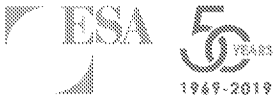

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memorandum

date July 15, 2020

to Mindy Wilcox, City of Inglewood

cc Christopher Jackson, City of Inglewood
Royce Jones, City of Inglewood

from Brian D. Boxer, AICP, ESA
Christina Erwin, ESA

subject Inglewood Basketball and Entertainment Center EIR –Responses to Additional Letters and Emails

Introduction

The City published the Final Environmental Impact Report (EIR) on June 4, 2020. The Final EIR included responses to comments received on the Draft EIR during the public comment period, which concluded on March 24, 2020. Although not required to do so, the City, in its discretion, also included in the Final EIR responses to four letters or e-mails that were received shortly after the close of the comment period. (See Final EIR, Table 1-1, for a list of letters and e-mails included in the Final EIR.)

The City has thereafter received additional letters and e-mails providing comments on the Proposed Project and/or the EIR. The City is not required to provide responses to comments submitted after the close of the comment period. The City has decided, however, to provide responses to these comments.

The reason for providing these responses is to ensure that the City Council is provided as much information as possible regarding the Proposed Project. In many instances, the comments do not address the EIR. Rather, the comments address the merits of the Proposed Project. Other comments address policies or issues that are not directly relevant to the EIR. Among those comments that do address the EIR, many raise issues that have already been addressed in the EIR; in those instances, the memorandum directs the reader to where that information can be located. In other instances, additional information is provided; this information, however, does not alter the conclusions or analysis that was set forth in the EIR.

This memorandum includes responses to comments submitted through July 13, 2020. Responses to comments received after that date are not included. Comments submitted after that date, but before the close of the public hearing, will be included in the record. Practical considerations, however, preclude them from being addressed in this memorandum. In particular, while we have tried to be comprehensive, it is impossible to generate instantaneous responses to comments that are submitted very late in the process. To the extent late comments are submitted, we will be prepared to provide our responses, as warranted, by separate memorandum or at the public hearing.

Table 1 identifies letters or e-mails received by the City on the Proposed Project that were not included in the Final EIR that are addressed in this memorandum. The table includes all letters or e-mails submitted through July 13, 2020.

TABLE 1
LATE COMMENT LETTERS RECEIVED REGARDING THE PROPOSED IBEC PROJECT

Letter #	Entity	Author(s) of Comment Letter/e-mail	Date Received	Author Submitted Comment Letter on the Draft EIR
1	The Silverstein Law Firm	Veronica Lebron	April 13, 2020	No
2	The Silverstein Law Firm	Robert Silverstein	April 13, 2020	No
3	The Silverstein Law Firm	Veronica Lebron	April 22, 2020	No
4	The Silverstein Law Firm	Veronica Lebron	May 1, 2020	No
5	The Silverstein Law Firm	Robert Silverstein	May 1, 2020	No
6	The Silverstein Law Firm	Veronica Lebron	May 26, 2020	No
7	The Silverstein Law Firm	Robert Silverstein	May 26, 2020	No
8		Richard Garcia	June 8, 2020	Yes – Comment Letter Garcia
9	The Silverstein Law Firm	Veronica Lebron	June 9, 2020	No
10	The Silverstein Law Firm	Robert Silverstein	June 9, 2020	No
11		Dev Bhalla	June 10, 2020	No
12		Melissa Hebert	June 11, 2020	No
13	The Silverstein Law Firm	Naira Soghbatyan	June 11, 2020	No
14	The Silverstein Law Firm	Veronica Lebron	June 11, 2020, 11:20am	No
15	The Silverstein Law Firm	Robert Silverstein	June 11, 2020	No
16	The Silverstein Law Firm	Veronica Lebron	June 11, 2020, 8:32pm	No
17	Hill, Farrer & Burrill	Kevin H. Brogan	June 15, 2020	No
18	Natural Resources Defense Council	David Pettit, Senior Attorney	June 15, 2020	Yes – Comment Letter NRDC
19	The Silverstein Law Firm	Naira Soghbatyan	June 16, 2020, 2:43pm	No
20	The Silverstein Law Firm	Naira Soghbatyan	June 16, 2020, 7:24pm	No
21	The Silverstein Law Firm	Esther Kornfeld	June 16, 2020	No
22	The Silverstein Law Firm	Robert Silverstein	June 16, 2020	No
23		Dev Bhalla	June 16, 2020	No
24	Fisher & Talwar	J. Jamie Fisher	June 16, 2020	No
25		Melissa Hebert	June 17, 2020	No
26		Jasmine Lee	June 18, 2020	No
27	The Silverstein Law Firm	Robert Silverstein	June 19, 2020	No
28		Sheri Davis	June 28, 2020	No
29		Tina Pool	June 28, 2020	No
30	The Silverstein Law Firm	Veronica Lebron	June 30, 2020	No
31	The Silverstein Law Firm	Robert Silverstein	June 30, 2020	No

Responses to Comment Letters Received

Letter 1, from Veronica Lebron of the Silverstein Law Firm, is an email dated April 13, 2020, requesting inclusion of Letter 2 in the record of proceedings for the City's Environmental Justice Element of the General Plan (General Plan Amendment (GPA) 2020-001), and the amendment of the Land Use Element of the General Plan to clarify existing population density and building intensity allowances for all land use designations (GPA 2020-002). The City has done so. Letter 1 does not address or raise any environmental issues related to the IBEC EIR.

Letter 2, from Robert Silverstein of the Silverstein Law Firm is a letter dated April 13, 2020, submitting comments concerning the City Planning Commission hearing scheduled to occur that same date. At that hearing, the City Planning Commission's agenda included proposals to make recommendations to the City Council concerning (1) adopting a General Plan Environmental Justice Element (GPA 2020-001), and (2) adopting certain amendments to the General Plan Land Use Element (GPA 2020-002). The letter requests notice, objects to the proposals, and asks the City to cancel the hearing. The comments are based largely on the COVID-19 pandemic and resulting challenges concerning public hearings. The letter also states that the proposed actions are not exempt from CEQA. The comments do not address the IBEC, or raise any environmental issues related to the IBEC EIR. The City has added the commenter to its list of persons receiving notice. In order to provide additional opportunities for public comment, the Planning Commission held an additional hearing on the proposed General Plan amendments on May 6, 2020. With respect to COVID-19, please see Response to Comment Silverstein-5 in Exhibit A, below.

Letter 3, from Veronica Lebron of the Silverstein Law Firm, is a public records request pursuant to the California Public Records Act (CPRA) (Government Code §6250, et. seq.) related to (1) public works, construction, or improvements on South Prairie Avenue between 10200 to 10212 South Prairie Avenue or within 300 feet to the north or south; (2) the proposed IBEC Project proposed signage that would be used in connection with events at the Proposed Project; and (3) the previously proposed Billboard Project (which the City is no longer processing). Please see Responses to Comments Silverstein-1, Silverstein-2, and Silverstein-41 in Exhibit A, below. Letter 3 does not address or raise any environmental issues related to the IBEC EIR.

Letter 4, from Veronica Lebron of the Silverstein Law Firm, is an email conveying Letter 5 to the City. Letter 4 does not address or raise any environmental issues related to the IBEC EIR.

Letter 5, from Robert Silverstein of the Silverstein Law Firm, identifies his representation of the owners of 10212 South Prairie Avenue, and requests notice of all hearings and determinations related to the Proposed IBEC Project. The letter raises objections the video quality of the City's recording of public hearings and meetings that the commenter asserts are related to the Proposed IBEC Project, including meetings of March 24, 2020, and August 15, 2017. The City notes that no public hearings related to the Proposed IBEC Project occurred on those dates. The letter also asserts, without specificity, that the videos have been edited. The City disagrees with this assertion. The City notes further that under PRC §21177(a), a claim cannot be raised in litigation under CEQA "unless the alleged grounds for non-compliance with this division were presented to the public agency…during the public comment period provided by this division or prior to the close of the public hearing on the project before the issuance of the notice of determination." The commenter's generalized reference to poor video quality (particularly at meetings during which no hearings on the Proposed IBEC Project were held and no approvals of the Proposed IBEC Project were considered) is insufficient to inform the City of the reasons for this claim. For this reason, the comment does not provide the City with sufficient specificity to enable the City to respond.

However, to the extent the City can glean the meaning of the commenter's statement, Letter 5 does not address or raise any environmental issues related to the IBEC EIR. Separately, with respect to the commenters' non-specific allegation of City liability due to an alleged spoliation of evidence (an allegation with which the City disagrees), the City calls the commenter's attention to the holding in *Lueter v. State of California* (2002) 94 Cal.App.4th 1285, 1293-1300 [recounting California Supreme Court and Court of Appeal cases holding that there is no separate tort for spoliation of evidence].

Letter 6, from Veronica Lebron of the Silverstein Law Firm, requests the inclusion of Letter 7 in the administrative record for the Proposed IBEC Project, as well as in the records for General Plan Amendments 2020-001 and 2020-002. Letter 6 does not address or raise any environmental issues related to the IBEC EIR.

Letter 7, from Robert Silverstein of the Silverstein Law Firm, is a May 26, 2020, letter following up on the author's April 13, 2020, letter. Letter 7 addresses proposals to (1) adopt a General Plan Environmental Justice Element (GPA 2020-001), and (2) adopt certain amendments to the General Plan Land Use Element (GPA 2020-002). The letter requests notice, makes procedural objections, states that the proposed amendments are not exempt from CEQA, and objects to the proposed amendments. Letter 7 does not address or raise any environmental issues related to the IBEC EIR, except that the letter states that the proposed amendments are part of the IBEC, and therefore should be considered as part of the IBEC. With respect to such claims, please see Responses to Comments Silverstein-41 and Silverstein-42 in Exhibit A, below.

Letter 7 also states that the General Plan Land Use Element amendments under consideration are the same as the General Plan Land Use Elements Proposed as part of the IBEC proposal. This statement is incorrect. The General Plan Land Use Element amendments are not specific to the IBEC Project Site; rather, the amendments apply City-wide. In addition, the General Plan Land Use Element amendments are not related to, and are not a prerequisite to considering, the Proposed IBEC Project. For example, the amendments correlate residential land-use densities with population densities. The Proposed IBEC Project does not include residential uses. Similarly, the General Plan Land Use Element amendments contain building intensities, expressed as "building intensity ratios," for commercial, industrial, and mixed uses. These ratios are based on existing setback, buffer, and building height requirements within each land-use designation; the ratios do not alter land-use policy, but incorporate existing and already binding land-use policy into the General Plan. The amendments clarify, rather than alter, existing policy. Additional information is provided in Memorandum to the City Council from the Economic and Community Development Department (June 30, 2020).

Letter 8, from Richard Garcia, poses several questions about specific future businesses that may be operate in the retail space planned as part of the Proposed Project. At this point, the project applicant has not committed to any specific private retail or restaurant operators, but has indicated the intent to include a LA Clippers Team Store in the plaza retail space, as well as in the arena. A second question asked whether there would be handicap parking included in the Proposed Project. Although not specifically addressed in the EIR, the Proposed Project would be required to comply with the City's requirement for handicap parking in the design of the Proposed Project, including all parking structures (see Inglewood Municipal Code, Chapter 12, Article 19, Section 12-57 Handicapped Parking). Letter 1 does not address the EIR or raise any environmental issues.

Letter 9, from Veronica Lebron of the Silverstein Law Firm, is an email describing difficulty in participating in the City Council meeting of June 9, 2020, and asserting that such difficulties resulted in a violation of the Brown Act. The City Council meeting of June 9, 2020, included consideration of proposals to (1) adopt a General Plan

Environmental Justice Element (GPA 2020-001), and (2) adopt certain amendments to the General Plan Land Use Element (GPA 2020-002). The City's actions with respect to the June 9, 2020, General Plan Amendments were subsequently rescinded. As explained above in response to Letter 7, this letter does not address or raise any environmental issues related to the IBEC EIR, except that the letter states that the proposed amendments are part of the Proposed IBEC Project, and therefore should be considered as part of the Proposed IBEC Project. With respect to such claims, please see Responses to Comments Silverstein-41 and Silverstein-42 in Exhibit A, below. The City Council conducted a further hearing concerning the proposed amendments on June 30, 3030. To the extent the comment raises concerns regarding the communications difficulties that arose at the June 9, 2020, City Council hearing, those concerns have been addressed.

Letter 10, from Robert Silverstein of the Silverstein Law Firm, is a June 9, 2020, letter following up on the author's April 13, 2020, and May 26, 2020, letters. Letter 10 addresses proposals to (1) adopt a General Plan Environmental Justice Element (GPA 2020-001), and (2) adopt certain amendments to the General Plan Land Use Element (GPA 2020-002). The letter requests notice, makes procedural objections, states that the descriptions of the proposed amendments have not been stable, states that the City has not responded properly to the commenter's prior objections to the proposed amendments, and objects to the proposed amendments. Letter 10 does not address or raise any environmental issues related to the IBEC EIR, except that the letter states that the proposed amendments are part of the IBEC, and therefore should be considered as part of the IBEC. With respect to such claims, please see Responses to Comments Silverstein-41 and Silverstein-42 in Exhibit A, below.

Letter 10 also states that the General Plan Land Use Element amendments under consideration are the same as the General Plan Land Use Elements Proposed as part of the IBEC proposal. This statement is incorrect. The General Plan Land Use Element amendments are not specific to the IBEC Project Site; rather, the amendments apply City-wide. In addition, the General Plan Land Use Element amendments are not related to, and are not a prerequisite to considering, the Proposed IBEC Project. For example, the amendments correlate residential land-use densities with population densities. The Proposed IBEC Project does not include residential uses. Similarly, the General Plan Land Use Element amendments contain building intensities, expressed as "building intensity ratios," for commercial, industrial, and mixed uses. These ratios are based on existing setback, buffer, and building height requirements within each land-use designation; the ratios do not alter land-use policy, but incorporate existing and already binding land-use policy into the General Plan. The amendments clarify, rather than alter, existing policy. Additional information is provided in Memorandum to the City Council from the Economic and Community Development Department (June 30, 2020).

Letter 11, from Dev Bhalla, is written by the owners of 3838 West 102nd Street, located within the Arena Site, south of 102nd Street. The letter provides background on the business located at this site and expresses opinions about the City's conduct of the Planning Commission hearing and about the merits of the Proposed Project. The letter requests information on the Proposed Project. This information is provided in Chapter 2, Project Description, of the EIR. The letter also requests contact information for the Mayor, Councilperson, and other members of the City staff involved in the Proposed Project. Such information is available on the City's website at https://www.cityofinglewood.org/directory.aspx. Letter 10 does not address the EIR or raise any environmental issues.

Letter 12, from Melissa Hebert, is an email requesting the agenda for the City Planning Commission meeting of June 17, 2020. The agenda was sent to the commenter. Letter 12 does not address the EIR or raise any environmental issues.

Letter 13, from Naira Soghbatyan of the Silverstein Law Firm, requests that the City include its content in the Administrative Record for the Proposed Project. The letter addresses issues associated with telephone access that occurred at a June 9, 2020, meeting of the Inglewood City Council. As set forth in response to Letter 9, the June 9 meeting considered matters unrelated to the Proposed Project. The comment requests that public participation be provided for in the scheduled June 17, 2020, meeting of the City Planning Commission, and that special provisions be made to accommodate the participation of the commenter. At the author's request, the letter will be included in the Administrative Record for the Proposed Project. The City established procedures for the Planning Commission meeting to allow all interested parties to participate via telephone. Members of the public were able to participate in the Planning Commission's hearing on June 17, 2020.

Letter 14, from Veronica Lebron of the Silverstein Law Firm, is an email conveying Letter 15 to the City. Letter 14 does not address or raise any environmental issues related to the IBEC EIR.

Letter 15, from Robert Silverstein of the Silverstein Law Firm, is a June 11, 2020, request for documents pursuant to the CPRA. Letter 15 does not address or raise any environmental issues related to the IBEC EIR. Please see Response to Comment Silverstein-2 in Exhibit A, below.

