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VIA E-MAIL

October 4, 2022

Planning and Land Use Management Committee
John Ferraro Council Chamber
200 North Spring Street Room 340
Los Angeles, CA 90012
Em: clerk.plumcommittee@lacity.org

RE: City of Los Angeles's Palmer Hotel Project Item: 3

Dear Candy Rosales and Councilmembers,

On behalf of the **Southwest Regional Council of Carpenters** (“**Southwest Carpenters**” or “**SWRCC**”), my Office is submitting these comments for the City of Los Angeles’ (“City”) October 4, 2022 Planning and Land Use Management Committee for the Palmer Hotel Project (“**Project**”).

The Southwest Carpenters is a labor union representing 57,000 union carpenters in six states, including California, and has a strong interest in well-ordered land use planning and in 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.

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

The Southwest Carpenters incorporates by reference all comments raising issues regarding the Environmental Impact Report (EIR) submitted prior to certification of the EIR for the Project. See *Citizens for Clean Energy v City of Woodland* (2014) 225

Cal.App.4th 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, the Southwest Carpenters requests that the City provide notice for any and all notices referring or related to the Project issued under the California Environmental Quality Act (**CEQA**) (Pub. Res. Code, § 21000 *et seq.*), and the California Planning and Zoning Law (“**Planning and Zoning Law**”) (Gov. Code, §§ 65000–65010). California Public Resources Code Sections 21092.2, and 21167(f) and California 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.

The City should require the Project to be built using a local workers who have graduated from a Joint Labor-Management Apprenticeship Program approved by the State of California, have at least as many hours of on-the-job experience in the applicable craft which would be required to graduate from such a state-approved apprenticeship training program, or who are registered apprentices in a state-approved apprenticeship training program.

Community benefits such as local hire can also be helpful to reduce environmental impacts and improve the positive economic impact of the Project. Local hire provisions requiring that a certain percentage of workers reside within 10 miles or less of the Project site can reduce the length of vendor trips, reduce greenhouse gas emissions, and provide localized economic benefits. As environmental consultants Matt Hagemann and Paul E. Rosenfeld note:

[A]ny local hire requirement that results in a decreased worker trip length from the default value has the potential to result in a reduction of construction-related GHG emissions, though the significance of the reduction would vary based on the location and urbanization level of the project site.

March 8, 2021 SWAPE Letter to Mitchell M. Tsai re Local Hire Requirements and Considerations for Greenhouse Gas Modeling.

Workforce requirements promote the development of skilled trades that yield sustainable economic development. As the California Workforce Development Board and the University of California, Berkeley Center for Labor Research and Education concluded:

[L]abor should be considered an investment rather than a cost—and investments in growing, diversifying, and upskilling California’s workforce can positively affect returns on climate mitigation efforts. In other words, well-trained workers are key to delivering emissions reductions and moving California closer to its climate targets.¹

Furthermore, workforce policies have significant environmental benefits given that they improve an area’s jobs-housing balance, decreasing the amount and length of job commutes and the associated greenhouse gas (GHG) emissions. In fact, on May 7, 2021, the South Coast Air Quality Management District found that that the “[u]se of a local state-certified apprenticeship program” can result in air pollutant reductions.²

Cities are increasingly incorporating local workforce policies and requirements into general plans and municipal codes. For example, the City of Hayward’s 2040 General Plan requires the city to “promote local hiring . . . to help achieve a more positive jobs-housing balance, and reduce regional commuting, gas consumption, and greenhouse gas emissions.”³

The City of Hayward has even gone as far as incorporating a Skilled Labor Force policy into its Downtown Specific Plan and municipal code, requiring developments in its downtown area to require that the City “[c]ontribute to the stabilization of regional construction markets by spurring applicants of housing and nonresidential developments to require contractors to utilize apprentices from state-approved joint labor-management training programs[.]”⁴ The City of Hayward mandates the same measure on all projects that are 30,000 square feet or larger.⁵

¹ California Workforce Development Board (2020) Putting California on the High Road: A Jobs and Climate Action Plan for 2030 at p. ii, *available at* <https://laborcenter.berkeley.edu/wp-content/uploads/2020/09/Putting-California-on-the-High-Road.pdf>.

