ARMBRUSTER GOLDSMITH & DELVAC LLP
LAND USE ENTITLEMENTS □ LITIGATION □ MUNICIPAL ADVOCACY

DAMON P. MAMALAKIS
DIRECT DIAL: (310) 254-9026

12100 WILSHIRE BOULEVARD, SUITE 1600
LOS ANGELES, CA 90025

Tel: (310) 209-8800
Fax: (310) 209-8801

E-MAIL: Damon@AGD-LandUse.com

WEB: www.AGD-LandUse.com

June 26, 2020

VIA E-MAIL

The Los Angeles City Council
200 North Spring Street, Room 395
Los Angeles, CA 90012-4801

Sharon.gin@lacity.org
Erika.pulst@lacity.org

Re: Council File No. 20-0105 and 20-0105-S1, 2110 Jade Street

Honorable Council Members:

This law firm represents Bay Capital Fund LLC in the above referenced matter concerning the 2110 Bay Street Project (Project). Pending before you are two appeals of the same Project – one concerning the approval of the Vesting Tentative Tract Map and the other concerning the approval of the General Plan Amendment, Vesting Zone Change (VTT-74564-1A) and Height District Change, and Site Plan Review (Case No. CPC-2016-3479-GPA-VZC-HD-SPR). The appeals were brought by the same entity, Blue Arch Investments (Appellant), and are based on an identical justification. The May 26, 2020 Staff Appeal Response appropriately concluded that "the appellants have failed to establish that the City erred or abused its agency discretion" and contains a detailed point by point response to each of the appeal points.

Previously, on June 4, 2020, we submitted to you a Habitat Assessment and Focused Surveys for Roosting Bats report (Report) prepared by expert biologist Tony Bomkamp of Glenn Lukos Associates (GLA) which addressed Dan Silver's comments regarding the potential presence of bats. As described in the GLA Report, the Project site was subject to a thorough habitat assessment and surveyed for bats on June 2 and 3, 2020. As reported, "the results of the daytime surveys and passive detector are consistent in leading to the conclusion that the subject site does not presently support roosting bats, including common and special-status species."

On June 7, 2020, Appellant submitted a last-minute comment letter with a purported bat habitat assessment by Stephanie Remington, as well as comments from Kinsinger Environmental Consulting. As to the bat habitat assessment, it was *not conducted on the Project Site*. As such, the report concludes that an onsite bat survey should be conducted as absent that, it cannot be concluded that bats are in fact roosting on the Project Site. Appellant also makes claims about

other sites in the Arts District having destroyed bat habitats. Those claims are irrelevant to the Appeals at hand. Appellant also takes issue with the fact that the City no longer has a staff biologist. Again, this is irrelevant to the Appeals. Appellant also speculates about the potential presence of nesting birds.

As to potential roosting bats, Biologist Bomkamp has updated his Report to add the results of a nighttime survey conducted on June 22, 2020 (which is attached hereto). As reported, "No emerging bats were detected emerging during the dusk into night-time survey on June 22, 2020 and acoustic data were consistent with the passive data collected on June 2 and 3, 2020."[1] As such, after thorough onsite bat surveys, there is no merit to the comment about impacts to bat roosts and there is more than substantial evidence to support the no impact determination.

As to nesting birds, there is no evidence whatsoever of roosting birds which is consistent with the existing site condition – two small vacant buildings, a surface parking lot and an open air shed. There are approximately 11 trees on the site perimeter, but as reported by expert environmental consulting firm CAJA Associates, no biological resources (which would include birds) birds were observed during any site visits. (CAJA Letter May 26, 2020.) In any event, if nesting birds were to be observed at the time of Project construction, adherence to Fish and Game Code Section 86 would prevent any impact as it prohibits the take (hunt, pursue, catch, capture, or kill, or an attempt to hunt, catch, capture or kill) of a nesting native bird.

We respectfully request that the appeals be denied as recommended by Staff and the Project be approved.

Sincerely,

Damon P. Mamalakis

cc: Sergio Ibarra

Attachment: Habitat Assessment and Focused Surveys for Roosting Bats For 2110 Bay Street Mixed Use Project, Glenn Lukos Associates, June 4, 2020 (Updated June 23, 2020)

[1] Of note, Jeff Ahrens who physically conducted the bat surveys subject to all appropriate methodologies for day and nighttime bat surveys, was trained by Stephanie Remington.