Letter 16, from Veronica Lebron of the Silverstein Law Firm is a June 11, 2020, e-mail that requests copies of three documents pursuant to the CPRA related to the Century Boulevard Redevelopment Plan: Ordinance No. 94-24, adopted November 22, 1994; Ordinance No. 2405, adopted July 7, 1981 (the e-mail asks for Ordinance No. 2045, but this appears to be a typographical error); and Ordinance No. 93-18, adopted July 13, 1993 (the email states the ordinance was adopted on June 29, 1993). The e-mail also requests copies of CEQA analyses prepared in connection with these ordinances. The City has responded to this request by providing the documents, or by stating that the documents are in the process of being gathered, at which point they will be provided. The City of Inglewood Redevelopment Project Areas and related plans are addressed in the EIR in Section 3.10, Land Use and Planning, pages 3.10-26 to 3.10-28. Letter 16 does not address the EIR or raise any environmental issues. Please see Response to Comment Silverstein-2 in Exhibit A, below.

Letter 17, from Kevin H. Brogan of Hill, Farrer & Burrill LLP, is written by representatives of the owners of 3915 West 102nd Street, within the Arena Site. The letter expresses opinions about several proposed actions that are identified in the Draft EIR, Project Description, Chapter 2, Section 2.6. In addition to listing the proposed actions, including proposed changes to General Plan designations and zoning, and the proposed vacation of portions of West 101st and 102nd Streets, the Draft EIR states that "if the project applicant is unable to acquire privately-owned, non-residential parcels within the Project Site, the City, in its sole discretion, may consider the use of eminent domain to acquire any such parcels, subject to applicable law, and the imposition of adequate controls necessary to ensure that the public purpose and use for which they were acquired are protected" (see Draft EIR page 2-89). No such determination has been made by the City. Letter 17 does not address the content of the EIR or raise any environmental issues.

Letter 18 is a letter from David Pettit, a senior attorney with the Natural Resources Defense Council. Mr. Pettit also submitted a letter commenting on the Draft EIR (see Final EIR, Chapter 3, Letter NRDC, pages 3-351 to 3-356, and Responses to Comments NRDC-1 through NRDC-12, pages 3-357 to 3-391). Letter 18 addresses two aspects of the GHG emissions analysis in the EIR. First, the letter identifies a concern that the City's approach to the calculation of net new GHG emissions in the EIR was intended to allow the use of a "future baseline as emissions standards and the like are tightened" in an attempt to "take credit for circumstances it has nothing to do

with, and that would occur whether the project is ever built or not – such as tightened auto GHG emission standards over time." The commenter had earlier expressed concern that the baseline selected by the City was thereby intended to reduce the Proposed Project's GHG emissions mitigation requirement.

The City wishes to clarify and emphasize that the approach utilized by the City in the EIR to calculate GHG emissions using annually-adjusted GHG emissions factors is not intended to, and does not, reduce the Proposed Project's GHG mitigation requirement. As detailed below, the City's approach ultimately would require the Proposed Project to mitigate approximately 166,000 MT of CO_2e *more* than the Proposed Project would otherwise have been required to mitigate if the City had selected the static GHG emissions baseline approach suggested by the commenter. For these reasons, the City believes that the approach properly utilized in the EIR and the desired outcome expressed by the commenter – full mitigation of a Project's greenhouse gas emissions – are in accord. Just as importantly, for the reasons indicated below, the City's use of the approach advocated by the commenter would result in a less conservative calculation of net new GHG emissions generated by the Proposed Project.

The Draft EIR calculations of total or gross project-generated GHG emissions over the 30-year analysis period properly use emission factors that account for anticipated improvements in emissions from mobile and stationary sources based on reasonably foreseeable implementation of new technology and established regulatory emissions requirements that become more stringent over time. As shown in Table 3.7-5 on page 3.7-39 of the Draft EIR, these GHG emissions factors become lower over time, resulting in lower gross project-generated GHG emissions estimates for future years.

Net new GHG emissions for the Proposed Project are derived by subtracting the baseline GHG emissions calculated in the EIR from the total gross project-generated GHG emissions. The calculation of net new GHG emissions provided in the Draft EIR properly applies the same GHG emissions factors that become lower over time to calculate baseline GHG emissions and gross project-generated GHG emissions over the 30-year analysis period.

The use of a "static baseline" approach to calculate net new project generated GHG emissions would require that fixed GHG emissions factors (e.g., 2018 emissions factors based on the date the NOP was issued) be used to calculate baseline GHG emissions for the 30-year analysis period for the Proposed Project. This would result in higher baseline GHG emissions and lower net new GHG emissions for the Proposed Project. Under the static baseline approach recommended by the commenter, calculations of the gross Proposed Project GHG emissions would account for future reductions in emissions due to evolving and improving technology, but the calculation of baseline GHG emissions would not. Essentially, calculating baseline GHG emissions using a static emissions factor would allow the Proposed Project to get credit for improvements in GHG emissions that would occur regardless of whether the Proposed Project is ever built. Under the approach used by the City in the Draft EIR, both the baseline and the gross Proposed Project emissions for any given analytical year are based on the same emissions factors, which results in higher net new emissions attributed to the Proposed Project, and thus a higher mitigation requirement than under the static baseline. Thus, the approach taken by the City in the Draft EIR is more conservative and requires more mitigation than the approach recommended by the commenter. As discussed in Final EIR Response to Comment NRDC-5, Mitigation Measures 3.7-1(a) and 3.7-1(b) would require achievement of net zero GHG emissions based on the emissions accounting provided in the Annual GHG Verification Report that would be provided to the City and to the California Air Resources Board.

The comment is correct that the calculations are complicated. That is an unavoidable byproduct of the attempt to characterize GHG emissions years into the future, while taking into account changes in regulatory requirements, and other factors. The bottom line, however, is that the approach taken in the EIR results in higher estimated net new GHG emissions from the Proposed Project, and therefore more GHG emissions reductions must be achieved, in order to meet the no net new GHG emission threshold, as compared to the approach endorsed by the comment.

Second, the letter cites a decision issued by the Fourth District Court of Appeal on June 12, 2020 – *Golden Door Properties, LLC v. County of San Diego* (2020) – Cal.App.5th – [slip op. dated June 12, 2020]. In that decision, the Court ruled that the mitigation measure adopted by the County was inadequate to address GHG emissions from projects that were not included in the County's Climate Action Plan, and thus not included in the County's inventory of GHG emissions for current and future horizon years. The decision raises questions about the use of GHG emissions offsets as CEQA mitigation. The decision spans 132 pages, is both legally and factually complex, and arises out of a lengthy administrative and legal process that has occurred over nearly a decade. In addition, the Court emphasizes that its decision is narrow, and is not intended to question the use of offsets as GHG mitigation generally, stating: "To be abundantly clear, our holdings are necessarily limited to the facts of this case, and in particular, [Mitigation Measure]-GHG-1. Our decision is not intended to be, and should not be construed as blanket prohibition on using carbon offsets—even those originating outside of California—to mitigate GHG emissions under CEQA." (Slip op., p. 4.)

The GHG mitigation measures incorporated into the Proposed Project differ substantially from the mitigation measure at issue in the *Golden Door* case. In particular, under Mitigation Measure 3.7-1, the Proposed Project must take substantial steps to reduce the GHG emissions through required on-site GHG emissions reduction measures, as well as required local off-site reduction measures. The project applicant may rely on GHG emissions offsets in addition to those required on-site and off-site local measures. The measure also commits the Proposed Project to a specific standard that must be achieved: no net new GHG emissions. To the extent the applicant relies on GHG emissions offsets to achieve this standard, those offsets must be real, quantifiable, additional, verifiable, permanent and enforceable. Mitigation Measure 3.7-1 establishes an annual monitoring mechanism to ensure that the no-net-new standard is achieved. For these reasons, the City believes that the basic structure of Mitigation Measure 3.7-1 meets the standards set forth in the *Golden Door* decision. The City has, however, considered whether refinements to Mitigation Measure 3.7-1 are warranted in light of *Golden Door* decision. Refinements to this measure in response to this comment are included in the MMRP, which, among other changes enhance the enforceability of the mitigation measure and restrict the use of offset credits generated outside the United States to further ensure that the Proposed Project's off-site mitigation proposals are each additional and enforceable. The refinements to this measure are included in the MMRP presented to the City Council for its consideration. While these refinements may not be legally necessary, City staff believes they are appropriate in order to remove any doubt about whether Mitigation Measure 3.7-1 meets the standards set forth in the *Golden Door* decision.

Letter 19, from Naira Soghbatyan of the Silverstein Law Firm, raises several issues, including (1) difficulties in public access to the City Council hearing of June 9, 2020, (2) objections to the June 9, 2020, adoption of CEQA Categorical Exemptions and approval of GPAs 2020-001 and 2020-002, as well as requests to recirculate the IBEC Draft EIR, and (3) objection to the City's approval of its Citywide Permit Parking Districts Program Ordinance, and an assertion that the ordinance was improperly segmented from the Proposed IBEC Project.

The issues related to the conduct of the City Council meeting on June 9, 2020, are the same as those raised by the same law firm in Letter 9, above. See the City's response to Letter 9, above.

The objections to the adoption of CEQA Exemptions and approval of GPAs 2020-001 and 2020-002, are the same as those addressed by the same commenter in Letter 7, above. See the City's response to Letter 7, above.

The objection to the City's approval of its Citywide Permit Parking Districts Program Ordinance, and assertion that the ordinance was improperly segmented from the Proposed IBEC Project are summaries of issues addressed more thoroughly in Letter 22 and Exhibit A, below. Please see Response to Comment Silverstein-17 in Exhibit A, below.

The issues raised in Letter 19 are procedural in nature and are not germane to the content, substance, and conclusions of the IBEC EIR. They do not identify significant new information pursuant to CEQA Guidelines §15088.5, and thus do not rise to the type of issue that would require recirculation of any part of the IBEC Draft EIR.

Letter 20, from Naira Soghbatyan of the Silverstein Law Firm, addresses the conduct of the City Council meeting on June 16, 2020. At this hearing, the City Council considered setting a date to consider amending its General Plan to include an Environmental Justice Element (GPA 2020-001) and to amend the General Plan Land Use Element (GPA 2020-002). Based on communications difficulties at this hearing, on June 30, 2020, the City Council rescinded its approval of these amendments. The City Council conducted a further hearing on the proposed amendments. The author did not appear at the hearing. Another member of this law firm – Robert Silverstein – participated at this hearing. Following the public hearing, the City Council approved the amendments. The amendments are not a component of the Proposed IBEC Project. Letter 20 does not address the IBEC EIR. Please see Responses to Comments Silverstein-41 and Silverstein-42 in Exhibit A, below.

Letter 21, from Esther Kornfeld of the Silverstein Law Firm, requests inclusion of Letter 22, including all exhibits and related links, in the administrative record for the Proposed IBEC Project. The City included the requested materials in the administrative record for the Proposed Project. Letter 21 does not address the EIR or raise any environmental issues.

Letter 22, from Robert Silverstein of the Silverstein Law Firm, is a 63-page letter with 2,363 pages of attached exhibits, and raises a number of objections to the Proposed IBEC Project, as well as issues related to the content of the Draft and Final EIRs, as well as procedures undertaken by the City in its consideration of the Proposed IBEC Project. More specifically, the myriad issues raised in the letter include assertions that (1) the City failed to respond to requests for documents pursuant to the CPRA, (2) the administrative record is improper, (3) the City gave improper notice and is "fast-tracking" the Proposed Project, (4) the Final EIR responses were inadequate, (5) new information makes the Draft and Final EIRs inadequate, (6) the City has improperly segmented (or piecemealed) the environmental analysis in the Draft EIR, (7) the City has illegally pre-committed itself to the approval of the Proposed Project, (8) the Draft EIR fails to adequately address impacts of the Proposed Project on schools, (9) the Mitigation Monitoring and Reporting Program fails to meet legal requirements, (10) the proposed amendments to the Inglewood International Business Park Specific Plan, (11) the Proposed Project actions would result in a violation of the Subdivision Map Act and the Surplus Land Act, and (12) the proposed Disposition and Development Agreement is inconsistent with the law. The full letter is bracketed and responded to in detail in Exhibit A, pages A-1 through A-63 of this memorandum.

In responding to the comments provided in this letter, the City has at points provided additional clarification or expanded upon information and analyses provided in the Draft and/or Final EIRs. For the most part, the comments raise substantive issues about the Draft EIR that were considered and addressed in the Final EIR, or

raise procedural issues regarding the City's implementation of CEQA or non-CEQA aspects of the City's process to review and consider the merits of the Proposed Project. The comments and responses do not constitute "significant new information" as defined in CEQA Guidelines section 15088.5(a), in that they do not: (1) identify any significant impacts that were not disclosed in the Draft EIR, (2) identify any impacts that are substantially more severe than disclosed in the Draft EIR, (3) identify any feasible mitigation measures or alternatives that were not identified and required of the Proposed Project to avoid or substantially lessen significant impacts, or (4) establish that the Draft or Final EIRs were so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. Therefore, neither the Draft EIR nor the Final EIR require circulation for additional review and comment. Please see the detailed responses to comments in Letter 22 in Exhibit A of this memorandum.

Letter 23, from Dev Bhalla, raises a number of questions about the Proposed Project, including the affordability of tickets to events at the Proposed Project arena, why the project site boundaries were set as proposed, and whether rezoning relates to his property (3838 West 102nd Street).

The issue of affordability of tickets at the Proposed Project arena was addressed in the Final EIR Response to Comment NRDC-3 which explains that the Proposed Project would provide entertainment opportunities for Inglewood residents across the economic spectrum. The response notes that in addition to a range of ticket prices for seats in different parts of the proposed arena, the project applicant and the City have negotiated a Draft Development Agreement that includes "public benefits" package of $100 million, including a number of provisions that would have benefits to the local community irrespective of the ability to afford tickets to events at the Proposed Project. Among other things, the Draft Development Agreement would require the dedication of 100 general admission tickets to every LA Clippers basketball regular season home game for use by a community group at no charge. Another provision would allow the use of the Arena by the City, local schools, youth athletic programs, or local community-based charitable organizations designated by the City for up to 10 days per year on days that the Arena or surrounding facilities are available. These public benefits, among others, are listed at Exhibit C to the proposed Development Agreement.

The project applicant and the City identified a proposed configuration of the Project Site that would involve the disposition of property owned by the City and the Successor Agency to the City of Inglewood Redevelopment Agency, the vacation of portions of City-owned streets, combined with acquisition of limited number of privately owned non-residential properties (through voluntary sales and/or potential condemnation actions if the City, in its sole and absolute discretion, determines to acquire such properties).

With respect to parcels on the proposed West Parking Garage Site proposed to be rezoned for consistency with the General Plan Land Use Element, those are parcels owned by the City or Successor Agency, and that rezoning would not involve the commenter's property.

Letter 24, from J. Jamie Fisher of Fisher & Talwar, expresses opposition to the Agenda Items 5(A) through 5(F) on the June 17, 2020, City Planning Commission agenda. Letter 24 does not address or raise any environmental issues related to the IBEC EIR.

Letter 25, from Melissa Hebert, is an email requesting the staff report related to the Proposed Project for the City Planning Commission meeting of June 17, 2020. The staff report was sent to the commenter. Letter 25 does not address the EIR or raise any environmental issues.

Letter 26, from Jasmine Lee, sent on behalf of Charles Lee, property owner of California Prairie Plaza (10300 South Prairie Avenue), immediately south of the Project Site on the east side of South Prairie Avenue. The comment asks four questions, addressed below:

1. Does the Project Site overlap with the commenter's property? No, the Project Site is immediately north of the 10300 South Prairie Avenue property, and the properties abut only at the northwest corner of the commenter's property.

2. How will businesses at the 10300 South Prairie Avenue site be affected by the construction and project? As described in the Draft EIR, Chapter 2, Project Description, during the first phase of construction a 12- to 15-foot high sound barrier would be constructed that would separate the Project Site from the commenter's property. Draft EIR Chapter 3 provides detailed analysis of the environmental impacts of the Proposed Project on surrounding properties, including the commenter's property. Please see Section 3.1 for a discussion of aesthetics, light and glare, and shade and shadow; Section 3.2 for a discussion of air quality, and specifically local emissions and health risks; Section 3.11 for a discussion of noise; and Section 3.14 for a discussion of Transportation and Circulation. Each of these discussions, as appropriate, includes discussion of impacts during construction, as well as impacts under a variety of operational conditions, ranging from every day conditions without arena events, through a variety of arena events including sold out basketball games and major concerts.

