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December 5, 2018

VIA ELECTRONIC MAIL

City Council
c/o City Clerk
City of Los Angeles
200 N. Spring St.
Los Angeles, CA 90012

Re: "Bridge Housing" project on MTA Bus Yard Site at 100 E. Sunset Avenue (Council File 18-0510)

Honorable Councilmembers:

I represent the Venice Stakeholders Association, a non-profit organization committed to civic improvement in the Venice neighborhood of Los Angeles. On December 5, 2018, your Homelessness and Poverty Committee will consider a motion to approve a so-called "Bridge Housing" project on the former site of the Metropolitan Transit Authority (MTA) bus lot at 100 E. Sunset Avenue, at which 154 homeless individuals will be housed and served.

City staff and the 11th District Council office are rushing to judgment on this project and locking out both the residential neighbors and other concerned residents, in an obvious attempt to squelch any opposition to the project. On June 29, 2018, the Council passed a motion to study the "feasibility" of the MTA site. No feasibility report was ever produced. Instead, on October 17, 2018, the Council office and the Mayor's office held a "town hall meeting" at a local school, at which some details of the project were released. Then suddenly, on November 29, 2018, the Department of Public Works released a 481-page report recommending that the Council find that the project is "categorically exempt" from the provisions of the California Environmental Quality Act (CEQA), and providing supporting information and studies by consultant Parsons Corporation to show the lack of significant environmental impacts. This document contained all manner of information about the project that had until that time been unavailable to the public.

The next day, November 30, 2018, the 11th District Council office made a motion in Council to approve and fund the project. That same day, the motion was scheduled for a public hearing before the Homelessness and Poverty Committee just five days later, on December 5, 2018. According to an email disseminated by the Council office to unknown recipients, a public hearing before the full Council will be held on December 11.

As of today, December 5, 2018, the neighbors of the project have received no formal notice of either the Committee hearing or the full Council hearing, even though there are three residential blocks abutting the site and some homes are as little as 50 feet away from outdoor eating areas that are part of the project. There are also no postings of any public hearing at the site, except those concerning a separate hearing by the California Coastal Commission.

VSA recognizes that homelessness is an increasingly serious problem in the City, and that creative solutions are needed. Moreover, VSA does not categorically oppose the temporary use of the MTA bus yard as a stop-gap shelter for homeless persons. Such a facility may be appropriate if it truly does replace existing Venice encampments and prevents their re-establishment in the future. But however noble may be the intent behind the project, the City cannot ignore CEQA. Before this project can be placed in the midst of a residential community, a full environmental review must be conducted by way of an environmental impact report, to determine what impacts the project will have on the community, any alternatives (including alternative locations) and mitigation measures that would protect against negative impacts.

The Department of Public Works has attempted to circumvent CEQA by preparing a lengthy report contending that the project is categorically exempt from the statute. The Department is wrong. Categorical exemptions are narrowly applied, both under the state CEQA statute and under the City's own CEQA Guidelines. (See Council File 02-1507 (adopted July 31, 2002.) There is no categorical exemption that excludes a project of this type from CEQA review. The project is inconsistent with the zoning designation and the City's General Plan, and is unusual in innumerable other ways, raising the specter of significant impacts on the neighbors. Therefore, a categorical exemption does not, and cannot apply. Instead, an environmental impact report must be prepared.

A. Project Features.

The 3-acre lot is one block from the beach and within the Coastal Zone. The City plans to construct numerous buildings which will house 154 persons along with various types of support, professional and security staff to serve them, as well as other homeless persons in the area. While complete plans have not been released, the Department's narrative reveals that the following will be constructed on the site:

1. A large semi-permanent "tent" building which will house 100 adults in a dormitory setting.

2. Six manufactured modular buildings that will house another 54 teenagers and young adults, separated by sex.

3. Separate buildings for restrooms, showers and laundry facilities.

4. Several additional buildings to house the offices of social service staff, housing locaters, security personnel, and those who will provide intake services, psychological counseling, job training, resume preparation, and skills training.

5. A large outdoor dining area.

6. An outdoor kennel for residents' pets.

7. A facility for creation of public art.

8. A central dining facility, including food preparation facilities for 154 residents and staff.

9. A storage building for the possessions of the 154 residents.

Promotional Slide Showing Bird's Eye View of Project

The project is described as "temporary" only because it nominally lasts for three years and because the largest building appears to be "tentlike" and other, smaller buildings are premanufactured, and because the City contends it will last for three years. However, this is not a temporary project akin to a fireworks show or a farmer's market or a Christmas tree lot, which typically last for only a few hours, days or weeks.

A. <u>The Department Proposes Categorical Exemptions Which, On Their Face, Do Not Apply to the Project</u>.

The Department proposes to apply a categorical exemption based upon six alternative grounds, each of which is supported by corresponding sections of the State CEQA Guidelines

and the City's own adopted CEQA Guidelines. Four of these grounds are irrelevant because they concern, at most, only parts of the project – such as grading, for example – and thus do not take into account the entire project. Two others do not apply because the project does not satisfy the specific requirements of the relevant exemption. A discussion of the various grounds is set forth below.

1. Section 15301(b) exemption (Class 1(b)/Class 1(2).)

The Department's first cited exemption is pursuant to CEQA Guidelines section 15301(b), known as the "Class 1(b)" exemption. Section 15301 states, in relevant part:

> Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.
>
> As to subdivision (b) in particular, section 15301 further states:
>
> Examples include but are not limited to:
>
> ...
>
> (b) Existing facilities of both investor and publicly-owned utilities used to provide electric power, natural gas, sewerage, or other public utility services;

The Department claims that the Class 1(b) exemption applies because "The project includes a minor alteration of existing public utilities to provide water and sewerage, with negligible expansion of use." (Narrative at pg. 6.) However, in fact the exemption does not apply at all because the project is not an "expansion of use" at all, but rather a change of use from a municipal bus yard to a residential facility, or, alternatively, to a public works facility containing residential housing. Moreover, even assuming that a shelter project could be deemed an "expansion of use" of the existing bus yard, the only facilities at issue in subdivision (b) are "Existing facilities of ... publicly owned utilities used to provide . . . sewerage, or other public utility services." Thus, this subdivision can, at most, apply only to the provision of water and sewerage to the project, rather than to the project as a whole.

The Department attempts to buttress its use of the Class 1(b) exemption by referring to a similar provision of the City CEQA Guidelines, which contains the "Class 1(2)" exemption. However, slightly different language in the City Guidelines cannot expand the scope of the State Guidelines provision. The City has no authority to expand categorical exemptions beyond the scope of the State CEQA Guidelines; it can only further narrow such exemptions.

2. Section 15301 exemption (Class 1(12).)

The Department also claims that under the City CEQA Guidelines a "Class 1(12)" exemption applies, citing to language stating that the "existing facilities" exemption applies to "maintenance of outdoor lighting and fencing for security purposes." However, in this instance outdoor lighting and fencing are only minor components of a much larger project. Therefore, the Class 1(12) exemption can only apply, at most, to the outdoor lighting and fencing, rather than to the project as a whole.

3. Section 15304 exemption (Class 4(a), (b) (e)/Class 4(1), (3), (6)).)

The Department contends that Section 15304 of the CEQA Guidelines, known as the "Class 4" exemption, applies to the project. Section 15304 states, in relevant part:

> Class 4 consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes. Examples include, but are not limited to:
>
> (a) Grading on land with a slope of less than 10 percent, except that grading shall not be exempt in a waterway, in any wetland, in an officially designated (by federal, state, or local government action) scenic area, or in officially mapped areas of severe geologic hazard such as an Alquist-Priolo Earthquake Fault Zone or within an official Seismic Hazard Zone, as delineated by the State Geologist.
>
> (b) New gardening or landscaping, including the replacement of existing conventional landscaping with water efficient or fire resistant landscaping.
>
> . . .
>
> (e) Minor temporary use of land having negligible or no permanent effects on the environment, including carnivals, sales of Christmas trees, etc;

The Department cites to the corresponding City CEQA Guidelines, i.e., Class 4(1), Class 4(3) and 4(6). It then justifies the use of the section 15304 (a), (b) and (e) exemptions by stating: "Only asphalt is being replaced with utility trenches/footings at a depth of 4 feet below grade, and the slope of the land is and will be less than 10%. No trees will be removed. The project will only be on the site for no more than three years and no significant adverse impacts have been identified." (Narrative at 7.)

As with the asserted section 15301 exemptions, any exemption based upon grading or gardening and landscaping (Class 4(a) and (b)) is, at most, applicable to only a part of the larger project. Thus, it cannot support an exemption for the project as a whole.

With regard to the Class 4(e) exemption, initially it must be emphasized that the corresponding City CEQA Guideline (Class 4(6)), which must be satisfied for any application of a categorical exemption to a City project, states that the exemption is only available for the following:

> Temporary uses of land having no permanent effects on the environment, including but not limited to carnivals, parades, temporary location filming, sales of Christmas trees, building materials storage on street or sidewalk during job, construction offices and tract sales offices.

Here, the City Guidelines narrows the use of the section 15304 exemption by eliminating any project that has a "negligible" effect on the environment, and limiting its application only to projects that have "no permanent effects on the environment." Further, the City Guideline provides more examples than the State Guidelines, and none of these examples are anything like a homeless shelter lasting for 3 years. Rather, all are classically short-term uses that involve no excavation or construction, and which last for at most a period of months. The City cannot trigger this exemption simply by declaring that its $5 million project is a "temporary" facility that will only last 3 years, and by constructing buildings that are either prefabricated or tentlike.

4. Section 15332 exemption (Class 32).

The Department's final ground for an exemption is CEQA Guidelines section 15332, which describes the "Class 32" exemption, also known as the "Infill" exemption. Section 15332 states:

> Class 32 consists of projects characterized as in-fill development meeting the conditions described in this section.
>
> (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
>
> (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
>
> (c) The project site has no value as habitat for endangered, rare or threatened species.

> (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
>
> (e) The site can be adequately served by all required utilities and public services.

Of these five requirements, the Bridge Housing project does not meet either subdivision (a) or (d). Therefore, this exemption does not apply.

The City has zoned the MTA property "M1" (Limited Industrial). This zoning classification does not allow a homeless shelter. (See LAMC section 12.17.6; see also, definition of "Shelter for the Homeless" at section 12.03.) The General Plan in turn, and the Venice Coastal Zone Specific Plan, which is a part of the General Plan, each require that all development comply fully with the zoning classification. Thus, the project on its face is not "consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations," as required by subdivision (a).

Nonetheless, the Department uses sleight of hand to establish compliance with subdivision (a), It points out that under the state statute allowing the City to declare a "shelter crisis" emergency, all zoning restrictions are waived for projects on property owned or leased by the City.[1] On this basis, the Department claims there is no longer any inconsistency.

The Department is wrong. Subdivision (a) is clearly intended to require full evaluation of any project that varies from the General Plan or the zoning code, because any variation is in itself evidence of potentially significant impacts on the environment that are inconsistent with any "infill" exemption. Although the City may claim it need not comply with the zoning ordinance because of the emergency statute, the project's inconsistency with the zoning ordinance remains. The City cannot ignore this inconsistency for purposes of avoiding CEQA review.

As to subdivision (d), which requires that "Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality," the City simply states this is the case. In fact, as demonstrated elsewhere in this letter, the City has made no showing based on substantial evidence that the project would not result in significant effects, at least as to traffic, noise and water quality.

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[1] As we understand it the MTA bus facility is presently owned not by the City, but by the Metropolitan Transportation Authority, which is a state-chartered agency that operates transit throughout Los Angeles County. Thus, unless the City purchases or leases this site from the MTA prior to the commencement of the project, the "shelter crisis" waiver of the zoning code set forth in LAMC section 12.80 cannot apply.

C. No Categorical Exemption Applies Because There are Unusual Circumstances Giving Rise to Potentially Significant Impacts.

Section 15300.2(c) of the CEQA Guidelines states:

> (c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

Here, there are a host of "unusual circumstances" that give rise to a "reasonable possibility" of a significant effect on the environment. Any one of these would categorically preclude the application of any categorical exemption.

First, the project is a type of facility that has little precedent in the City of Los Angeles. As the Department itself admits, there are only two other similar facilities even approved in the City (one 15 miles away and one 8 miles away, and neither is operating yet. (Narrative at pg. 46.) Therefore, there is no operational experience whatsoever for a homeless shelter of this type, much less one characterized by a tent-like primary structure and large outdoor recreation and eating facilities and an outdoor kennel.

Second, the stated purpose of the facility is to replace encampments in the Venice area and elsewhere in Council District 11 by providing homeless persons with a place to live. However, despite the best intentions of City politicians and City government, existing encampments in Venice and elsewhere may continue despite the existence of the facility. Moreover, because the proposed facility would not be restricted only to the residents of existing encampments, but can be used by any homeless person requiring shelter, the facility is likely to act as a magnet for homeless persons throughout the City of Los Angeles and beyond.

Third, regardless of its size, there is no assurance that the facility will be large enough to accommodate all persons seeking housing or other services. Instead, it may become a magnet for new encampments in the immediate vicinity, as would-be users of the facility vie for housing and other services (perhaps unsuccessfully) and then choose to camp on nearby City streets or on private property.

It is apparent on its face that the proposed facility may have a significant impact on the following environmental factors, all of which constitute unusual circumstances precluding the use of a categorical exemption under CEQA Guidelines section 15300.2(c):

1. Parking.

The site is located in a parking-starved area only one block from the Venice Beach Recreation Area, which is visited by millions of people each year. Because of restrictions by the California Coastal Commission, there are no posted restrictions on parking except for

weekly street sweeping. Thus, any increased demand for on-street parking spaces is a potentially significant impact that must be evaluated under CEQA.

The Department's report severely misrepresents the available parking on the site. The Notice of Exemption states that "there are 111 parking spaces on the site." The Project Description section of the Categorical Exemption Narrative (hereinafter, the "Narrative") makes the same allegation. (Narrative at pg. 1.) However, elsewhere the Traffic section concedes that "Nine parking spaces are proposed for on-site parking." The site plan confirms, this, depicting 9 numbered parking spaces, with no room anywhere on the site for additional parking. (Narrative, Attachment A (Project Description Information).)

The Narrative provides no analysis of the adequacy of these nine spaces, but instead merely asserts that "No parking would be removed or displaced." The Narrative does not assert that 9 parking spaces sufficient for 11 (and probably more) employees, numerous vendors and other third parties, and 154 residents, some of whom will own vehicles.

Indeed, 9 spaces cannot be adequate for such a project under any conceivable measure. The Venice Coastal Zone Specific Plan, adopted by the City Council in light of actual parking conditions in Venice, requires, for a hotel, at least one parking space per guest room for the first 30 rooms, one space for each two guest rooms for the second 30 rooms, and one space for each three guest rooms for each room in excess of 60 rooms. If beds in the shelter are treated as guest rooms, by that measure 154 beds would require 76 spaces (30 + 15 + 31). The VCZSP also requires one additional space "for each 100 square feet of floor area used for consumption of food or beverages, or public recreation areas." (VCZSP at pg. 25.) Here, the outdoor eating area alone is 3,420 square feet, which would require 35 spaces if it were the indoor eating area of a hotel. That is a total of 111 spaces.

Moreover, leaving aside any code parking requirement it is obvious to even a layperson that 9 spaces could not possibly accommodate the needs of this project. First, the 11 employees themselves will likely consume all of the 9 spaces, at least during the day, leaving none for residents, vendors or other visitors to the site. Indeed, Parsons estimates 196 daily vehicle trips resulting from the project. This number, even though unrealistically low, strongly indicates that there will be at least dozens of individual cars coming and going from the site each day, all of which will need to park at the site.

Given the lack of on-site parking, persons working at, residing in or otherwise using the facility will be forced to use scarce on-street parking. For the residents in particular, a disproportionate share of these vehicles will be trucks, vans, campers, and recreational vehicles (RVs) that are commonly used for shelter, and which take up even more room on the street.

The utter lack of adequate parking is both evidence of a significant impact, and an "unusual circumstance" that precludes application of a categorical exemption.

2. Noise.

The Department attaches a noise study to the narrative and concludes that noise from construction and operation of the facility would not create a significant impact on residents. In fact, as discussed in the report by Dale La Forest & Associates attached hereto as Exhibit A, project noise would significantly impact nearby residences in numerous ways, including the following:

(a) Construction activities, some of which would take place just 50 feet from residences, would result in sustained exceedance of the City's noise thresholds.

(b) Operation of this highly unusual facility with a large tent-like dormitory housing 100 people, large outdoor eating and recreation areas, and an outdoor kennel for pets (including dogs), and operating 24 hours a day, would subject residential neighbors to constant noise, especially at night when ambient noise is lowest. The project is located in a residential area which is generally quiet at night. As illustrated by letters to the Council from numerous neighbors, residents are already assaulted by frequent noise from encampments and individuals near their homes during the otherwise quiet nighttime hours, and their sleep is frequently disrupted as a result. No expert is necessary to see the potential for the facility's residents, staff, other people attracted by the facility, and their vehicles and pets to subject residential neighborhoods to even greater noise impacts, especially late at night.

(c) The facility has the unusual quality of attracting homeless persons to the area, who are seeking services and/or congregating with persons in the facility. These persons and their encampments have the potential to spread noise impacts far beyond the site itself, into other nearby residential neighborhoods.

3. Public Safety.

By acting as a magnet for homeless persons, some of which will be seeking services, visiting shelter residents, or simply congregating near the facility, this project has an unusually high potential to increase public safety hazards such as littering, release of sewage into alleys and storm drains, and property or personal crimes, which would most intensely affect the immediately adjacent residential neighborhoods. These conditions are already severe in this neighborhood, as reflected in the numerous letters to the Council from neighbors, some of which are submitted concurrently with this letter.

