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Via Electronic and First Class Mail

March 2, 2017

Chair Jose Huizar
Vice-Chair Marqueece Harris-Dawson
Councilmember Gil Cedillo
Councilmember Mitchell Englander
Councilmember Curren D. Price, Jr.
c/o City Clerk
City of Los Angeles
200 North Spring Street, Room 395
Los Angeles, California 90012

Re: Council File No. 16-1411-S1; Case Nos. AA-2012-919-PMLA; DIR-2013-887-SPR; ENV-2012-920-EIR (SCH No. 2014061030)

Dear Members of the City Council Planning and Land Use Management Committee:

This firm represents PIMA Alameda Partners, LLC ("PIMA") in connection with its application for approval of the above-referenced cases to permit the construction of four industrial buildings containing a total of 480,120 square feet of floor area (the "Project") on the undeveloped property located at 4051 South Alameda Street (the "Property"). Case Nos. AA-2012-919-PMLA and DIR-2013-887-SPR were approved by the Advisory Agency and the Director of Planning on September 23, 2016 following a public hearing on July 6, 2016. The approvals were appealed on October 7, 2016 to the City Planning Commission on the ground that the final environmental impact report ("FEIR") that was certified in connection with the approval of the Project is not adequate, and the Planning Commission denied the appeal following a hearing on November 10, 2016. The certification of the FEIR has now been appealed to the City Council, and the Planning and Land Use Management Committee is scheduled to hear the further appeal on March 7, 2017.

PIMA submitted a prior letter dated February 14, 2017 addressing previous arguments made by the appellant in connection with the present appeal. PIMA has since obtained a copy of a communication authored by Tom Williams, PhD, dated January 11, 2017, in which Dr. Williams contends that the FEIR does not adequately consider the environmental impacts of the Project with respect to traffic, air quality, employment, geology, and mineral resources. As set forth in detail

below, the assertions made by Dr. Williams represent a complete misstatement of the facts and the law, fail to rely on substantial evidence, and are fully contradicted by clear evidence set forth in the FEIR and record of proceedings. Because these assertions are entirely without merit, they should be completely disregarded, and the City Council is respectfully requested to deny the present appeal.

A. The FEIR Fully Considers the Project Impacts.

Dr. Williams asserts without any coherent citation to controlling legal authority that "CEQA case law requires the 'worst case' be applied, which in this case means the EIR must be prepared as if all reasonable space is used for manufacturing 24 hours per day." Not only is this undocumented assertion not supported by any statutory or judicial authority, but it is contrary to clear judicial precedent. In support of his assertion, Dr. Williams cites to various documents which consist of comment letters on environmental impact reports for unrelated projects in different jurisdictions as well as judicial decisions that have either not been certified for publication or have been overruled and therefore cannot be relied upon as valid precedent.

By way of example, Dr. Williams cites language out of context from the Court's decision in *Citizens for a Sustainable Treasure Island v. City and County of San Francisco* (2014) 227 Cal.App.4th 1036, in which the Court affirmed the denial of a petition for writ of mandate and stated, contrary to Dr. Williams' contention, that "CEQA does not require lead agencies to 'engage in speculation in order to analyze a "worst case scenario."'" *Id.* at 1068 (quoting *Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 373).

Dr. Williams similarly relies on language, again taken out of context, from a series of cases culminating in *Sunnyvale West Neighborhood Association v. City of Sunnyvale City Council* (2010) 190 Cal.App.4th 1351, in which the Courts determined that the baseline for review pursuant to the requirements of CEQA is the conditions existing as of the date that the environmental review is commenced in order to accurately evaluate project impacts. Nowhere in the *Sunnyvale West Neighborhood Association v. City of Sunnyvale City Council* decision does the Court state that only the maximum possible intensity of use must be assumed for purposes of CEQA analysis, nor does Dr. Williams challenge the baseline used in the FEIR for evaluation of Project impacts. Moreover, to the extent that the Court's decision in *Sunnyvale West Neighborhood Association v. City of Sunnyvale City Council* were relevant in this context, it was expressly disapproved by the California Supreme Court's decision in *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439.