3. Who is the point person at the City to whom questions should be addressed? As noted in Draft EIR Chapter 1, and elsewhere in City notices related to the Proposed Project, the contact at the City of Inglewood is Mindy Wilcox, Planning Manager, Department of Economic and Community Development, One West Manchester Boulevard, 4th Floor, Inglewood, CA, 90301. Questions can also be submitted to the City's website at: ibecproject@cityofinglewood.com.

4. Is there a start date? Table 2-5, Draft EIR page 2-83 provides a detailed schedule for the construction of the Proposed Project, starting in July 2021 with anticipated completion and opening of the Proposed Project in October 2024.

Letter 27, from Robert Silverstein of the Silverstein Law Firm, acknowledges receipt of prior communications with the City staff, and raises questions about the City's determination that certain documents are privileged communications. The letter also requests information on the anticipated dates for the City Council's consideration of the EIR and the Proposed Project entitlements. Letter 27 does not address the EIR or raise any environmental issues. Please see Response to Comment Silverstein-4 in Exhibit A, below.

Letter 28, from Sheri Davis, a resident of Inglewood, expresses concerns about the ability of residents to view and participate in City Council meetings that are on line. While the unprecedented circumstances surrounding the COVID-19 pandemic have modified the method by which the City's Council meetings are conducted, consistent with the Governor's executive orders the City has provided multiple ways for members of the public to observe and participate in Council meetings while observing social distancing recommendations and public health orders issued by the Los Angeles County Department of Public Health. These measures are detailed on each City Council agenda.

The letter also expresses concern about increased traffic and other environmental impacts of the Proposed Project, and questions the benefits, such as increased property and sales taxes, that may accrue to Inglewood.

The impacts of the Proposed Project on traffic and circulation are thoroughly described in the Draft EIR, Section 3.14. The commenter refers to concerns about "residents forced out of their housing and closing of small businesses," an issue that is addressed in Draft EIR Section 3.12, Population, Employment and Housing. On Draft EIR, page 3.12-15, it is explained that because the Project Site does not include any residential units, "no residents would be displaced as a result of the Proposed Project." The Draft EIR does acknowledge that existing businesses, including a fast-food restaurant, a motel, a light manufacturing/warehouse facility, a warehouse, and a commercial catering business, would be displaced by the Proposed Project, but notes that "[b]ased on the availability of land suitable for relocation, these businesses should be able to locate elsewhere in the region."

Regarding benefits to the City of Inglewood, as described in the City's staff report for the June 17, 2020, Planning Commission meeting, the Proposed Project would generate substantial new revenues to the City, including property taxes, sales taxes, transient occupancy taxes, and other related revenues, in excess of the costs to the City. More specifically the Proposed Project would generate $12.9 million in one-time tax revenues related to construction, and a net increase in tax revenues of approximately $4.4 million per year to the City and approximately $2.3 million per year to the Inglewood Unified School District.

Further, as described in the Final EIR (see Response to Comment NRDC-3) and the June 17, 2020, staff report, the project applicant and the City have negotiated a "public benefits" package of $100 million. If the Proposed Project is approved by the City Council, these benefits would include the creation of local jobs and implementation of workforce equity programs, up to $80 million in programs for the construction of affordable housing and assistance for first-time homebuyers and renters; the balance of $20 million would fund programs for students, families and seniors. In addition, the Draft Development Agreement includes a number of provisions that would have benefits to the local community irrespective of the ability to afford tickets to events at the Proposed Project. Among other things, the Draft Development Agreement would require the dedication of 100 general admission tickets to every LA Clippers basketball regular season home game for use by a community group at no charge. Another provision would allow the use of the Arena by the City, local schools, youth athletic programs, or local community-based charitable organizations designated by the City for up to 10 days per year on days that the Arena or surrounding facilities are available. The elements of this package would be part of the entitlement package presented to the City Council for its consideration.

Letter 28 does not address the EIR or raise any environmental issues.

Letter 29, from Tina Pool, expresses opposition to the Proposed Project. While the comment requests the City to "rescind the approval" of the Proposed Project, it should be noted that the City has been in the process of conducting environmental and other review of the Proposed Project for the last two and one half years, and has not yet conducted a City Council hearing related to the merits of the Proposed Project, nor has the City approved the Proposed Project. Letter 29 does not address the EIR or raise any environmental issues.

Letter 30, from Veronica Lebron of the Silverstein Law Firm, is an email conveying Letter 31 to the City. Letter 30 does not address or raise any environmental issues related to the IBEC EIR.

Letter 31, from Robert Silverstein of the Silverstein Law Firm, addresses a range of issues related to the City's consideration of proposed GPAs 2020-001 and 2020-002, and related CEQA Exemptions. The only issue that addresses the IBEC EIR is a conclusory assertion that the two GPAs are part of the Proposed IBEC Project, and thus have been "illegally piecemealed" by not being addressed in the IBEC EIR. These same issues were raised in the commenter's letter of June 16, 2020 (see Letter 22), and are discussed in Letter 22 Responses to Comments

Silverstein-41 and Silverstein-42 in Exhibit A, below. The conclusion of those responses is that under CEQA, including relevant case law, the City is neither required to analyze the General Plan Environmental Justice Element (GPA 2020-001) or the General Plan Land Use Element amendments (GPA 2020-002) as a component of the IBEC project, nor analyze the IBEC as a component of GPAs 2020-001 or 2020-002. Letter 31 does not otherwise address the IBEC EIR or raise any environmental issues related to the Proposed IBEC Project.

Analysis and Conclusion

We have reviewed all of the attached correspondence for issues that may pertain to the EIR. All potential environmental issues raised in these comment letters were addressed in the Inglewood Basketball and Entertainment Center Project EIR. The comments addressed in this memorandum do not identify any environmental effects beyond those described in the Inglewood Basketball and Entertainment Center Project EIR, and no further analysis is required.

Exhibits

A. Detailed Responses to Comment Letter 22 ....A-1
B. Additional Letters and Emails with Comments on the Proposed IBEC Project B-1

EXHIBIT A

DETAILED RESPONSES TO LETTER 22

EXHIBIT A
DETAILED RESPONSES TO COMMENT LETTER 22

Letter	**Robert Silverstein, Letter**
Silverstein	June 16, 2020
Response	

Silverstein-1 As requested, the City has included the commenter, as well as Kenneth and Dawn Baines, on the list of interested persons to receive notices related to the Proposed Project.

The comment suggests that the Billboards Project, previously proposed by WOW Media, and the City's Inglewood Transit Connector project are "components" of the Proposed Project. This suggestion is incorrect. The Billboard Project was proposed in June 2019, over a year after the publication of the NOP for the Proposed Project, and sponsored by entities unrelated to the project applicant. The Billboards Project was not a component of the Proposed Project, and as explained in the Final EIR, has been withdrawn and is no longer being processed by the City of Inglewood. Please see Response Silverstein-41.

The City's Inglewood Transit Connect (ITC) project is also a separate and independent project and is not a component of the Proposed Project. The NOP for the ITC project was published in July 2018, over six months after the publication of the NOP for the Proposed Project. As a proposed transit system that would provide connections from the South Prairie Avenue corridor to the Metro LAX Crenshaw line Downtown Inglewood Station, the proposed ITC, if developed, could be used by employees and patrons of the Proposed Project, along with serving patrons and employees of The Forum, Sofi Stadium, the mixed uses being developed within the Hollywood Park Specific Plan, and other nearby uses and residences. The Proposed Project would not rely upon the construction and operation of the proposed ITC; the Proposed Project's TDM program provides for a shuttle system to provide connectivity from the Proposed Project to multiple Metro light rail stations on both the LAX Crenshaw line and the Green line. The analysis presented in Section 3.14 of the EIR does not assume the presence of the proposed ITC, although in compliance with the requirements of CEQA to account for all reasonably foreseeable cumulative projects, the proposed ITC is included on the list of Cumulative Projects included in Table 3.0-2, in Section 3.0 of the Draft EIR. Please see Response Silverstein-41.

The City will add the commenter and Kenneth and Dawn Baines to the list of interested parties requesting notices related the previously proposed Billboard Project and the proposed ITC project.

The comment states in a footnote that Assembly Bill (AB) 987 is unconstitutional. The comment does not state the reasons why, in the commenter's view, the AB 987 statute is unconstitutional. For this reason, it is not possible to respond to this comment. The City notes further that under Public Resources Code (PRC) §21177(a), a claim cannot be

raised in litigation under the California Environmental Quality Act (CEQA) "unless the alleged grounds for non-compliance with this division [CEQA] were presented to the public agency orally or in writing by any person during the public comment period provided by this division or before the close of the public hearing on the project before the issuance of the notice of determination." The comment's general reference to the unconstitutionality of AB 987 are insufficient to inform the City of the reasons for this claim. For this reason, the comment does not provide the City with sufficient specificity to enable the City to respond. (See *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2020) 47 Cal.App.5th 588, 618-619; *Mani Brothers Real Estate v. City of Los Angeles* (2007) 153 Cal.App.4th 1385, 1394 [petitioner must raise "exact issue" with agency in order to be able to assert claim in litigation].)

Silverstein-2

The comment states that the City has not responded to California Public Records Act ("CPRA") requests submitted by the author or others in his law firm, citing CPRA requests submitted on April 22, April 23, and May 28, 2020. The comment later cites subsequent CPRA requests dated May 8, June 4, June 11 and June 12, 2020, although it is unclear whether or how the comment refers to these other requests. The comment states that the City's incomplete responses to these requests has limited the author's ability to participate in the environmental review process for the Proposed Project.

Some of the CPRA requests listed in this comment do not address the Proposed Project. Others do. The following discussion summarizes the status and relevance of these requests:

- On April 22, 2020, the City received an e-mail from the author's law firm containing a CPRA request concerning various categories of documents.

  First, the April 22 e-mail requested documents concerning improvements on South Prairie Avenue between or within 300 feet of 10200-10212 South Prairie Avenue. These improvements consist of public works projects to (1) install fiber-optic cable, and (2) resurface South Prairie Avenue. Neither improvement is related to the Proposed Project. See Response to Comment Silverstein-41. The City is gathering the documents responsive to this request. Responsive, non-privileged documents will be provided.

  Second, the April 22 e-mail requests documents related to a proposal by WOW Media to construct and operate billboards. The billboards project is not part of the Proposed Project. See Response to Comment Silverstein-41. The City is gathering the documents responsive to this request. Responsive, non-privileged documents will be provided.

  Third, the April 22 e-mail requests documents concerning signage at the Proposed Project. All documents that are part of the record of proceedings for the Proposed

EXHIBIT A
DETAILED RESPONSES TO COMMENT LETTER 22

Project, including those related to signage, are available to at the record of proceedings web site established by the City. The web site is located at:

http://ibecproject.com/

The documents pertaining to signage at the Proposed Project consist primarily of the draft development agreement and draft design guidelines. Both documents were presented to the City Planning Commission for its hearing on June 17, 2020. The draft development agreement and design guidelines are attached to the staff report to the Planning Commission. The June 17 agenda packet is available on the City's web site. The June 17 agenda packet is also available on the record of proceedings web site for the Proposed Project.

- On April 23, 2020, the City received a letter from the author's law firm. The letter included a CPRA request concerning the City Council's hearing on March 24, 2020, pertaining to the Proposed Project. The City responded to this request by letter dated April 30, 2020.
- On May 8, 2020, the City received an e-mail from the author's law firm supplementing its April 22 e-mail and April 23 letter. Information concerning the April 22 e-mail is set forth above. With respect to the portion of the May 8 e-mail supplementing the April 23 letter, the City had already responded to this request on April 30, 2020.
- The comment references a CPRA request dated May 28, 2020. The City has not received a request dated May 28. The date may be a typographical error. The correct date may be May 8. See above.
- On June 4, 2020, the City received an e-mail from the author's law firm requesting documents related to the March 24 City Council hearing. The City responded to the request related to the March 24 City Council hearing in a letter dated April 30, 2020. The e-mail also requests video and audio recordings of the March 24 hearing. The e-mail also requests signed copies of documents. The City has communicated with the commenter on this issue and is continuing to gather information responsive to this request. Responsive, non-privileged documents will be provided.
- On June 11, 2020, the City received a letter from the author's law firm requesting certain documents pertaining to the Proposed Project site. The letter lists 23 categories of documents. Some of these categories request documents pertaining to the Proposed Project. These documents are available at the dedicated web site, at which the City is compiling, on an ongoing basis, the Proposed Project's record of proceedings. This web site is located at http://ibecproject.com/. Other categories of documents pertain to the Proposed Project, but they are not part of the record of proceedings because they are subject to the attorney/client privilege or other privilege, or are otherwise not public records; in those instances, the City will neither

provide the documents nor post them to the dedicated web site. Other categories of documents requested in the letter are not relevant to the Proposed Project; in those instances, the City is gathering the recordings and documents responsive to these requests, and responsive, non-privileged documents will be provided.

- On June 12, 2020, the City received a letter from the author's law firm requesting information concerning the City Council's June 9, 2020, hearing. At that hearing, the City Council considered whether to adopt resolutions and findings to approve certain technical amendments to the General Plan Land Use Element, and to approve a General Plan Environmental Justice Element. These actions are not part of the Proposed Project. See Responses to Comments Silverstein-41 and Silverstein-42. The City is gathering the documents responsive to this request. Responsive, non-privileged documents will be provided. The City also notes that the documents are, and have been, available as attachments to the City Staff Report to the City Council for its consideration at the June 9, 2020, hearing.

The comment requests that the City take no decision on the Proposed Project until the requested documents have been provided. The City is not required to suspend action on a proposal based on the status of CPRA requests on the proposal under consideration that have been submitted. Moreover, as noted above, some of the CPRA requests seek documents that are not related to the Proposed Project.

The comment states that the author may seek to augment the record. Whether augmentation of the record with a particular document is appropriate cannot be addressed in the abstract. If a given document falls within the criteria for inclusion in the record (Pub. Resources Code, § 21167.6, subd. (e)), then the City will include that document in the record. If the commenter proposes to augment the record with certain documents, then the City will consider the proposal at the time that it is made. As noted above, however, some of the CPRA requests cited in the comment do not pertain to the Proposed Project, or pertain to documents that are not within the scope of the record of proceedings because they are privileged or otherwise excluded from the record. For this reason, the documents responsive to these requests would not be part of the record for the Proposed Project. Those that are relevant to the Proposed Project have already been included in the record, unless there is a specific reason, such as a privilege, why the document would not be included in the record.

The comment appears to be designed to suggest that the City has prevented the author, its clients, and the public from obtaining information concerning the Proposed Project. The City disagrees with this suggestion. The City has established a dedicated web site for the Proposed Project: http://ibecproject.com/. The City has maintained a contemporaneous, indexed copy of the record available on this web site throughout the environmental review process for the Proposed Project. The City has also sent notices and distributed environmental documents fort the Proposed Project as required by CEQA. The author, the

author's clients, and the public have therefore had unusually abundant opportunities to review documents concerning the Proposed Project. Nevertheless, neither the author nor its clients submitted timely comments on the Draft EIR.

Silverstein-3 The comment states that the author's firm downloaded documents from the City's web site on May 15, 2020, shortly after the City posted its agenda for the City Council's May 19, 2020, agenda, but the hyperlink to the staff report was disabled shortly thereafter.

This statement is correct. When the City initially posted the City Council's agenda packet for the May 19, 2020, Council hearing, the documents posted with the agenda included materials that are subject to the attorney/client privilege. The materials were marked as subject to this privilege. The inclusion of these materials as attachments to the staff report was a clerical error. As soon as this error was discovered, the materials were removed from the hyperlinked agenda packet. The disclosure of these materials was inadvertent and did not waive the attorney/client privilege. The author has been notified of these facts. The materials included in the administrative record for the Proposed Project redact this privileged information. The agenda item originally scheduled for the May 19, 2020, City Council hearing was rescheduled for a later hearing.