4. Surface Water Contamination.

Homeless encampments are a well-documented, and increasingly difficult to control, source of fecal indicator bacteria to ocean waters. The Bridge Housing Project's proposed location sits only blocks from the coast. Storm drains in this area discharge directly into Santa Monica Bay during wet weather, picking up whatever material has accumulated on the streets and sidewalks. Yet the Department in its report has not considered the potential effects of trash, fecal coliform, and other pollutants associated with a dense homeless population on the City's municipal separate storm sewer system discharges.

According to the City of Los Angeles' Stormwater Program, Santa Monica Bay's beaches are impaired by pollutants such as trash and bacteria and the City is subject to Total Maximum Daily Loads (TMDLs) for nearshore debris and wet weather bacteria. The project proposal includes no provision to prevent further impairments caused by an increased concentration of individuals living near the Site. Nor does it acknowledge the growing correlation between the growing homeless population and the amount of human waste discharged to receiving water.

The project has an unusual capacity to attract homeless encampments to this coastal area, with the resulting impacts on surface water discharges. Therefore, a categorical exemption is not warranted.

5. Hazardous Substances in Soil and Groundwater.

In the Notice of Exemption and supporting narrative, the Department has made only a cursory mention of seven underground storage tanks on the site, associated with the previous use as a bus yard. (Narrative at pg. 54.) In fact, these tanks have the potential to contaminate soil and groundwater and to subject the residents of the project to health hazards. This potential impact is an unusual circumstance, especially given the conversion from an industrial use to a residential facility, and it should be fully studied under CEQA. This subject is discussed in a separate letter to the City Council by an attorney retained by VSA.

6. Traffic.

This is an extraordinarily dense and congested neighborhood, whose narrow streets are shared by residents and the millions of people who visit Venice Beach each year. By Parsons' own estimate, the project will generate 196 new car trips per day. However, that number is unrealistically low. First, it assumes only 1.27 daily trips for each of the 154 residents, on the theory that the proper trip generation rate is the Los Angeles Department of Transportation (LADOT) rate for "permanent supportive housing/special needs." This very low trip generation rate assumes very little vehicle use by the residents themselves. It does not take account of the fact that many homeless persons have cars or RVs, and will surely use them while staying at the facility. The rate also does not consider the broad scope of services being provided at this particular facility.

Indeed, while the Parsons report estimates that there will be 11 employees during weekdays, plus 6 in the evening and 3 during the "swing shift" and 2 to 4 on weekends, in fact the project will require management staff, intake staff, social service counselors, housing locaters, psychological staff, on-site security personnel, teachers and employment coaches, custodial staff, kitchen staff, kennel staff, and storage facility staff. It is more reasonable to assume that at least 50 people (either employees or outside vendors) will be working at the site during daytime hours.

Moreover, even if the low estimates of employees and total daily trips are correct, the Parsons report underestimates peak hour trips resulting from those factors. The report assumes just 9 trips in at the AM peak hour and 8 trips out at the PM peak hour. Yet it is only reasonable to assume that the 11 daytime employees will each enter during the AM peak hour and will leave at the PM peak hour. That is 11 trips during each peak hour, just for employees. In addition to this, some percentage of other trips by vendors and the residents themselves should be assumed to occur during the peak hour. The traffic impacts from this unusual project must be further evaluated in an environmental impact report.

7. Aesthetics.

New encampments attracted by this unusual homeless-serving facility would negatively affect the visual quality of this seaside neighborhood, which is enjoyed not just by residents but by many of the millions of people who visit the Venice Beach Recreation Area each year. The aesthetic impacts of existing encampments in Venice are described in the comments by neighbors to the City Council and have also been reported widely in the press. These impacts are significant on their face.

D. No Categorical Exemption Applies Because it Can be "Readily Perceived" That the Project "May" Have a Significant Effect the Environment.

In addition to the preceding arguments concerning the use of categorical exemptions, no exemption can be used here because it can be readily perceived that the project may have a significant effect on the environment. Under the City's CEQA Guidelines, this is all that is needed to preclude the use of any categorical exemption. Article III, Section 1 of the City CEQA Guidelines provides (emphasis added):

> *The Secretary for Resources has provided a list of classes of projects which he has determined do not have a significant effect on the environment and which are therefore exempt from the provisions of CEQA. The following specific categorical exemptions within such classes are set forth for use by Lead City Agencies, provided such categorical exemptions are not used for projects where it can be readily perceived that such projects may have a significant effect on the environment.*

Applying the above language, because the project involves potentially significant impacts

on parking, noise, public safety, surface water, hazardous substances, traffic and aesthetics, it can be "readily perceived" that the project "may" have a significant effect on the environment under Article III(1) of the City CEQA Guidelines. If such a potential impact can be readily perceived as to any of these three categories, no categorical exemption can apply under the City CEQA Guidelines.

Indeed, by using the phrase "readily perceived" in combination with the term "may," the City has effectively set its own threshold for the use of categorical exemptions, which is more stringent and more protective of the environment than the standard applied under the statewide CEQA statute and statewide CEQA Guidelines. Neither state law nor the statewide Guidelines pre-empts the City CEQA Guidelines on this point. State law does not relieve the City from the obligation to comply with the City CEQA Guidelines, which are a separate enactment formalized by a resolution of the City Council adopted in 2002. (See Council File 02-1507, at https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=02-1507.) Instead, as long as the City CEQA Guidelines are more restrictive than the state CEQA Guidelines, the City is bound to follow the City CEQA Guidelines prohibition on the use of categorical exemptions when it can be "readily perceived" that the project "may" have a significant impact.

E. Conclusion.

The City Council should not hide behind a categorical exemption. Proper environmental review must be conducted through an environmental impact report. This process allows the neighbors and other members of the public to comment on the project, any alternatives and mitigation measures, and to hear the Department's response to those comments. This is no different than if a private developer were building a project on the site. Even if the Council ultimately adopts the project, this process allows a thorough consideration of mitigation measures or project alternatives that would reduce or eliminate impacts to the neighborhood.

For all of the above reasons we request that the Council engage in full CEQA review for the Bridge Housing project.

Thank you for considering our views on this matter.

Very truly yours,

John A. Henning, Jr.

Enclosure (Exhibit A, Report on Potential Noise Impacts by Dale La Forest & Associates)
cc: City Council members

EXHIBIT A

REPORT ON POTENTIAL NOISE IMPACTS
By Dale La Forest & Associates

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December 5, 2018

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REPORT ON POTENTIAL NOISE IMPACTS OF
100 E. Sunset Avenue Bridge Housing Project (Venice)

Dear Mr. Henning:

At your request, I have prepared this report in response to the categorical exemption request for the 100 E. Sunset Avenue Bridge Housing Project (Venice) ("Project"), including the October 2018 noise study by Parsons pertaining to the Project's potentially significant noise impacts ("noise study"). My qualifications are attached hereto as "Attachment 1". This report shows that the Project's noise impacts will be significantly adverse under the California Environmental Quality Act, Pub. Res. Code § 21000 *et seq.*, ("CEQA") and will exceed permissible CEQA standards set by the City of Los Angeles ("City"). During this Project's construction period, its construction noise levels will undoubtedly exceed the City's noise standards. During its subsequent operation as a homeless shelter, the Project will also subject neighboring residences to excessive noise levels. Because construction and operational noise impacts will likely exceed applicable significant thresholds under the City's CEQA guidelines ("L.A. CEQA Thresholds Guide" or "City CEQA Guide") and the Los Angeles Municipal Code ("LAMC" or "Code"), the use of a categorical exemption is inappropriate per 14 Cal. Code. Regs. § 15000 *et seq.* (the "CEQA Guidelines").

Hence, the City's Department of City Planning ("DCP") should require a more demanding CEQA review, such as an environmental impact report ("EIR") or mitigated negative declaration ("MND") to consider feasible mitigation measures.

I. EXECUTIVE SUMMARY

As explained herein in this letter, I have made the following conclusions about the 100 E. Sunset Avenue Bridge Housing Project (Venice). (Section references are to my narrative discussion *infra* in this letter):

Section II (p. 3 below): The City agrees to Project-specific noise mitigation that directly conflicts with CEQA's absolute bar against mitigation measures for categorical exemptions.

Thus, by its own practice, the City appears to admit that there is a fair argument that the Project will cause potentially significant noise impacts.

Section III (p. 5 below): The Project's noise study is incomplete, inaccurate, at times merely conclusory, and likely contains artificially-inflated ambient noise levels due to noise reflections from large walls near the metering locations that contaminated the noise level measurements when two measurements were taken. The noise discussion fails to meet the evaluation standards set by the City's CEQA Guide or other public agencies, nor consistent with other noise studies conducted within the City.

Section IV.B (p. 12 below): Construction noise levels will exceed the City's maximum limit of 75 dBA at 50 feet (LAMC § 112.05) and will exceed the City's standard for an increase in existing ambient noise levels by more than 5 dBA at neighboring homes' property lines (LAMC § 111.02).

Section IV.C (p. 18 below): The proposed eight-foot high temporary sound curtain is not only a Project-specific mitigation measure, which is not allowed under CEQA for categorical exemptions, but also too short to effectively reduce construction noise impacts to nearby homes.

Section IV.D (p. 22): The mechanical equipment noise generated by fans and HVAC equipment heating and cooling the structures may cause significant noise level increases of more than 5 dBA at neighboring homes unless mitigated.

Section IV.E (p. 25 below): Outdoor activity noise impacts from large groups of people speaking, sometimes shouting, or playing music may be significant and in excess of the City's standards that consider a permanent increase in noise levels of more than 5 dBA above existing ambient noise levels to be significant.

Section IV.f (p. 30 below) Dog barking noise levels may be significant and in excess of the City's standards for permanent increases in excess of its standards.

Section IV.G (p. 34 below): The City fails to demonstrate that all technically feasible noise attenuation measures are incorporated into the Project, and relies on the City's Noise Ordinance as a substitute to the significance thresholds provided under the City's CEQA Thresholds Guide, which has been held as improper by at least one trial court involving similar type of hotel project (*Farmer, et al. v. City of Los Angeles, et al.* [LASC Case No. BS169855]). This constitutes a sharp deviation of the City's practice for similarly-situated projects and must be corrected in a CEQA-compliant MND or EIR—just like other projects of this nature.

II. CEQA DOES NOT ALLOW PROJECT-SPECIFIC MITIGATION MEASURES WHEN CONSIDERING THE ADEQUACY OF A CATEGORICAL EXEMPTION

The City is proposing 13 Project-specific Conditions of Approval ("COAs") to directly or indirectly mitigate noise impacts. That is an admission that there is a fair argument that the

Project may cause significant noise impacts and, therefore, a categorical exemption is inappropriate for this Project.

While City should be applauded for trying to ameliorate the Project's noise impacts, these COAs have not been vetted by the public nor tethered to an adequate noise analysis as required by CEQA and the L.A. CEQA Thresholds Guide.

Furthermore, CEQA does not allow an agency to use project-specific mitigation measures, like the 13 noise-related COAs including the proposed 8-foot high sound curtain, to reduce a project impacts as a means to qualify for a categorical exemption and evade a more demanding CEQA review.[1] Even if the Project utilized an MND, which it did not, CEQA requires a lead agency to recirculate the MND if additional mitigation measures are subsequently added after the MND's initial circulation in order to publicly-vet the adequacy of the new mitigation measures.[2] These are the COAs that the City is proposing to lessen this Project's significant noise impacts:

> As described in the project description, the project design shall comply with a construction management plan that includes project design conditions, as necessary, to protect the health, safety, or convenience of affected sensitive receptors, located in the neighborhood that surrounds the project. The construction management plan and appropriate design conditions have been included from the City of Los Angeles, Bureau of Engineering, Master Specifications, Division 01, General Requirements, Section 01562, Part 1.1.C. These conditions include an 8-foot-high noise barrier wall along the northern boundary along Sunset Avenue and southern boundary along Thornton Place of the project site during construction, as well as a list of general conditions to further control construction noise and vibration, as needed, as listed in the described specification.
>
> 1) Construction or use of noise barriers, enclosures, or blankets;
> 2) Use of low noise, low vibration, low emission-generating construction equipment, e.g., (quieter) Tier 4 engines, as needed;
> 3) Maintenance of mufflers and ancillary noise abatement equipment;
> 4) Scheduling high noise producing activities during periods that are least sensitive;
> 5) Routing construction related truck traffic away from noise-sensitive areas;
> 6) Reducing construction vehicle speeds; and/or
> 7) Locate equipment as far as feasible from sensitive receptors.

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[1] *See e.g., Salmon Protection & Watershed Network v. County of Marin* (2004) 125 Cal.App.4th 1098, 1102, 1108 (stating while "mitigation measures may support a negative declaration but not a categorical exemption ... Reliance upon mitigation measures (whether included in the application or later adopted) involves an evaluative process of assessing those mitigation measures and weighing them against potential environmental impacts, and that process must be conducted under established CEQA standards and procedures for EIR's or negative declarations."); *Azusa Land Reclamation Co. v. Main San Gabriel basin Watermaster* (1997) 52 Cal.App.4th 1165, 1200 ("In determining whether the significant effect exception to a categorical exemption exists, '[i]t is the possibility of a significant effect . . . which is at issue, not a determination of the actual effect, which would be the subject of a negative declaration or an EIR. Appellants cannot escape the law by taking a minor step in mitigation and then find themselves exempt from the exception to the exemption.' [Citation].").

[2] *See Gentry v. Murrieta* (1995) 36 Cal.App.4th 1359, 1380 ("if there was substantial evidence to support a fair argument that the Project would have a significant effect... then the City could not adopt new mitigation conditions aimed at this effect without recirculating its proposed negative declaration. Nevertheless, the City added mitigation condition... without recirculating. In so doing, it abused its discretion.").

Design methods that can be considered to further lower operations noise levels may include, but are not limited to:

1) Selection of mechanical equipment designed to produce low noise levels. This includes the mechanical (i.e., heating, ventilation, air-conditioning [HVAC]) equipment for heating and cooling interior spaces;
2) Locating mechanical equipment inside the building or shielding it with screens, walls (including parapet walls for rooftop equipment), acoustical louvers, or other noise control devices;
3) Designing the building shell to contain noise within the building. This includes proper specifications for windows, doors, and ventilation systems;
4) Limiting the maximum noise levels that may be produced by activities within the project;
5) Orienting doors, windows, and other openings away from NSLUs. Where windows or emergency doors need to be oriented toward homes or other noise- sensitive uses, ensure they remain closed when not in use; and
6) Considering all of the above noise control methods in the final architectural and engineering designs and specifications for project construction.

As recognized by one court, lead agencies are not required to evaluate mitigation measures during its preliminary review of projects and therefore not appropriate in the context of categorical exemptions; instead consideration of mitigation measures are reserved (as relevant here) for MNDs subject to CEQA's fair argument standard whereby "[i]f there is a disagreement between experts over the significance of an effect . . . the lead agency shall treat the effect as significant . . . ." *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1200-1201 (citing CEQA Guidelines § 15064(h)(2)). As discussed herein, there is a fair argument of both construction and operational impacts and, therefore, mitigation measures should be considered pursuant to a CEQA-compliant MND or EIR being prepared.

The Project's noise study omits critical information and analysis that masks the severity of foreseeable noise impacts and allows the City to short-cut the CEQA review process via a categorical exemption. Approval of a categorical exemption requires that the Project will create no significant noise impacts, either due to temporary construction noise or subsequent noise from loud homeless shelter operations. These determinations must be based on specific facts and reasoned analysis supported by substantial evidence. Unfortunately, the abbreviated noise discussion lacks some of these essential facts or analysis, and fails to meet the evaluation standards set by the City and other public agencies as discussed below.

III. RESPONSE TO CITY'S REQUEST FOR CATEGORICAL EXEMPTION PREMISED ON AN INADEQUATE NOISE STUDY.

The Project's noise study omits critical information and analysis that masks the severity of foreseeable noise impacts and allows the Project applicant to short-cut the CEQA review process via a categorical exemption. Approval of a categorical exemption requires that the Project will create no significant noise impacts, either due to temporary construction noise or subsequent noise from loud homeless shelter operations. These determinations must be based on specific facts and reasoned analysis supported by substantial evidence. Unfortunately, the noise study lacks some of these essential facts or analysis, and fails to meet the evaluation standards set by the City and other public agencies as discussed below.

A. THE PROJECT CLEARLY EXCEEDS L.A. CEQA THRESHOLDS GUIDE'S SCREENING THRESHOLDS DEMANDING A MORE THOROUGH NOISE ANALYSIS

The L.A. CEQA Thresholds Guide (p. I.1:2-3) provides clear construction-related screening thresholds that require "further study" in an expanded Initial Study ("IS"), Negative Declaration ("ND"), MND, or EIR if construction activities are within 500 feet of noise sensitive uses, such as residential uses. In evaluating this screening threshold, applicants are to provide "information on construction activities" (*id.*), yet some of this information is not provided in the Project's noise study.

Similarly, operation-related screening thresholds require "further study" if the project (a) includes 75 or more dwelling units (akin to guest rooms), or (b) introduces new stationary noise sources (e.g., machinery, engines, energy production, other mechanical or powered equipment, activities such as loading and unloading) audible beyond the project's boundary line (*id.* at p. I.2:2-3). In evaluating this screening threshold, applicants must provide "information on stationary noise sources such as machinery or motorized equipment" and determine the "noise level from stationary sources at the property line by evaluating the decibel output of each source" (*id.*). However, the Project's noise discussion lacks any information or analysis about this Project's mechanical HVAC equipment noise, its dog barking noise levels, its likely noise levels from a large number of children who may be playing on the site,[3] the noise levels likely generated by over a hundred adults at times packed in an open air lounge/seating/dining area, and other noise sources.

The abovementioned screening thresholds assist the City and DCP in responding to the questions in the State's Initial Study Checklist[4] and to determine the appropriate environmental document (e.g., ND, MND, EIR) (*id.* at p. vii). These are less demanding than the City's significance thresholds that assist the City and DCP to determine "whether a project's impacts would be presumed significant under normal circumstances and, therefore, require mitigation to be identified" (*id.*). Here, the Project's noise study lacks basic information and analysis required to satisfy even the minimal standards for screening evaluations under the L.A. CEQA Thresholds Guide—much less satisfy the more demanding requirements for significance determinations (discussed below).