Dr. Williams also cites the decision in *Sierra Club v. County of Tehama* (Third District Court of appeal Case No. C066996), in which the Court ruled contrary to the proposition assumed by Dr. Williams by upholding the decision by the County of Tehama that a worst case analysis of future buildout under the County's general plan was not required in connection with the environmental impact report for the County's general plan update. Even if the decision in *Sierra*

Club v. County of Tehama were supportive of Dr. Williams position, it was not certified for publication and may not be relied upon as precedent. The remainder of the citations on which Dr. Williams relies for his assertion that an environmental impact report must consider the worst case based on maximum potential intensity of development consist of various correspondence submitted for and against the approval of different projects and therefore have no binding legal effect.

Contrary to Dr. Williams unsupported assertions, the Courts have consistently ruled that "an EIR is not required to engage in speculation in order to analyze a 'worst case scenario.'" *Napa Citizens for Honest Government v. Napa County Board of Supervisors*, 91 Cal.App.4th at 373. Rather, "[t]he degree of specificity in an EIR need only correspond to the degree of specificity involved in the underlying activity which is described in the EIR." *Towards Responsibility in Planning v. City Council* (1988) 200 Cal.App.3d 671, 681. As described below, the degree of specificity in the FEIR fully corresponds to the degree of specificity involved in the Project, and the FEIR therefore fully complies with CEQA in this regard.

B. The FEIR Accurately Accounts for All Project Vehicle Trips.

Dr. Williams' arguments are largely premised on the underlying incorrect assertion that the FEIR understates the number of vehicle trips. Dr. Williams bases this assertion on his unsupported argument that the FEIR must consider the "worst case," which in his estimation is the use of 100 percent of the Project floor area for manufacturing use 24 hours per day seven days a week. As set forth above, Dr. Williams' assertion that the FEIR must consider a speculative worst case scenario is incorrect as a matter of law. Notwithstanding Dr. Williams' erroneous statements to the contrary, the analysis of traffic impacts in the FEIR is fully consistent with industry practice and accurately analyzes all Project impacts.

As an initial matter, Dr. Williams appears to base his comments on various documents that have been superseded by more recent studies. Thus, Dr. Williams' reference to 2,052 passenger car equivalent ("PCE") trips is a reference to the Traffic Impact Study prepared by Traffic Design, Inc. under the supervision of M. Yunus Rahi, Ph.D, P.E, T.E, dated September 26, 2012, which was attached as Appendix IS-5 to the Initial Study prepared for the Project which is attached as Appendix III to the Draft EIR. The Traffic Impact Study was subsequently revised by the Addendum to Traffic Impact Study prepared by Traffic Design, Inc. under the supervision of Dr. Rahi, dated October 3, 2014, which was attached as Appendix IX to the Draft EIR, and which calculated the number of daily PCE trips generated by the Project to be 1,968. As discussed in more detail below, the floor area of the various uses within the Project was subsequently revised, and Dr. Rahi prepared a supplemental traffic analysis dated May 7, 2016, which calculated the number of daily PCE trips generated by the Project to be 1,918. Dr. Williams has therefore failed to rely on correct information in his analysis of potential traffic impacts.

As set forth in the Addendum to Traffic Impact Study, which is attached as Appendix IX to the Draft EIR, the estimated trip generation for the Project was calculated in accordance with the City of Los Angeles Traffic Study Policies and Procedures on the basis of the Institute of Transportation Engineers ("ITE") Trip Generation Manual, 9th Edition. As originally proposed, the Project included 467,323 square feet of warehouse and ancillary office floor area and 29,896 square feet of manufacturing floor area. Based on ITE trip generation factors of 3.56 average daily trips per 1,000 square feet of warehouse and ancillary office use and 3.82 average daily trips for manufacturing use, the number of average daily trips generated by the proposed uses would be 1,712, 150 of which would be generated during the AM peak hour, and 160 of which would be generated during the PM peak hour. In accordance with ITE procedures, 20 percent, or 342, of the Project trips were calculated to be truck trips, which were then converted to PCE trips by multiplying them by two. The total number of trips was then reduced by 10 percent, again according to accepted ITE procedures, to account for employment from the local area and employee transit use. As originally proposed, the Project was calculated to generate approximately 1,968 net PCE trips per average day (984 inbound and 984 outbound), approximately 179 of which would be generated during the AM peak hour (140 inbound and 39 outbound), and approximately 190 of which would be generated during the PM peak hour (50 inbound and 140 outbound).