GLENN LUKOS ASSOCIATES

Regulatory Services

June 4, 2020 [Updated June 23, 2020]

Damon P. Mamalakis
Armbruster Goldsmith & Delvac LLP
12100 Wilshire Boulevard, Suite 1600
Los Angeles, California 90025

SUBJECT: Habitat Assessment and Focused Surveys for Roosting Bats for 2110 Bay Street Mixed Use Project in the City of Los Angeles, Los Angeles County, California

Dear Mr. Mamalakis:

Glenn Lukos Associates, Inc. (GLA) conducted a habitat assessment and focused surveys for roosting bats at the above referenced property. Surveys were conducted on June 2, 3, and 23, 2020 as discussed in more detail in the methods section below. The surveys were conducted by GLA Senior Wildlife Biologist Jeff Ahrens and GLA Wildlife Biologist Stephanie Cashin.

SUMMARY OF RESULTS

Roosting bats were not detected using the site, and the site does not exhibit potential for supporting maternity roosts of special-status bats.

BUILDING/SURVEY AREA DESCRIPTION

The Site is in southeast Downtown Los Angeles, approximately 550 feet west of the Los Angeles River and 15 miles east of the Pacific Ocean [Exhibits 1-3]. The Site is located within the Central City North Community Plan (CCNCP). The CCNCP contains 2,005 acres, which is approximately less than one percent of the land in the City of Los Angeles. The plan area is adjacent to downtown Los Angeles (Downtown) and bounded by the Los Angeles River to the east, the City of Vernon to the south, Alameda Street, Cesar Chavez Avenue, Sunset Boulevard, and Marview Avenue to the west, and Stadium Way, Lilac Terrace, and North Broadway to the north. The plan area is surrounded by the Community Plan areas of Silverlake-Echo Park, Central City, Boyle Heights, and Northeast Los Angeles.

There were two buildings subject to the habitat assessment and focused surveys for roosting bats. This included an industrial, shed-like structure [Exhibit 4, Photograph 1]. It is generally rectangular and covered with corrugated metal. The roof is composed of several sections. The north section, facing Bay Street, consists of a shed-style roof sloping toward the street. The center sections consist of a row of front gable roofs arranged in a north-south orientation. At the rear, south of the building, there is a higher, flat roof. The building can be separated into two sections: a larger main section that comprises most of the building, and a smaller section along the east elevation that has a separate, lower roof. The two sections are open to each other in the building's interior.

The second building second is a smaller enclosed building at the southeast corner of the property that at one point appears to have been partially used as a cold storage as indicated by portions of the lower floors were insulated with some reflective surface {Exhibit 4, Photograph 5]. The second building contained the attic space that was also subject to the habitat assessment and surveys.

METHODOLOGY

Habitat Assessment and Daytime Roost Surveys

GLA Wildlife Biologists Jeff Ahrens and Stephanie Cashin conducted a habitat assessment and daytime survey for roosting bats on June 2 and June 3, 2020 between 9:30 and 1:00 and 9:00 a.m. and 11:00 a.m., respectively. During both visits, Mr. Ahrens conducted a detailed survey that included a visual inspection of the open shed structure in the northern half of the Project site and the smaller enclosed building located in the southeastern corner of the Project site, including an attic area. The habitat assessment and focused survey consisted of various components:

1. Searching for "sign" consisting of guano, which accumulates below roosts, as well as urine staining, which can also be evident beneath roost sites;
2. Visual observations of surfaces where bats could roost as well as searching for other features such as cavities and attics where bats could roost; and
3. Listening for vocalizations, which are common in roosting areas and audible to the human ear.

The entire ceiling of the larger open-air building along with girders, joists, and other bracing material were visually scanned using binoculars from various vantage points to maximize detectability [Exhibit 4, Photographs 2-4].

During the June 2, 2020 survey, a Wildlife Acoustics Song Meter Mini Bat ultrasonic passive detector was deployed between the large open-air building and the smaller enclosed building to record bat activity and was recovered on June 3, 2020. During both surveys, the attic area and other potential spaces were thoroughly inspected for evidence of roosting with aid of a spotlight [Exhibit 4, Photographs 5-8]. During the June 3 survey, in addition to spotlights, Mr. Ahrens employed a Seek Compact Pro Thermal imager to assist in searching for heat signatures of roosting bats in dark areas.