B. THE NOISE STUDY'S AMBIENT LEVEL NOISE MEASUREMENTS ARE INCOMPLETE AND LIKELY ARTIFICIALLY INFLATED, WHICH CONSTITUTES AN IMPROPER BASELINE OF NOISE LEVELS

When determining if construction or operational noise impacts are significant under the L.A. CEQA Thresholds Guide (pp. I.1:4, I.2:5), applicants are required to establish ambient noise levels by either taking field measurements, a noise-monitoring program consistent with the City Code, or use the "presumed Ambient Noise Levels" (LAMC § 111.03). Here, the Project's noise

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[3] This Project proposes to provide beds for 54 youth in trailers.

[4] CEQA Guidelines, Appendix G: Environmental Checklist Form, http://resources.ca.gov/ceqa/guidelines/Appendix_G.html.

study states that 15-minute daytime measurements were taken on October 23, 2018 at four locations.

Here, the field measurements reported are incomplete and inaccurate. No measurements were taken during nighttime conditions that neighbors report can be very quiet. Most of these short-term daytime noise level measurements were taken too close to reflective walls that elevated and contaminated the noise measurement levels (as described below in more detail).

Hence, at least two of the purported 64, 63, 76 and 68 dBA L_{eq}[5] ambient measurements were likely elevated and constitute an improper baseline. Pursuant to the L.A. CEQA Threshold Guide, the presumed Ambient Noise Levels set forth in LAMC § 111.03 should apply, which provides a 50-dBA daytime (7 a.m. – 10 p.m.) and 40-dBA nighttime (10 p.m. – 7 a.m.) baseline.[6] Otherwise, if the City wants to establish less stringent ambient noise levels, the City must conduct a more thorough field measurement and establish noise levels at varying times of the day, just like other developers for similar projects.[7]

C. FAILURE TO CONDUCT A SUFFICIENT CONSTRUCTION NOISE ASSESSMENT

The Project's noise discussion and noise study does not accurately describe the noise levels to be emitted by operation of heavy construction equipment during the anticipated construction period. Beyond compliance with the City's Noise Ordinance, there is no disclosure of how much noise reduction is expected from various "noise attenuation measures" to be included during the construction phase of the Project. The Noise report also does not evaluate the Project's maximum noise level impacts at the most sensitive nearby residences, an analysis that is essential in evaluating compliance with the City's maximum allowed noise level standards. This type of perfunctory noise analysis is a sharp deviation from the type of detailed noise assessment typically demanded by the City and other public agencies as discussed below.

Construction Noise Assessment under L.A. CEQA Threshold Guide

Under the L.A. CEQA Threshold Guide (pp. I.1:3-5), applicants are required to provide specific facts and analysis when making significance determinations, which the CE Request's noise discussion fails to satisfy as demonstrated below:

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[5] Integrated or Equivalent Noise Level ("L_{eq}"): The energy average A-weighted noise level during the measurement period.

[6] A-weighted Sound Level ("dBA"): The sound pressure measured using the A-weighting filter network that de-emphasizes the very low and very high frequency components of the sound spectrum in a manner similar to the frequency response of the human ear and correlates well with subjective reactions to noise.

[7] *See e.g.,* 6421 W. Selma (DCP Case No. ENV-2016-2602-MND) MND, PDF pp. 182-184 (calculating noise levels at varying hours during the early morning, daytime, early evening, and late evening), https://planning.lacity.org/staffrpt/mnd/Pub_010418/ENV-2016-2602.pdf.

- ***Environmental Setting Requirements**: including the identification of noise sensitive land uses within 500 feet of the project site, and quantification of ambient noise levels (existing and projected at the time of construction) measured in CNEL.*[8]

  Here, the Project's noise discussion utilizes incomplete and artificially-inflated noise measurements. (Incomplete because no nighttime measurements were included, and exaggerated because two or three of the four noise meter locations were too close to walls which reflected traffic noise back to the meter resulting in higher readings than would be measured had proper protocols been followed). No ambient noise level calculations were submitted as measured in CNEL day-night averaged terms.

- ***Calculation of Noise Emissions Requirements**: including the noise levels provided in the L.A. CEQA Threshold Guide or other applicable references, or other noise models if appropriate, and determine the combined noise levels from equipment that will be operated simultaneously.*

  Here, the Project's noise discussion fails to mention some of the noise levels included in the L.A. General Plan, such as the maximum interior noise level of 45 CNEL. The City's General Plan Noise Element that sets permissible interior noise level limit of 45 CNEL.[9] The noise study did not demonstrate that the Project's construction noise will not exceed this 45 CNEL limit at nearby homes. The noise study did not calculate the combined noise levels from heavy construction equipment and other noise sources operating simultaneously.

- ***Comparison to Ambient Noise Levels/Significance Threshold Requirements:** in establishing the change in noise level from construction activities at the location of sensitive receptors, applicants are to subtract the projected noise level without construction equipment from the projected noise level during construction activities. Considering the number of days various noise levels are projected, the applicant shall determine whether construction activities would exceed both the number of days, times of day, and dBA increases in the significance threshold.*

  Here, the Project's noise discussion fails to identify the nighttime presumed ambient noise increase thresholds under the L.A. CEQA Threshold Guide, nor does it mention the City's General Plan Noise Element that sets permissible interior noise level limit of 45 CNEL, much less demonstrate that the Project's construction noise will not exceed this 45 CNEL limit.

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[8] Community Noise Equivalent Level ("CNEL"): The average A-weighted noise level in a 24-hour day, obtained after adding 5 dB to evening hours (7:00 p.m. to 10:00 p.m.) and 10 dB to sound levels measured in the night (between 10:00 p.m. and 7:00 a.m.).

[9] City (2/3/99) General Plan Noise Element, p. 2:13 (stating the California Noise Standard for "addressing noise problems and define incompatible noise sensitive uses," including residential dwellings, is set at an interior noise level of a CNEL of 45 dB), https://planning.lacity.org/cwd/gnlpln/noiseElt.pdf. As discussed herein this comment letter, the Project's construction noise will exceed this limit of 45 CNEL.

D. FAILURE TO CONDUCT A SUFFICIENT OPERATIONAL NOISE ASSESSMENT

This *100 E. Sunset Avenue Bridge Housing Project (Venice)* noise discussion fails to provide any information or analysis regarding the Project's noise emissions during its day-to-day operations. Again, this is a sharp deviation from the operational noise impact analysis required under the L.A. CEQA Threshold Guide (p. I.2:5-7), which requires applicants to consider the following noise sources:

- ***Stationary Sources**: including identification of the type, amount, noise impact, and operating characteristics of proposed equipment on the project site (e.g., 24-hour function, sporadic use expected), and identification of the distance/pathway characteristics between the noise source and nearby land uses. Once noise levels from individual pieces of equipment on the project site have been calculated, they are to be logarithmically add together the noise levels from all equipment operating simultaneously.*

  Here, the Project's noise discussion fails to identify any equipment likely to be used for the Project's use like HVAC mechanical equipment used throughout the site's various fabric structures, the noise from barking dogs, the noise levels from concentrated groups of a large number of its clients, or from its on-site parking lot with vehicles that may have sound systems or may generate significant nighttime noise levels. Nor is there any discussion of the noise impacts from the numerous clients' use of exterior decks, seating and gathering areas proposed as close as 35 feet from neighboring homes.[10]

E. ADDITIONAL DEFICIENCIES WITH PROJECT'S NOISE STUDY

The Parsons noise study the City relies upon fails to include nighttime ambient noise level measurements, or measurements at all hours of the day. It never considered noise from barking dogs, vehicles associated with the Project, HVAC noise levels, and human voices that will likely exceed the City's noise limits at some nearby residences. The consultant only spent 15 minutes at each of four locations in mid-day, and that is not sufficient to characterize the ambient noise levels at all times of the day or night.

Inaccurate Traffic Noise Measurements Due to Faulty Noise Meter Positioning

Several of the noise study's four brief noise level measurements were obtained in an unprofessional way. The Parson's employee located the noise meter less than 10 feet from solid masonry retaining walls that reflect traffic noise back to the sound meter. Thus those measurements exaggerate the actual traffic noise level at that time because the meters were also measuring reflected noise from the nearby block walls in addition to direct traffic noise. CalTrans recommends noise level meter measurement locations must be at least 10 feet from such walls if behind the meter as a reflecting surface, or large reflecting surfaces like the 6-foot tall block wall photographed here should have been avoided entirely.[11]

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[10] *e.g.* The outdoor seating area proposed to the south of the meeting and class rooms is about 35 feet north of homes along Thornton Place. See Project *Site Plan*.

[11] See Caltrans (Sep. 2013) Technical Noise Supplement, p. 3-4

"Small reflecting surfaces should be more than 10 feet from the microphone positions. Large reflecting surfaces should be avoided unless they are the subject of study."

That substantial procedural error means that the Project's newly generated noise levels will, by comparison to existing baseline conditions, be even more significant. The measurements with reflected noise may be about 2 dBA louder than if less reflected noise contaminated those measurements. For that evidence of flawed procedure, see photos at end of the Noise Study's Attachment E showing meter locations for locations ST1 and ST4 near solid masonry block walls.

Here is an example at measurement location ST4 from Parson's noise study for this Bridge housing Project taken along Pacific Avenue with the noise meter positioned only five feet from a large six-foot high block masonry wall[12]:

Short-Term Measurement Site ST4. Facing Northwest.

So not only is the noise study defective for failing to measure ambient noise levels for the other 23 hours and 45 minutes of a typical day, but even the short-term noise level measurements are unreliable, contaminated by reflected traffic noise, and thus exaggerate traffic noise by a significant amount.

Noise Study Uses Wrong Standards when Assessing Project Noise Impact Significance

The Project's noise study claimed to consider whether this Project complied with the following City noise standard:

> Maximum construction noise levels cannot exceed 75 dBA at a distance of 50 feet if within 500 feet of a residential zone (LAMC § 112.05). *(Emphasis added)*

[12] The Field Survey Form, page 19 of the noise study for this measurement location ST4 also indicates the noise level meter was positioned 5 feet from the "6 foot block wall".

But nowhere in the noise study does the City's consultant ever consider the *maximum* noise levels that construction equipment typically generates. Instead, the noise study on pages 10 – 11 erroneously uses a methodology from the FHWA for roadway noise, not for construction equipment noise as is required in Los Angeles. The noise study incorrectly assesses the Project equipment's *average* noise levels, not its *maximum* noise levels. The study calculates an "equivalent sound level (L_{eq}) for a typical hour." not its maximum sound level (L_{max}) that should be compared to the City's maximum allowed standards in LAMC § 112.05. [13] The noise study then analyzes the noise as emitting from: "on *average*, equipment noise emanates from a single point at the geographic center of the nearest activity…", rather than considering the *maximum* noise level when the equipment is at the closest distance to sensitive receptors as the City's law requires. The noise study also relies upon sound levels that are not the maximum sound levels for typical construction equipment, thus understating the Project's likely noise impacts. Furthermore, the noise study reduces its calculation of noise levels by considering the usage factor where equipment is not used constantly; that is another way of averaging equipment noise levels to artificially reduce the true significance of noise impacts on neighboring residents.

In the noise study's Table 1, "Estimated Construction Noise Levels", for example, a backhoe is calculated to produce **68 dBA L_{eq} at 50 feet**, (an *averaged* noise level), rather than the typical *maximum* noise level with mufflers the City standards list as being up to 95 dBA L_{max}.[14] By using erroneous data, the noise study's conclusions greatly underestimate the Project's construction noise impacts and thus are not supported by substantial evidence.

Noise Study Fails to Mitigate Project Noise Impacts to Upper Floors of Nearby Homes

When proposing an 8-foot high temporary construction noise barrier along the site's north (Sunset Avenue) side and south (Thornton Place) side, the noise study fails to consider that some nearby noise receivers are located on second floors. That short a noise barrier cannot reduce noise levels at the upper floor windows or decks of those homes.

The noise study assumes 8-foot high noise barriers will be used but never defines what those barriers will be made of nor how much noise in decibels they are supposed to reduce. In Table 2, on page 12 of the noise study, the effect of that noise barrier is alleged to be included in the summary of calculated construction noise, but there is no way to know if indeed any reduction is factored in.

The Noise Study's Conclusions of Insignificant Noise Impacts are not Supported by any Calculations.

No calculations are even provided or sufficiently described so that the public can verify or refute the conclusions; the City report's conclusions are therefore not based upon substantial evidence. In some cases, the input data the consultant relied upon for its conclusions are also missing.

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[13] See p. 10, last sentence.

[14] See L.A. CEQA Thresholds Guide, page I.1-8, Exhibit I.1-1, NOISE LEVEL RANGES OF TYPICAL CONSTRUCTION EQUIPMENT, backhoe: 73 – 95 dBA at 50 feet with mufflers.

The analysis of operational noise impacts did not include any HVAC noise, associated vehicle noise, dog barking, or talking or music. For that matter, the Parson's study never identifies what kind of stationary noise sources it purportedly considered.

Noise Measurements may have been Erroneous Due to Wrong Meter Settings

The consultant who took the neighborhood's noise level measurements used a sophisticated sound level meter but appears to not having understood how to use it appropriately. For example, the handwritten data sheets show that the person calibrated the meter at 250 Hz, not at 1,000 Hz as is typically done for outdoor environmental noise level measurements.[15] CalTrans' manual on noise measurement states (on page 3-30): "*Acoustical calibrators are described under Section 3.4.3. Some calibrators provide a choice of several frequency settings. If the calibrator offers these choices, 1,000 Hz should be used for calibration. The sound level meter/recorder system can then be adjusted to this level.*" [16] The noise study's consultants also used the 114.0 dBA calibration setting, something that is not appropriate for street noise that is much quieter; they should have used the 94.0 dBA setting for greater accuracy with noise levels in this neighborhood.

To summarize, the Project's noise discussion is fundamentally flawed because it lacks sufficient meaningful information, much less analysis supported by substantial evidence, that informs the City and the public of the potentially significant construction/operational noise impacts. Moreover, the omission of some of the City's applicable thresholds conceals the true noise impacts of this Project. Based on my review and the facts/analysis discussed herein, there is a fair argument that construction/operational noise will exceed the City's thresholds and, therefore, significant. As such, a categorical exemption is inappropriate, and a more thorough noise analysis is warranted in accordance with the City's L.A. CEQA Threshold Guide and best practice exercised by other public agencies. Critically, this review should be pursuant to an MND or EIR, where specific mitigation measures can be considered and made enforceable.

IV. CONSTRUCTION NOISE IMPACTS WILL BE SIGNIFICANT

A. APPLICABLE CONSTRUCTION NOISE STANDARDS

To demonstrate the various ways the Project's construction noise impacts will be significant, one must first recognize the applicable noise standards pertinent to this Project, and includes the following:

- Construction activities lasting more than one day would exceed existing ambient exterior noise levels by 10 dBA or more at a noise sensitive use (L.A. CEQA Thresholds Guide, p.

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[15] See, Parson's *Proposed CD-11 Bridge Housing 100 E. Sunset Ave. (Venice) Noise Resources Screening Technical Memorandum*, pages 16 to 19, Field Survey Form; *Frequency, Hz* category check box.

[16] California Department of Transportation ("Caltrans") (Sep. 2013) *Technical Noise Supplement*, p. 3-30. http://www.dot.ca.gov/hq/env/noise/pub/TeNS_Sept_2013A.pdf.

I.1:3). (*The Project's construction will last more than 10 days in a three month period, so this standard does not apply.*)

- Construction noise levels lasting more than 10 days in a three-month period cannot increase existing ambient noise level at any home's property line by 5 dBA or more (L.A. CEQA Thresholds Guide, p. I.1:3; *see also* LAMC § 111.02).
- Maximum construction noise levels cannot exceed 75 dBA at a distance of 50 feet if within 500 feet of a residential zone (LAMC § 112.05). *(Emphasis added)*
- Maximum interior noise level limit of 45 CNEL (City's General Plan Noise Element, p. 2:13).
- Off-site project construction traffic cannot cause the exterior ambient noise level to increase by 5 dBA CNEL or more at a noise-sensitive uses' property line (L.A. CEQA Thresholds Guide, p. I.1:3).
- Cannot exceed the Federal Transit Administration ("FTA") vibration threshold of significance of 80 VdB at residences, or exceed the Caltrans' recommended level of 0.2 in/sec PPV.[17]

B. As Many as 34 Residential Structures Near the Project Site Could Be Subjected To Excessive Construction Noise Levels

Based on the acoustical principles and math discussed below, it is apparent that this Project will generate and expose persons to noise levels in excess of the above-listed thresholds and standards. First, noise attenuates from a point source at a rate of approximately 6.0 dBA per doubling of distance,[18] so the Project's noise impacts on sensitive receptors nearby can be determined by the following "Equation 1" for noise attenuation over distance:

$$(1) \qquad L_2 = L_1 - |20\ log_{10}\left(\frac{d_1}{d_2}\right)|,$$

Where:

L_1 = known sound level at d_1

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[17] *See* FTA (May 2006) Transit Noise And Vibration Impact Assessment, pp. 12:10-14, https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/FTA_Noise_and_Vibration_Manual.pdf.