The Project was later reduced to include 466,120 square feet of warehouse and ancillary office floor area and 14,000 square feet of manufacturing floor area. Utilizing the same procedures outlined above, the reduced floor area would generate approximately 1,918 net PCE trips per average day (959 inbound and 959 outbound), approximately 168 of which would be generated during the AM peak hour (133 inbound and 35 outbound), and approximately 179 of which would be generated during the PM peak hour (46 inbound and 133 outbound).

Dr. Williams' assertion that the conclusions of the Traffic Impact Study are not supported by authority are simply wrong. All of the calculations, including the trip generation factors and the calculation of PCE trips, are based on widely accepted industry standards promulgated by the Institute of Transportation Engineers. Dr. Williams instead contends that the calculation of the number of truck trips must be based on utilization of all Project loading docks at full capacity concurrently 24 hours a day seven days a week. It is Dr. Williams who fails to provide any authority for this unfounded contention which is not consistent with widely accepted industry standards.

Dr. Williams further argues incorrectly that the Project proposes to limit the number of truck trips to 75 per day. Dr. Williams conveniently overlooks the fact that Alternative C in the FEIR, which proposed to limit the number of truck trips to 75 per day, was found to be infeasible, and the traffic analysis in the FEIR analyzed the impacts associated with the full number of 342 truck trips per day in accordance with ITE procedures. The full number of truck trips, converted to PCE trips, would result in a significant unavoidable impact at the intersection of Washington Boulevard and Alameda Street during the PM peak hour, and the Advisory Agency accordingly adopted a

Statement of Overriding Considerations ("SOC"), which was subsequently upheld by the Planning Commission. Dr. Williams' assertion that the Project proposes to limit the number of truck trips to 75 is therefore based on a faulty reading of the FEIR.

The number of truck trips considered for the Project in the FEIR is based on widely accepted industry standards for the proposed uses. The FEIR accordingly relies on substantial evidence to support its conclusions regarding potential traffic impacts. Dr. Williams, on the other hand, relies on unsubstantiated speculation. "Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous." (Public Resources Code § 21080(e)(2)). Dr. Williams' assertions in this regard should accordingly be disregarded.

C. The FEIR Adequately Considers and Mitigates All Potential Impacts on Air Quality.

Dr. Williams' arguments regarding the Project's potential impacts on air quality suffer from the same flawed analysis on which he has based his arguments regarding the FEIR's traffic analysis. Because he relies on an incorrect assumption regarding the number of truck trips, he has incorrectly interpreted the analysis of the emissions associated with such trips. Based on the vehicle trip generation rates in the Addendum to Traffic Impact Study for the proposed uses, the Project would generate approximately 1,968 net PCE trips per average day, 351 of which would be truck trips. As set forth in the FEIR, the operations currently conducted by the four members of PIMA currently generate approximately 33 truck trips per day, all of which consist of box trucks and cargo vans, and the number of truck trips is not expected to significantly increase above that number in connection with the operation of the Project. The number of truck trips considered in the FEIR on the basis of ITE standards therefore exceeds the number of truck trips reasonably expected to be generated by the Project.

As set forth at page 3 of the Air Quality Health Risk Assessment ("HRA") prepared by Kleinfelder, Inc. and attached as Appendix V to the Draft EIR, the cargo vans used at the facility are categorized in the EMFAC 2011 emissions model utilized by the California Air Resources Board as Light Duty Truck 2 (LDT2) and Light Heavy Duty Truck 1 (LHD1). The box trucks are categorized as Light Heavy Duty Truck 2 (LHD2). These three categories of trucks can be either gasoline or diesel fueled. The fraction of diesel-fueled vehicles at the Project was determined on the basis of EMFAC for Los Angeles County. Of the box trucks, approximately 17.03% are diesel fueled, while 1.46% of the cargo vans are diesel fueled. It was assumed that one-half of the trucks are box trucks, so the total percentage of the 351 trucks per day generated by the Project that are diesel-fueled will be approximately 9%, or 31 diesel-fueled trucks per day. The HRA analyzed potential health risks associated with diesel emissions based on 351 daily truck trips and concluded that potential risks are well below established thresholds and therefore constitute a less than significant impact. The health risks associated with only 33 daily truck trips would be substantially less than what was determined to be a less than significant impact in the HRA.

