviewing the SCEA with the assistance of Certified Industrial Hygienist, Francis "Bud" Offermann, PE, CIH, air quality experts Matt Hagemann, P.G., C.Hg., and Paul E. Rosenfeld, Ph.D., of the Soil/Water/Air Protection Enterprise ("SWAPE"), and noise expert Ani S. Toncheva of Wilson Ihrig, SAFER concludes that the SCEA fails as an informational document and fails to impose all feasible mitigation measures to reduce the Project's impacts. Therefore, we request that the City of Los Angeles ("City") City Planning Department prepare a

revised SCEA or, in the alternative, prepare an Environmental Impact Report (“EIR”) for the Project pursuant to the California Environmental Quality Act (“CEQA”), Public Resources Code section 21000, et seq.

Mr. Offerman’s comment and curriculum vitae are attached as Exhibit A hereto and is incorporated herein by reference in its entirety. SWAPE’s comment and the consultants’ curriculum vitae are attached as Exhibit B hereto and are incorporated herein by reference in their entirety. Ms. Ju’s comment and curriculum vitae are attached as Exhibit C hereto and is incorporated herein by reference in its entirety.

I. PROJECT DESCRIPTION

The proposed Project will construct an eight-story mixed-use building with 251 residential units above two levels of subterranean parking on 1.45 acres located on 8th Street West between Hobart and Harvard Boulevards in the Wilshire Community Plan area. The proposed building will have 18,000 square-feet of commercial retail space on the ground floor and 22,500 square-feet of office space on the second floor. Residential units include 18 live/work units and 29 income-restricted units, and a total of 284 automobile parking spaces and 204 bicycle parking spaces are also included. Construction will require demolition of five existing commercial buildings and one single family house comprising a total of approximately 22,000 square-feet.

A SCEA has been prepared for the proposed Project pursuant to Section 21155.2 of the California Public Resources Code (“PRC”).

II. LEGAL STANDARD

Sustainable Communities Environmental Assessment under SB 375

The California Legislature passed SB 375, also known as the Sustainable Communities and Climate Protection Act, in an effort to integrate transportation and land use planning to reduce greenhouse gas (“GHG”) emissions. (*See* California Senate Bill 375, Chapter 728, section 1(a).) SB 375 required the state Air Resources Board to develop regional emission reduction targets for cars and light trucks. (Gov. Code § 65080(b)(2)(A).) In addition, federally-designated metropolitan planning organizations that prepare regional transportation plans were required to include in those plans a “sustainable communities strategy” to achieve the emission targets. (Gov. Code § 65080(b)(2)(B).)

CEQA allows for the streamlining of environmental review for “transit priority projects” meeting certain criteria. (Pub. Res. Code §§ 21155, 21155.1, 21155.2.) To qualify as a transit priority project, a project must:

- (1) contain at least 50 percent residential use, based on total building square footage and, if the project contains between 26 percent and 50 percent nonresidential uses, a floor area ratio of not less than 0.75;
- (2) provide a minimum net density of at least 20 dwelling units per acre; and

(3) be within one-half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan.

(Pub. Res. Code § 21155(b).) A transit priority project is eligible for CEQA’s streamlining provisions where:

[The transit priority project] is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy, for which the State Air Resources Board . . . has accepted a metropolitan planning organization’s determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(Pub. Res. Code § 21155(a).) In 2020, the Southern California Association of Governments’ (“SCAG”) Regional Council formally adopted the Connect SoCal 2020–2045 Regional Transportation Plan/Sustainable Communities Strategy (“2020–2045 RTP/SCS”), which was accepted by the California Air Resources Board (“CARB”) on October 30, 2020, and was certified on May 7, 2020.