[18] U.S. Department of Transportation Federal Highway Administration ("FHWA") Website (8/24/17) Highway Traffic Noise Analysis and Abatement Policy and Guidance, https://www.fhwa.dot.gov/environMent/noise/regulations_and_guidance/polguide/polguide02.cfm; *see also* California Department of Transportation ("Caltrans") (Sep. 2013) Technical Noise Supplement, pp. 2:27-28 (stating for point sources, "sound level attenuates or drops off at a rate of 6 dBA for each doubling of the distance[;]" for traffic noise, which "is not a single, stationary point source … the change in sound level is 3 dBA/DD."), http://www.dot.ca.gov/hq/env/noise/pub/TeNS_Sept_2013A.pdf. While the L.A. CEQA Threshold Guide references noise levels decreasing by 3 dBA (hard surfaces) and 4.5 dBA (soft surfaces) at 50-feet increments (pp. I.1:4, I.2:3-5 [citing the FHWA's 1978 Highway Traffic Noise Prediction Model (Report R77-108)], this attenuation rate is most appropriate for predicting attenuation of traffic noise as compared to stationary point sources. *See* FHWA (1978) Report R, pp. 12-13 (noting the 3.0/4.5 dBA drop-off rate is for noise produced by "vehicles"), https://archive.org/details/fhwahighwaytraff00barr/page/n21; *see also* FHWA Website (2017) Traffic Noise Model (stating that while the FHWA's R77-108 was "an effective model for its time … significant advancements have been made in the methodology and technology for noise prediction … [resulting the] need for a new *traffic noise* prediction model …." [emphasis added]), https://www.fhwa.dot.gov/Environment/noise/traffic_noise_model/. Given the 6.0 dBA noise attenuation rate is more preferential to the Project applicant, any noise impact exceeding the City CEQA Guide thresholds or applicable standards utilizing this attenuation rate would also exceed thresholds and/or standards under the stricter 3.0/4.5 dBA rate.

L_2 = desired sound level at d_2
d_1 = distance of known sound level from the noise source
d_2 = distance of the sensitive receptor from the noise source

Second, typical noise levels for construction equipment are shown in Tables 1 and 2 below.

Table 1- Typical Construction Noise Levels, Equipment Powered by Internal Combustion Engines (U.S. EPA, 1971, NTID300.1 Report)[19]

Type	Noise Levels (dBA) at 50 Feet
Earth Moving	
Compactors (Rollers)	73 - 76
Front Loaders	73 - 84
Backhoes	73 - 92
Tractors	75 - 95
Scrapers, Graders	78 - 92
Pavers	85 - 87
Trucks	81 - 94
Materials Handling	
Concrete Mixers	72 - 87
Concrete Pumps	81 - 83
Cranes (Movable)	72 - 86
Cranes (Derrick)	85 - 87
Stationary	
Pumps	68 - 71
Generators	71 - 83
Compressors	75 - 86

Impact Equipment

Type	Noise Levels (dBA) at 50 Feet
Saws	71 - 82
Vibrators	68 - 82

Notes:
[1] Referenced Noise Levels from the Environmental Protection Agency (EPA)

[19] U.S. EPA (12/31/71) Noise from Construction Equipment and Operations Building Equipment, and Home Appliance, p. 11, https://nepis.epa.gov/Exe/ZyPDF.cgi/9101NN3I.PDF?Dockey=9101NN3I.PDF; *see also* MD Acoustics (10/30/17) Noise Impact Study for Commonwealth Development, p. 31 (utilizing U.S. EPA Noise Levels for mixed-commercial development in the City of San Jacinto, CA), https://www.sanjacintoca.gov/UserFiles/Servers/Server_10384345/File/City%20Government/Community%20Development/Planning/CEQA/Commonwealth%20Crossings/07-NoiseStudy.pdf.

Table 2: Noise Level Ranges of Typical Construction Equipment (L.A. CEQA Threshold Guide, p. I.1-8)

Equipment	Levels in dBA at 50 feet[a]
Front Loader	73-86
Trucks	82-95
Cranes (moveable)	75-88
Cranes (derrick)	86-89
Vibrator	68-82
Saws	72-82
Pneumatic Impact Equipment	83-88
Jackhammers	81-98
Pumps	68-72
Generators	71-83
Compressors	75-87
Concrete Mixers	75-88
Concrete Pumps	81-85
Back Hoe	73-95
Pile Driving (peaks)	95-107
Tractor	77-98
Scraper/Grader	80-93
Paver	85-88

[a] Machinery equipped with noise control devices or other noise-reducing design features does not generate the same level of emissions as that shown in this table.

Source: EPA, Noise from Construction Equipment and Operations, Building Equipment and Home Appliances, PB 206717, 1971.

Hence, using these noise levels in the formula above,[20] and by assigning the highest potential noise level for muffled grading equipment during construction at 86 dBA L_{max} ("L_1") at a distance of 50 feet ("d_1"), the distance at which construction activities would reach a maximum of 75 dBA ("L_2") under the City's CEQA Guide's significance threshold for construction activities is approximately 178 feet ("d_2").[21] Table 3 below shows various predicted distances at which the noise impacts will be below 75 dBA L_{max} according to Equation 1 for each different construction phase with different equipment usage.

Table 3:
Predicted Distance at Which Noise Impact will be Below the Level of Significance

Construction Phase	The Distance at Which Maximum Noise Level (L_{max}) will be below 75 dBA	Number of Receptors within this Distance
Demolition (Backhoe is 85 dBA L_{max} at 50 feet)	158 feet	27 residential buildings
Trenching (Backhoe is 85 dBA L_{max} at 50 feet)	158 feet	27 residential buildings
Grading (Roller/Loader is 85 dBA L_{max} at 50 feet)	158 feet	27 residential buildings
Paving (Paver is 87 dBA L_{max} at 50 feet)	199 feet	34 residential buildings
Structure Installation (Crane is 86 dBA L_{max} at 50 feet	178 feet	30 residential buildings
Note: According to § 112.05 of the LAMC, construction activities may not exceed 75 dBA at a distance of 50 feet between the hours of 7:00 a.m. and 10:00 p.m. in any residential zone of the City or within 500 feet thereof.		

[20] While the City's CEQA Guide shows noise levels (Table 2) even greater than those cited by the EPA (Table 1), the City's referenced noise levels do not account for equipment possible utilizing noise-muffling devices. Noise calculations herein utilize the lower noise levels in Table 1, which is more preferential for the Project applicant. Hence, any noise impact exceeding the City CEQA Guide thresholds or other applicable standards utilizing the lower noise levels (Table 1) would also exceed thresholds/standards under the stricter noise levels under the L.A. CEQA Threshold Guide (Table 2).

[21] Given noise attenuation due to distance is reduced by about 6 dB for each doubling of distance from a point source, one can calculate a dB level at different distances when there is a known dB level for a known distance by the following equation: $dB_2 = dB_1 - 10 \times A \times LOG(d_2/d_1)$ where:
LOG = logarithm, base 10,
A = dB drop-off rate coefficient (in this Project's case, a = 2.0 for a 6 dB drop off rate (point source, no atmospheric absorption)).
dB_1 = dB level at know distance from source, d_1
dB_2 = dB level at another distance from source, d_2
d_1 = known distance from source for known decibel level dB_1
d_2 = second distance from source for which known decibel level estimate (dB_2) is desired
In this case, at a location 178' (d_2) from the Project site work, where dB_1 = 86 dB(A) at 50' (d_1) from the noise source, $dB_2 = dB_1 - 10 \times A \times LOG(d_2/d_1) = 86 - 10 \times 2.0 \times LOG (178'/50') = 75$ dB(A).

The distance at which noise impacts would be below the threshold of significance for a residential zone for the different phases of construction ranges from 158 to 198 feet. As Table 3 indicates, there may be a significant impact to neighboring sensitive receptors during all phases of construction, to varying degrees. For example, the loudest phases of construction (excavation/grading and finishing) will potentially generate noise levels *upwards of 89 dBA at the nearest homes located just 35 feet from the proposed Project site* boundaries,[22] which would greatly *exceed the City's existing noise regulation by 14 dBA at the nearest homes*.[23] During the most noise intensive phases of construction, *34 sensitive receptors are within 158 feet* of site activities and, therefore, potentially *subject to a noise level in excess of 75 dBA*. During the least noise intensive phases, *27 sensitive receptors would be potentially subjected to a noise level in excess of 75 dBA*.

Some of these sensitive receptors are multi-family dwellings within those distances. Some of these structures are shielded somewhat by other residences between them and Project activities and will not be exposed to noise levels as high is predicted. Nonetheless, excessive noise level impacts to this many residences shows how significant this Project's noise impacts may be.

Such noise levels during the loudest phases of construction reaching as high as 89 dBA at less than 35 feet at the nearest residential property lines would exceed the City's presumed 50-dBA daytime ambient noise level by 49 dBA.[24] That noise level would be *44 dBA greater than the City's 5 dBA threshold of significance* at the nearest residential property lines.

These loudest construction phases will last more than ten days.[25] They will produce noise levels that also exceed the City's 5-dBA threshold of significance for exceedance of existing ambient exterior noise levels at a noise sensitive use (L.A. CEQA Thresholds Guide, p. I.1:3). Excavation activities from just one heavy equipment type like trucks and backhoes produce up to 95 dBA at 50 feet. At 69 feet, such equipment noise is attenuated by distance to about 92 dBA. That noise level of 92 dBA or louder when trenching occurs on the Project's site would *exceed the presumed daytime ambient noise level of 50 dBA by about 42 dBA*. Excavation activities closer than 69 feet would produce even louder noise, especially if more than a single piece of heavy equipment is operated simultaneously. That noise level would exceed the City's presumed daytime threshold of significance of 5 dBA and, therefore, considered significant.

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[22] Calculation based upon construction noise level of 86 dBA at 50 feet, but increased to 89 dBA as distance possibly shrinks to 35 feet from southern property line along Thornton Place for closest excavation and grading activities.

[23] Calculation: (89 dBA at 35 feet from excavation) – (75 dBA limit) = (14 dBA exceedance over standards).

[24] Exceedance calculation: (89 dBA [at 35 feet] construction noise during excavation of connecting path for possible utility installations) – (50 dBA presumed daytime ambient level because of inadequate noise study) = (49 dBA exceedance above presumed daytime ambient level). That increase would be 44 dB greater than the City's 5 dBA threshold of significance (LAMC § 111.02).

[25] *See* CE Submittal Request, PDF pp. 307 (Attachment 3, *Construction Information – Sunset Avenue Bridge Housing; CEQA Project Information Request).* Demolition: 3 days; Grading: 14 days; Trenching for Utilities: 15 days; Construction 4 months; etc.

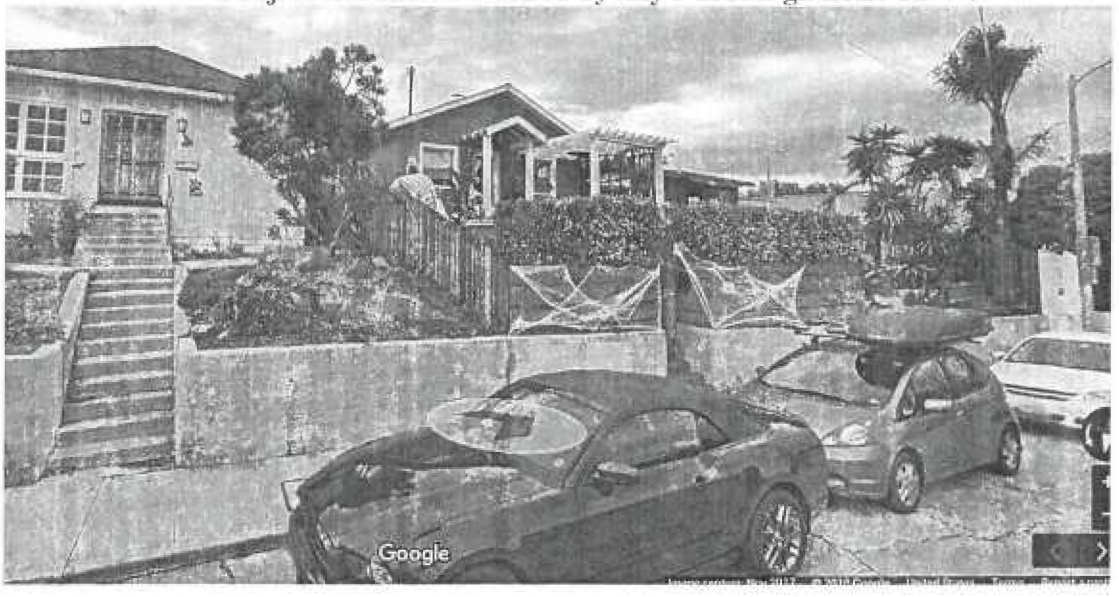
The close proximity of these residential homes in some cases constitutes an unusual circumstance that suggests a categorical exemption is inappropriate for this Project.[26]

C. PROPOSED TEMPORARY 8-FOOT HIGH NOISE BARRIER WILL NOT SIGNIFICANTLY REDUCE CONSTRUCTION NOISE IMPACTS FOR NEIGHBORING HOMES

The Project proposes to install two temporary 8-foot tall noise barriers to purportedly reduce construction noise at the north and south property lines along Sunset Avenue and Thornton Place. However the Project's noise study provides no noise attenuation specifications for these barriers. These 8-foot barriers, regardless of their materials, would be much too short to provide any noise reduction for some homes both north and south of the Project site. To be somewhat effective, a noise barrier must at least block the line-of-sight between the source of the noise and the receiver of that noise. That lack of noise reduction in this case is because those residences have rooms on their second floors or their equivalent height rooms.

The three homes north of the Project site at 113, 115 and 117 Sunset Avenue are one-story homes, but they are elevated up about 19 steps from the sidewalk on Sunset Avenue. Thus they are at a height that is equivalent to the second story compared to the ground elevation of the Project site, such that a 8-foot high noise barrier would not block direct line of sight to their exterior walls. Similarly, the adjacent 3-unit apartment building at 523 Main Street at the corner of Sunset Avenue is also elevated as if at a second-floor height compared to the Project site.

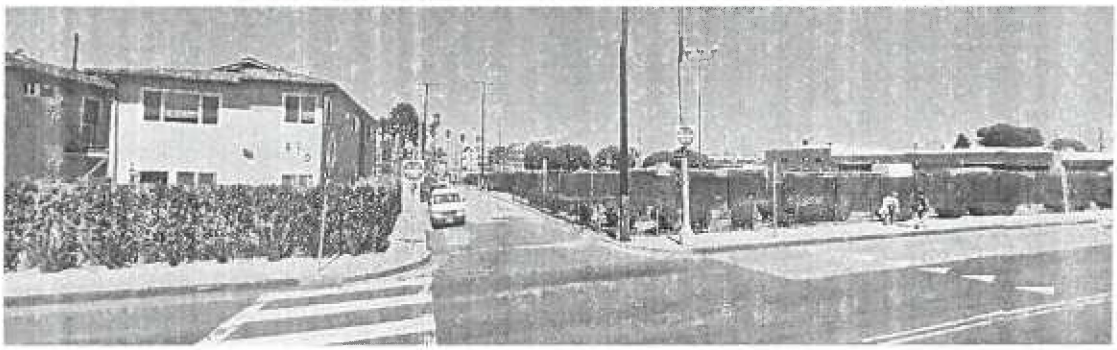
Figure A:
Homes at 113, 115 and 117 Sunset Avenue elevated above Project site and unblocked by any 8-foot high noise barrier



[26] See *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086; see also *Committee to Save the Hollywoodland Specific Plan v. City of Los Angeles* (2008) 161 Cal.App.4th 1168, 1187 (approval set aside where City failed to consider proffered evidence regarding historical wall).

Immediately to the north and across the street from the Project site's proposed 8-foot tall noise barrier is a 2-story apartment building at 510 Pacific Avenue at the corner of Sunset Avenue:

Figure B:
2-STORY APARTMENTS AT 510 PACIFIC AVENUE



At 702 Pacific Avenue adjacent to the southwest corner of the Project site is a four-story residence with its 4th floor deck overlooking where construction is proposed:

Figure C:
4-Story Residence at 702 Pacific Avenue

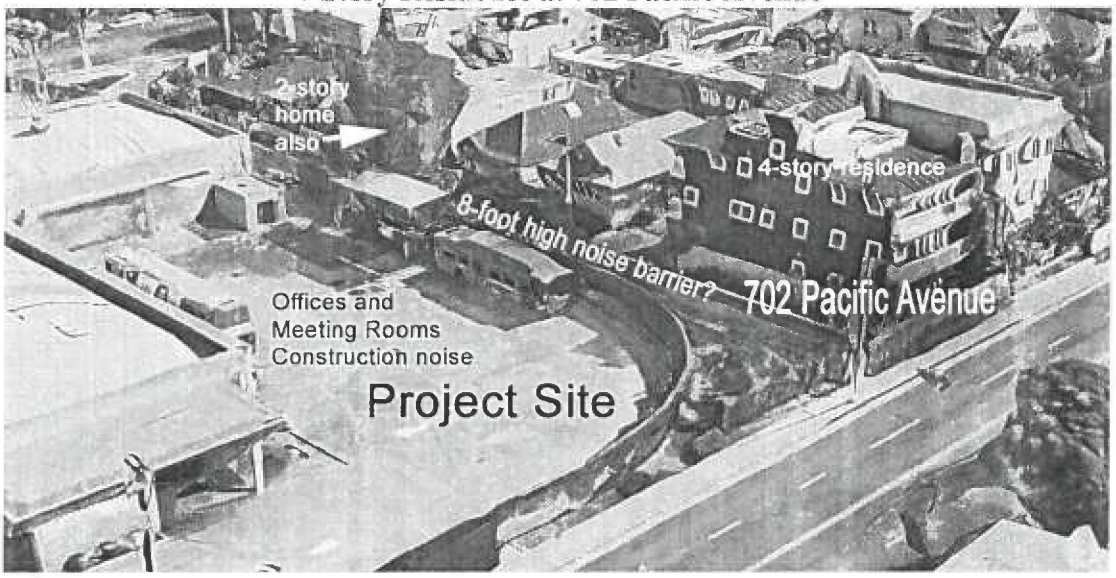


Figure D:
4th Floor Residential Deck at 702 Pacific Avenue
View toward Project Site to the North