Dr. Williams provides no authority whatsoever for his assertion that the HRA should consider the impacts of concurrent use of all available truck docks 24 hours a day seven days a week. Again, such assertions are speculative and do not constitute substantial evidence.

Dr. Williams further asserts that the air quality analysis in the FEIR is inadequate because there is no mechanism to monitor field implementation of the mitigation measures identified to reduce emissions to less than significant level. Again, Dr. Williams is simply wrong. The FEIR includes the Mitigation Monitoring Plan ("MMP"), which provides that Mitigation Measures AIR-1, AIR-2, and AIR-7 will be monitored by the South Coast Air Quality Management District and the City of Los Angeles Department of Building and Safety ("DBS") and will be enforced by DBS through periodic field inspections during construction. Mitigation Measure AIR-3 will similarly be monitored and enforced by DBS through periodic field inspections during construction. Mitigation Measure AIR-4 will be monitored and enforced by DBS and the Los Angeles Department of Transportation ("DOT") prior to occupancy of the Project, and Mitigation Measures AIR-5 and AIR-6 will be monitored and enforced by DOT and the Los Angeles Department of Public Works prior to construction.

In its denial of the prior appeal, the Planning Commission also added language to the MMP requiring PIMA to retain an independent construction monitor during the construction phase and prior to the issuance of building permits to monitor implementation of Project design features and mitigation measures during construction activities consistent with the monitoring phase and frequency set forth in the MMP. The construction monitor must also prepare documentation of PIMA's compliance with Project design features and mitigation measures every 90 days during construction and report non-compliance to the enforcing agency within two business days. Dr. Williams' assertions regarding ineffective implementation and monitoring of air quality mitigation measures are therefore completely unfounded.

D. The FEIR Fully Considers Issues Related to Employment.

Dr. Williams also asserts, again incorrectly, that the FEIR does not fully justify conclusions regarding employment. Contrary to Dr. Williams' erroneous assertions, the FEIR fully and adequately documents the fact that employees will be drawn from the local area and that employees will have access to transit facilities.

Appendix O attached to the FEIR includes executed Construction Local Hire Agreements for each of the four buildings to be constructed as part of the Project. Each of the Construction Local Hire Agreements establishes the goal that 20 percent of the construction hours worked on the Project site will be performed by local residents. Preference will be given to local residents in the following order of priority:

- Those living within one mile of the Project site;

- Those living within three miles of the Project site; and
- All other City of Los Angeles residents who reside in a census tract with high unemployment rates.

The Construction Local Hire Agreements establish the further goal that half of the 20 percent of hours worked by local residents will be performed by local residents who lack a high school diploma or GED, have a history of substance abuse, have a household income below 50 percent of the median, are homeless, are welfare recipients, have a history of involvement with the justice system, are chronically unemployed, or are single parents.

In addition to the Construction Local Hire Agreements, the four members of PIMA have entered into a Local Hire Agreement with the Coalition for Responsible Community Development and the Los Angeles Job Corps, a copy of which is also provided in Appendix O to the FEIR. According to the Local Hire Agreement, preference for new employment and for positions that become vacant during the term of the agreement will be provided to local residents in the following order of priority:

- Those living within one mile of the Project site;
- Those living within three miles of the Project site; and
- All other City of Los Angeles residents who reside in a census tract with high unemployment rates.

The Construction Local Hire Agreements and the Local Hire Agreement identify the zip codes of those areas for which preference will be provided for local residents. Implementation of the Construction Local Hire Agreements and the Local Hire Agreement will accordingly provide employment opportunities for local residents in the surrounding community.