If “all feasible mitigation measures, performance standards, or criteria set forth in the prior applicable environmental impact reports and adopted in findings made pursuant to Section 21081” are applied to a transit priority project, the project is eligible to conduct environmental review using a Sustainable Communities Environmental Assessment (“SCEA”). (Pub. Res. Code § 21155.2.) A SCEA must contain an initial study which “identif[ies] all significant or potentially significant impacts of the transit priority project . . . based on substantial evidence in light of the whole record.” (Pub. Res. Code § 21155.2(b)(1).) The initial study must also “identify any cumulative effects that have been adequately addressed and mitigated pursuant to the requirements of this division in prior applicable certified environmental impact reports.” (*Id.*) The SCEA must then “contain measures that either avoid or mitigate to a level of insignificance all potentially significant or significant effects of the project required to be identified in the initial study.” (Pub. Res. Code §21155(b)(2).) The SCEA is not required to discuss growth inducing impacts or any project specific or cumulative impacts from cars and light-duty truck trips generated by the project on global warming or the regional transportation network. (Pub. Res. Code § 21159.28(a).)

After circulating the SCEA for public review and considering all comments, a lead agency may approve the SCEA with findings that all potentially significant impacts have been identified and mitigated to a less-than-significant level. (Pub. Res. Code § 21155(b)(3), (b)(4), (b)(5).) A lead agency’s approval of a SCEA must be supported by substantial evidence. (Pub. Res. Code §21155(b)(7).)

III. ANALYSIS

A. The SCEA failed to implement all required mitigation measures.

A SCEA must incorporate all mitigation measures from the Sustainable Communities

Strategy. (Pub. Res. Code section 21155(a) and (b).) However, the SCEA declines to implement numerous mitigation measures set forth in the SCEA. Therefore, the City may not rely on the SCEA and must prepare an EIR. Among the many 2020–2045 RTP/SCS mitigation measures that the SCEA fails to implement are:

- PMM AES-1: requiring graffiti resistant materials. (SCEA p. 28.)
- PMM AES-2: Measures to reduce aesthetic impacts. (SCEA p. 28.)
- PMM AES-3: Shielding for lighting fixtures. (SCEA p. 30.)
- PMM AQ-1: Tier 4 construction equipment and other measures. (SCEA p. 34.)
- PMM GHG-1: MM to reduce GHGs. (SCEA p. 52.)
- PMM HYD-1: SWPPP for construction. (SCEA p. 61.)
- PMM NOISE-1: Install noise barriers for construction. (SCEA p. 65.)
- PMM PSP-1: Ensure adequate public services. (SCEA p. 69.)
- PMM TRA-1: Transportation Demand Management strategies, such as bike lanes, universal transit passes, parking cash-out, vanpools, carpooling, etc. (SCEA p. 71.)

The SCEA contends that all of the above measures are “not necessary.” But the measures are absolutely necessary if the City intends to dispense with the requirement to prepare an environmental impact report (“EIR”) and instead prepare the short-form SCEA. The whole point of the SCEA is that streamlined environmental review is allowed because the Project will implement all mitigation measures set forth in the 2020–2045 RTP/SCS. The above measures would clearly reduce the Project’s impacts and they are required to be implemented pursuant to CEQA Section 21155. Since the City has refused to implement these measures, the City may not rely on the SCEA and must prepare an EIR. Alternatively, the City must prepare an updated SCEA that incorporates all feasible mitigation measures included in the 2020–2045 RTP/SCS.

B. The SCEA’s conclusions regarding the Project’s air quality impacts are not supported by substantial evidence.

Indoor air quality expert Francis “Bud” Offermann, PE, CIH, and air quality experts Matt Hagemann, P.G., C.Hg., and Paul E. Rosenfeld, Ph.D. of SWAPE reviewed the SCEA and found that the SCEA’s conclusions as to the Project’s air quality impacts were not supported by substantial evidence. Mr. Offermann found that the SCEA failed to address and mitigate the human health impacts from indoor emissions of formaldehyde. Mr. Offermann’s comment and CV are attached as Exhibit A. SWAPE found that the SCEA failed to properly model the Project’s emissions and failed to properly evaluate the Project’s health risk impacts from emissions of diesel particulate matter. SWAPE’s comment and CVs are attached as Exhibit B.