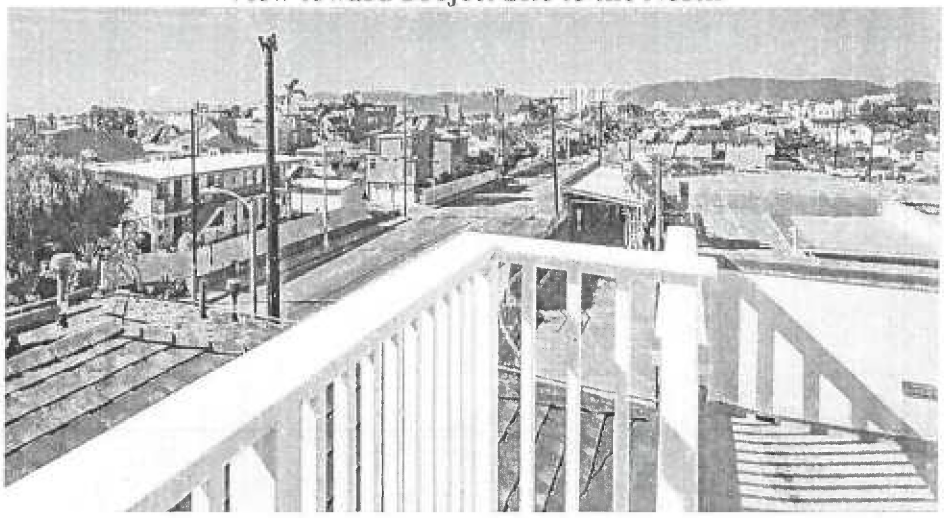
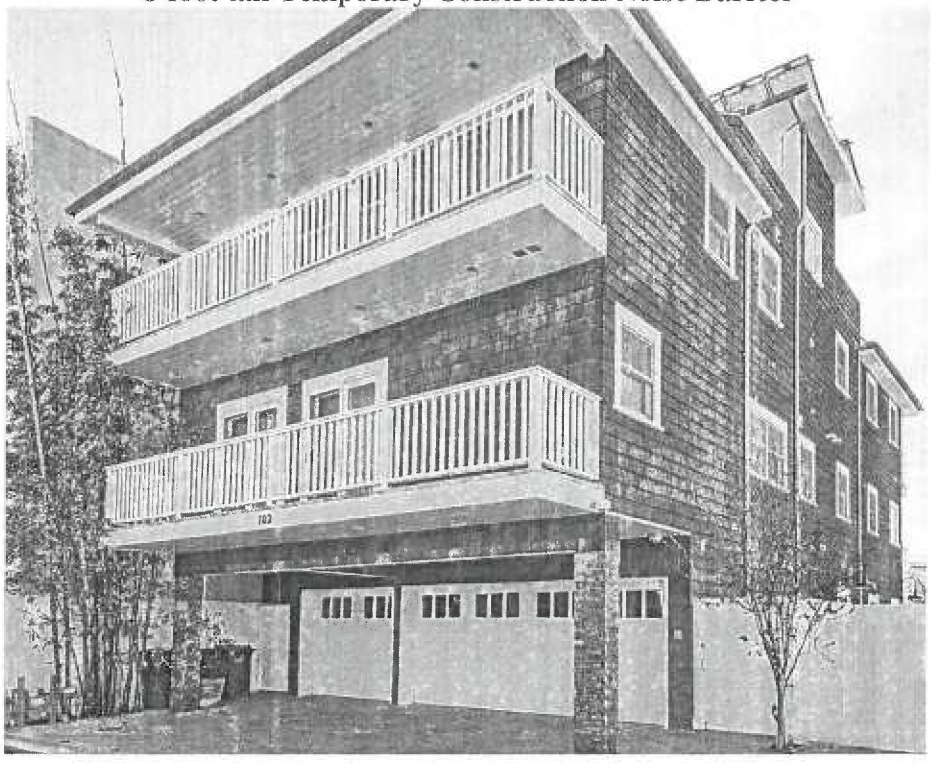


Figure E:
4-Story Residence Adjacent to Project Site's Proposed
8-foot tall Temporary Construction Noise Barrier

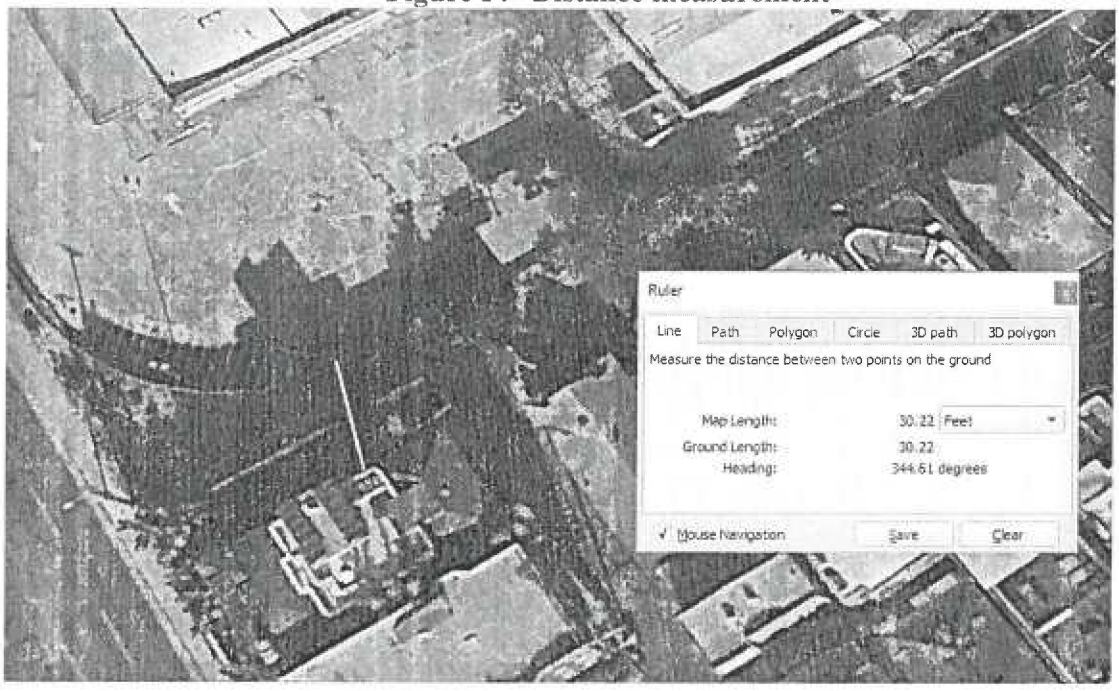


This photo above shows the east and north walls of 4-story residence, where the north wall (on right above) would face Project construction and operational noise and not be effectively blocked by an 8-foot tall temporary construction noise barrier.

If the receiver is above and at an upward angle from the construction equipment like a neighboring two-story or higher building, the barrier will be ineffective.[27] Noise barriers are only effective if they can interrupt the line-of-sight between the source of the noise and sensitive receptors.[28] Some of the proposed noise sources are heavy equipment like heavy trucks, backhoes, cranes, bulldozers and forklifts where the noise source can be from exhaust stacks as high as 11 feet above the ground. Therefore, it would not be possible to achieve meaningful reductions in noise for receptors on the first-story of nearby homes using the proposed eight-foot sound curtain, and no benefit whatsoever to receptors at second-story and/or higher stories.

This Project's noise study which claims to have included "the effect of a 8-foot tall barrier" would therefore be mistaken and without substantial evidence.[29] The noise study inappropriately relies upon such barriers for its determination that the Project is "not anticipated to have a significant effect associated with construction noise..." The home at 702 Pacific Avenue is only about 30 feet from the Project site's driveways:

Figure F: Distance measurement



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[27] *See* Noise Solution (6/4/14) Applications and Limitations of Acoustical Walls, https://www.noisesolutions.com/applications-and-limitations-of-acoustical-walls/.

[28] *See* Wilson Ihrig & Associates (11/12/14) Preliminary Noise Assessment Study for 2700 El Camino Real Condominium Project in San Mateo, CA, p. 12, https://www.cityofsanmateo.org/DocumentCenter/View/49793/Wilson-Ihrig-and-Associates-Acoustical-and-Vibration-Consultants?bidId.

[29] See Parsons *Proposed CD-11 Bridge Housing 100 E. Sunset Ave. (Venice) Noise Resources Screening Technical Memorandum*, page 12, Table 2, "Estimated Construction Noise Levels at Noise-Sensitive Land Uses."

At a distance of 30 feet, construction noise would be about 89 dBA L_{max} and greatly in excess of the City's maximum noise limit of 75 dBA Lmax.

The proposed outdoor seating area adjacent to the meeting rooms is about 70 feet from this residence at 702 Pacific Avenue where Project occupants will gather and talk at any time or make noise. Another outdoor seating area is only 50 feet to the north of 702 Pacific Avenue's windows or outdoor upper floor decks.

Sound curtains of 20 feet in height at minimum have been required of other local construction projects.[30]

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D. MECHANICAL EQUIPMENT NOISE MAY BE SIGNIFICANT IN NEIGHBORHOOD

The Project application does not specify any details about what ventilation, HVAC units, refrigeration, or other noise-producing equipment planned for the Project. Nor do the architectural plans show where this equipment will be located, nor has the applicant specified how loud the outdoor mechanical equipment will be. The applicant has not proposed any specific shielding or noise-muffling devices to be installed on this equipment to reduce its noise so that the City or public can assess the resultant equipment noise levels at neighboring residences. Therefore, it cannot be claimed that operational noise levels emitted from this equipment will not be significant.

That information is critical in order to evaluate if this Project is consistent with the City's General Plan policies for compatibility with the surrounding neighborhood.[31] Some homes nearby are very close to where this mechanical equipment may be located. These homes may be adversely impacted by non-stop mechanical noise from the Project's mechanical equipment

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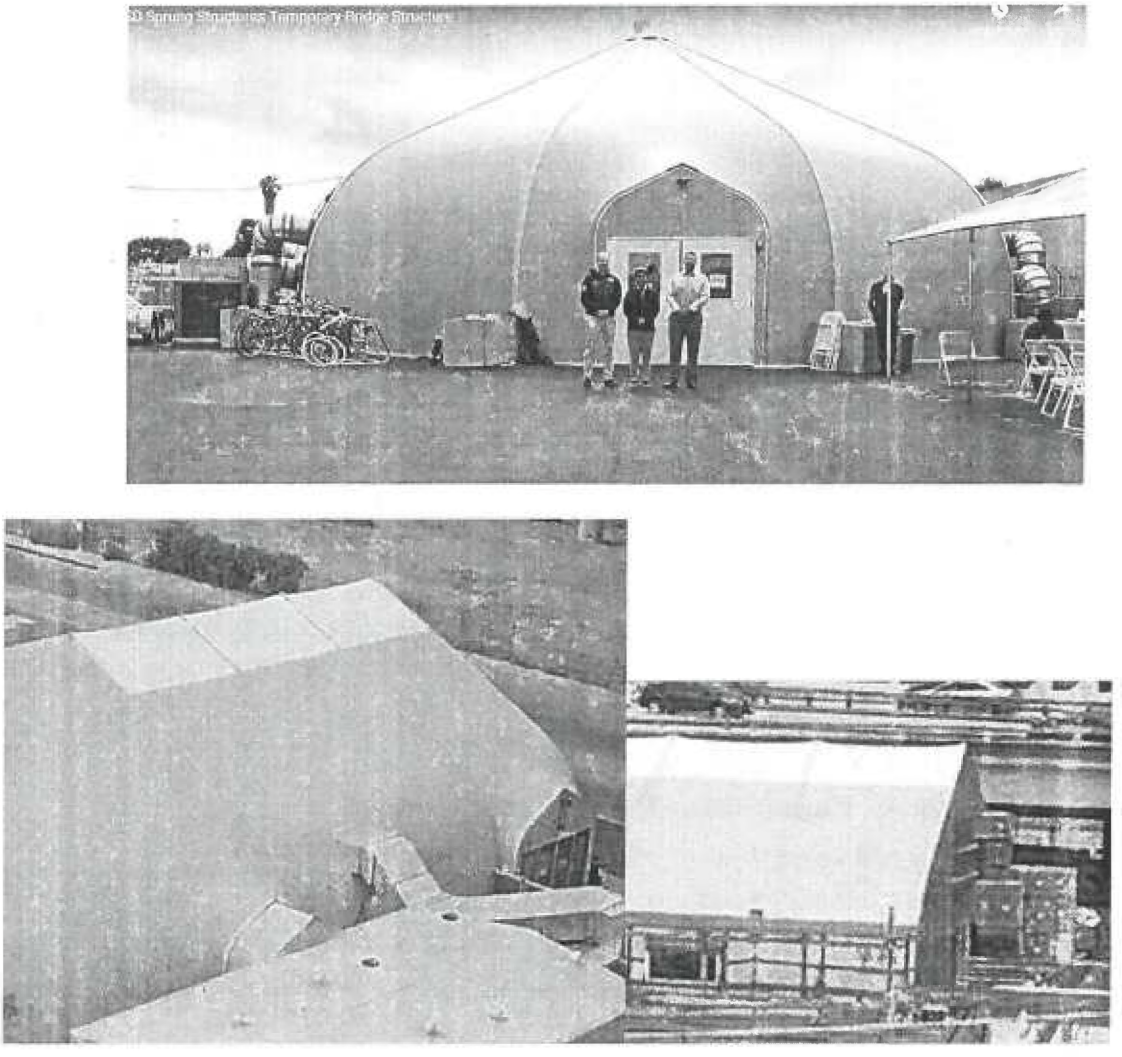
[30] *See e.g.*, 668 S. Alameda Street (DCP Case No. ENV-2016-3576-EIR) DEIR Noise Section, p. 4.9:36 (mitigation measure NOISE-1 providing "[t]he Project shall provide a temporary 20-foot tall construction noise barrier ..."), https://planning.lacity.org/eir/668SoAlamedaStreet/deir/4.9%20Noise.pdf; 4020 W. Washington Blvd (DCP Case No. ENV- 2007-5046-EIR) DEIR Noise Section, p. IV.E:39 (mitigation measure E-1 providing "[e]ffective temporary noise barriers shall be used to block the line-of-sight between the construction equipment and the noise-sensitive receptors during project construction ... [including] a temporary 20-foot tall noise barrier along the southern and western boundaries of the site to reduce construction noise at single-family residential uses . . . "), https://planning.lacity.org/eir/WashingtonSq/Deir/issues/IV.E._Noise.pdf.

[31] For example, the Wilshire Community Plan ("WCP"), contains policies seeking project compatibility by mitigating noise impacts to adjacent homes such as "[a]ll exhaust fans and exterior or rooftop mechanical equipment should be enclosed, and sound-absorbing materials and shielding provisions should be incorporated in the design of the project. Such equipment should be setback as far as possible from adjacent residentially-zoned property lines." WCP, p. V:9, https://planning.lacity.org/complan/pdf/wilcptxt.pdf; *see also id.* at p. III:12 (Objective 3-2 and Policies 3-2.1), pp. III:16-17 (Objective 6-1 and Policies 6:1.1 and 1.2 urging buffers, measurements of typical project usage, and other mitigation measures to protect schools, which like residential uses, are sensitive uses requiring protection from noise impacts), p. V:9 (Architectural Guideline 3(a) through (d) providing measures to shield adjacent residential uses from adverse light, aesthetic, and noise impacts).

during some seasons of the year. To heat and cool the large fabric tent structure, large HVAC units will be needed as shown in a similar temporary Bridge Structure installed in San Diego for a homeless shelter made by the same Sprung Structures company supplying the tent for this *100 E. Sunset Avenue Bridge Housing Project (Venice)*:

Figure G:
Examples of HVAC Equipment Located Outside Tent Structure



Large HVAC units without visible noise attenuation barriers around them are visible along with their ducting on the left and right sides of the fabric structure in the upper photograph.

For example, some homes are within about 35 feet of the Project site. Mechanical noise, even if somewhat shielded, may result in a significant permanent increase in the ambient noise levels that currently exist without this Project. The distance between several neighboring homes and this Project's equipment may be not much more than 70 feet as depicted on **Figure I** below. ("Noise Impacts) – Project site plan overlaid on an aerial photo of neighborhood).

If the City has not obtained any nighttime ambient noise level measurements at this time for this Project, it is unlikely City officials will, upon receiving complaints from neighbors, later do what is now required by obtaining such measurements and potentially shutting off noisy HVAC equipment once the Project's tents are occupied. A proper noise study in a MND or EIR is needed now to assess such HVAC noise impacts on nearby homes.

Unlike conventional solid permanent structures, this Project's temporary fabric tents do not have the noise blocking capacity to shield neighboring homes from operational noise. It is doubtful that typical HVAC equipment can be muffled sufficiently so that at nighttime at the close distances to neighbors, its noise levels are not significantly louder than the presumed nighttime 40 dBA L_{eq} ambient noise levels.

It is not sufficient under CEQA for the City to rely solely upon a standard condition that such mechanical equipment shall maintain a 55 dBA L_{dn}[32] at residential property lines, without any evidence showing how the Project will actually satisfy this condition. Neither compliance with LAMC § 116.01 (the general prohibition of loud and unnecessary noise), nor LAMC § 112.02 (limits HVAC/mechanical equipment to no more than a 5 dBA over the ambient noise level) is sufficient.[33, 34] Such conditions ignore that the City's threshold of significance is a 5 dBA increase over ambient noise levels for *all of this Project's operations, not just its mechanical equipment*. (Those other noise sources include a large number of people talking at times, dogs barking, vehicles parking or departing, children playing outdoors, audible music or similar human-made noise.) No information has yet been presented by the applicant that analyzes whether this Project's individual noise-emitting components meet the City's maximum 5-dBA threshold, much less that the summation of activities falls below said threshold or even possible.

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[32] Day/Night Noise Level ("Ldn"): The average, 24-hour A-weighted noise level, obtained after adding 10 dB to levels measured at night (10:00 p.m. to 7:00 a.m.).