² South Coast Air Quality Management District (May 7, 2021) Certify Final Environmental Assessment and Adopt Proposed Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions Program, and Proposed Rule 316 – Fees for Rule 2305, Submit Rule 2305 for Inclusion Into the SIP, and Approve Supporting Budget Actions, *available at* <http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2021/2021-May7-027.pdf?sfvrsn=10>.

³ City of Hayward (2014) Hayward 2040 General Plan Policy Document at p. 3-99, *available at* https://www.hayward-ca.gov/sites/default/files/documents/General_Plan_FINAL.pdf.

⁴ City of Hayward (2019) Hayward Downtown Specific Plan at p. 5-24, *available at* <https://www.hayward-ca.gov/sites/default/files/Hayward%20Downtown%20Specific%20Plan.pdf>.

⁵ City of Hayward Municipal Code, Chapter 10, § 28.5.3.020(C).

Locating jobs closer to residential areas can have significant environmental benefits. As the California Planning Roundtable noted in 2008:

People who live and work in the same jurisdiction would be more likely to take transit, walk, or bicycle to work than residents of less balanced communities and their vehicle trips would be shorter. Benefits would include potential reductions in both vehicle miles traveled and vehicle hours traveled.⁶

Moreover, local hire mandates and skill-training are critical facets of a strategy to reduce vehicle miles traveled (VMT). As planning experts Robert Cervero and Michael Duncan have noted, simply placing jobs near housing stock is insufficient to achieve VMT reductions given that the skill requirements of available local jobs must match those held by local residents.⁷ Some municipalities have even tied local hire and other workforce policies to local development permits to address transportation issues. Cervero and Duncan note that:

In nearly built-out Berkeley, CA, the approach to balancing jobs and housing is to create local jobs rather than to develop new housing. The city's First Source program encourages businesses to hire local residents, especially for entry- and intermediate-level jobs, and sponsors vocational training to ensure residents are employment-ready. While the program is voluntary, some 300 businesses have used it to date, placing more than 3,000 city residents in local jobs since it was launched in 1986. When needed, these carrots are matched by sticks, since the city is not shy about negotiating corporate participation in First Source as a condition of approval for development permits.

Therefore, the City should consider utilizing local workforce policies and requirements to benefit the local area economically and to mitigate greenhouse gas, improve air quality, and reduce transportation impacts.

⁶ California Planning Roundtable (2008) Deconstructing Jobs-Housing Balance at p. 6, available at <https://cproundtable.org/static/media/uploads/publications/cpr-jobs-housing.pdf>

⁷ Cervero, Robert and Duncan, Michael (2006) Which Reduces Vehicle Travel More: Jobs-Housing Balance or Retail-Housing Mixing? Journal of the American Planning Association 72 (4), 475-490, 482, available at <http://reconnectingamerica.org/assets/Uploads/UTCT-825.pdf>.

A. The City should Impose Training Requirements for the Project's Construction Activities to Prevent Community Spread of COVID-19 and Other Infectious Diseases.

Construction work has been defined as a Lower to High-risk activity for COVID-19 spread by the Occupational Safety and Health Administration. Recently, several construction sites have been identified as sources of community spread of COVID-19.⁸

Southwest Carpenters recommend that the Lead Agency adopt additional requirements to mitigate public health risks from the Project's construction activities. Southwest Carpenters requests that the Lead Agency require safe on-site construction work practices as well as training and certification for any construction workers on the Project Site.