1. The SCEA fails to discuss or mitigate the Project’s significant indoor air quality impacts.

The SCEA fails to discuss, disclose, analyze, and mitigate the significant health risks posed by the Project from formaldehyde, a toxic air contaminant (“TAC”). Certified Industrial Hygienist, Francis (“Bud”) Offermann, PE, CIH, conducted a review of the Project, the SCEA,

and relevant documents regarding the Project's indoor air emissions. Mr. Offermann is one of the world's leading experts on indoor air quality, in particular emissions of formaldehyde, and has published extensively on the topic. As discussed below and set forth in Mr. Offermann's comments, the Project's emissions of formaldehyde will result in very significant cancer risks to future residents of the Project's residential component and employees in the Project's commercial components. Mr. Offermann's expert opinion demonstrates the Project's significant health risk impacts, which the City has a duty to investigate, disclose, and mitigate in the SCEA prior to approval. Furthermore, Mr. Offermann's expert opinion and calculation is substantial evidence that the Project may have a significant health risk impact as a result of indoor air pollution that was not analyzed or mitigated in the SCEA.

Mr. Offermann explains that many composite wood products used in building materials and furnishings commonly found in offices, warehouses, residences, and hotels contain formaldehyde-based glues which off-gas formaldehyde over a very long time period. He states, "[t]he primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particleboard. These materials are commonly used in building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims." (Ex. A, pp. 2-3.)

Formaldehyde is a known human carcinogen. Mr. Offermann states that future residents of the Project would be exposed to a 120 in one million risk, and future commercial employees would be exposed to a 17.7 in one million risk, *even assuming* all materials are compliant with the California Air Resources Board's formaldehyde airborne toxics control measure. (*Id.*, pp. 4-5.) This potential exposure level exceeds the South Coast Air Quality Management District's ("SCAQMD") CEQA significance threshold for airborne cancer risk of 10 per million.

Mr. Offermann concludes that mitigation measures should be imposed to reduce the risk of formaldehyde exposure. (*Id.*, pp. 5-7.) Mr. Offermann identifies mitigation measures that are available to reduce these significant health risks, including the installation of air filters and a requirement that the applicant use only composite wood materials (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins or ultra-low emitting formaldehyde (ULEF) resins in the buildings' interiors. (*Id.*, pp. 9-13.) Since the SCEA does not analyze this impact at all, none of these or other mitigation measures have been considered.

The City has a duty to investigate issues relating to a project's potential environmental impacts, especially those issues raised by an expert's comments. (*See Cty. Sanitation Dist. No. 2 v. Cty. of Kern*, (2005) 127 Cal.App.4th 1544, 1597-98 ("under CEQA, the lead agency bears a burden to investigate potential environmental impacts").)

The proposed building will have significant impacts on air quality and health risks by emitting cancer-causing levels of formaldehyde into the air that will expose future residents and employees to cancer risks potentially in excess of SCAQMD's threshold of significance for cancer health risks of 10 in a million. Currently, outside of Mr. Offermann's comments, the City does not have any idea what risks will be posed by formaldehyde emissions from the Project or the residences. As a result, the City must include an analysis and discussion in an updated SCEA or prepare an EIR which discloses and analyzes the health risks that the Project's formaldehyde emissions may have on future residents and employees and identifies appropriate mitigation measures.

2. The SCEA cannot be relied upon to determine the significance of the Project's air quality impacts because the SCEA's air model underestimated the Project's emissions.

SWAPE found that the SCEA incorrectly estimated the Project's construction and operational emissions and therefore cannot be relied upon to determine the significance of the Project's impacts on local and regional air quality. (Ex. B, pp. 1-2.) The SCEA relies on emissions calculated from the California Emissions Estimator Model Version CalEEMod.2016.3.2 ("CalEEMod"). This model, which is used to generate a project's construction and operational emissions, relies on recommended default values based on site specific information related to a number of factors. (*Id.*) CEQA requires that any changes to the default values must be justified by substantial evidence.

SWAPE reviewed the Project's CalEEMod output files and found that the values input into the model were inconsistent with information provided in the SCEA. (*Id.*, p. 2.) This results in an underestimation of the Project's emissions. As a result, the SCEA's air quality analysis cannot be relied upon to determine the Project's emissions.

Specifically, SWAPE found that the following values used in the SCEA's air quality analysis were either inconsistent with information provided in the SCEA or otherwise unjustified:

1. Unsubstantiated Reductions to Acres of Grading Values. (Ex. B, pp. 2-3.)
2. Underestimated Number of Saturday and Sunday Vehicle Trips. (Ex. B, pp. 3-4.)
3. Incorrect Trip Purpose Percentages. (Ex. B, pp. 4-5.)