Acoustic data collected on the Wildlife Acoustics Song Meter Mini Bat ultrasonic passive detector was analyzed with Sonobat 4.2.2 bat call analysis software using the California Southwest classifier. All acoustic calls were manually reviewed and vetted using multiple Sonobat acoustic reference libraries and reference materials including Echolocation Call Characteristics of California Bats (Humboldt State University, 2018) and Echolocation Call Characteristics of Western U.S. Bats (Humboldt State University, 2018).

Dusk and Night-time Emergence Surveys

On June 22, 2020, GLA Wildlife Biologists Jeff Ahrens and Stephanie Cashin conducted a dusk into night-time emergence survey to survey for emerging bats. The survey began prior to dusk at 6:00 p.m. with inspection for roosts as described for the daytime surveys described above. Beginning before dusk, Mr. Ahrens and Ms. Cashin took surveying positions on the north and south side of the open-sided building to scan for emerging bats using binoculars. In addition to the visual observations, acoustic equipment was also positioned to detect bats. The survey ended at 10:40 p.m. Equipment included:

1. Pettersson M500-385 microphones used for active detection;
2. Wildlife Acoustics Song Meter Mini Bat ultrasonic passive detector;
3. Wildlife Acoustics Echo Meter Touch 2 Pro microphones used in active detection;
4. Seek Compact Pro Thermal imager to assist in searching for roosting bats;
5. Spotlights to aid in in visual observation of bats;

Sonobat 4.2.2 bat analysis software installed on a Microsoft Surface Pro was used to process acoustic files. All acoustic data was recorded in full spectrum and analyzed with Sonobat 4.2.2 bat call analysis software using the California Southwest classifier. All acoustic calls will be manually reviewed and vetted using multiple Sonobat acoustic reference libraries and reference materials including Echolocation Call Characteristics of California Bats (Humboldt State University, 2018) and Echolocation Call Characteristics of Western U.S. Bats (Humboldt State University, 2018).

RESULTS

No roost sites, including maternity roost or daytime roosts were detected during the daytime survey on June 2, 2020 or during the more detailed survey of June 3, 2020. Specifically, no sign, including guano or urine staining was detected. Bats were not observed roosting on the ceiling or on any of the joists or other support structures. Roosting bats were not observed roosting in the attic areas or other enclosed areas. No vocalizations by bats were detected during the surveys on June 2 or June 3, 2020.

The Wildlife Acoustics Song Meter Mini Bat ultrasonic passive detector recorded 19 bat vocalizations between 10:04 p.m. and 4:19 a.m. All detections exhibited weak to very weak acoustic signals which generally implies that the bats recorded were not on the project site but rather at some distance (e.g. 100s of feet). All detections that were identifiable were of Mexican free-tailed bats (*Tadarida brasiliensis*), one of the most common species in southern California. This species generally roosts in colonies within bridges and other structures and can be heard vocalizing during the day. Importantly, there were no detections of bats at dusk or shortly after dusk when this species usually emerges from colonial roosts. Similarly, given the first acoustic detection was not recorded until after 10 p.m., and at a distance, is further evidence of an absence of roosting bats on the site.

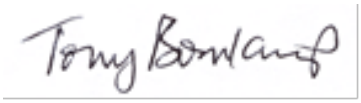
No emerging bats were detected emerging during the dusk into night-time survey on June 22, 2020 and acoustic data were consistent with the passive data collected on June 2 and 3, 2020.

Thus, results of the daytime surveys, passive detector data and the dusk into night-time survey with additional acoustic detection equipment are all consistent in leading to the conclusion that the subject site does not presently support roosting bats, including common and special-status species.

Should you have any questions regarding this Report please call me at (949) 340-7333.