Silverstein-4 The comment states that the City has deprived the public of the opportunity to review the entire administrative record. This statement is incorrect. The entire record is available at the dedicated web site established for the Proposed Project:

http://ibecproject.com/

The City has not posted to the record those documents that are either (1) not required to be part of the record of proceedings, or (2) are subject to non-disclosure as a result of a recognized privilege. That is appropriate; the requirement to prepare the agency's record does not trump privileges or non-disclosure requirements that otherwise apply. (See, e.g., *Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 216, 218 [privileged archaeological information in an EIR did not need to be disclosed]; *California Oak Foundation v. County of Tehama* (2009) 174 Cal.App.4th 1217, 1221 [Public Resources Code section 21167.6, subdivision (e), does not abrogate the attorney-client or the attorney work-product privileges].) None of the cases cited in the comment states otherwise.

The comment states that the City has interfered with the record, prejudicing public review. This statement is incorrect. The City has not included in the record those documents that are (1) not required to be part of the record of proceedings pursuant to Public Resources Code section 21167.6, or (2) subject to a privilege or a non-disclosure requirement.

Silverstein-5 Pursuant to the CEQA Guidelines (Sections 15105 and 15205(d)), and correspondingly pursuant to Chapter 12, Article 28, Section 12-100 of the City of Inglewood Municipal Code, the public review period for the Draft EIR for the Proposed Project was required

to be 45 days, and is limited to a maximum of 60 days except under unusual circumstances. The Draft EIR was published on December 27, 2019 and public review extended through March 24, 2020, a period of 89 days. In recognition of the complexity of the Draft EIR, the City extended the comment period several times, including beyond the 60 limit established under Guideline 15105(a). The 45-day public review period required by the State Clearinghouse extended through February 10, 2020 (actually, 46 days due to the need to conclude the public review period on a weekday); extensions beyond that date did not require noticing through the State Clearinghouse, and were noticed through the County Clerk as required pursuant to Guideline 15087(d), through publication in a newspaper of general circulation, as authorized pursuant to Guideline 15087(a)(1), and through updated notices on the City's website.

Because the City chose to extend the public review period to nearly twice that required under CEQA, and to provide notice of each and every extension, the public was not denied an opportunity to provide comment on the Draft EIR. In fact, the public was provided an unprecedented amount of time to review and submit comments on the Draft EIR, and the Proposed Project EIR process cannot be fairly characterized as having been "fast-tracked."

During the latter part of the extended public review period for the Draft EIR, the COVID-19 pandemic emerged in California. On March 4, 2020, on day 69 of the Draft EIR public review period, Governor Newsom proclaimed a State of Emergency in California, and on March 19, 2020, on day 84 of the Draft EIR public review period, issued Executive Order N-33-20, establishing a Statewide Stay-at-Home order. These conditions all occurred following the conclusion of the required 45-day public review period. Further, because they were limitations on physical travel, they provided no obstacle to submittal of comments on the Draft EIR by direct mail or email. Thus, the COVID-19 pandemic did not coincide with the legally-required 45-day public review period, and did not inhibit the ability of the public or agencies to submit comments on the Draft EIR during the last 5 days of the 89-day public review period on the Draft EIR provided by the City.

The actions taken by public and private officials to implement stay-at-home and other public health directives, including decisions to postpone or reschedule the Olympics, major sports leagues, or other large public gatherings have no relevance to the process undertaken by the City to properly process and provide extended time for public review of the EIR for the Proposed Project.

Silverstein-6

The Final EIR for the Proposed Project was published on June 4, 2020, and, consistent with the requirements of CEQA Guideline 15088, contains good-faith responses to all comments submitted to the City during the 89-day Draft EIR public review period as well as comments received after the close of the comment period. The responses to comments provided in the Final EIR address comments submitted by other

governmental agencies, organizations such as the Natural Resources Defense Council, as well as numerous other entities and individuals.

The comment notes comments "by other objectors like the Forum and IRATE," and refers to "…objections about illegal precommitment to the project in violation of CEQA by the City's entering into the Exclusive Negotiating Agreements (ENA) … and other documents demonstrating that the impending approvals were a post hoc rationalization for decisions already made." The City received no comments on the Draft EIR, and has received none since publication of the Final EIR, from The Forum, Inglewood Residents Against Takings and Evictions (IRATE), or representatives thereof, and thus there are no comments on or objections to the content of the EIR from the aforementioned entities. None of the comments received by the City during the Draft EIR comment period addressed the ENA or stated that the City had "precommitted" to the Proposed Project.

The comment asserts that the City's entering into an ENA with the project applicant represented an "illegal precommitment to the project," and that the EIR and related documents represent "*post hoc* rationalization for decisions already made." These issues were adjudicated in *Inglewood Residents Against Takings and Evictions v. City of Inglewood* (Superior Court of California, County of Los Angeles, Case No. BS170333, December 27, 2018). The case addressed three related issues:

- Did the City violate CEQA in approving the ENA with the project applicant prior to conducting environmental review;
- Did the ENA constitute an approval of an essential step in the implementation of the Proposed Project; and
- Did executing the ENA foreclose consideration and approval of alternatives and mitigation measures?

In addressing these questions, the Court quoted the ENA which states: "The Parties in no way intended for this Agreement to waive or restrict the Public Entities' exercise of their independent, discretionary judgment with regard to CEQA or a DDA for the development of the Proposed Project within the Study Area Site or any portion thereof, or any City discretionary decisions or determinations relative to Entitlements required for the Proposed Project." In finding that execution of the ENA did not violate CEQA, the Court found that "[t]he ENA preserves all authority over approval to the City", that "the ENA is not an essential necessary action…toward eventual implementation of the Clippers arena," and that "the ENA does not commit the City to any course of action except that of good faith negotiations." The Court further found that "[t]he City retained its discretion in the ENA to consider alternatives and mitigation measures," and that "[t]he City's execution of the ENA did not impermissibly foreclose consideration and approval of meaningful alternatives and mitigation measures."

The plaintiff in this case filed a notice of appeal of the trial court's decision to deny the petition. On May 4, 2020, the plaintiff filed a request for dismissal with the Court of

Appeal. That same day, the Court of Appeal filed a dismissal order. The case is now completed. (*Inglewood Residents Against Takings and Evictions v. City of Inglewood* (Second Dist. Court of Appeal, Case No. B296760).) The trial court's judgment is therefore final.

The trial court's decision was correct. Under applicable law, the ENA does not constitute "approval" of the Proposed Project. In *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, the California Supreme Court held that "a preliminary public-private agreement for exploration of a proposed project" may constitute "approval" of a project, and thereby trigger the need for prior CEQA review, if the agreement, "viewed in light of all the surrounding circumstances, commits the public agency as a practical matter to the project." (*Id.* at p. 132.) In this case, no such commitment occurred. The ENA established a period during which the City would work exclusively with the applicant to investigate the Proposed Project, and to negotiate in good faith concerning the terms under which the proposal might proceed. The City expressly reserved the right to adopt mitigation measures or to approve an alternative to the Proposed Project, including the "No Project" alternative. The ENA provided that no decisions regarding the Proposed Project would be made by the City until after the CEQA process had been completed. Under such circumstances, in agreeing to the ENA, the City did not "approve" the Proposed Project. (See *Cedar Fair, L.P. v. City of Santa Clara* (2011) 194 Cal.App.4th 1150, 1169-1171 [approval of "term sheet" for football stadium did not constitute approval of project under CEQA].) Please see Response to Comment Silverstein-44.

In the IBEC Draft EIR, the City considered the comparative impacts of seven alternatives to the Proposed Project, including five alternative sites, and identified and required 69 distinct mitigation measures, including 165 specific sub-measures. Thus, it is evident that the City's consideration of both alternatives and mitigation measures in the EIR was extremely thorough and in no way hindered or limited by the prior execution of the ENA.

In sum, the comment's assertion that the EIR is part of an effort to create post hoc rationalization for approval of the Proposed Project is factually and legally incorrect.

Silverstein-7 Final EIR, Chapter 3, Response to Comment Caltrans-5 addresses Caltrans' request that the City further consider the identification of mitigation for cumulative impacts of the Proposed Project on the mainline segments of the I-405 freeway. The Draft EIR had previously identified mitigation for off-ramp conditions at the northbound and southbound off-ramps of I-405 at Century Boulevard. This type of mitigation is most commonly used in CEQA documents to reduce traffic congestion at off-ramp intersections which can cause backups that concomitantly result in impacts to the mainline freeway segments; it is much less frequent that it is determined feasible for individual development projects to address mainline freeway improvements.

In this case, as part of its good faith effort to respond to this comment from Caltrans, the City further considered the potential to provide funding to feasibly and proportionally mitigate cumulative impacts to the I-405 freeway segments. Several meetings were conducted between the City, its consultants, and Caltrans, and agreement was reached on a fair share contribution to Caltrans' existing I-405 Active Traffic Management (ATM)/Corridor Management (CM) project. As described in a May 7, 2020 Technical Memorandum from the City's transportation consultant, Fehr & Peers, the total cost of the ATM/CM Project is $29,000,000, and the fair share contribution of the Proposed Project is 5.1%, or $1,524,900. Caltrans concurred in this assessment and determination of the fair share contribution.[1] The fair share contribution of $1,524,900 is required through a new Mitigation Measure 3,14-24(h), added in the Final EIR, Chapter 3, Response to Comment Caltrans-5 and accepted by the project applicant. As is noted in the Mitigation Monitoring and Reporting Plan (MMRP), the payment of the required fair-share contribution is required to be completed prior to issuance of the first building permit for arena construction following excavation.

As such, not only did the City fully comply with the requirements for a good faith response articulated in CEQA Guideline § 15088, but Final EIR, Chapter 3, Response to Comment Caltrans-5 and the resulting Mitigation Measure 3.14-24(h) meet the standards established by the courts in the *California Clean Energy v. City of Woodland* case cited by the commenter.

Silverstein-8 The analysis of operational emissions presented in Section 3.2, Air Quality, addresses operational emissions using significance thresholds established by the South Coast Air Quality Management District (SCAQMD) and reflecting State and federal air quality standards. The calculations of operational emissions account for all project-related sources, including stationary, mobile, and area sources. The assessment of mass emissions is provided on a peak daily basis, consistent with the SCAQMD thresholds. The analysis of operational emissions in the EIR also includes a Health Risk Assessment which, consistent with the approved Office of Environmental Health Hazard Assessment (OEHHA) *Guidance Manual for Preparation of Health Risk Assessments*, accounts for exposures to all emissions sources over a 30-year period, including both construction and operational emissions. Similarly, the analysis of GHG emissions accounts for emissions of all sources of GHG emissions over the construction period and 30 years of Proposed Project operations. These methodologies represent the state-of-the-art for analysis of emissions associated with development projects like the Proposed Project and provide detailed analysis of project impacts.

Silverstein-9 Please see Final EIR, Chapter 3, Response to Comment Channel-23.

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[1] Carlo Ramirez, Transportation Planner, Caltrans District 7 Division of Planning, *Email to Lisa Trifiletti*, May 14, 2020.

EXHIBIT A
DETAILED RESPONSES TO COMMENT LETTER 22

Silverstein-10 The comment incorporates by reference "all prior objections to the project, including but not limited to objections/comments to the Project in the administrative record, or that should have been in the administrative record, dated prior to the public comment period beginning on December 27, 2019 and objections to the AB 987 certification."

This statement, including reference to unknown materials that "should have been in the administrative record" is so general and unspecific that the City has no way to determine what environmental matters to which the commenter objects, and fails to meet the standards of incorporation by reference established in the CEQA, the CEQA Guidelines, as well as failing the standards for exhaustion of administrative remedies that have been established by the courts.

Public Resources Code (PRC) §21177(a) establishes that "[a]n action or proceeding shall not be brought pursuant to Section 21167 unless the alleged grounds for non-compliance with this division [CEQA] were presented to the public agency orally or in writing by any person during the public comment period provided by this division or before the close of the public hearing on the project before the issuance of the notice of determination."

CEQA Guideline §15150(c) reinforces this concept in establishing the requirement for incorporation by reference in the context of an EIR, stating that "the incorporated part of the referenced document shall be briefly summarized where possible or briefly described if the data or information can be summarized. The relationship between the incorporated part of the referenced document and the EIR shall be described." The comment's broad and vague statement meets none of the requirements for incorporation by reference established in Guideline §15150(c).

As interpreted by the Courts, PRC §21177 mandates that the lead agency must be provided sufficient specificity as to the issue being raised so as to be able to respond. In *Mani Brothers Real Estate v. City of Los Angeles* (2007) 153 Cal.App.4th 1385, 1394, the California Court of Appeal, Second Appellate District cited a long line of Appellate Court cases in explaining the requirements for specificity:

> The rationale for exhaustion is that the agency "'is entitled to learn the contentions of interested parties before litigation is instituted. If [plaintiffs] have previously sought administrative relief … the [agency] will have had its opportunity to act and to render litigation unnecessary, if it had chosen to do so.'" (*Citizens Assn. for Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151, 162–163.) The "exact issue" must have been presented to the administrative agency to satisfy the exhaustion requirement. (*Resource Defense Fund v. Local Agency Formation Com.* (1987) 191 Cal.App.3d 886, 894.)

(See also *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2020) 47 Cal.App.5th 588, 618-619.)

The general and vague attempt to incorporate by reference comments and objections that are part of the record, or "should be" part of the record, fails to meet the requirement that the "exact issue" must be presented to the City, and thus fails to allow the City to understand and respond prior to considering whether to take action on the Proposed Project.

The comment includes a reference and quotation from PRC §21189.55 pertaining to the consideration of new information after the close of the public review period for an EIR. This section of CEQA was added in 2016 as part of a new Chapter 6.7 and applies to the judicial review of CEQA documents related to the Capitol Building Annex and State Office Building Projects (see PRC §§21189.50 to 21189.57). PRC §21189.57 explicitly limits the applicability of Chapter 6.7 to projects that are expressly addressed in Chapter 6.7. Because the Proposed Project does not meet any of the definitions of applicable projects in CEQA Guidelines §21189.50, PRC §21189.55 does not apply to the CEQA process for the Proposed Project. Nevertheless, in the interest in completeness and responsiveness, the City has considered and responded to all comments in this letter.

Silverstein-11 The present COVID pandemic does not undermine the legitimate analyses undertaken based on substantial evidence in the record that are included in the EIR. While the length of time that COVID health directives will disrupt activities that are described in the EIR are currently unknown, there is no evidence in the record to support a conclusion that such directives will extend into the period of planned project construction, starting in mid-2021, let alone project operations planned to start in the fall of 2024. Even if current conditions were to extend for a year and be in place during the initial stages of project construction, it is most likely that the construction activities would be declared "essential" and proceed as described in the EIR; to wit, the construction of Sofi Stadium, and numerous other major projects in the State of California, have proceeded despite COVID-related health directives in 2019. There is no reason for the City to assume that similar levels of construction activity would not occur in mid-2021 if current conditions continue to exist at that time.

There is no evidence of which the City is aware that predicts or even speculates that the COVID pandemic will continue for the more than four years when operation of the Proposed Project is anticipated to begin. Thus, the most reasonable current estimate of future conditions is that the information disclosed in the EIR represent the conditions that will exist at the time of initiation of project operations. Nevertheless, even if current COVID health directives were to remain in place for over four years, it is not reasonable to assume that such conditions would limit the effective use of mass transit systems, such as the LA Metro light rail system, yet also allow mass gatherings such as use of the Proposed Project arena for sold out basketball games or other events. Based on the

current COVID-related health directives, if conditions exist where use of transit systems is limited for health reasons, it is also certain that full use, and potentially any use, of the Proposed Project arena would be prohibited. If physical distancing requirements are still in place, it is reasonable to assume that the capacity of the Proposed Project arena would be similarly limited and therefore use of automobiles by attendees, even with limited use of transit, would have lower levels of impact than disclosed in the EIR.

Furthermore, while the short-term effects of COVID have certainly reduced use of public transit as cited in the comment (both due to concerns about social distancing and spread on transit and to the stay-at-home orders reducing travel in general), the long-term effects on travel behavior after the COVID pandemic conditions end are not currently known. It is speculative to assume that transit will not be viable as a mode in the future.

Thus, the current COVID pandemic conditions do not undermine the adequacy, accuracy, or completeness of the EIR on the Proposed Project.