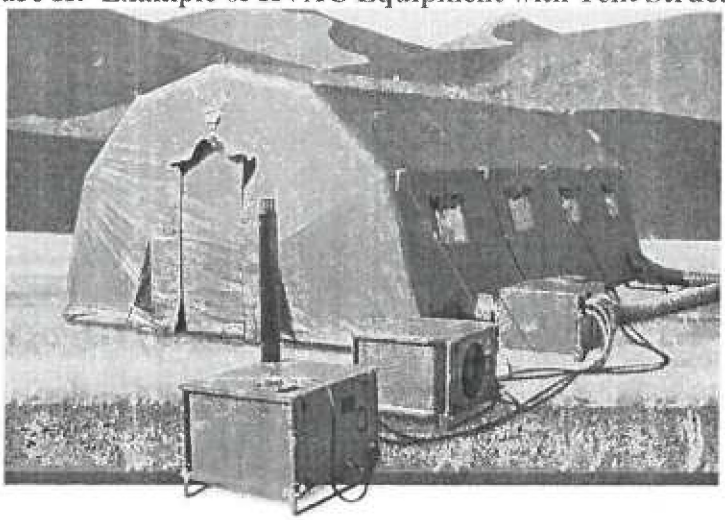
[33] LAMC § 112.02 limits the increase in noise levels from air conditioning, refrigeration, heating, pumping and filtering equipment. Such equipment may not be operated in such manner as to create any noise which would cause the noise level on the premises of any other occupied property, or, if a condominium, apartment house, duplex, or attached business, within any adjoining unit, to exceed the ambient noise level by more than five (5) decibels.

[34] *See Citizens for Responsible and Open Government v. City of Grand Terrace* (2003) 160 Cal.App.4th 1323, 1238-1239 (noting "conformity with a general plan does not insulate a project from EIR review where it can be fairly argued that the project will generate significant environmental effects[,]" the court found there was substantial evidence of a fair argument of significant noise impacts from 20 or more noisy air conditioners for a 120-unit, three-story senior housing facility project surrounded by single-family homes).

HVAC equipment could be a primary noise source associated with this Project. These noise sources could take the form of fans, pumps, air compressors, refrigerators or chillers, or cooling towers. Noise levels from HVAC equipment vary substantially depending on unit efficiency, size, and location, but generally range from 45 to 70 dB L_{eq} at a distance of 50 feet.[35]

For example, some HVAC equipment for tent structures produces noise levels of 58 dBA L_{eq} at a distance of 50 feet. The Weiss HVAC unit mounted outside a tent generates a noise level of approximately up to 65 dBA at 7 meters (23 feet).[36] This is equivalent to a noise level of 58 dBA L_{eq} at 50 feet.

Figure H: Example of HVAC Equipment with Tent Structure



With a presumed ambient nighttime noise level of 40 dBA L_{eq}, any Project use that results in a neighboring home being exposed permanently to an additional 5 dBA increase or more at nighttime (i.e., 45-plus dBA L_{eq}) would be considered a significant noise impact. With portable HVAC equipment that might cumulatively emit 70 dBA of noise at a distance of 50 feet, the Project's mechanical equipment (not including its other noise sources) may create significant noise impacts to homes within 200 feet from the equipment *even if shielding devices reduce equipment noise by 10 dBA*.

While the Project's mechanical equipment may be only 70 to 150 feet from the nearest homes (as illustrated in **Figure I** below using red arrows), there are more than two dozen existing residential structures within 200 feet of the Project Site (as shown in **Figure I** below) with direct line-of-sight to this proposed Project site that could be exposed to excessive mechanical noise

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[35] U.S. EPA (12/31/71) Noise from Construction Equipment and Operations Building Equipment, and Home Appliance, https://nepis.epa.gov/Exe/ZyPDF.cgi/9101NN3I.PDF?Dockey=9101NN3I.PDF; *see also* Placer County (May 2015) Village at Squaw Valley Specific Plan DEIR, p. 11:24, https://cityofdavis.org/home/showdocument?id=4539; San Francisco Planning Department (2010) 950 Mason Street Fairmont Hotel DEIR, p. IV.F:26, http://sf-planning.org/sites/default/files/FileCenter/Documents/8123-IV.F.%20Noise.pdf.

[36] Weiss HVAC: http://docplayer.net/40670627-Weiss-mobile-air-conditioning-systems-tent-air-conditioning-units-series-zkb-weiss-umwelttechnik-gmbh-simulationsanlagen-messtechnik.html

impacts. Table 4 below shows the anticipated noise impact at varying distances with and without anticipated noise attenuation, which shows that noise impacts from the *HVAC mechanical equipment alone* could exceed the 40-dBA presumed ambient nighttime noise level by 8 to 20 dB L_{eq}—well above the 5-dBA threshold under the City's CEQA Guide (p. I.2:3).

Table 4:
Mechanical Noise Impact With and Without 10 dBA Noise Attenuation

Distances	Noise Level (L_{eq})	Noise Level With 10 dB Attenuation from added shielding (L_{eq})
50 feet	70.0 dB	60.0 dB
75 feet	66.5 dB	56.5 dB
100 feet	64.0 dB	54.0 dB
150 feet	60.5 dB	50.5 dB
200 feet	58.0 dB	48.0 dB

If even quieter HVAC equipment is installed that emits only 50 dBA L_{eq} at 50 feet, then at 70 feet distant where neighboring homes exist along Sunset Avenue, that noise level would be 47 dBA L_{eq}, a noise level that exceeds the nighttime ambient noise level of 40 dBA L_{eq} by 7 dBA, and would therefore be considered to produce a significant noise impact.

To summarize, here the Project's noise analysis completely omits any facts or analysis of noise impacts from the Project's operations including induced traffic, groups of people talking or shouting, parking activities, mechanical equipment, or other noise or music from shelter patrons. The City routinely requires developers to analyze these factors and support their significance determinations with substantial evidence.[37] Here, there are no facts or analysis. As discussed above, there is substantial evidence that the Bridge Project will cause significant impacts that warrant mitigation tethered to a good-faith analysis under either an MND or EIR.

E. OUTDOOR ACTIVITY NOISE IMPACTS MAY BE SIGNIFICANT

As depicted in Project drawings and summarized on **Figure I** below, this Project includes several raised outdoor decks, outdoor seating areas, an outdoor lounge/gathering area, and a large covered outdoor lounging/seating/dining area. Noise from the use of these outdoor activity areas could significantly impact neighboring residences. The Project's largest outdoor lounging/seating/dining area would be about 100 feet from apartments on the north side of Sunset Avenue at the corner of Pacific Avenue or those to the west along the other side of Pacific Avenue. **(See Fig. I)** Outdoor seating is proposed about 50 feet from the residence at 702 Pacific Avenue.

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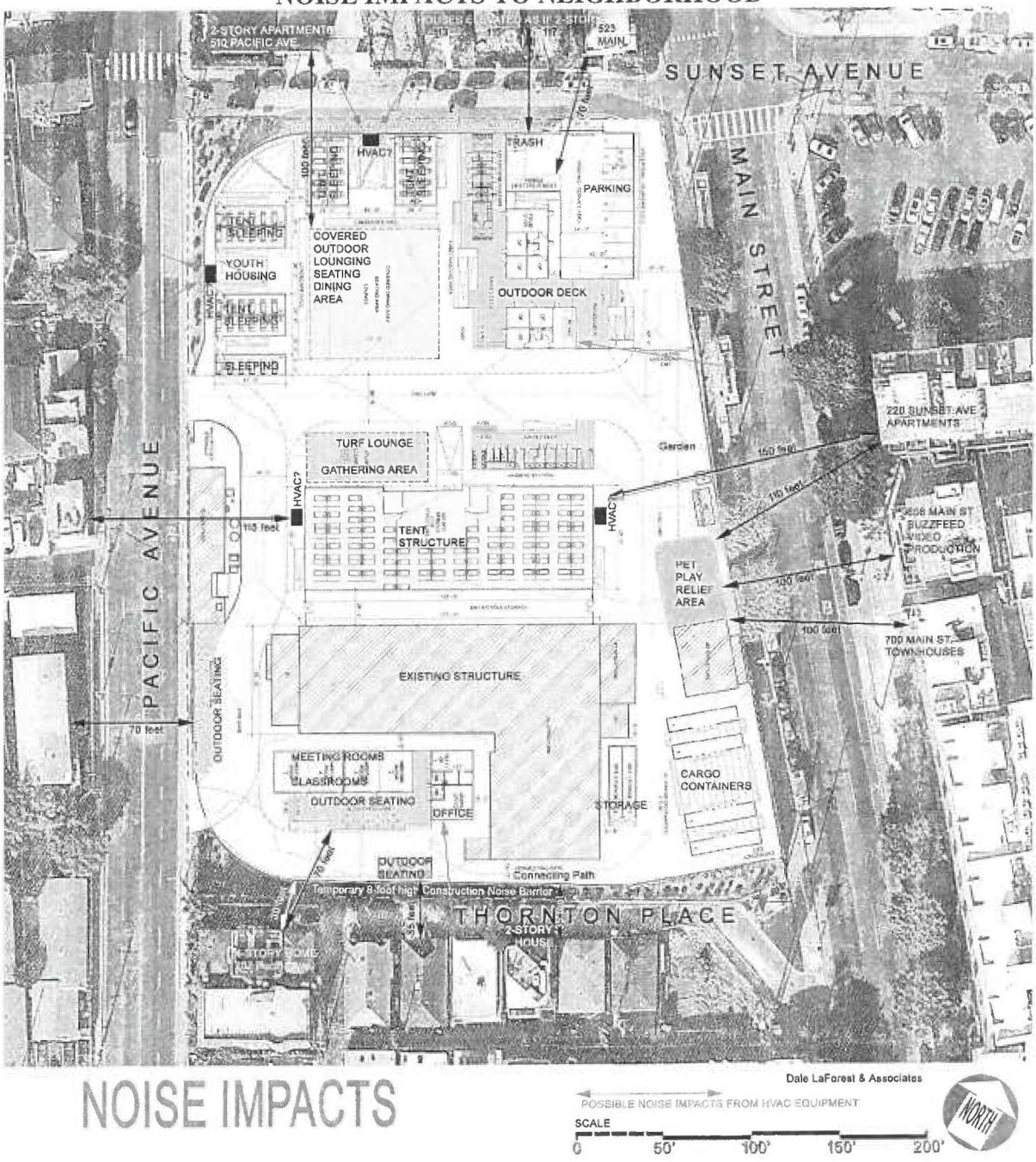
[37] *See e.g.*, 1240 S. Figueroa St. (DCP Case No. ENV-2016-2594-EIR) DEIR, pp. 4.8:30-44 (15-page analysis of individual and cumulative impacts from traffic, parking structure, pool/viewing decks, rooftop uses, fixed mechanical equipment, loading docks, and refuse collection), https://planning.lacity.org/eir/FigPico/files/4.8%20Noise.pdf; 1020 S. Figueroa St. (DCP Case No. ENV-2015-1159-EIR) DEIR, pp. 4.G:25-33 (nine-page analysis including above mention factors as well as open space and pedestrian activities such as noise from talking), http://planning.lacity.org/eir/1020SoFigueroa/DEIR/4_G_Noise.pdf.

Figure I:
NOISE IMPACTS TO NEIGHBORHOOD



As further discussed below, the noise level from several people speaking outdoors at average loud voice levels can exceed 73 dBA at a distance of 3 feet.[38] As compared to typical residential uses where residents have a vested interest to monitor their outdoor noise volumes (e.g., talking on front porches heard by adjacent homes), Project guests have little reason to keep their voices down and respect neighbors at night because their stays will be short-term and they will not know these neighbors. At as close as about 50 feet to the closest neighboring house's windows, such vocal noise levels from such voices would reduce to about 48.5 dBA L_{eq}.[39] At nighttime with a presumed nighttime ambient noise level of 40 dBA, the vocal noise impacts from exterior site usage, even without music, could be 8.5 dB above ambient levels[40]— thus greater than the 5-dB significance threshold in the L.A. CEQA Thresholds Guide.

This Project has placed no limits on nighttime noise from occupants' activities. The Project's noise study does not even discuss this issue of people at this shelter disturbing the neighbors. Unlike on the street homeless encampments, this Project will concentrate a large number of people in a small area, and thus will expose neighbors to greater noise levels than as more random or scattered camping occurs now.

The limits or the standards established in the L.A. CEQA Threshold Guide provide (p. I.2:3):

> "A project would normally have a significant impact on noise levels from project operations if the project causes the ambient noise level measured at the property line of affected uses to increase by 3 dBA in CNEL to or within the "normally unacceptable" or "clearly unacceptable" category, or any 5 dBA or greater noise increase …."

Accordingly, the Project's outdoor activity use could generate noise levels at neighboring homes that would exceed the City's numeric limits and be significant.

This Project would have a covered outdoor dining/lounging/seating area without fixed seats of 74 feet x 74 feet which is 5,476 square feet in area.[41] That area is large enough to accommodate all of the Project's occupants at once, including staff members. This Project with 154 beds proposes to accommodate at least 154 people who could be all using this outdoor covered area at one time, for example, during dinner. Thus, there could be at least 154 people conversing outdoors here, not including staff members.

If the occupancy load for this covered area without fixed seating is calculated at 7 SF per person per the California Building Code, then 116 people could be standing while 34 people are seated,

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[38] *See* 333 S. La Cienega Blvd. (DCP Case No. ENV-2015-897-EIR) DEIR Appendix B-Noise Technical Report, p. 35, http://planning.lacity.org/eir/333LaCienaga/files/Appendix%20B%20-%20Noise%20Technical%20Report_102015.pdf.

[39] Noise level attenuation due to distance is calculated as reduced by about 6 dB for each doubling of distance from a point source.

[40] Calculated: (48.5 dBA L_{eq}) – (40 dBA presumed nighttime ambient level) = (8.5 dBA L_{eq}).

[41] *See* Project's **Figure 4, Project Site Plan**. *Traffic Technical Memorandum*, PDF p. 302. Note, inconsistently, other Project drawings depict the covered portion of this outdoor area as being smaller at 3,420 sq. ft. in area. (See PDF, p. 303.)

for a total of 150 people at once.[42] This occupancy is possible because the outdoor area could be filled with more than this number.

So of the potential 154 people outdoors at this covered area, perhaps half of them (77 people) might be conversing with one another at any a time. If just 77 of these people are conversing at one time at this covered area (assuming voices are not abnormally raised), with as many as 38 talking at one time if speaking in pairs, then their combined vocal levels could create a significant noise impact to neighboring residents at nighttime.[43] The impact would be about another 3 dBA louder if all of them were talking in pairs.

The City's General Plan Noise Element documents that the loudness of normal speech of one person is greater than 60 dBA at a distance of 3 feet and up to 80 dBA at 3 feet when shouting.[44] A noise study approved by City with an exterior deck used for an outdoor gathering area was based on a person's noise level in between these two values, using *73 dBA at 3 feet* to represent outdoor deck use that primarily consisted of conversational speech amongst residents and guests (*emphasis added*):

> "To assess noise levels associated with conversation speech at these areas, speech levels for humans ranging from 'casual' to 'shout' obtained from USEPA was used. Based on information provided by the USEPA, and in an effort to provide a conservative analysis, a reference noise level of *73 dBA L_{eq} at approximately three feet, which represents an average 'loud' voice level*, was used to evaluate potential noise impacts from the Project's ground-level plaza and amenity level area. It was assumed that at any given moment, *50 percent of the people in those two areas would be talking at a 'loud' voice level simultaneously*."[45]

This voice level assumption is appropriate at the 100 E. Sunset Avenue Bridge Housing Project's 47-foot x 47-foot covered area as well because a similar number of people using the deck was considered.[46] In larger crowds, people tend to raise their typical speech levels so that they can be heard over the voices of others nearby. This phenomenon is known as the "Lombard effect" involving the involuntary tendency of speakers to increase their vocal effort when speaking in noisier environments to enhance the audibility of their voice. Studies confirm that broadband noise containing speech-similar frequencies "significantly increased" the intensity, duration, and

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[42] *See* California Building Code § 310.3 (classifying transient guests as occupancy group "R-1"); Table D-1 "assembly area without fixed seats"

[43] The assumption that up to half the crowd in a gathering on an exterior deck could be talking at one time is reasonable and accepted by the City for other projects. *See e.g.,* 333 S. La Cienega Blvd. (DCP Case No. ENV-2015-897-EIR) DEIR Appendix B-Noise Technical Report, p. 35 ("It was assumed that at any given moment, 50 percent of the people in those two areas would be talking at a "loud" voice level simultaneously."), http://planning.lacity.org/eir/333LaCienaga/files/Appendix%20B%20-%20Noise%20Technical%20Report_102015.pdf.

[44] *See* City (2/3/99) General Plan Noise Element, p. H:1 (Exhibit H: Common Noise Levels).

[45] *See* 333 S. La Cienega Blvd. (DCP Case No. ENV-2015-897-EIR) DEIR Appendix B-Noise Technical Report, p. 35, http://planning.lacity.org/eir/333LaCienaga/files/Appendix%20B%20-%20Noise%20Technical%20Report_102015.pdf.

[46] The 333 S. La Cienega Blvd. project EIR assumed 50 to 100 people using the deck at one time with half (25 to 50) speaking at once. For the 100 E. Sunset Avenue Bridge Housing Project (Venice), similar assumptions were made resulting in 37 people speaking simultaneously.

frequency of adult speakers and not just a general response an increase in ambient noise.[47] Because people tend to raise their voices to be heard in crowds, the noise level of voices as heard at neighboring homes from the Project's second-floor deck usage may be louder than if only a few people were speaking.