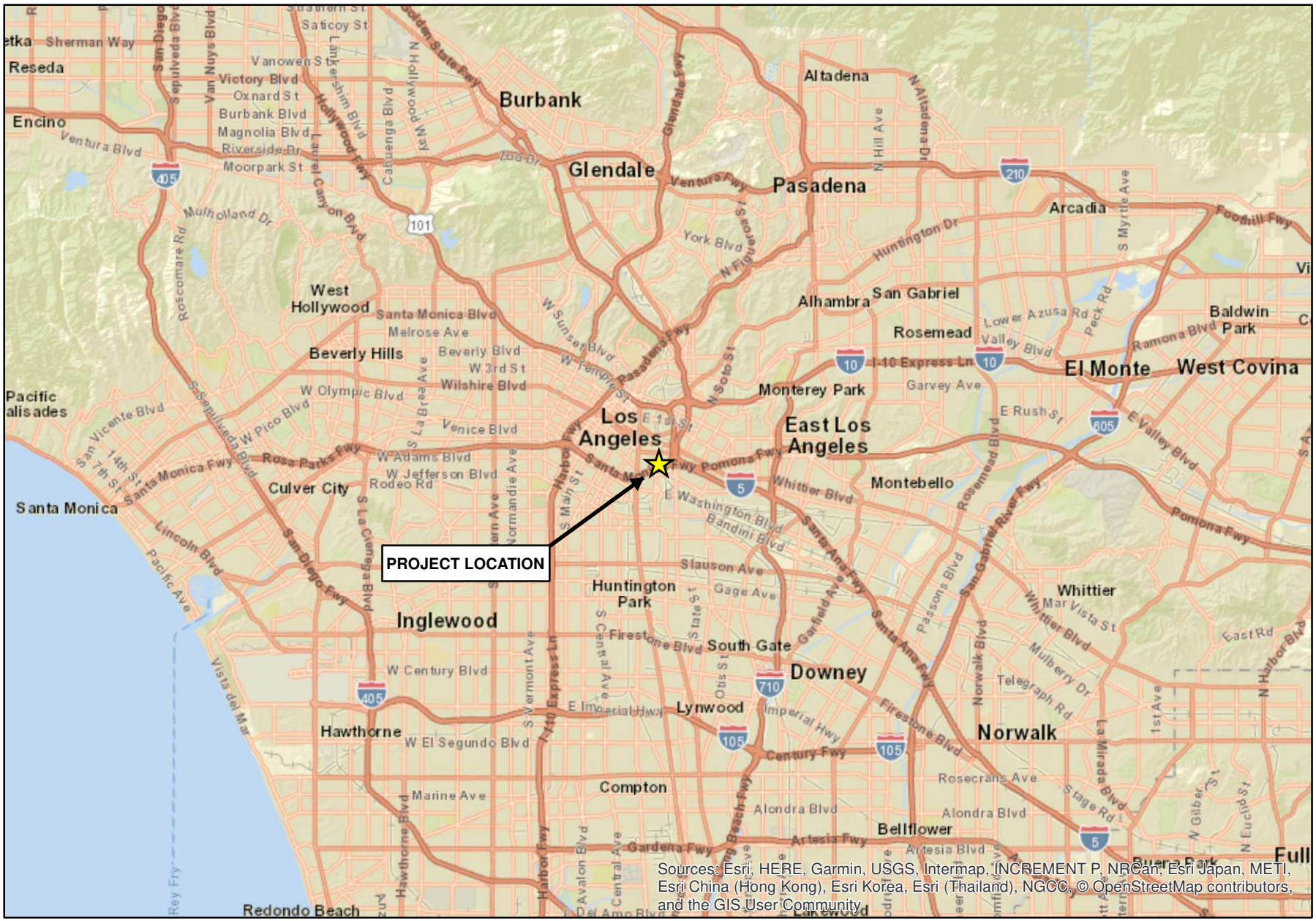
Sincerely,

GLENN LUKOS ASSOCIATES, INC.