The comment also states that there are no statistics or studies to support the assumption that reduced parking or more bus lines will make people use buses, walk, or ride bicycles, and that Metro ridership has been declining in all major cities where public transit measures were improved and transit-oriented development policies were introduced. It is true that public transit use, particularly bus transit, has been declining in recent years in many cities. This phenomenon, however, is not relevant to the analysis in the Draft EIR. As described on Draft EIR pages 3.14-95 to 3.14-96 and further explained in Draft EIR Appendix K.1, Technical Memorandum #2, Project Travel Demand Estimates, the transit mode splits used in the Draft EIR for the Project were developed beginning with surveys of the travel behavior of Clippers fans actually attending basketball games at Staples Center in downtown Los Angeles. These were used to calibrate a transit mode share logit model developed specifically for the Draft EIR and calibrated to existing conditions that estimates transit utilization based on transit and driving travel time and travel costs. The logit model was then used to reflect the changes in transit access and service levels between Staples Center in downtown Los Angeles and the Project site in Inglewood to estimate the transit mode splits for the Project. Thus, the transit mode split estimates in the Draft EIR were rooted in actual conditions in Los Angeles.

Silverstein-12 The comment claims, based on one source cited in the comment (an analysis by Thomas Rubin), that public transit is not "ecologically green" and, as such, more GHG emissions and air pollution will be generated by the Project than assumed in the Draft EIR.

Rubin's analysis specifically critiques the assumptions and analyses in a prior study published by Duke University. The authors of that analysis, however, are quoted in Rubin's article as saying that the purpose of that analysis was "not to analyze fuel efficiency but rather to map out the U.S. supply chain for the manufacture of transit buses."

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The comment makes the presumption that a single, decade-old study with particular assumptions is the sole basis for determining whether transit is "greener" than personal auto use. There is a large and growing body of recent scientific study on greenhouse gas emissions[2], however, that supports the ecological benefits of public transit over single-occupancy vehicles. One of the key takeaways from the most recent studies is the transition from high-particulate matter diesel fuel buses, which were still predominant in 2010, to CNG and low-emissions diesel and biodiesel engines, which have been mandated across the county beginning with the 2007 model year and are now the predominant product.[3] These newer engines significantly reduce (or in the case of CNG, eliminate entirely) PM2.5, one of the worst effects on air quality. In the LA metropolitan region, transit ridership prior to the pandemic was strong relative to the rest of the nation. Although passenger loads vary tremendously by line, the Project Site is located in a part of the region that has generally high performing bus transit, particularly along La Brea Avenue, Century Boulevard, and Crenshaw Boulevard. Based on ridership data from Metro, several of those bus routes are in the top 25% for ridership on the system.

Although bus is the predominant mode, Metro has expanded, and continues to significantly expand, the light rail network, including the Crenshaw and Green Lines which will operate within the vicinity of the Proposed Project.

The Proposed Project TDM Plan (see Mitigation Measures 3.14-1(a) and 3.14-2(b)) would promote the use of transit (primarily light rail transit and to a lesser extent bus transit) through marketing and outreach, and through the use of passes, discounts and subsidies. Much of the TDM Plan is devoted to providing shuttle connectivity to existing and planned LA Metro light rail stations, to address the "first/last mile" challenge that often deters transit users. These programs would increase ridership and increase the "green" aspect of transit use associated with the Proposed Project.

LA Metro's light rail system is largely powered by electricity, the supply of which is becoming increasingly green with California's Renewable Portfolio Standard and with the LA Region's Clean Power Alliance offering more options for purchasing clean, renewable power at competitive rates (https://cleanpoweralliance.org/). Further, bus transit has generally become "greener" since the 2010 referenced study was published, with fleets adding more hybrid-electric and fully-electric buses in the fleets. In fact, LA

[2] Examples include "The Route to Carbon and Energy Savings: Transit Efficiency in 2030 and 2050." McGraw, Shull, Miknaitis. November 2010. https://www.apta.com/wp-content/uploads/Resources/resources/reportsandpublications/Documents/Route_to_Carbon_and_Energy_Savings_TCRP_J11_Task9.pdf and "Quantifying Greenhouse Gas Emissions from Transit." September 10, 2018. American Public Transportation Association. https://www.apta.com/wp-content/uploads/Standards_Documents/APTA-SUDS-CC-RP-001-09_Rev-1.pdf

[3] American Public Transportation Association, *2020 American Public Transportation Fact Book,* 2020. https://www.apta.com/wp-content/uploads/APTA-2020-Fact-Book.pdf

Metro recently purchased 95 electric buses and the Metro Board has adopted a policy of converting Metro's entire fleet of buses to zero emission vehicles by 2030.[4]

Furthermore, most bus transit in LA has been operating with low-emission CNG buses for over a decade, which has significant benefits over the diesel buses that make up the basis of the Rubin critique. Even private charter buses based in the region are often powered by CNG, as many of the charter bus companies operate former LA Metro equipment (for example, Transit Systems, which is an operator of the Hollywood Bowl shuttles).

Finally, it should also be noted that the City's ECAP, CARB's 2017 Scoping Plan Update, the Proposed Project's LEED Gold certification requirements, and the SCAG 2016 RTP/SCS all call for improving the quality and the accessibility of public transit as a strategy for reducing GHG emissions.

As discussed in Silverstein-11, COVID-19-related changes to travel patterns are expected to occur in the short term. However, there is no reasonable expectation that this will become the permanent condition. As discussed in Response to Comment Silverstein-11, while transit agencies will likely continue with reduced capacity buses and trains for the next year, it is reasonable to expect that by the time indoor full capacity attendance at major event venues is determined to be safe and allowed, it would be equally safe to ride a fully occupied bus.

The challenge to the Proposed Project and public policymakers is to support that body of work with action that encourages people to choose transit even when they might have the opportunity to drive alone. There are many reasons besides environmental benefit that someone might choose to take transit to an event at the Project Site, not the least of which can include incentives the project applicant would be conditioned to provide to employees and patrons as part of the Proposed Project's TDM Program.

As can be seen from the discussion above, the decade-old article provided by the commenter does not reflect either the current state of transit and transit technology as a method of reducing GHG emissions, or the specific methods and types of transit that would be enhanced and incentivized as part of the Proposed Project GHG Reduction Plan.

Silverstein-13 Please see Responses to Comments Silverstein-5 and Silverstein-12.

Silverstein-14 The EIR included a stable and detailed description of the Proposed Project in Draft EIR Chapter 2, Project Description.

The information on the hotel component of the Proposed Project is presented in Table 2-2, page 2-18, and on pages 2-45 and 2-46 of the Draft EIR. Although acknowledging

[4] https://thesource.metro.net/2017/07/27/as-metro-pursues-electric-bus-fleet-by-2030-three-bus-contracts-go-to-board-on-thursday/

that the level of design of the hotel is currently less than of other components of the Proposed Project, the description provides information about the number of rooms (up to 150), height (up to six stories/100 feet), access, and anticipated building materials. The description also identifies uses, such as meeting rooms and restaurant uses, that would not be part of the hotel. Details about access from West Century Boulevard, and surface and structured parking is provided. The configuration of the proposed hotel use is clearly depicted in the Draft EIR on Figure 2-7, Conceptual Site Plan; Figure 2-18, Preliminary Landscaping Plan; Figure 2-20, Conceptual Sign Locations; Figure 2-22, Temporary and Permanent Bus Stop Relocations; and Figure 2-24, Bicycle and Electric Vehicle Parking. On Draft EIR page 2-55 it is explained that the hotel "would be LEED Gold certified under LEED BD+C Hospitality." Infrastructure improvements necessary to support the hotel are depicted on Figure 2-26, Conceptual Potable Water Infrastructure; Figure 2-29, Conceptual Wastewater Infrastructure; Figure 2-30, Conceptual Drainage Infrastructure; and Figure 2-31, Conceptual Dry Utilities Infrastructure.

On page 2-85 of the Draft EIR, it is acknowledged that the exact timing of construction of the hotel is unknown, but that to ensure that the maximum impacts are described in the Draft EIR, it was assumed that construction of the hotel would overlap the construction of the other elements of the Proposed Project. The assumed construction schedule for the hotel is presented in Table 2-5, page 2-83 of the Draft EIR, as noted below:

- Site Preparation: July – August, 2021
- Drainage/Utilities/Trenching: September – October, 2021
- Grading/Excavation: October 2023
- Building Construction: February – September 2024
- Paving: September – October, 2024
- Architectural Coatings: August – October, 2024

Please also see Final EIR, Chapter 3, Response to Comment Channel-2 for further discussion of the detail, accuracy, and stability of the Project Description in the EIR.

Footnote 16, in this comment, includes assertions that the City considers hotel uses to be residential structures, and that as such, the proposed hotel use would not be a compatible use on the Project Site pursuant to the FAA grants by which the property was acquired by the City or the Successor Agency. These assertions are incorrect. Please also see Final EIR, Chapter 3, Response to Comment Channel-2. Chapter 12, Article 1, Section 12-1.35 of the City of Inglewood Municipal Code defines the term "dwelling" to be "a building or portion thereof designed for or occupied for residential purposes, including one-family, two-family, multiple dwellings, transitional housing, and supportive housing, **but not including hotels**, boarding and lodging houses" [emphasis added].

On July 1, 2020, the applicant and the City presented the Proposed Project to the Los Angeles County Airport Land Use Commission (ALUC) to determine whether the

project is consistent with the Los Angeles County Airport Land Use Plan (ALUP). The Proposed Project presented to the ALUC for a consistency determination included a hotel with up to 150 rooms. Following a public hearing, the ALUC adopted a resolution finding that the Proposed Project is consistent with the ALUP. The findings included a determination that the Proposed Project "does not propose noise-sensitive uses, such as residential, education, and health-related (i.e. hospital) uses on the site within the [Airport Influence Area] of LAX." (ALUC Resolution, Aviation Case No. RPPL2020000310, Project No. 2020-001033-(2).) Thus, both the City and ALUC have determined that, because the hotel use is not a residential use, it is not an incompatible use.

Silverstein-15 As noted above (see Response to Comment Silverstein-14), the comment states that the IBEC EIR's project description is inadequate. The comment cites one aspect of the project description in support of this statement: the hotel proposed on the East Transportation Hub and Hotel site. The comment states that information presented on the hotel is too vague and unstable to comply with CEQA, citing the Court of Appeal's recent decision in *Stopthemillenniumhollywood.com v. City of Los Angeles* (2019) 39 Cal.App.5th 1. The City disagrees. The IBEC EIR includes sufficient information regarding the proposed hotel to analyze its impacts. (See Silverstein-14.)

The comment states that the applicant's proposed Sports and Entertainment Center (SEC) Overlay Zone authorizes additional uses that are not identified or analyzed in the IBEC Draft EIR.

This statement is incorrect. The uses authorized under the SEC Overlay Zone are all uses that are identified as part of the IBEC EIR's project description. The proposed uses are listed in IBEC EIR Table 2-2. They include, among other things:

- Retail shops, full service and quick service restaurants, kitchens, bars and food service (48,000 square feet)
- A full-service restaurant/bar (15,000 square feet)
- A coffee shop (5,000 square feet)
- A quick-service restaurant (4,000 square feet).

The SEC Overlay Zone authorizes these uses. The Project Description and the SEC Overlay Zone are therefore consistent with one another. The EIR analyzes the impacts of these uses. (See, e.g., IBEC Draft EIR, p. 3.14-3 [describing various scenarios analyzed in transportation analysis, including "ancillary uses" such as restaurants and community space]; Technical Appendix K.2 [including trip generation rates for ancillary uses, including hotel, restaurant, etc.].)

The same is true with respect to other uses authorized by the SEC Overlay Zone. The zone authorizes, for example, infrastructure and ancillary structures and uses that enable the use of the plaza area for outdoor events. The EIR identifies outdoor events in the

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plaza as a use that is contemplated. (IBEC Draft EIR, p. 2-18, Table 2-2.) The impacts of such events are analyzed wherever relevant throughout the document. (See, e.g., IBEC Draft EIR, pp. 3.11-2 [noise analysis included noise generated during plaza events], Technical Appendix K-3 [estimate of vehicle miles traveled includes scenario consisting of 4,000-person event in outdoor plaza].) The statement that these uses were not analyzed is therefore incorrect.

Uses are authorized under the SEC Overlay Zone only if they are ancillary or accessory to those primary uses set forth in the zoning. Such a provision is commonplace, and appears throughout the City's zoning code, as well as the zoning code of cities and counties throughout the state. Such a provision does not mean that the EIR is invalid. (See *Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, 1450 [county was not required to analyze, as part of the project, the possibility that some residences would seek to construct second units on each parcel] ("*Save Round Valley*").)

The comment states that the SEC Overlay Zone and SEC Design Guidelines allow the Planning Department Director to override development standards located elsewhere in the Zoning Ordinance. The SEC Overlay Zone and SEC Design Guidelines, however, provide specific guidance concerning what uses are authorized, and what design standards must be achieved. The Planning Department can approve uses and designs only if they are consistent with the specifications set forth in the SEC Overlay Zone and Design Guidelines. The SEC Overlay Zone and Design Guidelines, in turn, are consistent with the project as described and analyzed in the IBEC EIR.

The comment quotes at some length from *Stopthemillenniumhollywood.com v. City of Los Angeles* (2019) 39 Cal.App.5th 1. The circumstances at issue in that case bear no relationship to the proposed SEC Overlay Zone here. In *Stopthemillenniumhollywood.com*, the zoning approved by the city provided the developer with the option of constructing offices, residences, commercial uses, or a mix of the three. Moreover, the EIR's project description "fail[ed] to describe the siting, size, mass, or appearance of any building proposed to be built at the project site" and that the proposed development regulations imposed only vague and ambiguous limits on what actually could be built. The public was therefore left in the dark regarding both the design, massing and scale of buildings, and the uses that they would contain – instead, the project was more or less a black box in which any number of uses or designs could be permitted. That approach violated CEQA because it provided the public with insufficient information to participate meaningfully in the environmental review process.

In this case, by contrast, such details are provided. The EIR's project description provides a detailed site plan, including renderings and cross sections. (IBEC Draft EIR, Chapter 2, Figures 2-17 through 2-17.) The EIR also includes a detailed list of the uses that are authorized at the site. (IBEC Draft EIR, Chapter 2, Table 2-2; see also Table 2-3 [description of characteristics of events at Arena].)

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Other EIRs have been upheld with project descriptions contained much more flexibility than exists here. In *South of Market Community Action Network v. City and County of San Francisco* (2019) 33 Cal.App.5th 321, for example, the project description allowed the developer to proceed with a mixed use project that emphasized either office or residential uses. Nevertheless, the EIR provided sufficient information to analyze the impacts of the project, regardless of which version of the project was actually built. Similarly, in *Citizens for a Sustainable Treasure Island v. City and County of San Francisco* (2014) 227 Cal.App.4th 1036, the project included both fixed and flexible elements, allowing certain uses to be moved around the site if, for example, hazardous materials precluded development in a particular area.

In this case, no such shift – of uses from one location to another, or from an office-oriented to a residential-oriented project – is proposed. To the extent there is any flexibility at all, it pertains to the design of the hotel, which is appropriate given that (1) the hotel has not yet been designed, (2) the hotel developer / operator has not been identified, and (3) sufficient information is provided to analyze the impacts of the hotel, when a specific design is presented. If a hotel is proposed that departs from the description in the EIR – if, for example, a 200-room hotel is proposed – then further CEQA review would have to be performed prior to approving such a hotel. Please see Response to Comment Silverstein-14 regarding the proposed hotel.

Silverstein-16 The comment asserts that delays in the Crenshaw Line construction and the possible future Centinela grade separation project will significantly affect the Draft EIR cumulative impact analysis and add more construction impacts than contemplated in the Draft EIR, also translating into operational limitations and a failure to serve the Project Site. The Draft EIR assumed opening of Crenshaw Line in mid-2020 (see Draft EIR page 3.14-53), not 2019 as incorrectly stated in the comment. The currently-anticipated delay in the opening of the Crenshaw Line to mid-2021 per the Los Angeles Times article cited in the comment would not affect analysis of Proposed Project operational impacts because the Proposed Project is not scheduled to open until the latter part of 2024. The Streetsblog article cited in the comment speaks of two years of a possible bus bridge to allow for construction of the Centinela grade separation, but also notes that the grade separation is not funded. If that construction were to occur prior to the Proposed Project opening in 2024, it would not affect the analysis of the operational impacts of the Proposed Project. If it were to occur later, the bus bridge would permit service to continue along the route.