In particular, based upon Southwest Carpenters' experience with safe construction site work practices, Southwest Carpenters recommends that the Lead Agency require that while construction activities are being conducted at the Project Site:

Construction Site Design:

- The Project Site will be limited to two controlled entry points.
- Entry points will have temperature screening technicians taking temperature readings when the entry point is open.
- The Temperature Screening Site Plan shows details regarding access to the Project Site and Project Site logistics for conducting temperature screening.
- A 48-hour advance notice will be provided to all trades prior to the first day of temperature screening.
- The perimeter fence directly adjacent to the entry points will be clearly marked indicating the appropriate 6-foot social distancing position for when you approach the screening

⁸ Santa Clara County Public Health (June 12, 2020) COVID-19 CASES AT CONSTRUCTION SITES HIGHLIGHT NEED FOR CONTINUED VIGILANCE IN SECTORS THAT HAVE REOPENED, available at <https://www.sccgov.org/sites/covid19/Pages/press-release-06-12-2020-cases-at-construction-sites.aspx>.

area. Please reference the Apex temperature screening site map for additional details.

- There will be clear signage posted at the project site directing you through temperature screening.
- Provide hand washing stations throughout the construction site.

Testing Procedures:

- The temperature screening being used are non-contact devices.
- Temperature readings will not be recorded.
- Personnel will be screened upon entering the testing center and should only take 1-2 seconds per individual.
- Hard hats, head coverings, sweat, dirt, sunscreen or any other cosmetics must be removed on the forehead before temperature screening.
- Anyone who refuses to submit to a temperature screening or does not answer the health screening questions will be refused access to the Project Site.
- Screening will be performed at both entrances from 5:30 am to 7:30 am.; main gate [ZONE 1] and personnel gate [ZONE 2]
- After 7:30 am only the main gate entrance [ZONE 1] will continue to be used for temperature testing for anybody gaining entry to the project site such as returning personnel, deliveries, and visitors.
- If the digital thermometer displays a temperature reading above 100.0 degrees Fahrenheit, a second reading will be taken to verify an accurate reading.
- If the second reading confirms an elevated temperature, DHS will instruct the individual that he/she will not be allowed to enter the Project Site. DHS will also instruct the

individual to promptly notify his/her supervisor and his/her human resources (HR) representative and provide them with a copy of Annex A.

Planning

- Require the development of an Infectious Disease Preparedness and Response Plan that will include basic infection prevention measures (requiring the use of personal protection equipment), policies and procedures for prompt identification and isolation of sick individuals, social distancing (prohibiting gatherings of no more than 10 people including all-hands meetings and all-hands lunches) communication and training and workplace controls that meet standards that may be promulgated by the Center for Disease Control, Occupational Safety and Health Administration, Cal/OSHA, California Department of Public Health or applicable local public health agencies.⁹

The United Brotherhood of Carpenters and Carpenters International Training Fund has developed COVID-19 Training and Certification to ensure that Carpenter union members and apprentices conduct safe work practices. The Agency should require that all construction workers undergo COVID-19 Training and Certification before being allowed to conduct construction activities at the Project Site.

Southwest Carpenters has also developed a rigorous Infection Control Risk Assessment (“**ICRA**”) training program to ensure it delivers a workforce that understands how to identify and control infection risks by implementing protocols to protect themselves and all others during renovation and construction projects in healthcare environments.¹⁰

⁹ See also The Center for Construction Research and Training, North America’s Building Trades Unions (April 27 2020) NABTU and CPWR COVID-19 Standards for U.S. Construction Sites, *available at* https://www.cpwr.com/sites/default/files/NABTU_CPWR_Standards_COVID-19.pdf; Los Angeles County Department of Public Works (2020) Guidelines for Construction Sites During COVID-19 Pandemic, *available at* https://dpw.lacounty.gov/building-and-safety/docs/pw_guidelines-construction-sites.pdf.

¹⁰ For details concerning Southwest Carpenters’s ICRA training program, *see* <https://icrahealthcare.com/>.

ICRA protocols are intended to contain pathogens, control airflow, and protect patients during the construction, maintenance and renovation of healthcare facilities. ICRA protocols prevent cross contamination, minimizing the risk of secondary infections in patients at hospital facilities.