Tony Bomkamp
Technical Director

S:1115-8_Bat Surveys_062320.docx



Source: ESRI World Street Map

N

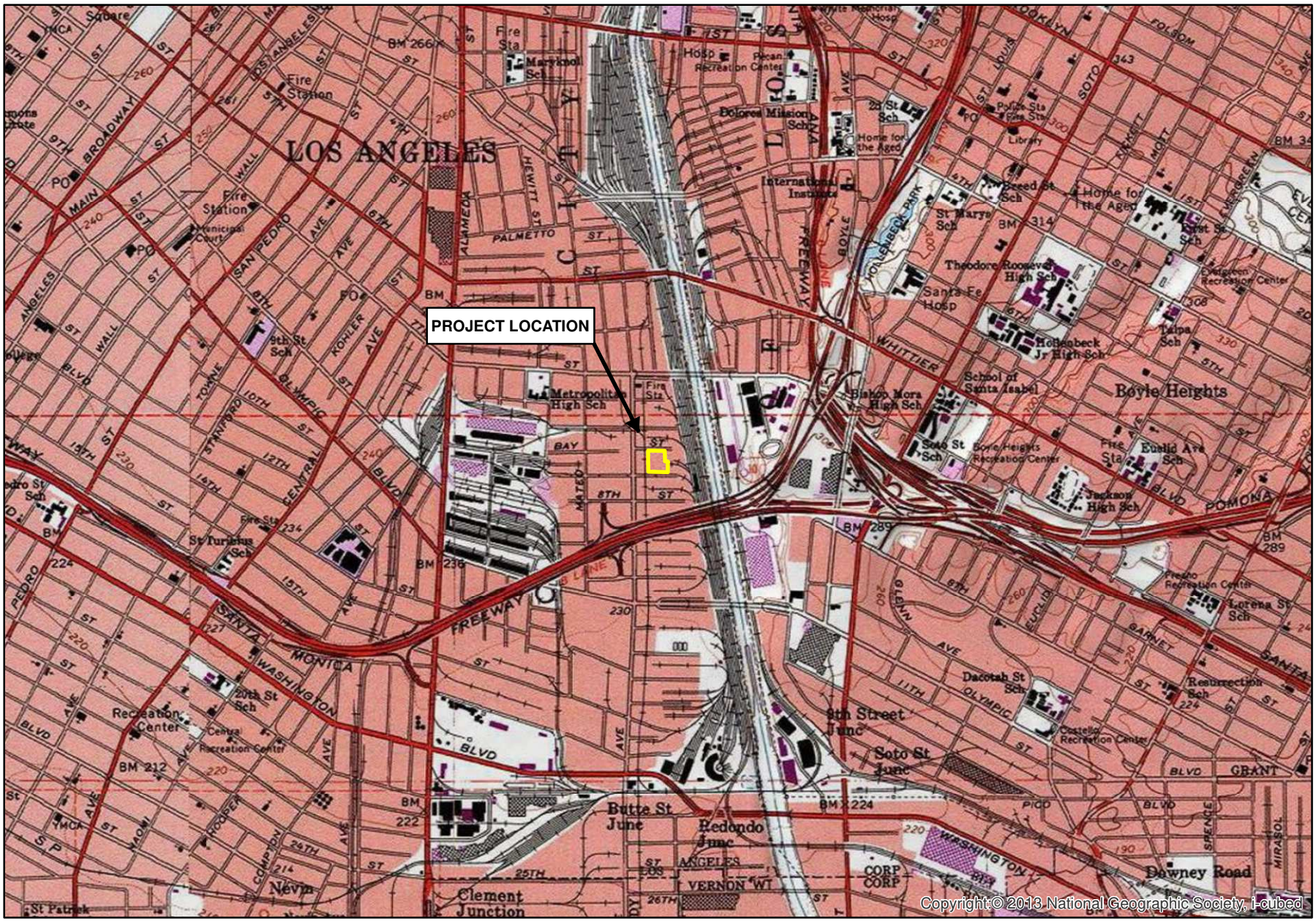
0 2 4 8 Miles

2110 BAY STREET

Regional Map

GLENN LUKOS ASSOCIATES

Exhibit 1



Adapted from USGS Los Angeles, CA quadrangle

N

0 1,000 2,000 4,000 Feet

2110 BAY STREET

Vicinity Map

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Exhibit 2

Study Area

N

0 25 50 100

Feet

1 inch = 50 feet

Coordinate System: State Plane 6 NAD 83
Projection: Lambert Conformal Conic
Datum: NAD83
Map Prepared by: B. Gale, GLA
Date Prepared: June 3, 2020