Based on the issues listed above, the SCEA's analysis of air quality cannot be relied upon to determine the significance of these impacts.

C. The SCEA inadequately analyzed the Project's impact on human health from emissions of diesel particulate matter.

One of the primary emissions of concern regarding health effects for land development projects is diesel particulate matter (DPM), which can be released during Project construction and operation. DPM consists of fine particles with a diameter less than 2.5 micrometers including a subgroup of ultrafine particles (with a diameter less than 0.1 micrometers). Diesel exhaust also contains a variety of harmful gases and cancer-causing substances. Exposure to DPM is a recognized health hazard, particularly to children whose lungs are still developing and the elderly who may have other serious health problems. According to the California Air Resources Board ("CARB"), DPM exposure may lead to the following adverse health effects: aggravated asthma; chronic bronchitis; increased respiratory and cardiovascular hospitalizations; decreased lung function in children; lung cancer; and premature deaths for those with heart or lung disease.¹

¹ See CARB Resources - Overview: Diesel Exhaust & Health, available at: <https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health>.

The SCEA incorrectly concludes that the Project would have a less-than-significant health risk impact without conducting a quantified construction or operational health risk analysis (“HRA”). SWAPE concluded that the SCEA’s HRA is incorrect for four reasons.

First, by failing to prepare a quantified construction and operational HRA, the SCEA fails to quantitatively evaluate construction and operational-related TACs, or make a reasonable effort to connect emissions to health impacts posed to nearby existing sensitive receptors from the Project. (Ex. B, p. 6.) SWAPE identifies potential emissions from both the daily vehicle trips and exhaust stacks of construction equipment. (*Id.* (citing SCEA, pp. 16, 27 (Table 5)).) As such, the SCEA fails to meet the CEQA requirement that projects correlate increases in project-generated emissions to adverse impacts on human health caused by those emissions. In failing to connect TAC emissions from construction and operation of the Project to potential health risks to nearby sensitive receptors, the Project fails to meet CEQA requirements. (*See Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 510.)

Second, the SCEA’s conclusion is also inconsistent with the most recent guidance published by the Office of Health Hazard Assessment (“OEHHA”), the organization responsible for providing guidance on conducting HRAs in California, as well as local air district guidelines. (Ex. B, pp. 6-7.) OEHHA recommends that projects lasting at least 2 months be evaluated for cancer risks to nearby sensitive receptors, a time period which this Project easily exceeds. (*Id.*) The OEHHA document also recommends that if a project is expected to last over 6 months, the exposure should be evaluated throughout the project using a 30-year exposure duration to estimate individual cancer risks. (*Id.*, p. 7.) Based on its extensive experience, SWAPE reasonably assumes that the Project will last at least 30 years, and therefore recommends that health risk impacts from the Project be evaluated. (*Id.*) SWAPE states that an updated SCEA should therefore be prepared to analyze these impacts. (*Id.*)

Third, by failing to prepare a quantified construction and operational HRA for nearby, existing sensitive receptors, the SCEA fails to compare the excess health risk impact of the Project to the SCAQMD’s specific numeric threshold of 10 in one million. (Ex. B, p. 7.) Without conducting a quantified construction and operational HRA, the SCEA also fails to evaluate the cumulative lifetime cancer risk to nearby, existing receptors from the Project’s construction and operation together. This is incorrect, and as a result, the SCEA’s evaluation cannot be relied upon to determine Project significance. OEHHA guidance requires that the excess cancer risk be calculated separately for all sensitive receptor age bins, then summed to evaluate the total cancer risk posed by all Project activities. Therefore, in accordance with the most relevant guidance, an assessment of the health risk posed to nearby, existing receptors from Project construction and operation should be conducted and compared to the SCAQMD threshold of 10 in one million. (*Id.*)

SWAPE prepared a screening-level HRA to evaluate potential impacts from Project construction and operation using AERSCREEN, a screening-level air quality dispersion model. (Ex. B, p. 7-12.) SWAPE applied a sensitive receptor distance of 50 meters and analyzed impacts to individuals at different stages of life based on OEHHA and SCAQMD guidance utilizing age sensitivity factors. (*Id.*)