The City should require the Project to be built using a workforce trained in ICRA protocols.

I. THE PROJECT WOULD BE APPROVED IN VIOLATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

A. The City Must Prepare an Environmental Impact Report for the Project

It would be unlawful for the City to approve the Project in reliance on the incomplete and flawed ND. Because the Project would result in significant impacts to the environment, the City is obligated to develop and circulate an Environmental Impact Report (“**EIR**”) for the Project.

1. Legal Background Concerning the Need for Environmental Impact Reports

Built into CEQA is a strong presumption in favor of requiring preparation of an EIR. This presumption is reflected in what is known as the “fair argument” standard, under which an agency must prepare an EIR whenever substantial evidence in the record supports a fair argument that a project may have a significant effect on the environment. *Quail Botanical Gardens Found., Inc. v City of Encinitas* (1994) 29 CA4th 1597, 1602; *Friends of “B” St. v City of Hayward* (1980) 106 CA3d 988, 1002.

The fair argument test stems from the statutory mandate that an EIR be prepared for any project that “may have a significant effect on the environment.” PRC § 21151; *No Oil, Inc. v City of Los Angeles* (1974) 13 Cal.3d 68, 75; *Jensen v City of Santa Rosa* (2018) 23 Cal.App.5th 877, 884. Under this test, if a proposed project is not exempt and may cause a significant effect on the environment, the lead agency must prepare an EIR. PRC §§ 21100(a), 21151; 14 California Code of Regulations (“**CCR**” or “**CEQA Guidelines**”) § 15064(a)(1), (f)(1). An EIR may be dispensed with only if the lead agency finds no substantial evidence in the initial study or elsewhere in the record that the project may have a significant effect on the environment. *Parker Shattuck Neighbors v Berkeley City Council* (2013) 222 Cal.App.4th 768, 785. In such a situation, the agency must adopt a negative declaration. PRC § 21080(c)(1); CEQA Guidelines §§ 15063(b)(2), 15064(f)(3).

“Significant effect upon the environment” is defined as “a substantial or potentially substantial adverse change in the environment.” PRC § 21068; CEQA Guidelines § 15382. A project “may” have a significant effect on the environment if there is a “reasonable probability” that it will result in a significant impact. *No Oil, Inc. v City of Los Angeles*, 13 Cal. 3d at 83 fn. 16; *Sundstrom v County of Mendocino* (1988) 202 Cal.App.3d 296, 309. If any aspect of the project may result in a significant impact on the environment, an EIR must be prepared even if the overall effect of the project is beneficial. CEQA Guidelines § 15063(b)(1). See *County Sanitation Dist. No. 2 v County of Kern* (2005) 127 Cal.App.4th 1544, 1580.

This standard sets a “low threshold” for preparation of an EIR. *Consolidated Irrig. Dist. v City of Selma* (2012) 204 Cal. App. 4th 187, 207; *Nelson v County of Kern* (2010) 190 Cal.App.4th 252; *Pocket Protectors v City of Sacramento* (2004) 124 Cal.App.4th 903, 928; *Bowman v City of Berkeley* (2004) 122 Cal.App.4th 572, 580; *Citizen Action to Serve All Students v Thornley* (1990) 222 Cal.App.3d 748, 754; *Sundstrom v County of Mendocino* (1988) 202 Cal.App.3d 296, 310. If substantial evidence in the record supports a fair argument that the project may have a significant environmental effect, the lead agency must prepare an EIR even if other substantial evidence before it indicates the project will have no significant effect. See *Jensen v City of Santa Rosa* (2018) 23 Cal.App.5th 877, 886; *Clews Land & Livestock v City of San Diego* (2017) 19 Cal.App.5th 161, 183; *Stanislaus Audubon Soc’y, Inc. v County of Stanislaus* (1995) 33 Cal.App.4th 144, 150; *Brentwood Ass’n for No Drilling, Inc. v City of Los Angeles* (1982) 134 Cal.App.3d 491; *Friends of “B” St. v City of Hayward* (1980) 106 Cal. App. 3d 988; CEQA Guidelines § 15064(f)(1).