If a person speaks in a crowd at an average loud voice level 73 dBA at 3 feet, then at a distance of 25 feet, the noise level would be reduced by distance to about 54.6 dBA.[48] Or at a distance of 100 feet, that noise level would be reduced to about 42.6 dBA. However, if 38 people are speaking simultaneously at the same volume, their combined voice levels would be about *58.5 dBA at a distance of 100 feet*.[49]

That is the distance from the closest portion of this covered dining/lounging/seating activity area to the nearest two-story residences to the west or north. As compared to the center of the Project's covered activity area (approximately *137 feet* from the nearest residences), the noise level from those 37 peoples' voices would be reduced by distance to about *55.8 dBA*.[50] Whether at 100 or 137 feet away, all of these noise levels would be greater than the 5-dBA limit above the presumed 40 dBA nighttime ambient noise level and, therefore, significant in of itself without consideration of additional noises sources (e.g., onsite parking traffic, mechanical equipment noise from HVAC units, dogs barking, etc.). Thus, use of this outside covered activity area might increase nighttime ambient noise levels at nearby residences by 14.8 to 18.5 dBA, significantly louder than the City's 5-dBA threshold of significance for allowable increases.[51] It might be louder yet if people are also speaking inside the fabric tents, at outer outdoor decks and outside at the "turf lounge/gathering area" of this Project. Furthermore, these noise impacts do not account for alcohol-charged people that tend to be louder than non-intoxicated patrons in crowds.[52]

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[47] The Journal of the Acoustical Society of America (May 2013) Evidence That The Lombard Effect Is Frequency-Specific In Humans, PDF pp. 1, 7, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3985863/pdf/JASMAN-000134-000640_1.pdf; *see also* Ninth Iberian Acoustics Congress (June 2016) Analysis of The Acoustic Behavior of People in A Restaurant, p. 7 (confirming "substantial influence" of effect in 80-seat restaurant where one-third to one-half of the patrons would simultaneously talk with the Lombard effect adding up to 12 dB increase in sound levels), http://www.sea-acustica.es/fileadmin/Oporto16/76.pdf; Acoustical Society of America (2017) Analyses of Crowd-Sourced Sound Levels of Restaurants and Bars in New York City, PDF pp. 12-13 (noting average dBA for a New York City bars and restaurants is 78 and 81 dBA, respectively, and that a random person walking into these areas is "more likely than not to encounter a Loud or Very Loud auditory environment," which "approach levels that are known to be dangerous to hearing health." As such, local agencies should encourage public and venue employees to employ digital sound level meters to collect and report to the public recorded noise levels), https://asa.scitation.org/doi/pdf/10.1121/2.0000674.

[48] Noise level attenuation due to distance is calculated as reduced by about 6 dB for each doubling of distance from a point source. In this case, at a location 25' (d_2) from one person's voice, where dB_1 =73 dB(A) at 3' (d_1) from the same person, $dB_2 = dB_1 - 10 \times A \times LOG(d_2/d_1) = 73 - 10 \times 2.0 \times LOG(25'/3') =$ *54.6 dB(A).*

[49] Calculation based upon the logarithmic addition of the cumulative voice levels of 37 people.

[50] Calculation is based on formula above, but substituting for d_2 a distance of 137 feet instead of 25 feet and substituting 89 dBA at 3 feet for 38 speaking simultaneously.

[51] Calculation is based upon a presumed ambient noise level of 40 dBA at night, and predicted voice levels of 55.8 dBA to 58.5 dBA at distances of 137 feet and 100 feet respectively (55.8 – 40 = 14.8; 58.5 – 40 = 18.5).

[52] M.J. Hayne, *et al.* (Nov. 2011) Prediction of Noise from Small to Medium Sized Crowds, pp. 1-3 (noting alcohol and age have an influence on the level of crowd noise, such as drunk individuals becoming more boisterous and talk over other persons, and groups of intoxicated women tend to be nosier than same-sized groups of males who have not consumed alcohol), https://www.acoustics.asn.au/conference_proceedings/AAS2011/papers/p133.pdf.

The nighttime ambient noise level is essential in determining noise impact significance.[53] However, the public has not been presented with acoustical facts supporting the Project's approval. *The applicant has not submitted any noise tests of existing ambient noise levels at nighttime* or for most of the daytime hours Such measurements are critical if the City is to protect nearby residential neighbors from adverse sleep-disturbing impacts from new Bridge Project's noise occurring at night. The City consultant's daytime noise level measurements are (a) irrelevant to establish nighttime baseline conditions, and (b) useless without supporting evidence to be credible as ambient noise level measurements whatsoever.[54]

Absent meaningful and credible noise measurements, the City's 40-dBA L_{eq} ambient nighttime noise level must be presumed.[55] As discussed above, voices from the covered activity area for dining and lounging could be approximately 14 to 18 dBA above ambient noise conditions at nearby homes—well above the 5-dBA threshold under the City's CEQA Threshold Guide. Any increase greater than 5 dBA above ambient noise levels existing without this Project is considered to be a significant noise impact.

F. DOG BARKING NOISE LEVELS MAY BE SIGNIFICANT

The Project proposes a fenced pet (i.e. dog) play or "relief" area enclosure along the Main Street eastern side of the site. The Project's noise study however does not describe how many dogs may be confined here, or how loud their combined occasional barking may be.

Most noise in dog kennels is produced by dogs. Sales *et al.* (1997) have reported that the bark of a single dog can reach 100 dB, and recorded sound levels can range between 85 and 122 dB in kennels. Barking by one dog may become a self-reinforcing behavior and may also stimulate other individuals to vocalize further. Additionally, dogs housed in kennels may bark as a territorial behavior or from excitement generated by people passing by the pens. Routine husbandry may also have some effect on barking. For example, dogs that anticipate activities such as the daily arrival of staff may begin to bark around the same time each day in an attempt to solicit food or attention from caretakers.

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[53] As indicated in LAMC § 111.03, the baseline ambient noise level is either the actual measured ambient noise level or the City's presumed ambient noise level, whichever is greater. Where the ambient noise level is established by an actual measurement, the measurement must be averaged over a period of at least 15 minutes. Where the actual measured ambient conditions are not known, the City's presumed daytime (7:00 a.m. to 10:00 p.m.) and nighttime (10:00 p.m. to 7:00 a.m.) ambient noise levels defined in LAMC § 111.03 should be used. In the case of the 100 E. Sunset Avenue Bridge Housing Project (Venice), the ambient noise levels are still not known as previously discussed.

[54] Even the applicant's claimed noise level measurements for just 15 minutes are not sufficient to establish a meaningful ambient noise level for the Project vicinity, day or night. The existing ambient noise level was not properly evaluated as there were no 24-hour measurements obtained at this Project's site. The applicant did not disclose if LAMC § 111.02 noise measurement criteria were followed. The applicant provided no description of the qualifications of who obtained those measurements, or other essential information needed in order to rely upon such measurements.

[55] *See* L.A. CEQA Threshold Guide, Exh. I.1-3 (showing residentially zoned property, has a presumed 50 dBA Leq [daytime] and 40 dBA Leq [nighttime] presumed ambient noise level); *see also* LAMC § 111.03 (codifying the presumed ambient noise levels).

For this homeless shelter Project, the City needs to evaluate the significance of periodic noise sources such as dog barking because of its intermittent nature and distinctive character which many people find disturbing. The City standards do not appear to have an adequate standard to address intermittent, distinctive noises like dog barking.

The California Model Noise Ordinance also includes a 5 dB penalty for noise of certain character, namely, noise that contains "a steady, audible tone such as a whine, screech, or hum, or is a repetitive noise such as hammering or riveting, or contains music or speech . . ." [CNMO at p. 21] Dog barking is both repetitive and in a very real sense speech (it communicates something from the dog to all listeners). Therefore, the applicable noise limit for these noises – as they occur, not averaged over the entire day – is 35 dBA (nighttime) and 45 dBA (daytime). Considering just the daytime, when the majority of barking will occur, reasonable estimates of dog barking of 50 to 58 dBA are well above the California Model Noise Ordinance exterior limit of 45 dBA for rural/suburban residences by some 5 to 13 dB. As such, this project likely will have a significant noise impact on the surrounding environment and on local residents as close as 100 feet away. Dog barking noise could also have a significant sleep-disturbance impact even on Project patrons at much closer distances in the adult tent structure nearby.

The Project Description does not limit the number of dogs onsite at any one time during daily operations. From the Project Description, with accommodations for 100 adult patrons, it is clear that dozens of dogs could be present at any given time in this dog enclosure. While one would not expect that they would all bark in unison, it is entirely conceivable that many could bark simultaneously. Many homeless people have dogs for companionship and protection. Because the Project's noise study does not present any sound level calculations regarding dogs barking, its conclusion that the Project's operational noise will be less than significant is completely unsupported.

The noise study fails to adequately analyze the noise of periodic, yet persistent, dog barking. Furthermore, the impacts of dog barking noise have not been adequately analyzed and mitigated.

Noise measurements of barking dogs were taken in 1989 for the Sacramento County General Plan Noise Element using the Sacramento County Animal Shelter located at 4290 Bradshaw Road. Average noise levels of 80.5 and 66.2 dBA were measured at distances of 30 and 100 feet from the kennel, respectively, with several dogs barking.

A Noise Analysis prepared in 2008 by J.C. Brennan and Associates for a dog kennel allowing up to 50 dogs in the southeast area of the County indicated that noise levels at a distance of 100 feet had a maximum noise level of 63 dBA L_{max} and an average of 43 dBA L_{eq}.[56] The lower sound levels were due to the fact that fewer dogs were allowed in the outdoor kennel areas at a time as compared to the Sacramento County Animal Shelter.

> To determine the potential noise levels associated with barking dogs, j.c. brennan & associates Inc. staff utilized noise level measurements conducted for the Red Barn

[56] See Environmental Noise Assessment, 2008, *Happy Tails Bed and Biscuit Kennel project*, https://planningdocuments.saccounty.net/DocOpen.aspx?PDCID=3179

Boarding Kennel in Loomis, California. The noise level data was in coordination with a Bollard & Brennan, Inc. project. The noise level measurements were conducted at a distance of 75 feet from the kennel. Continuous noise level measurement were conducted for a four day period with between 14 and 15 dogs at the kennel. During the continuous noise level measurements, a log was kept by the kennel owner which indicated when the dogs were let outside. During the four day period, the dogs were let outside on 17 different occasions. During the times the dogs were let out, maximum noise levels ranged between 60 dB and 65 dB L_{max} at the noise monitoring site (75-feet from the kennel). Hourly median noise levels were typically 45 dB L_{50}. The nearest residential property lines and their predicted noise levels from kennel operations are shown in Table 4.

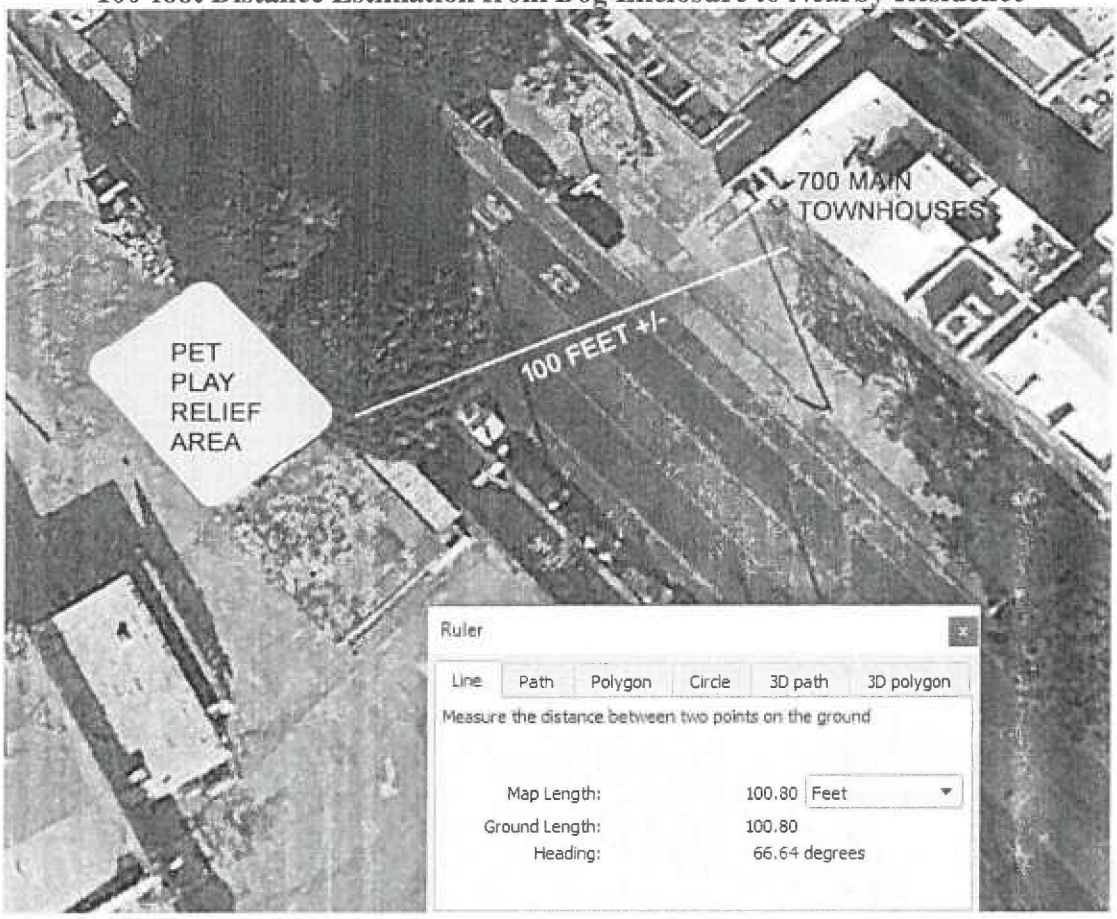
Table 4
Predicted Noise Levels at Nearest Residential Property Lines
Happy Tails Kennel – Sacramento County, California

Direction	Distance (feet)	Dog Location	Predicted Noise Levels (dB)	
			Lmax	L50
North	35	Covered Outdoor Kennel	**72**	**52**
South	100	Play Area	63	43
East	240	Play Area	55	35
West	130	Dog Pool	60	40

Source: j.c. brennan & associates, Inc. (2008)
Bold : Exceedance of Hourly Noise Level Standard

From this study in Sacramento County, it can be estimated how loud the 100 E. Sunset Avenue Bridge Housing Project dog enclosure may get at times with just 14 to 15 dogs: **between 60 dB and 65 dB L_{max} at the 75-feet from the pet enclosure.** With that data, it can be calculated that at townhouse residences at 700 Main Street as close as 100 feet away to the east across Main Street, that dog barking noise level would decrease to about **57 to 62 dBA L_{max}**. At distances of 200 feet from the dog enclosure, that barking noise level would decrease to about 51 to 56 dBA L_{max} and still create significant noise impacts to many neighbors.

Figure J:
100-foot Distance Estimation from Dog Enclosure to Nearby Residence



As stated above, dog barking is both repetitive and in a very real sense speech, and therefore its noise levels must be subject to a 5 dB penalty to account for the disturbing nature of this noise. The City's thresholds of significance from the L.A. CEQA Thresholds Guide is an increase of 5 dB more than ambient noise levels. But adjusting that threshold downward with a 5 dB penalty to the City's presumed standards results in a 45 dBA L_{eq} nighttime threshold and a 50 dBA L_{eq} daytime threshold of significance for dog barking noise.

At nighttime, such dog barking maximum noise levels would be 17 to 22 dBA louder than the City's presumed, adjusted nighttime ambient noise level of 40 dBA L_{eq}. In the daytime, that much dog barking noise would be 7 to 12 dBA louder the adjusted 50 dBA L_{eq} thresholds of significance for noise. Any increase in ambient noise levels by more than 5 dBA would be considered significant, such dog barking noise would constitute a significant noise impact.

Elsewhere to quantify noise levels associated with a typical outdoor dog kennel, [Bollard Acoustical Consultants] averaged data collected at the All Pets Boarding (Loomis), Sacramento SPCA, and Nadelhaus Kennels (Chico). The results of the barking dog noise measurements indicate that at a distance of approximately 200 feet from the dogs, the maximum noise level generated by the barking dogs was approximately 55 dB L_{max}. The average noise level measured

at 200 feet with approximately 30-40 dogs barking intermittently was 50 dB L_{eq}. Because that county's standards are in terms of the median noise level descriptor, and not average (L_{eq}), median barking dog noise levels were conservatively assumed to be 50 dB L_{50}. At the Nadelhaus Kennels, median noise levels were approximately 5 dB lower than average noise levels, therefore the assumed median noise level of 50 dB L_{50} for this comparative analysis would be considered conservative.

This Project's noise study offers no evidence that dog barking will not become a significant noise impact. No conditions of approval nor noise mitigations have been yet proposed to eliminate this potentially significant noise impact either. A MND or an EIR must accordingly be prepared to examine and mitigate for this serious risk to neighboring residents.

G. FAILURE TO CONSIDER STANDARD MITIGATION MEASURES AND CONDITIONS OF APPROVAL PURSUANT TO AN ADEQUATE MND OR EIR

Critical to the MND/EIR review process is the consideration of mitigation measures ("MMs") and project design features ("PDFs") to reduce a project's impact to less than significant, which can subsequently be made enforceable as mandatory COAs. Here, because the Project was reviewed per a categorical exemption, MMs were not analyzed or vetted by the public and, therefore, the ad hoc noise-related COAs imposed under the City's final approval of the Project are untethered to reasoned analysis.[57] This is a sharp deviation of the City's practice for similar projects, where it considers various standards MMs and PDFs that serve to directly or indirectly reduce a project's noise impacts below the City's thresholds of significance, which are entirely missing from the Project's COAs. Among these MMs/PDFs/COAs considered for other nearby projects and/or projects within the City—but missing from the Project's COAs—include:

Construction-Related:

- Require construction activities to be placed as far as possible from the nearest off-site land uses.
- Require construction and demolition activities to be scheduled to avoid operating several loud pieces of equipment simultaneously; alternatively to reduce the overall length of the construction period, combine noisy operations to occur in the same time period if it will not be significantly greater than if operations were performed separately.
- Require the replacement of noisy equipment with quieter equipment, such as using rubber-tired equipment rather than track equipment, or using quieted and enclosed air compressors with properly working mufflers on all engines.
- Require construction contractor to avoid using vibratory rollers and packers near sensitive areas.
- Require construction staging areas to be as far from sensitive receptors as reasonably possible.

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[57] City (May 30, 2018) APC LOD, pp. C:1-5, http://planning.lacity.org/PdisCaseInfo/Home/GetDocument/NTI0ZWJjOGQtZWEyYS00YmVjLTgxODctOTQ5MjA4NzBiYWI00.