SWAPE found that the excess cancer risks at a sensitive receptor located approximately

50 meters away over the course of Project construction and operation are approximately 187 in one million for infants, 132 in one million for children, and 14.7 in one million for adults. (*Id.*, p. 11.) SWAPE also found that the *excess cancer risk associated with Project construction and operation over the course of a residential lifetime (30 years) is approximately 342 in one million.* (*Id.*) The risks to infants, children, adults, and lifetime residents exceed SCAQMD's threshold of 10 in one million. Because a SCEA is only appropriate where all impacts have been mitigated to a level of insignificance, the City must prepare a revised SCEA to mitigate this impact or otherwise prepare an EIR.

D. The SCEA inadequately analyzed the Project's greenhouse gas impacts.

SWAPE's review of the SCEA found that the City failed to adequately evaluate the Project's greenhouse gas ("GHG") impacts. (Ex. B, pp. 12-14.) The SCEA estimates that the Project would generate net annual GHG emissions of 2,696.1 metric tons of carbon dioxide equivalents per year ("MT CO₂e/year"), which would not exceed the SCAQMD threshold of 3,000 MT CO₂e/year. (SCEA, pp. 118, Table V-10.) Furthermore, the SCEA's analysis relies upon the Project's consistency with the SCAQMD's 2008 *Interim CEQA GHG Significance Threshold for Stationary Sources, Rules, and Plans* report to conclude that the Project would result in a less-than-significant GHG impact. (*Id.*, p. 118.) However, after reviewing the proposed Project, SCEA, and related appendices, SWAPE concludes that the SCEA's analysis, as well as the subsequent less-than-significant impact conclusion, are incorrect for two reasons:

1. The SCEA's quantitative GHG analysis relies upon an outdated threshold; and
2. The SCEA's unsubstantiated air model indicates a potentially significant impact. (Ex. B, pp. 13-14.)

First, the SCEA utilizes an outdated GHG threshold. (*Id.*, p. 13.) When compared to the correct quantitative threshold, SWAPE found the Project's GHG emissions are demonstrably significant. (*Id.*)

Second, the SCEA's unsubstantiated air model indicates a potentially significant impact. (Ex. B, pp. 13-14.) Specifically, SWAPE found that the Project's service population efficiency value, as estimated by the SCEA's asserted net annual GHG emissions (SCEA, p. 118, Table V-10), and service population, which is the number of residents and employees supported by the Project, i.e. 827 people (SCEA, Appendix A, p. 35 (estimating that the Project will support 718 residents); SCEA, p. 146, Table V-15 (indicating the Project will employ approximately 109 people during operation)), exceed the SCAQMD 2035 efficiency target of 3.0 MT CO₂e/SP/year, indicating a potentially significant impact not previously addressed by the SCEA. (Ex. B, p. 14.) Consequently, the SCEA's less-than-significant GHG impact conclusion is incorrect and should not be relied upon.

Because a SCEA is only appropriate where all impacts have been mitigated to a level of insignificance, the City must prepare a revised SCEA to mitigate this impact or otherwise prepare an EIR.

E. The SCEA inadequately analyzed the Project's noise impacts.

The comment of noise expert Ani S. Toncheva is attached as Exhibit C. Ms. Toncheva has identified several issues with the SCEA. Ms. Toncheva's concerns are summarized below. (See Exhibit C.)

After reviewing the proposed Project, SCEA, and related appendices, Ms. Toncheva found that the SCEA failed to adequately evaluate the Project's potentially significant construction and operational noise impacts for the following reasons and therefore concludes that a revised SCEA or EIR should be prepared to mitigate those impacts.