As explained in full below, there is a fair argument that the Project will have a significant effect on the environment. As a result, the “low threshold” for preparation of an EIR has been met and the City must prepare an EIR.

B. CEQA Requires Revision and Recirculation of a Negative Declaration When Substantial Changes or New Information Comes to Light

Once a negative declaration has been circulated, it may need to be recirculated for another round of review and comment if it is “substantially revised” after the public notice of the first circulation period has been given. CEQA Guidelines § 15073.5(a).

A substantial revision includes two situations (14 Cal Code Regs §15073.5(b)):

- A new, avoidable significant effect is identified, and to reduce that effect to a level of insignificance, mitigation measures or project revisions must be added.

- The lead agency finds that the mitigation measures or project revisions originally included in the negative declaration will not reduce potentially significant impacts to a level of insignificance, and new mitigation measures or project revisions are required.

New information will require recirculation when it amounts to a substantial revision of the negative declaration, which is defined to mean the identification of new significant environmental impacts or the addition of new mitigation that is required to avoid a significant environmental impact. 14 Cal Code Regs §15073.5(b). If the new information reveals a new significant impact that cannot be mitigated or avoided, then the lead agency must prepare an EIR before approving the project. 14 Cal Code Regs §15073.5(d).

Revisions to a project to mitigate potentially significant environmental effects must be included in the negative declaration that is circulated for public review. Pub Res C §21080(c)(2); 14 Cal Code Regs §§15070(b), 15071(e).

Based on the arguments set forth below, in the alternative, Commenter requests that the City recirculate the ND upon making any revisions.

C. The ND Fails to Adequately Analyze or Disclose the Project's Significant Transportation Impact

The ND claims that the Project will have no significant impact on traffic, stating it will follow the Construction Management Plan. However, there is no analysis supporting how this plan will result in no significant traffic impact. While placing barriers can help reduce the flow of traffic, the criteria is not a reduction in traffic but no significant impact to traffic.

D. The ND Fails to Adequately Analyze or Disclose the Project's Noise Impact

The ND fails to take the operational noise impact of the entire noise impact. Instead, the ND looks at each operational noise with the majority coming from traffic. In looking at mostly traffic, the ND concludes the operational noise impact would be less than significant. However, the ND fails to analyze the traffic combined with hotel and commercial uses and other operational noises. In failing to do so, it fails to analyze whether the total noise.

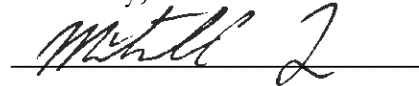
E. The ND Fails to Properly Analyze Green House Gases for Significant Impact.

There is no evidence that the ND accounted for the Project's cumulative GHG impacts by analyzing the Project's GHG emissions together with "the effects of past projects, the effects of other current projects, and the effects of probable future projects." CEQA Guidelines § 15065(a)(3). An EIR must discuss cumulative impacts when they are significant and the project's incremental contribution is "cumulatively considerable." CEQA Guidelines §15130(a). A project's incremental contribution is cumulatively considerable if the incremental effects of the project are significant "when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." CEQA Guidelines § 15065(a)(3). The ND needs to conduct a cumulative GHG impacts analysis, and if there is a potentially significant impact, impose adequate and all feasible measures.

II. CONCLUSION

Commenters request that the City revise and recirculate the ND for public comment to address the aforementioned concerns. 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:

March 8, 2021 SWAPE Letter to Mitchell M. Tsai re Local Hire Requirements and Considerations for Greenhouse Gas Modeling (Exhibit A);

Air Quality and GHG Expert Paul Rosenfeld CV (Exhibit B); and

Air Quality and GHG Expert Matt Hagemann CV (Exhibit C).