2110 BAY STREET

Aerial Map

GLENN LUKOS ASSOCIATES

Exhibit 3

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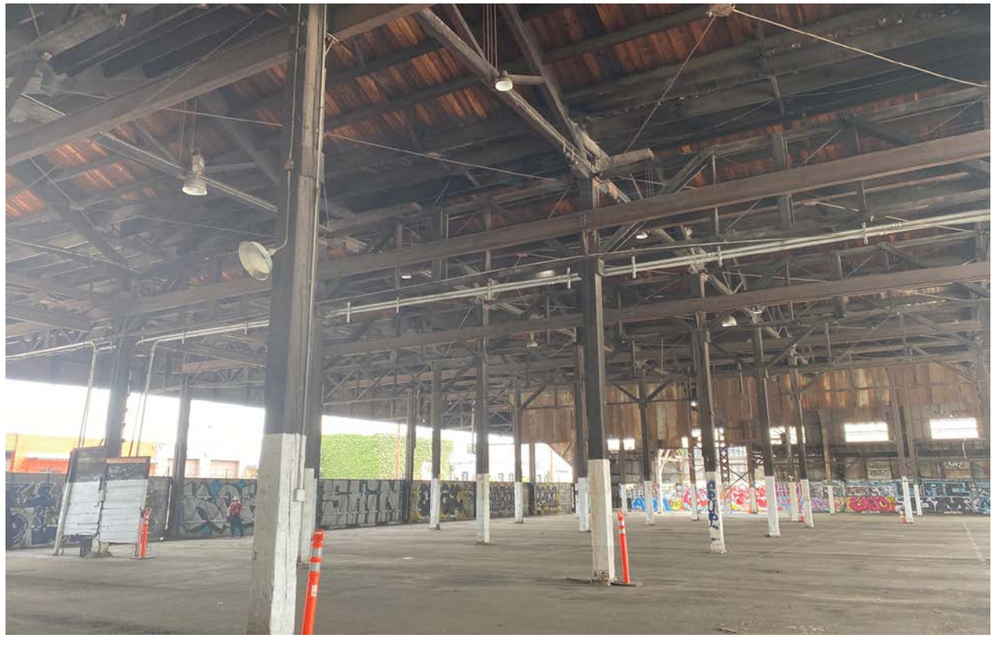
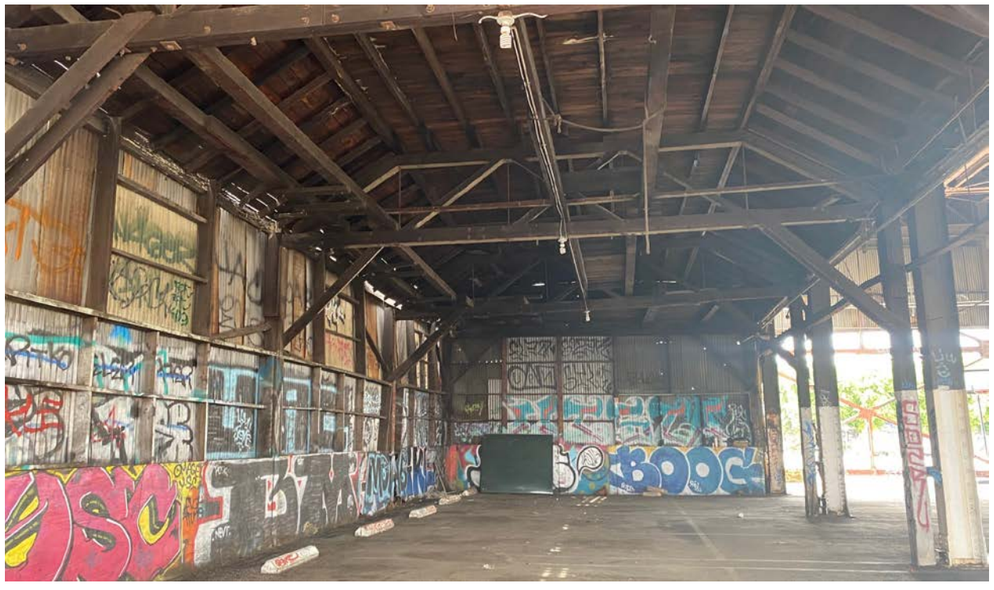
Photograph 1: View of Building subject to habitat assessment and focused surveys for roosting bats.



Photograph 2: View of ceiling with support columns, ceiling joists, braces and other surfaces examined for bat roosts.



Photograph 3: View of ceiling with support columns, ceiling joists, braces and other surfaces examined for bat roosts.

Photograph 4: View of ceiling with support columns, ceiling joists, braces and other surfaces examined for bat roosts.

2110 BAY STREET
Site Photographs

Photograph 5: View of attic area subject to habitat assessment and focused surveys for roosting bats.

Photograph 6: View of attic area subject to habitat assessment and focused surveys for roosting bats. .

Photograph 7: View of enclosed area subject to habitat assessment and focused surveys for roosting bats.

Photograph 8: View of attic area subject to habitat assessment and focused surveys for roosting bats.

2110 BAY STREET
Site Photographs