In regards to construction impacts, the Draft EIR determined that cumulative construction impacts for the Proposed Project would be significant and unavoidable. Concurrent construction of the LA Metro Crenshaw line and the Centinela grade separation would not materially affect this conclusion given the distance between these projects and the Project Site (1.5 to 1.75 miles), with different access routes for trucks, etc.

Silverstein-17 The March 24, 2020, agreement referred to in the comment is characterized as a "Settlement Agreement." This characterization is inaccurate. Rather, the three-party agreement was entered into by entities that represent the project applicant, The Forum, and the City. The agreement is a "standstill agreement," in which the parties agreed to not undertake certain specific actions for a defined period of time. Among other things, and with respect to the City's obligations, during the period of the agreement, the City agreed to not release or certify the Final EIR, or adopt or approve the Proposed Project. The agreement did not limit any party from taking actions following the end of the period of the agreement, and the City agreed to take additional steps to ensure that other parties were not prejudiced by their agreement to not submit comments on the Draft EIR during the period of the agreement. There are no provisions of the March 24, 2020, standstill agreement that can be construed as "significant new information" pursuant to PRC §21092.1 and CEQA Guideline §15088.5.

On May 4, 2020, a company with common ownership as the LA Clippers (CAPPS LLC) completed the acquisition of The Forum from the Madison Square Garden Company (MSG) and all pending litigation between the parties was dismissed.

The comment states that the EIR does not analyze impacts associated with use of parking facilities by the Proposed Project. This comment is difficult to follow, but it appears to conflate a Citywide Permit Parking Ordinance adopted by the City of Inglewood in April 2020 with proposed amendments to the City Code that are specific to, and would be approved as part of, the SEC Overlay Zone that would be adopted to implement the Proposed Project.

With respect to the Citywide Permit Parking Ordinance, as discussed in the Final EIR, Chapter 3, Response to Comment Sambrano-9, the Citywide permit parking ordinance is intended to protect street parking throughout the City from potential encroachment by patrons attending events at SoFi Stadium. That is why the City adopted the program this year, prior to the anticipated opening of SoFi Stadium. This was also explained fully in all of the City's public outreach materials regarding the ordinance at the time it was being adopted, including mass mailers, letter to residents, email blast, and FAQs.[5] As such, the ordinance is independent of, and not a part of, the Proposed Project. Please see Response to Comment Silverstein-44.

The comment claims that the citywide permit parking ordinance is inoperable without the Proposed Project because it has no independent utility without an approved Sports and Entertainment Complex. Similar to the discussion above, this claim is not accurate. The Proposed Project is not required for the parking ordinance to have utility, and such

[5] City of Inglewood, Citywide Permit Parking Districts Program, mass mailer distributed prior to April 7, 2020, City Council hearing, April, 2020.

an ordinance is not described as among the actions necessary to implement the Proposed Project in the EIR Project Description, Section 2.6. As explained above, the ordinance was adopted by the City in anticipation of the upcoming opening of SoFi Stadium, which is an approved sports and entertainment complex.

The Draft EIR did not assume that parking for the Proposed Project arena would take place in surrounding neighborhoods, and thus the assumptions of the Draft EIR are not affected by the City's adoption of the citywide parking permit ordinance. In addition, the Event Transportation Management Plan (see EIR Appendix K.4) includes an element directed at protecting neighborhoods from transportation-related impacts associated with events at the Proposed Project's arena. A portion of this plan addresses the potential for neighborhood parking intrusion. (See Event TMP, Element 8.)

The comment states that the City is considering a "stealth" ordinance that will increase the Proposed Project's impacts. This statement is inaccurate. The Draft EIR identifies the SEC Overlay Zone as a mechanism for implementing the Proposed Project. (IBEC Draft EIR, pp. 2-55, 2-89.) The City is following the same procedures with respect to consideration of the SEC Overlay Zone ordinance as it would for any ordinance.

The comment suggests that the EIR did not analyze the impacts associated with the SEC Overlay Zone's parking provision. The comment is incorrect. Draft EIR Chapter 3.14 provides a comprehensive analysis of multiple scenarios, including scenarios in which concurrent events are taking place at both SoFi Stadium and the Proposed Project. The Draft EIR assumed that parking for major events at the Proposed Project arena would occur at the onsite parking garages and within the Hollywood Park Specific Plan area (in the new parking lots constructed for SoFi Stadium), as well as at the Hollywood Park Casino. The analysis showed that sufficient parking would be available at those locations to accommodate Proposed Project parking needs. When there are concurrent events at SoFi Stadium, the Draft EIR assumed that some parking for the Proposed Project would occur at other off-site locations considered likely to be available and of enough size to be efficient for management and operation of a shuttle system. (See, e.g., Draft EIR, pp. 3.14-100 – 3.14-101, 3.14-331 – 3.14-347, 3.14-480 – 3.14-482; see Figure 3.14-23 [map showing location of off-street parking facilities likely to be used when Hollywood Park Specific Plan lots are unavailable due to concurrent event].) The SEC Overlay Zone's parking provisions are designed to enable the Proposed Project to use these off-site locations on those occasions when they are needed.

Silverstein-18 The comment states that the City has committed to approving the Proposed Project, prior to completing the CEQA process. The comment cites the City Council's decision on March 24, 2020, to approve an agreement between the City and other entities concerning the Proposed Project. The comment also states that the City violated the Brown Act in connection with its March 24, 2020, hearing.

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The City has already responded to the comment's claim that the City violated the Brown Act. In its response, the City described the actions taken at the March 24 City Council hearing and explained why those actions were consistent with the Brown Act. (See Letter from Kenneth R. Campos, City Attorney, City of Inglewood, to Robert Silverstein (April 30, 2020).)

The City disagrees that the March 24, 2020, agreement pre-committed the City to approving the Proposed Project. In the agreement, the City agreed to refrain from releasing the Final EIR or considering whether to certify the EIR or approve the Proposed Project, during a "standstill period" (as defined). The City also agreed to accept comments from MSG or IRATE, even if those comments were submitted after the close of the Draft EIR comment period. The City took no action on the IBEC EIR, or on the Proposed Project itself. Indeed, the agreement specifically provides that, in entering into the agreement, the City had not committed to approving the Proposed Project. Paragraph 14 of the agreement states:

> 14. Other than as expressly set forth herein, the City retains the absolute sole discretion to make decisions under CEQA with respect to the Proposed Project, which discretion includes: (i) deciding not to proceed with development of the Proposed Project, (ii) deciding to proceed with development of the IBEC Project, (iii) deciding to proceed with any alternative development of the Proposed Project, and (iv) deciding to modify the Proposed Project as may be necessary to comply with CEQA. There shall be no approval or commitment by the City regarding the IBEC Project unless and until the City undertakes environmental review as required in compliance with CEQA. MSG expressly agree that neither MSG nor IRATE shall, directly or indirectly, raise or object to, or support or join in any third party's objection to the existence of this Agreement as evidence of a prejudgment of the merits of the IBEC Project, in any action or proceeding, including any action or proceeding brought to attack, review, set aside, void or annul the certification of the EIR. MSG expressly agree that neither MSG nor IRATE shall, directly or indirectly, claim or assert, or support or join in any third party's claim or assertion, that this Agreement is evidence of a post-hoc rationalization in any action or proceeding, including any action or proceeding brought to attack, review, set aside, void or annul the certification of the EIR.

The City's commitments in the agreement stop far short of anything resembling project "approval," as that term has been understood by the Courts. The leading case on this issue is the California Supreme Court's decision in *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116. There, the Court considered whether approving a development

agreement and taking other preliminary steps constituted "approval" of a proposed project, such that the CEQA process ought to have been completed before the agency took those steps. The Court adopted the following test for determining whether agency actions amount to "approval" of a project:

> A CEQA compliance condition can be a legitimate ingredient in a preliminary public-private agreement for exploration of a proposed project, but if the agreement, viewed in light of all the surrounding circumstances, commits the public agency as a practical matter to the project, the simple insertion of a CEQA compliance condition will not save the agreement from being considered an approval requiring prior environmental review.
>
> (*Save Tara*, *supra*, 45 Cal.4th at p. 132.)

In applying this principle to conditional agreements, a court must "look not only to the terms of the agreement but to the surrounding circumstances to determine whether, as a practical matter, the agency has committed itself to the project as a whole or to any particular features, so as to effectively preclude any alternatives or mitigation measures that CEQA would otherwise require to be considered, including the alternative of not going forward with the project. (See [Guidelines], § 15126.6, subd. (e).) In this analysis, the contract's conditioning of final approval on CEQA compliance is relevant but not determinative." (*Save Tara*, *supra*, 45 Cal.4th at p. 139.)

Following *Save Tara*, courts have ruled that an agency may enter into a "memorandum of understanding" or "term sheet" with a private developer, approve a budget for a public project, or enter into a project "siting agreement" identifying specific locations where a controversial project might be located. If such agreements make clear that the agency has not committed to the project, will not make a decision until after the CEQA process is completed, and retains discretion to approve an alternative or disapprove the proposal, then in approving the preliminary agreement the agency has not "approved" the project within the meaning of CEQA. (See, e.g., *Cedar Fair, L.P. v. City of Santa Clara* (2011) 194 Cal.App.4th 1150 [term sheet for football stadium]; *California Oak Foundation v. Regents of the University of California* (2010) 188 Cal.App.4th 227 [budget for athletic center]; *City of Santee v. County of San Diego* (2010) 186 Cal.App.4th 55 [siting agreement for reentry facility].)

In this case, the March 24 "preliminary agreement" commits the City to *delay* the CEQA process, and to accept late comments under specified circumstances. The agreement does not commit the City to approve the Proposed Project. The agreement affirmatively disclaims any such intent. No surrounding circumstances state, or suggest, that the City committed to approve the Proposed Project. The March 24 agreement constitutes far less commitment than other preliminary agreements that, according to the courts, do not

constitute "approval" of a project for CEQA purposes. The claim that the City has pre-committed to approve the Proposed Project is therefore incorrect.

Silverstein-19 See Response to Comment Silverstein-18.

Silverstein-20 This comment is introductory to the following 20 comments regarding comments on the Draft EIR from Caltrans, Metro, LADOT, Los Angeles County Department of Public Works, and Culver City, each of which were responded to in the Final EIR. The comment asserts that the comments from these public agencies show that the Draft EIR's assumptions are neither enforceable nor realistic, and that the Draft EIR and Final EIR therefore fail either to identify or mitigate various impacts. This is inaccurate. Each of the comments from the various agencies that are mentioned or quoted in these comments were fully responded to in the Final EIR, and did not lead to the identification of any previously unidentified new significant impacts, or a substantial increase in the severity of any significant impacts of the Proposed Project. Contrary to the implication of the comment, simply because an agency makes a comment does not in and of itself render the Draft EIR or Final EIR inadequate. For a more detailed consideration of each of these comments, please see Responses to Comments Silverstein-21 through Silverstein-39, below.

Silverstein-21 This comment restates Final EIR, Chapter 3, Comments Caltrans-5 and Caltrans-6. However, the comment does not reflect the responses that were provided to the Caltrans comments in the Final EIR. No new significant impacts were identified by Caltrans. The City and its transportation experts coordinated with Caltrans staff before and during the Draft EIR public review period. Full responses to these Caltrans comments are provided in the Final EIR, Chapter 3 (see Responses to Comments Caltrans-5 and Caltrans-6).

The first Caltrans comment cited in this comment is Final EIR Comment Caltrans-5. The comment claims that Caltrans identified significant impacts. In fact, the Caltrans comment correctly noted and agreed with the Draft EIR finding of significant cumulative impacts on State facilities including the I-405 freeway and requested a fair share mitigation agreement towards traffic management system improvements along the I-405. The response in the Final EIR was to add Mitigation Measure 3.14-24(h), requiring a fair share contribution towards Caltrans' planned Active Traffic Management (ATM)/Corridor Management (CM) project. (See Final EIR, pp. 3-11 – 3.12 [Response to Comment Caltrans-5].) Regardless, the Final EIR did not determine that the impacts would be mitigated to insignificance, but rather determined them to be significant and unavoidable. No new significant impacts not previously identified in the Draft EIR resulted from the Final EIR Caltrans-5 comment and response.

The second Caltrans comment cited in this comment is Final EIR Comment Caltrans-6. As noted in the Final EIR Response to Comment Caltrans-6, the Proposed Project's commitment to a fair share contribution towards Caltrans' ATM/CM project addresses the cumulative impacts identified in the Draft EIR that were cited in the Caltrans

comment. (See Final EIR, pp. 3-11 – 3-12 [Response to Comment Caltrans-6].) The comment claims that Caltrans' proposal in their comment that the developer work with Caltrans to develop a fair share mitigation agreement show that there is no enforceable mitigation. To the contrary, the consultation requested by Caltrans in its comment did occur and agreement was reached (see the Responses to Comments Caltrans-5 and Caltrans-6 in the Final EIR), a point omitted by the commenter. The Mitigation Monitoring and Reporting Program on page 4-72 of the Final EIR requires that the payment to Caltrans be made prior to issuance of the first building permit for the Arena following excavation, and that the City of Inglewood Department of Public Works has the responsibility to monitor and ensure that the contribution has been made. Again, no new significant impacts not previously identified in the Draft EIR resulted from the Caltrans comment and response.

Please also see Responses to Comments Silverstein-7 and Silverstein-8 regarding Caltrans' confirmation of the adequacy of the fair share payment identified in Mitigation Measure 3.14-24(h).

As part of this comment, footnote 21 says that the City, through release of the Final EIR, has "failed to comply with all of Caltrans' original study directions to the City for inclusion in the EIR." In fact, the Draft EIR evaluated the potential for Proposed Project impacts at more freeway segments and ramps than were requested by Caltrans.

Silverstein-22 This comment restates Final EIR, Chapter 3, Comments Caltrans-7, -8, and -9. However, the comment does not reflect the responses that were provided to these Caltrans comments in the Final EIR. No new significant impacts or substantial increases in the severity of impacts were identified by Caltrans. The City and their transportation experts coordinated with Caltrans staff before and during the public comment period to address their comments. Full responses to these Caltrans comments are provided in the Final EIR (see Final EIR, Chapter 3, Responses to Comments Caltrans-7 through Caltrans-9).

The first Caltrans comment cited in this comment is from Final EIR Comments Caltrans-7 and Caltrans-8. The comment claims that Caltrans identified significant impacts for which the Draft EIR identified no mitigation measures. This claim is inaccurate. Caltrans raised a concern that there could be a secondary impact associated with implementation of Mitigation Measure 3.14-3(c) which could require widening of the off-ramp. Analysis was presented in the Response to Comment Caltrans-7 in the Final EIR responding to Caltrans' concern and demonstrating that there would not be a secondary impact and, as such, widening of the off-ramp would not be required.

The second Caltrans comment cited in this comment is Final EIR Comment Caltrans-9. The comment claims that Caltrans' comment demonstrates that the Draft EIR failed to identify all feasible mitigation measures. This claim is inaccurate. Final EIR Response to Comment Caltrans-9 describes in detail the reasons why the City concludes that no

feasible mitigation measures are available at the three locations identified in Caltrans' comment. The response explains that the City investigated the feasibility of improvements at all three of these onramps, found that the improvements were infeasible, and explained why. The reasons include interference with existing HOV lanes, creating unsafe "trap" situations for certain lanes, creating unsafe intersection lane-shifts, inadequate right-of-way, loss of parking, physical constraints such as adjacent drainage channels, and disruption of existing bus stops. As the response explains, the City investigated the feasibility of these improvements in close consultation with both Caltrans and the City of Hawthorne. Although these improvements were found to be infeasible, the City identified the following mitigation measure to address impacts at the eastbound on/off ramps at I-105 and 120th Street:

Mitigation Measure 3.14-2(p)

The project applicant shall work with the City of Inglewood, the City of Hawthorne, and Caltrans to investigate the feasibility of adding a second eastbound left-turn lane or extending the length of the single existing left-turn lane on 120th Street at the I-105 Eastbound On/Off Ramps within the existing pavement width and, if determined to be feasible within the existing pavement width, to implement the improvement.

This measure has been incorporated into the MMRP. (See Final EIR, p. 4-28.) Because the feasibility of this measure is uncertain, and depends on determinations made by other agencies, the impact it addresses remains significant and unavoidable. (See Final EIR, p. 3-18 [Response to Comment Caltrans-9].)