According to Figure IV.G-4, *Public Transportation*, of the FEIR, the Project site is located approximately 200 feet from the nearest stop of the DASH Southeast line which travels along East 41st Street and has a bus stop located on the southwestern corner of East 41st Street and Long Beach Avenue, and is located approximately 0.3 mile north of the Vernon Station and 0.7 mile south of the Washington Station of the Metro Blue Line light rail line. The Project site is accordingly located in close proximity to major transit stops. Dr. Williams' assertions that the FEIR does not provide sufficient information regarding local employment and transit opportunities therefore relies on an imperfect reading of the FEIR and is accordingly completely unfounded.

E. <u>The FEIR Fully Considers the Geology and Soils of the Project Site</u>.

Dr. Williams asserts that an earthquake analysis must be included in the FEIR. Dr. Williams obviously overlooks the extensive Geotechnical Investigation of the Project site prepared by Sladden Engineering attached as Appendix IS-4 to the Initial Study which is attached as Appendix

III to the Draft EIR. The Geotechnical Investigation acknowledged that the most significant geologic hazard to the Project is the potential for moderate to strong seismic shaking that is likely to occur during the design life of the Project and listed the locations of the closest known active faults to the Project site using the EQFAULT computer programs as modified by the fault parameters from The Revised 2002 California Probabilistic Seismic Hazard Maps. The Geotechnical Investigation contains analysis of 12 exploratory borings on the Project site ranging in depth from approximately 11 feet to 51 feet below ground surface. It is the professional opinion of Sladden Engineering that the Project is feasible from a geotechnical perspective provided that the Project is developed in accordance with the requirements of the California Building Code and that the following recommendations presented in the Geotechnical Investigation are implemented into design and carried out through construction.

- Soil excavation and recompaction within the building envelope and extending laterally for five feet beyond the perimeter footings and to a minimum of three feet below the bottom of the footings.
- Placement of engineered fill in thin lifts not exceeding six inches in the loose state, compact to a minimum of 90 percent relative compaction.
- Compaction of the top 12 inches of asphalt concrete sections to at least 95 percent compaction within two percent of optimum moisture content.

The FEIR accordingly includes a complete analysis of potential earthquake hazards and concludes that the impacts of such hazards on the Project are less than significant with the incorporation of the recommendations of the Geotechnical Investigation. Dr. Williams' assertion that an earthquake analysis must be included in the FEIR is based on incomplete information and should be disregarded.

F. The FEIR Adequately Considers Impacts on Mineral Resources.

Dr. Williams asserts, again incorrectly, that the FEIR does not adequately consider impacts on mineral resources, specifically oil and gas resources. Contrary to Dr. Williams' erroneous assertions, Section XI of Attachment B of the Initial Study attached as Appendix III to the Draft EIR plainly states that according to the California Division of Oil, Gas, and Geothermal Resources, there are 72 oil fields located in Los Angeles County (17 abandoned, 55 active), 26 of which are located in the City of Los Angeles (4 abandoned, 22 active), and the nearest active oil fields to the Project site are:

- Las Cienegas: approximately 1.75 miles northwest of the Project site.
- Los Angeles Downtown: approximately 1.85 miles north-northwest of the Project site.
- Union Station: approximately 2.0 miles north of the Project site.
- Bandini (not in City): approximately 3.3 miles east of the Project site.
- Los Angeles City: approximately 3.6 miles north of the Project site.

- East Los Angeles (not in City): approximately 5.1 miles east of the Project site.
- Potrero: approximately 5.4 miles southwest of the Project site.

The Initial Study further states that there are no active or abandoned oil fields or extraction facilities on or in the vicinity of the Project site. Dr. Williams' assertions that the FEIR did not consider known oil and gas resources beneath the Project site or vicinity is therefore completely unfounded and should be disregarded.

G. Conclusion.

As set forth in detail above, the communication authored by Dr. Williams relies on a series of mistaken assumptions regarding both the facts and the law. Contrary to Dr. Williams' multiple erroneous assertions, the FEIR fully and adequately considers all potential environmental effects of the Project. The pending appeal should accordingly be denied, and the decisions of the Planning Director, the Advisory Agency, and the Planning Commission certifying the FEIR and adopting the SOC and MMP should be upheld.

Your careful attention to this request is greatly appreciated. Please contact me with any questions or if I can provide additional information with respect to this matter.

Very truly yours,

Patrick A. Perry

PAP