- Require all construction truck traffic to be restricted in hours and to truck routes approved by the Department of Building and Safety, which shall avoid residential areas and other noise-sensitive receptors.
- Require the construction of noise barriers, such as temporary walls or piles of excavated material, between noisy activities and noise-sensitive receivers, including on all sides of the Project site.
- Require flexible sound control curtains to be placed around all noisy equipment when in use and more extensive noise control barriers protecting adjacent residential structures.
- Require power construction equipment operated at the project site to be equipped with effective state-of-the-art noise control devices (e.g., equipment mufflers, enclosures, and barriers) with contractors maintaining all sound-reducing devices and restrictions throughout the construction period and keeping documentation showing compliance.
- Require contractors to use either plug-in electric or solar powered on-site generators to the extent feasible.
- Require grading and construction contractors to use equipment that generates lower vibration levels such as rubber-tired equipment rather than metal-tracked equipment, such as a combination loader/excavator for light-duty construction operations.
- Two weeks before the commencement of construction at the Project Site, require notification to be provided to the immediate surrounding off-site properties that disclose the construction schedule, including the various types of activities and equipment that would be occurring throughout the construction period. A noise disturbance coordinator and hotline telephone number shall be provided to enable the public to call and address construction-related issues.
- Require all mitigation measures restricting construction activity to be posted at the Project Site and all construction personnel shall be instructed as to the nature of the noise and vibration mitigation measures.
- Require a noise monitoring/control plan that includes absolute noise limits for classes of equipment, noise limits at lot lines of specific noise sensitive properties, specific noise control treatments to be utilized (such as the above-mentioned measures), and a designated compliance officer to respond to promptly respond to complaints and take immediate correction action if limits/restrictions are not complied with.

Construction-Vibration Related:

- Require the heavily-loaded trucks to be routed away from residential streets, if possible. Select streets with fewest homes if no alternatives are available.
- Require the operation of earth-moving equipment on the construction site as far away from vibration-sensitive sites as possible.
- Require phase demolition, earth-moving, and ground-impacting operations so as not to occur in the same time period. Unlike noise, the total vibration level produced could be significantly less when each vibration source operates separately.
- Require demolition methods not involving impact, such as sawing bridge decks into sections that can be loaded onto trucks results in lower vibration levels than impact demolition by pavement breakers, and milling generates lower vibration levels than excavation using clam shell or chisel drops.
- Limit vibratory rollers and packers near sensitive areas.

Operation-Related:

- Prohibition of amplified sounds in outdoor spaces and/or meet specified dBA levels.
- Require the outdoor lounge/seating/dining area and other outdoor deck areas to include a glass or heavy plastic safety wall for noise attenuation purposes (minimum 6 feet in height) around its perimeter.
- Before the issuance of a Certificate of Occupancy, require the sound levels to be measured consistent with documentation of the measurements being submitted to the Department of City Planning for the file to demonstrate specified noise levels are not exceeded at the property line.
- Use insulation or construct solid barriers between noise sources and noise receivers.
- Separate noise sources from noise receivers by distances sufficient to attenuate the noise to acceptable levels.
- Limit the hours of use for the equipment.
- Installation of double-pane exterior windows meeting specified Sound Transmission Coefficient rating for the Project (and possibly the adjacent residential uses).
- The proposed facility shall be designed with noise-attenuating features (physical as well as operational) by a licensed acoustical sound engineer to assure that operational sounds shall be inaudible beyond the property line.
- No window openings shall be permitted along the residential sides of the building.
- Redesign the source of equipment noise to radiate less noise (e.g., substitute a quieter equipment type process or enclose the source with sound absorbent material).
- All outdoor-mounted mechanical equipment be enclosed and impermeably-shielded with it breaking the line-of-sight from off-site noise-sensitive receptors.

Mobile-Vehicular Related:

- Attenuate the sound by using barriers, or redirect sound transmission paths.
- Reduce vehicle trip generation, or reduce speed limits on roadways.
- Locate any delivery, truck loading, or trash pickup areas as far from noise sensitive land uses as possible and limiting designated hours for deliveries.
- The Project shall not allow delivery truck idling of main engines in the loading area pursuant to applicable City and State standards. Signs shall be posted prohibiting idling.[58]

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[58] The above-listed measures include sample mitigation measures from the L.A. CEQA Threshold Guide (pp. I.1:5, I.2:7-8), control measures from the FTA's Transit Noise And Vibration Impact Assessment (pp. 12:8-10 [https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/FTA_Noise_and_Vibration_Manual.pdf]), and MMs/PDFs/COAs compiled from a host of nearby and/or hotel projects within the City. *See e.g.*, 631 S. Spring St. (DCP Case No. ENV-2015-2356-EIR) FEIR MMRP, pp. V:3-6 (PDF/MMs NOI-1 through 7), https://planning.lacity.org/eir/SpringStHotel/FEIR/FEIR%20Sections/V.%20MMP%20(Spring%20Street)%20public%20review%20110917.pdf; 622 S. Lucas Ave. (DCP Case No. ENV-2015-3927-MND) MND, PDF p. 75 (MMs XII-20 through 60), http://cityplanning.lacity.org/staffrpt/mnd/Pub_102716/ENV-2015-3927.pdf; 6421 W. Selma Ave. (DCP Case Nos. ENV-2016-2602-MND, CPC-2016-2601-VZC-HD-CUB-ZAA-SPR) MND, p. 1-13 (PDF Noise-1) (https://planning.lacity.org/staffrpt/mnd/Pub_010418/ENV-2016-2602.pdf) and DCP LOD, p. C-1 (COAs 5a-c and 13) (http://planning.lacity.org/PdisCaseInfo/Home/GetDocument/MjRmMzhlZDctYjQ1ZS00NjhlLWIzNGMtN2Y0YmIyNzExNjNl0); 800-824 S. Western Ave. (DCP Case No. ENV-2016-3609-MND) MND, pp. I-20 (PDFs 12-1

through 6), https://planning.lacity.org/staffrpt/mnd/Pub_100517/ENV-2016-3609.pdf; 2800 W. Olympic Blvd. (DCP Case No. ENV-2014-1954-MND) MND, PDF pp. 2-9 (MMs XII-20 through 170), http://cityplanning.lacity.org/staffrpt/mnd/ENV-2014-1954.pdf; 903 S. New Hampshire Ave. (DCP Case No. ENV-2013-582-MND) MND, PDF pp. 3-4 (MM XII-20), http://cityplanning.lacity.org/staffrpt/mnd/ENV-2013-582.pdf; 968 S. Berendo St. (DCP Case No. ENV-2013-2-MND) MND, PDF pp. 6-7 (MMs XII-10 through 230), http://cityplanning.lacity.org/staffrpt/mnd/ENV-2013-2.pdf; 2889 W. Olympic Blvd. (DCP Case No. ENV-2012-2757-MND) MND, PDF pp. 2 (MM XII-50), http://cityplanning.lacity.org/staffrpt/mnd/ENV-2012-2757.pdf; 712 S. Manhattan Pl. (DCP Case No. ENV-2016-105-MND) MND, PDF pp. 3 (MMs XII-0 through 170), http://cityplanning.lacity.org/staffrpt/mnd/ENV-2016-105.pdf; 3100 W. 8th St. (DCP Case No. ENV-2014-4933-MND) MND, PDF pp. 3-4 (MM XII-20 through 60), http://cityplanning.lacity.org/staffrpt/mnd/Pub_090116/ENV-2014-4933.pdf; 1047 S. Serrano Ave. (DCP Case No. ENV-2015-2216-MND) MND, PDF pp. 3 (MM XII-20), http://cityplanning.lacity.org/staffrpt/mnd/ENV-2015-2216.pdf; 3076 W. Olympic Blvd. (DCP Case No. ENV-2014-3572-MND) MND, PDF pp. 3 (MM XII-20 through 60), http://cityplanning.lacity.org/staffrpt/mnd/ENV-2014-3572.pdf; 1011 S. Serrano Ave. (DCP Case No. ENV-2014-3973) MND, PDF pp. 3 (MM XII-20), http://cityplanning.lacity.org/staffrpt/mnd/ENV-2014-3973.pdf; 2800 W. Olympic Blvd. (DCP Case No. ENV-2014-1954-MND) MND, PDF pp. 6-7 (MMs IIIXII-20 through 170), http://cityplanning.lacity.org/staffrpt/mnd/ENV-2014-1954.pdf; 1038 S. Mariposa Ave. (DCP Case No. ENV-2014-0179-MND) MND, pp. 4-6 (MM XII-20), http://cityplanning.lacity.org/staffrpt/mnd/ENV-2014-0179.pdf; 837 S. Harvard Blvd. (DCP Case No. ENV-2014-145-MND) MND, PDF pp. 5 (MMs XII-10 through 20), http://cityplanning.lacity.org/staffrpt/mnd/ENV-2014-145.pdf; 940 S. Western Ave. (DCP Case No. ENV-2013-3576-MND) MND, PDF pp. 4- 7 (MMs XII-10 through 60), http://cityplanning.lacity.org/staffrpt/mnd/ENV-2013-3576.pdf; 3418 W. 8th St. (DCP Case No. ENV- 2013-3373-MND) MND, PDF pp. 6 (MMs XII-20 through 60), http://cityplanning.lacity.org/staffrpt/mnd/ENV-2013-3373.pdf; 1020 ½ S. Fedora St. (DCP Case No. ENV-2012-2332-MND) MND, pp. 4-5 (MM XII-20), http://cityplanning.lacity.org/staffrpt/mnd/ENV-2012-2332.pdf; 975 S. Serrano Ave. (DCP Case No. ENV-2011-1142-MND) MND, PDF p. 5 (MM XII-20), http://cityplanning.lacity.org/staffrpt/mnd/ENV-2011-1142.pdf; 1011 S. Serrano Ave. (DCP Case No. ENV-2011-1025-MND) MND, PDF pp. 4-5 (MMs XII-20 through 40), http://cityplanning.lacity.org/staffrpt/mnd/ENV-2011-1025.pdf; 2914 W. 8th St. (DCP Case No. ENV-2009-1727-MND) MND, PDF pp. 7-9 (MMs VI-b and XI-a2), http://cityplanning.lacity.org/staffrpt/mnd/ENV-2009-1727.pdf; 6100 N. Topanga Canyon Blvd. (DCP Case No. ENV-2016-3909-EIR) DEIR, PDF pp. 31-32, 92-94 (PDFs H-1 through H-5, MMs NOI-3 through NOI-7), https://planning.lacity.org/eir/Promenade_2035/deir/files/D_IVD.pdf; 3900 S. Figueroa St. (DCP Case No. ENV-2016-1892-EIR) DEIR, PDF pp. 26-27, 62-63 (PDFs H-1 through H-4, MMs H-1 through H-2), https://planning.lacity.org/eir/Promenade_2035/deir/files/D_IVH.pdf; 1540 Highland Ave. (DCP Case No. ENV-2015-2026-EIR) FEIR MMRP, PDF pp. 24-29 (PDFs NOI-1 through 4, MMs NOI-1 through NOI-4), https://planning.lacity.org/eir/CrossroadsHwd/FEIR/files/F_IV.pdf; 1240 S. Figueroa St. (DCP Case No. ENV-2016-2594-EIR) FEIR MRRP, PDF pp. 125-129 (PDF NOISE-1 and MMs NOISE-1 through NOISE-6), https://planning.lacity.org/eir/FigPico/FEIR/FigPico%20Final%20EIR.pdf; 1020 S. Figueroa St. (DCP Case No. ENV-2015-1159-EIR) FEIR MRRP, PDF pp. 12-15 (PDFs NOISE-1 through NOISE-6 and MMS NOISE 1 through 2), https://planning.lacity.org/eir/1020SoFigueroa/FEIR/files/4.0%20Mitigation%20Monitoring%20Program.pdf; 1057 S. San Pedro St. (DCP Case No. ENV-2012-3003-EIR) FEIR MMRP, PDF pp. 11-13 (MMs H-1 through H-6), https://planning.lacity.org/eir/CityMarketProject/FEIR/assets/IV.MMP.pdf; 3650 W. Martin Luther King, Jr. Blvd. (DCP Case No. ENV-2012-1962-EIR) FEIR MMRP, PDF pp. 25-30 (PDFs I-1 through I-5 and MMs I-1 through I-11), http://planning.lacity.org/eir/BaldwinHillsCrenshawPlaza/FEIR/FEIR/4_MMP.pdf; 1900 S. Broadway (DCP Case No. ENV-2014-1773-EIR) FEIR MMRP, PDF p. 9 (MMs NOI-1 through NOI-4), https://planning.lacity.org/eir/TheReef/FEIR/FEIR%20Sections/V.%20MMP%20(The%20Reef)%20Public%20Review%20060616.pdf; 1770 N. Vine St. (DCP Case No. ENV-2011-675-EIR) FEIR MMRP, pp. 488-494 (MMs H-1 through H-19), https://planning.lacity.org/eir/Millennium%20Hollywood%20Project/FEIR/FEIR%20Sections/FEIR%20Millennium%20Hollywood_compiled.pdf; 911 S. Georgia St. (DCP Case No. ENV-2016-4889-EIR) DEIR Executive Summary, PDF pp. 28-29 (MMs NOI-1 through NOI-10), https://planning.lacity.org/eir/1001_Olympic/Deir/DEIR%20Sections/I.%20Executive%20Summary.pdf; 900 S. Kenmore Ave. (ENV-2016-3231-MND, TT-74228, APCC-2016-4197-ZC-HD-BL-ZAA) DCP LOD, p. 7-9 (COAs 17 and 18 incorporating MMs M-1, CM-3 and CM-5), http://planning.lacity.org/PdisCaseInfo/Home/GetDocument/ODNhODFhN2MtNWNmNi00N2VmLTgxZTMtYThhMDQ2MDE0Mjg20; 2870 W. Olympic Blvd. (DCP Case No. ENV-2015-4704-MND) MND, PDF p. 3 (MMs XII-20 through 40), https://planning.lacity.org/staffrpt/mnd/Pub_101917/ENV-2015-4704.pdf; 2789 W. Olympic Blvd.

Unfortunately, none of these mitigation measures were adequately considered by the City because of the Project's conclusory noise discussion lacked any meaningful facts or analysis of the Project's construction/operational noise impacts — much less substantial evidence that the Project's impacts would be less than significant per the L.A. CEQA Thresholds Guide.

V. CONCLUSION

As discussed above, the Project's noise study failed to provide basic information required for the City to adequately assess the true impacts of this Project. As a result, likely construction and operational noise impacts were masked that demonstrate a categorical exemption is inappropriate for the *100 E. Sunset Avenue Bridge Housing Project's* CEQA review. This is further supported by the fact that the City incorporated Project-specific noise mitigation measures, and the unusual circumstances of the proximity of nearby residential structures. Moreover, feasible mitigation measures are available and need to be considered pursuant to a CEQA-compliant MND or EIR—just like similar projects reviewed by the City.

Sincerely,

Dale La Forest

Dale La Forest

Professional Planner, Designer, INCE Associate (Institute of Noise Control Engineering)
Dale La Forest & Associates

Attachment A - Resume

(ENV-2014-3704-MND, ZA-2014-3703-CU-ZV) DCP LOD, PDF pp. 4 (COA 11.g), http://planning.lacity.org/PdisCaseInfo/Home/GetDocument/MzU1YWIzNWQtNTJkYi00ZWUwLThkNDQtZjk3NjU4ZDdmMDQz0; 2800 W. Olympic Blvd. (ENV-2014-1954-MND, DIR-2014-1953-DB-SPR) DCP LOD, PDF p. 9 (COAs 37 through 39), http://planning.lacity.org/PdisCaseInfo/Home/GetDocument/NGI0ZWRhY2QtY2YyMC00Y2U0LWJkNDgtZWI0NDA1MzI2OWQ20; 936 S. Fedora St. (ENV-2007-2441-MND, ZA-2007-2440-ZAA) DCP LOD, PDF p. 4 (COA 14-F.2), http://planning.lacity.org/PdisCaseInfo/Home/GetDocument/NzNiYzE0NDEtMjNjZC00MTYwLThiMDMtMmIyMjNiNzNmZWU40; 2940 W. Olympic Blvd. (ENV-2004-4991-MND, ZA-2004-4990-CU-ZV) DCP LOD, PDF pp. 5-6 (COAs 19.g.2 and 19.j), http://planning.lacity.org/PdisCaseInfo/Home/GetDocument/ZmYyYzIxZTUtNmM2NC00ODlkLThiZDEtYjU0NjFkNWE0MjFh0; 2789 W. Olympic Blvd. (ENV-2003-2895-MND, ZA-2003-2894-CU-ZV-ZAA-SPR) DCP LOD, PDF p. 4 (COA 24.e.2), http://planning.lacity.org/PdisCaseInfo/Home/GetDocument/NzAyNDg2YWYtNzJlMC00ZDliLWFiZTctNWM1YjNiMTJjNmQ40.

Attachment A

EDUCATION AND EXPERIENCE

I received a Bachelor of Architecture Degree with Master of Architecture studies in architecture and planning from the University of Michigan (1966 – 1973). My university education included architectural acoustics and the math and physics related to analysis of sound transmission. In the last 43 years, I have designed hundreds of homes in California. During the last 20 years, I have also prepared expert acoustical studies for various development projects and reviewed and commented upon dozens of noise studies prepared by others. My expertise in environmental noise analysis comes from this formal educational training in architecture and planning, and from many years of evaluation of acoustics as relates to environmental analysis and challenging flawed project applications prepared by less-than-professional, industry-biased acousticians. I regularly measure and calculate noise propagation and the effects of noise barriers and building acoustics as they apply to single-family homes near projects and their vehicular travel routes. I have also prepared initial environmental studies for noise-sensitive development projects including hotel and campground projects along major highways. I have reviewed dozens of quarry project and batch plant project environmental documents. I have designed highway noise walls, recommended noise mitigations, and have designed residential and commercial structures to limit their occupants' exposure to excessive exterior noise levels throughout California.
Dale La Forest