Silverstein-23 This comment restates Final EIR, Chapter 3, Comments Caltrans-10. However, the comment does not reflect the response that was provided to this Caltrans comment in the Final EIR. The City and its transportation experts coordinated with Caltrans staff before and during the public comment period to address their comments. A full response to this Caltrans comment is provided in the Final EIR (see Final EIR, Chapter 3, Response to Comment Caltrans-10).

The comment claims that the Intersection Control Evaluation (ICE) screening should have been conducted as part of the Draft EIR to demonstrate the viability of the intersection modifications. This comment indicates a misunderstanding of the Caltrans project development process. As discussed in Final EIR Response to Comment Caltrans-10, Mitigation Measures 3.14-2(g) and 3.14-2(j) specify that implementation of the mitigation measures would require complying with the Caltrans project development process as local agency-sponsored projects. Conducting the ICE screening at these locations is a part of the Caltrans project development process. During development of the Draft EIR, the potential viability of the mitigation measures as proposed was discussed with Caltrans staff to ensure that the mitigation measures included in the Draft EIR met the CEQA standard for feasibility.

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Silverstein-24 This comment asserts that major shakeups in transit service will "vastly affect the baseline assumptions, causing vague and imprecise mitigation measures". The disclosure in the Final EIR related to the timing of both minor and major shakeups in transit service by no means suggests that baseline transit service assumptions were inappropriate or that the mitigation measures were therefore imprecise. Had Metro thought this was the case, they likely would have included such a comment in their comments on the Draft EIR. The Metro comment appears to be advisory in nature, to allow the general public to know that both minor and major transit service shakeups occur in December and June.

There is no basis to support this comment's assertion that there would be a "one-year impact," which would be caused by the Metro rail operating plan C-3 being for one year (and not two years). At the time the Draft EIR was prepared, rail operating plan C-3 was the Metro Board's adopted plan. The frequency for which this plan is updated is largely irrelevant, as it was the only plan endorsed by the Metro Board at the time the analysis was prepared. In other words, no other rail operating plan would have been more reasonable to have assumed in place for baseline conditions. While it is true that rail operating plan C-3 may be modified annually, that does not imply that the plan would not be operational and therefore be considered an inappropriate travel choice to assume in the baseline analysis.

Contrary to the commenter's opinion, no data provided in the Final EIR regarding the frequency of updates to rail operating plan C-3 rises to the level of significant new information under CEQA Guideline §15088.5(a).

Silverstein-25 This comment asserts that the baseline analysis assumed more train capacity than realistically exists and therefore understated the transit impacts of the Proposed Project. The Draft EIR includes a lengthy discussion of planned Metro light rail system improvements that would be in place prior to the opening of the Proposed Project. Those planned improvements will result in more system capacity than currently exists. When analyzing train capacity, the Draft EIR relied the best available information which was that included in the Metro Board's adopted rail operating plan C-3. Detailed evaluations were performed for both weekday and weekend pre-event and post-event peak hour conditions based on the train capacities and car capacity thresholds applied by Metro during each of these four specified time periods. This comment does not provide any documentation to support a conclusion that the transit impacts of the Proposed Project were understated.

Silverstein-26 The possible future grade-separation project for the K Line at the Florence Avenue/Centinela Avenue intersection would not affect operations during events at the Proposed Project because that construction would be complete prior to the fall 2024 opening of the Proposed Project. It is possible that construction of the grade-separation project, if it were expeditiously designed, approved, and funded, could coincide with

construction of the Proposed Project. This type of potential occurrence is precisely why a Construction Traffic Management Plan was recommended as Mitigation Measure 3.14-15 in the Draft EIR. That plan would be required to include identifying haul routes and arrival/departure information of trucks, and strategies to reduce employee and delivery trips during AM and PM peak hours. The plan would be required to be submitted to emergency service and transit providers so as to minimize any overlapping effects of concurrent construction activities associated with cumulative projects over which the City may have no authority. Thus, the Construction Traffic Management Plan is the mechanism to be used to avoid and minimize any effects associated with concurrent construction activity.

Furthermore, the Draft EIR already determined that cumulative construction impacts would be significant and unavoidable, and concurrent construction of the K line and the Centinela grade separation project would not materially affect this conclusion given the distance between these projects and the Project Site (1.5 to 1.75 miles), with different access routes for trucks, etc.

Silverstein-27 The comment requests more specificity regarding shuttle bus operations during events. Final EIR, Chapter 3, Response to Comment Metro-19 contains the requested information (see Final EIR pages 3-236 and 3-237). This information provides more insight into shuttle bus operations (to the extent that information can currently be known). Contrary to the commenter's assertion, that information does not cause any new impacts that require mitigation.

Silverstein-28 This comment raises issues that were raised in Final EIR, Chapter 3, Comments Metro-20 and -21, and asserts that impacts of shuttle buses at rail stations were not addressed in the Draft EIR and could have been considered significant impacts. Final EIR Responses to Comments Metro-20 and Metro-21 (Final EIR, Chapter 3, pages 3-237 and 3-238) describe why bus staging at rail stations would need to be evaluated in coordination with Metro at a later date. Final EIR Response to Comment Metro-20 indicates that given the number of rail stations and buses to be in circulation during major events, no more than two buses are expected to be present at a given rail station at a given point in time. This clearly would not rise to the level of a significant impact given this modest number of staged buses and typical presence during off-peak periods. The commenter is referred to Final EIR, Chapter 3, Responses to Comments Metro-20 and Metro-21 for more information.

Silverstein-29 Comment 29 asserts that using an adjusted baseline violates CEQA. The comment further asserts that the cumulative impacts of the Clippers Project together with the NFL project evaded review in the IBEC EIR. Neither of these claims is correct.

Contrary to the implication of the header of this comment ("Los Angeles Department of Transportation Comment re Incorrect Baseline."), LADOT's comment letter on the Draft EIR explicitly agreed with use of the Adjusted Baseline. This is included in the

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cited portion of that letter. The comment misleads by citing the LADOT comment letter and selectively omitting the first phrase in the quoted paragraph, which reads "[g]iven that the Proposed Project is not expected to be complete and operational until mid-2024, …" This phrase is important because it sets the stage for the remainder of the quoted comment by showing that LADOT understands the basis for analyzing project impacts against an adjusted baseline rather than against an existing baseline.

The comment states that the use of an adjusted baseline was a legal error. This statement is incorrect. Under CEQA, the environmental setting as it exists at the time the agency commences the environmental review process "normally" serves as the baseline condition against which the project's impacts are measured. (CEQA Guidelines, § 15125, subd. (a).) In this case, however, the use of physical conditions as they existed in early 2018 as the baseline would be misleading. That is because conditions at and around the Project site are dynamic, such that the physical setting will differ from those that existed in early 2018 by the time the Proposed Project commences operations in 2024. The current circumstances are therefore an instance in which a departure from the "normal" rule is warranted, a principle that has been recognized and endorsed by the California Supreme Court. (See *Neighbors for Smart Rail v. Exposition Metro Line Const. Auth.* (2013) 57 Cal.4th 439.)

The comment states that the Draft EIR analyzed project impacts against "an adjusted baseline of 2021." The statement is factually incorrect. The Draft EIR analyzes impacts using an adjusted baseline of conditions that will exist after the Adjusted Baseline projects are constructed. The reasons for using an adjusted baseline, as well as the land use, transit, and roadway assumptions in the Adjusted Baseline, are explained in detail in Sections 3.0.5 and 3.14.2 of the Draft EIR (see pages 3-9 to 3-11, and pages 3.14-53 to 3.14-56). As stated on page 3.14-56 of the Draft EIR, "[b]ecause the HPSP projects and transportation projects listed above are all approved, funded, and/or under construction, it would be misleading to analyze the Proposed Project's transportation impacts without taking into account these changes." This approach is conservative. At that time, SoFi Stadium is expected to commence operations, and listed HPSP projects will have been completed. The transportation setting will therefore consist of more traffic and congestion than existed in early 2018, when the environmental review process for the Proposed Project commenced. The use of an adjusted baseline against to measure the Proposed Project's impacts therefore results in more impacts than would occur if the "normal" approach to the environmental setting were used. It should be noted, moreover, that the EIR does describe existing conditions based on actual traffic counts performed and data obtained during the environmental review process.

Finally, the comment states that "the cumulative impacts of the Clippers Project together with the NFL project were not analyzed in the NFL project and evaded review in the IBEC EIR. …" The Proposed Project was not proposed until June 2017 and could not

have been anticipated at the time that the NFL Stadium analyses were undertaken. However, the comment that the Draft EIR did not analyze the combined impact of events at the NFL Stadium and at the Proposed Project is incorrect. As described on pages S-31, 3.14-8, and elsewhere in the Draft EIR, the analysis fully evaluates five concurrent or overlapping event scenarios, including a sold-out major event at the Proposed Project and sold-out NFL football game on a weekend day, and a sold-out major event at the Proposed Project and 25,000-person event at the NFL Stadium on a weekday evening. Each of those concurrent event scenarios was also fully analyzed with an overlapping event at The Forum. These analyses are presented in Section 3.14.5 of the Draft EIR.

Silverstein-30 The comment selectively quotes from Final EIR, Chapter 3, Comment LADOT-5 that addresses the Event Transportation Management Plan (Event TMP) (Draft EIR Appendix K.4) and mistakenly characterizes LADOT's letter as stating that the Draft EIR "understated the cumulative additional traffic of the Proposed Project together with the NFL stadium ..." In fact, LADOT's comment letter recognizes that "much of the analysis conducted has significant overlap" and provides its comments to "ensure that mitigation measures fully address potential project impacts." To that end, LADOT requested that inclusion of LADOT staff in required planning for event traffic management, particularly when concurrent events are held at the Proposed Project and the NFL Stadium. As stated in Response to Comment LADOT-3 in the Final EIR, planning for traffic management during overlapping or concurrent events at the Proposed Project and nearby event venues is anticipated in the Draft Event TMP. In the Final EIR, Responses to Comments LADOT-5 and LADOT-9 acknowledge the importance of interagency coordination and revised the Draft Event TMP in the Draft EIR to specifically include collaboration with LADOT (see Appendix K.4 in the Final EIR). Thus, the comment that there is no mandatory enforceable commitment for applicant to collaborate with LADOT is incorrect.

In addition, the City consulted with LADOT during preparation of the Final EIR regarding funding for ITS improvements at intersections in Los Angeles with unmitigated significant impacts. This collaboration led to development of an additional mitigation measure, described in Response to Comment LADOT-10 and included in the MMRP on page 4-71 of the Final EIR, which provides LADOT with a one-time contribution for ITS improvements prior to issuance of a Certificate of Occupancy.

The comment interprets the quoted comments from the LADOT letter to mean that mitigation of event traffic has been improperly deferred. In fact, as stated in on page 44 of the Draft Event TMP (Appendix K,4 of the Draft EIR), it "will be a dynamic document that is expected to be revised and refined as monitoring is performed, experience is gained, additional information is obtained regarding the Proposed Project's transportation characteristics, and advances in technology or infrastructure become

available." As set forth in the MMRP, planning and design of the Event TMP must commence at least 24 months prior to the anticipated completion date for the arena (currently estimated to occur in July 2024 and to be finalized at least six months prior to the issuance of a certificate of occupancy for the arena). Thus, there is a defined timeline for preparation of the Event TMP for the Proposed Project, and a process for including LADOT and other agencies. The comment did not identify any flaws or omissions in the Draft EIR that require the disclosure of missing information, new impacts, new mitigation measures or recirculation.

Silverstein-31 The comment asserts that the lack of disclosure of the County's proposed traffic enhancements "fully questions the validity of the Draft EIR's calculations." As discussed in the Final EIR Response to Comment LACPDW1-2, the County did not make the City of Inglewood aware of these proposed improvements when consulted earlier in the EIR process, nor between that time and publication of the Draft EIR. The County Public Works' comment simply requests disclosure, which was accomplished in the Final EIR. The County also requested assurance that de-facto right turn lanes were not assumed at the intersection of Century Boulevard/Gramercy Place. As noted in Final EIR Response to Comment LACDPW1-2, the analysis conducted in the Draft EIR did not assume the presence of de-facto right-turn lanes.

The referenced comment from LACDPW raises two details of the complex and extensive analysis of transportation and circulation in the Draft EIR. In suggesting that these detailed issues, fully addressed in Final EIR Response to Comment LACDPW1-2, represent a fundamental failure to fully disclose the impacts of the Proposed Project the commenter does not accurately convey the context in which the CEQA Guidelines use the phrase "good faith effort at full disclosure". This phrase is not part of CEQA itself, but is used three times in the CEQA Guidelines, in each case to reflect that there are limits to what is required under CEQA. Guideline §15003(i) augments the policies established in CEQA by the Legislature found in PRC §§21000, 21001, 21002, and 21002.1, by adding policies declared by California courts, stating that "CEQA does not require technical perfection in an EIR, but rather adequacy, completeness, and a good-faith effort at full disclosure. Guideline §15151 reflects this policy in providing guidance on the standards of review for an EIR, stating that "[t]he courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure." In Guideline §15204, regarding the focus of review of a Draft EIR, it is stated that "[w]hen responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information provided by reviewers, as long as a good faith effort at full disclosure is made in the EIR." Thus, the reference to "good faith effort at full disclosure" is used in the CEQA Guidelines is to act as a moderator to reviewers, like the commenter, who may want to imply that anything short of perfection or inclusion of everything that any commenter may request represents a failure to

comply with CEQA. Under both Guideline §15151 and §15204, the EIR has made a good faith effort at full disclosure of the impacts of the Proposed Project.

Silverstein-32 As discussed in Final EIR, Chapter 3, Response to Comment LACPDW1-2, the County did not make the City of Inglewood aware of these potential improvements when consulted earlier in the EIR process, nor between that time and publication of the Draft EIR. The LACDPW comment simply requests disclosure, which was accomplished in the Final EIR.

Silverstein-33 The comment noted was made by the Los Angeles County Department of Public Works and is addressed in the Final EIR, Chapter 3, in Response to Comment LACDPW-1-3. As noted in the response, the comment requested the shown change to the Regulatory Setting discussion in Draft EIR Section 3.7, Greenhouse Gas Emissions, in order provide additional specificity regarding SB 1383. There was no implication in the comment that the additional specificity related to an inadequacy in the analysis of GHG emissions in the Draft EIR, including methane emissions.

The comment states that oil well (API: 0403720016) is 449.6 feet from the Project Site and states it was "reabandoned in 2016". The Draft EIR included a review of the DOGGR (now CalGEM) well finder website which currently indicates that Well 0403720016 has been plugged and abandoned (see Draft EIR, Section 3.6, page 3.6-6). Therefore, it is no longer in use and has been appropriately plugged (i.e., filled with cement) and capped such that any chance for methane gas emissions would be considered negligible.

As referenced by the comment, the Draft EIR accurately discloses that the closest known oil production well is approximately 1,200 feet northeast of the Project Site, and that the Project Site is not located within 300 feet of an oil or gas well or within 1,000 feet of a methane producing site (see Draft EIR, Section 3.6, page 3.6-9). The well that is located 1,200 feet from the site is categorized as "idle." The use of the term "idle" in the Draft EIR for the status of the nearest oil well refers to wells that are not currently actively used and have not been plugged but are typically capped, meaning they are sealed at the surface. At a distance of 1,200 feet from the Project Site, a capped idle well would not be considered a significant risk at this distance for risk of exposure for visitors or workers at the Project Site. The Proposed Project would not otherwise exacerbate or have any effect on any potential hazards that may or may not be present at the location of this existing idle well. As is explained in the Draft EIR, "the potential for explosive methane gases impacting the Project site is low" (see Draft EIR, Section 3.6, page 3.6-9).

The statement that "the DEIR is non-specific as to whether any of the Project's proposed 28-acre site is located within a methane zone" is misleading. In fact, as described above, the comment from LACDPW did not pertain to the analysis in the Draft EIR and was

merely requesting additional specificity to be added to the Regulatory Setting discussion in Section 3.7.