1. The SCEA uses incorrect measurements to establish baseline noise for Project construction and operation.

Ms. Toncheva explains that the Project's noise baseline is based on four short-term measurements of a 15-minute duration that were only taken during the day. (Ex. C, p. 3.) As she points out, however, the SCEA includes no discussion of how these 15-minute measurements are applicable to the construction day or Project operations. (*Id.*) Ms. Toncheva found the short-term noise measurements taken at the southwest, northwest, eastern, and southeast corners of the Project site were incorrectly averaged and applied for all adjacent sensitive receptor properties in the area. (*Id.*) According to Ms. Toncheva, this is not an appropriate approach. (*Id.*) For example, she explains that there is a big difference between the levels measured on W. 8th Street and those further set back from that traffic. (*Id.*) As a result, the SCEA's approach effects the ambient-based thresholds of significance for both Project construction and operational noise. (*Id.*) Thus, the SCEA's analysis of the Project's noise impacts cannot be relied upon to determine the significance of these impacts.

2. The SCEA fails to adequately analyze the Project's significant construction noise impacts that exceed criteria thresholds and therefore the mitigation measures included in the SCEA to reduce these impacts may be insufficient.

The SCEA's construction noise impact analysis is inadequate for several reasons, all of which are identified in Ms. Toncheva's expert comments.

First, according to Ms. Toncheva's expert comments and the SCEA's construction noise impact analysis, the LAMC section 112.05 "prohibits the use of any powered equipment or powered hand tool for construction within a residential zone or within 500 ft thereof that produces a maximum noise level exceeding 75 dBA at a distance of 50 feet from the source." (Ex. C, p. 1 (citing SCEA, p. 137).) Ms. Toncheva explains that "this is an Lmax limit, representing the highest sound level that occurs during a stated time period." (*Id.*, p. 1.) Based on Ms. Toncheva's review of the calculations of the Project's estimated unmitigated construction equipment max noise levels included at Table V-11 of the SCEA, she found that the SCEA's noise analysis "incorrectly applies a usage factor to the 50-foot Lmax levels for each equipment and compares these hourly average (Leq) levels to the Lmax criteria."² (*Id.* (citing SCEA, p. 138 & Table V-11).) Instead, the LAMC limit of 75 dBA should have been compared to Lmax

² The SCEA states, "The sound level prediction equation is expressed as follows for the hourly average sound level (Leq) at distance (D) between the source and receiver. $Leq = Lmax @ 50' - 20 \cdot \log (D/50') + 10 \cdot \log (U.F./100) - I.L.$ Where: *Lmax @ 50'* is the published reference noise level at 50 feet *U.F.* is the acoustical usage factor for full power operation per hour *I.L.* is the insertion loss for intervening barriers[.]" (SCEA, p. 138 & Table V-11 (emphasis in original).)

levels, not the Leq or average levels. (*Id.*) If the SCEA had properly analyzed the max noise level of each potential type of construction equipment that may be used to build the Project, the SCEA would have concluded that “[m]ost of the equipment in Table V-11 exceeds 75 dBA Lmax at 50 feet (12 of 14 types of equipment range from 77 to 90 dBA).” (*Id.*)

Second, Ms. Toncheva found that the SCEA’s analysis of the Project’s construction equipment noise reductions at Table V-12 of the SCEA was inadequate because it failed to include a discussion to support the 15 dBA reduction assumed for industrial mufflers with diesel engines. (*Id.*, pp. 1-2.) As Ms. Toncheva notes, most construction equipment already includes a muffler, so listing this as a mitigation measure to reduce the Project’s max construction equipment noise levels is likely insufficient. (*Id.*, p. 1.) According to Ms. Toncheva, while “[t]he values provided in Table V-11 are representative of the maximum noise levels that nearby residents will be exposed to during construction (74 to 90 dBA at 50 feet), she found that “[a]t the residences 10 feet north of the project site, these maximum noise levels will range from 88 to 104 dBA based on the source levels in Table V-11 and adjustment for distance.” (*Id.*, pp. 1-2.) Therefore, Ms. Toncheva states that “the 15dB reduction for mufflers is unsubstantiated and unrealistic.” (*Id.*, p. 1.)

More specifically, Ms. Toncheva notes “that mufflers are only effective for machinery powered by internal combustion engines, not operational noise produced during work such as sawing.” For example, based on the Federal Highway Administration (“FHWA”) Construction Noise Handbook’s Lmax level of 90 dBA at 50 feet for concrete saws, “15 dB of reduction are needed for that operation to meet the LAMC criteria.” (Ex. C, p. 2.) Ms. Toncheva explains that while “[n]oise barriers could provide 10 to 15 dB of reduction, depending on site geometry and barrier construction, ... contractors are often reluctant to employ barriers because they slow production.” (*Id.*) Thus, “[t]he SCEA should provide substantial evidence that the proposed mitigation measure[s] will both reduce noise levels below the applicable threshold and be feasible to deploy,” and “[d]etails of deployment should be included in the MMRP.” (*Id.*)

Third, per the SCEA’s CEQA Guidelines checklist, “thresholds of significance of noise include assessment of a temporary or permanent increase in ambient levels in the vicinity of the project.” (Ex. C, p. 2 (citing SCEA, p. 136).) Based on Ms. Toncheva’s review of Table 6-1 of the SCEA’s noise study included at Appendix J of the SCEA, multiple pieces of equipment will be used during each phase of construction. (*Id.* (citing SCEA, Appendix J, p. 13).) According to Ms. Toncheva, the SCEA’s noise analysis should have used a Leq calculation “to compare construction noise levels for each phase with existing ambient measurements.” (*Id.*, p. 2.) Using the proper Leq calculation, Ms. Toncheva calculated Leq for each phase shown in Table 6-1 at the nearest residential property north of the Project, using FHWA usage factors. (*Id.*, pp. 2-3 & Table 1.) Compared to the SCEA’s 60 dBA measurement of ambient noise near the residences at M2, which is located at the northwest corner of the Project site, Table 1 of Ms. Toncheva’s comment letter shows “construction phase Leq levels ranging from 28 to 41 dBA over the ambient dBA calculated in Table 6-1 of the SCEA’s noise study, which she concludes “is, by any reasonable assessment, a significant increase.” (*Id.*) Thus, the SCEA’s analysis of the Project’s construction noise impacts cannot be relied upon to determine the significance of these impacts and as a result the mitigation measures intended to reduce this impact to less than significant may be insufficient.

3. The SCEA’s evaluation of noise impacts from Project operations is incorrect.

The SCEA's HVAC operational noise calculations include a 5 dB reduction from the parapet of the roof. However, no documentation is shown for this value or the geometry of the roof in relation to equipment. After reviewing the SCEA and related noise study, we found several errors in the HVAC unit calculations. For example, the online specification for the HVAC unit listed shows 59 dB as the sound pressure level for the model, not 57 dB as listed in Table 6-5 of the noise study included as Appendix J to the SCEA. (SCEA, Appendix J, p. 16, Table 6-5.) There is also an error in the decibel addition for the 255 HVAC units.

In addition, the ambient noise level for HVAC noise is not properly established for the Project. Specifically, the SCEA includes no nighttime measurement for HVAC operational noise and the presumed ambient HVAC noise level in Table V-13 of the SCEA for nighttime operation is incorrectly based on the land use of the Project site, not the land use for nearby, sensitive receptor properties. (SCEA, p. 141, Table V-13.)

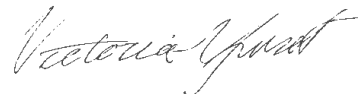
Lastly, the SCEA's analysis of noise impacts from Project operations failed to include a quantitative analysis of landscape maintenance noise, which should be compared to the criteria in LAMC section 112.05(c) (i.e., 65 dBA limit). In addition, the parking ramp noise associated with Project operations is not addressed in the SCEA or the related noise study. Thus, the SCEA's analysis of the Project's operational noise impacts cannot be relied upon to determine the significance of these impacts.

Because the SCEA inadequately analyzed the Project's potentially significant noise impacts and as a result the mitigation measures included to reduce the Project's noise impacts to less than significant may be insufficient, the City must prepare a revised SCEA to properly mitigate this impact or otherwise prepare an EIR.

IV. CONCLUSION

For the foregoing reasons, the City must prepare either a revised SCEA or an EIR and recirculate the document for public comment prior to any project approvals. We reserve the right to supplement these comments, including but not limited to at public hearings concerning the Project. (*Galante Vineyards v. Monterey Peninsula Water Management Dist.*, 60 Cal.App.4th 1109, 1121 (1997).)

Sincerely,



Victoria Yundt

LOZEAU DRURY LLP