Silverstein-34 As addressed above, the comment from the LACDPW pertaining to methane emissions related to the description of SB 1383 in the Regulatory Setting subsection of Section 3.7, Greenhouse Gas Emissions. The LACDPW found no inadequacy in the discussion of methane hazards and proximate oil wells in Section 3.8, Hazards and Hazardous Materials. The Draft EIR accurately discloses the closest production well to the Project Site at 1,200 feet and the fact that the well is listed as idle. The well mentioned in the comment (API: 0403720016) is not within 300 feet of the site, consistent with what is stated in the Draft EIR. This well is also plugged, meaning it has been filled with cement and does not provide a potential preferential pathway for methane. The Project Site is also not within 1,000 feet of a methane producing zone. Therefore, the Draft EIR logically and accurately concludes that the impact related to potential exposure hazards of methane gas is less than significant.

The greenhouse reduction goals are mentioned in the Draft EIR on page 3.7-23 under the discussion of AB 1383 and Section 3.7 of the Draft EIR provides the analysis of potential impacts related to greenhouse gases consistent with CEQA Guidelines. However, these reduction goals are a separate issue from the potential hazards related to any subsurface methane gas. As provided above, there is no data to suggest that there is a significant risk of exposure to methane hazards at the Project Site.

Silverstein-35 The comment asserts that the Draft EIR failed to disclose and analyze pedestrian flows. This assertion is inaccurate. Pedestrian flows are analyzed in the Draft EIR (see Draft EIR, Section 3.14, pages 3.14-132 through 3.14-136). The analysis in the Draft EIR identified a potential significant impact (see Impact 3.14-13) and described a mitigation measure that would reduce the identified impact to a less-than-significant level (see Mitigation Measure 3.14-13).

Final EIR Comment LACDPW1-6 requested clarification of the pedestrian flow management proposed, particularly in the southwest corner or the Project Site. As noted in Final EIR Response to Comment LACDPW1-6, the Event Traffic Management Plan required in Mitigation Measure 3.14-2(a) was provided in draft form in Appendix K.4 to the Draft EIR, and both described and illustrated specific measures to manage pedestrian flows at the southwest corner of the Project Site, including traffic control officers to manage vehicular/pedestrian interfaces during pre-event and post-event periods and a pedestrian bridge across Prairie Avenue. As such, this information was fully disclosed in the Draft EIR.

Silverstein-36 The comment asserts that Final EIR Comment LACDPW1-7 identifies a flaw and error in the Draft EIR's methodology. Final EIR Response to Comment LACDPW1-7 responds fully to the LACDPW comment. This response explains that the Draft EIR considers the potential for impacts at County intersections operating at LOS C, D, E and

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F for all County intersections analyzed for impacts during the typical AM and PM peak hours, as required by the County. It further explains that the City of Inglewood, as the lead agency, adopted different criteria for impacts during the evening pre-event and post-event hours, and the logic for that criteria (see Draft EIR page 3.14-62). The response further explains that LA County's preferred Intersection Capacity Utilization (ICU) methodology was used at all County intersections analyzed during the typical AM and PM peak hours and at most County intersections analyzed during the pre-event and post-event hours. The response explains that the exception was those intersections on or adjacent to the West Century Boulevard and South Prairie Avenue corridors where microsimulation modeling was appropriately used to properly capture the effects of coordinated signal timing plans, closely spaced intersections, queue spillbacks, imbalanced lane utilization, lane blockages, pedestrian flows, pick-up/drop-off events, and other considerations that are important to understand and account for in the assessment of the types of traffic flows created before and after major events (also see pages 3.14-18 and 3.14-19 in the Draft EIR). This is not a flaw but an improvement in the analysis methodology for those intersections. Finally, the response explains that mitigation measures are identified in the Draft EIR for significantly impacted locations in the County where such measures are feasible, and that a draft Event Traffic Management Plan was included as appendix K.4 to the Draft EIR.

In addition, in response to Comment LACDPW1-7, the City revised the Event TMP to provide for coordination with LACDPW with respect to streets managed by that department. (See Final EIR, pp. 3-36 – 3-39.)

The comment states that the Transportation Demand Management (TDM) program for the Proposed Project is required to include specific measures. The specific measures to be included in the TDM program are listed in Mitigation Measure 3.14-1(a) on pages 3.14-191 to 3.14-192 of the Draft EIR and in Mitigation Measure 3.14-2(b) on pages 3.14-195 to 3.14-199 of the Draft EIR.

Silverstein-37 The comment states that the analysis of GHG emissions in the Draft EIR is not based on substantial evidence, and cites comments on the AB 987 certification process, made six months prior to the Governor's certification. As described in Final EIR, Chapter 3, Response to Comment NRDC-2, the AB 987 certification process resulted in specific commitments to local direct GHG emission reduction measures which, if the Proposed Project is approved, are required to be imposed as conditions of approval. EIR Mitigation Measure 3.7-1(b) does not specifically mandate these particular measures, because it was not required to do so under CEQA in order to achieve net zero emissions, which would reduce Impact 3.7-1 to insignificance. Mitigation Measure 3.7-1(b) is consistent with the AB 987 reduction measures, and both Mitigation Measure 3.7-1(b) and the AB 987 commitments are intended to achieve net zero emissions under their respective methodologies.

The entirety of the analyses of GHG emissions undertaken as part of the preparation of the EIR are based on substantial evidence in the Draft EIR Appendices and elsewhere in the record of proceedings, which has been posted and available for public review throughout and following the Draft EIR public review period. The comment includes no specific criticisms or challenges to the evidence contained in the Draft EIR Appendices, the Final EIR Appendices, or elsewhere in the publically-available record. In addition, the AB 987 analyses were based on extensive evidence provide to the California Air Resources Board (CARB) and subject to public review and careful and extensive review by CARB air pollution experts.

Silverstein-38 The comment states that Culver City had requested several extensions of the public comment period and submitted its comments on April 1, 2020. As stated in the introduction to the responses to the comment letter from Culver CityBus, on page 3-243 of the Final EIR, the letter was received by the City of Inglewood on March 31, 2020. The public review period for the Draft EIR was 89 days, from December 27, 2019 through March 24, 2020, as described above in Response to Comment Silverstein-5, as well as in Final EIR Response to Comment SCAQMD-1.

The comment incorrectly states that Culver City is adjacent to Inglewood. The municipal boundaries of the two cities do not adjoin. The comment goes on to claim that Culver City "will be immediately and negatively impacted by the proposed Project." This statement is not supported by evidence in the Draft EIR, by information in the comment letter from Culver CityBus, nor by information in this comment.

The comment states that Culver CityBus' comment letter raised the issue of sidewalk width, and quotes the sixth comment in the Culver CityBus letter adding emphasis to the suggestion that "the Project should consider widening the sidewalks within the vicinity of the project site to accommodate the thousands of attendees for Clippers games and other big events." The comment states that "the DEIR (sic) may not simply respond to the Culver City comment and specify the width of the sidewalk, without addressing concerns and recirculating the DEIR for public review and comment." In fact, the Draft EIR and the Final EIR do much more than specify sidewalk widths. Pages 3.14-132 through 3.14-136 present a detailed, quantitative evaluation of the pedestrian system around the Proposed Project site. Final EIR Response to Comment Culver CityBus-6 provides a detailed response to the issues raised about sidewalk widths and the Draft EIR included a detailed analysis of pedestrian access at the site and concludes that, as mitigated, impacts to pedestrian access would not be significant. Further information is provided in the Final EIR Responses to Comments Channel 30 through 33. Because there is no need to provide additional mitigation by widening the sidewalks beyond what would be included as part of the Proposed Project, no modifications to the streets would occur that are not disclosed and analyzed in the Draft EIR. No changes to the Draft EIR or Final EIR are necessary.

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The comment refers new information about a separate Billboard Project and relates it to its comment about the sidewalks adjacent to the Project Site. As explained in Responses to Comments Silverstein-1 and Silverstein-41, and stated on Final EIR page 2.13, the Billboard Project was proposed by WOW Media, an applicant different from and unaffiliated with the applicant for the Proposed Project, and was not a part of the Proposed Project. Further, the Billboard Project application is no longer being considered by the City. Thus, the Billboard Project, prior to its withdrawal was independent from and not part of the Proposed Project, and would not have met the standard for piecemealing or segmentation under CEQA; now that the Billboard project has been withdrawn, the issue is moot. Please see Response to Comment Silverstein-41.

Silverstein-39 This comment restates Final EIR, Chapter 3, Comment-Culver CityBus-7. However, the comment does not reflect Response to Comment CulverCityBus-7 that was provided in the Final EIR. Comment Silverstein-38, above, states that the Culver CityBus letter raised the issue of "the need for bicycle lanes." In fact, as shown in the citation in Comment Silverstein-39, the Culver CityBus letter merely suggests that "the project should also consider adding bike lanes on South Prairie Avenue and West Century Boulevard." As stated in the Final EIR Response to Comment Culver CityBus-7, Final EIR page 3-245, the Draft EIR estimated that fewer than 1% of attendee trips would be made by bicycle. No bike facilities are planned by the City of Inglewood on streets adjacent to the Project Site, including on the streets adjacent to the Project Site. The comment suggests that various items suggested in the Culver City letter would have their own secondary impacts if implemented, which were not studied in the Draft EIR. These items are not needed as mitigation for the Proposed Project and are not part of the Proposed Project and so did not need to be studied for secondary impacts. No new significant impacts are identified by this comment. Please see Response to Comment Silverstein-40 for an explanation of why recirculation is not required in response to this letter.

Silverstein-40 As described in Responses to Comments Silverstein-10 through Silverstein-39, there are no significant impacts of the Proposed Project that were not properly assessed in the Draft EIR. The vast majority of the comments were originally made by agencies on the Draft EIR. The Final EIR Responses to Comments provided thorough responses to those comments. In many instances, those responses were accompanied by follow-up meetings and other contacts with the agencies making the comments.

Comments Silverstein-10 through Silverstein-39 do not identify any significant impacts that were not disclosed in the Draft EIR, do not identify any impacts that are substantially more severe than disclosed in the Draft EIR, do not identify any feasible mitigation measures that were not identified and required of the Proposed Project to avoid or substantially lessen significant impacts that the applicant declined to adopt, and do not identify any feasible alternatives that would avoid or substantially lessen significant impacts of the Proposed Project that the applicant declined to adopt. Those

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comments also fail to identify any ways in which the Final EIR fails to provide good faith, complete, and accurate responses to comments made on the Draft EIR. CEQA Guideline §15088.5 identify the criteria which require recirculation of the Draft EIR prior to certification; Comments Silverstein-10 through Silverstein-39 do not identify any significant new information requiring recirculation. As such, neither the Draft EIR nor the Final EIR require circulation for additional review and comment.

Silverstein-41 The comment states that the City has engaged in piece-meal environmental review of the Proposed Project. According to the comment, the City should have analyzed, as part of the Proposed Project, the following, additional proposals: (1) a proposal by WOW Media to install two motion illuminated billboard signs; (2) the "hotel project"; (3) the ITC / General Plan Circulation Element; (4) ongoing road-improvements in and around the Proposed Project site; and (5) the City proposal to adopt a General Plan Environmental Justice Element. (Silverstein letter of June 16, 2020, pp. 39-41.)

Timeliness of Comment. The comment states that these proposals were not known to the commenter prior to March 24, 2020, when comments on the Draft EIR were due. The comment cites Public Resources Code section 21189.55 in support of this contention. The citation is not relevant to the Proposed Project. Section 21189.55 was enacted in 2018 as part of Assembly Bill 1826. That legislation applies to "Capitol Building Annex and State Office Building Projects."

The comment states that none of these proposals were known or knowable until after March 24, 2020. This statement is not credible. Specifically:

- The Billboard proposal commenced environmental review in August 2019. At that time, the City circulated an initial study and proposed mitigated declaration for the project. In any event, on May 22, 2020, the City Manager informed the Billboard applicant that the City would not be moving forward with the proposal. The proposal is therefore no longer proposed or pending.
- The proposed hotel is part of the project, is included in the project description, and is analyzed throughout the IBEC EIR. (See, e.g., Draft EIR, pp. 2-45 – 2-46 [description of proposed hotel]; Draft EIR, Table 3.14-40 [estimate of vehicle miles traveled associated with hotel].) Despite this fact, the author did not submit a comment on this issue (or any other issue) during the Draft EIR comment period.
- The environmental review process for the ITC commenced on July 18, 2018, when the City issued a Notice of Preparation and Initial Study. The City also conducted a scoping meeting for the project. The author did not submit a comment on the NOP or participate in the scoping meeting. The IBEC Draft EIR addresses the ITC. (IBEC Draft EIR, pp. 3.14-140 – 3.14-141.) The author did not submit comments on the IBEC Draft EIR on this or any other topic.

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- Roadwork along the West Century Boulevard corridor has been ongoing since 2015. The work consists of upgrading traffic control systems, improving landscaping, and other related improvements along this corridor. The work has been visible and known for years. Phase 2 of this work is currently underway; it is scheduled for completion in August 2020. The work on South Prairie Avenue consists of installing fiber-optic cable and road resurfacing. The City recently completed this work along this segment of South Prairie Avenue.
- The City has been actively engaged in developing a proposed Environmental Justice (EJ) Element since October 2018. These efforts commenced in January 2019. They included community workshops, focus groups, and outreach at local festivals and events on multiple occasions in 2019. The author did not participate in these activities.

In light of these facts, the City does not agree with the statement that these proposals were unknown and unknowable prior to March 24, 2020. Moreover, under CEQA, the City is not required to provide a written response to comments submitted after the close of the comment period on the Draft EIR. (CEQA Guidelines, § 15088.) Nevertheless, the City provides the following, written response to this comment.

General Principles. Under CEQA, a "project" is "an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." (Pub. Resources Code, § 21065.) "Project" includes "the whole of an action." (CEQA Guidelines, § 15378, subd. (a).) In general, the lead agency must analyze fully each "project" in a single environmental analysis. "This principle is designed to ensure 'that environmental considerations do not become submerged by chopping a large project into many little ones—each with a minimal potential impact on the environment—which cumulatively may have disastrous consequences.'" (*Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 263, 283-284; *Aptos Council v. City of Santa Cruz* (2017) 10 Cal.App.5th 266, 278 (*"Aptos Council"*).) The failure to consider "the whole of the project" is a CEQA violation often referred to as "piecemealing." (*Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1222 ("*Banning Ranch*").)

The California Supreme Court developed a legal test for analyzing piecemealing issues. Under this test, an "EIR must include an analysis of environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects." (*Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376, 396 ("*Laurel Heights*").) The "key word" in this test is "consequence." (*Banning Ranch, supra*, 211 Cal.App.4th at p. 1225; see also *Aptos Council, supra*, 10 Cal.App.4th at p. 282 ["key term here is 'consequence'"].) Thus, a central issue is whether the agency's

approval of the initial project will in some respect lead to approval of the latter or separate proposal.

In this case, the comment states that the City has "piece-mealed" its environmental review, citing the five specific examples listed above. The comment states that the City ought to have analyzed these five proposals as part of the IBEC in a single EIR. Each is discussed below.

Billboards Project. As noted above, on May 22, 2020, the City notified the applicant that it would not be going forward with the WOW Billboards proposal. The proposal is not pending, and is neither part of the Proposed Project, nor otherwise being considered by the City.

Even if the Billboards project were still pending, however, it would not be part of the IBEC proposal. The Billboards project and the IBEC are both located in the City of Inglewood, and the City is the lead agency for both proposals. In addition, the Billboards project would be located in close proximity to the IBEC, near the intersection of South Prairie Avenue and West Century Boulevard. The Billboards project, however, was proposed by WOW Media. WOW Media has no direct or indirect relationship with Murphy's Bowl, the applicant for the IBEC proposal.

WOW Media proposed the Billboards project in connection with the impending opening of SoFi Stadium in the Hollywood Park Specific Plan area. The Billboards proposal was not contingent on the Proposed Project. Nor does the Proposed Project depend on the withdrawn Billboards proposal; instead, the Proposed Project includes its own signage, including moveable message signs, that are integrated into and fully analyzed as part of the Proposed Project. (See, e.g., Draft EIR, Chapter 3.1 – Aesthetics – analyzing lighting impacts of signs incorporated into IBEC.)

The comment appears to be based on the assumption that the WOW Media Billboards are part of, and would be integrated into, the Proposed Project. This assumption is incorrect. The WOW Media Billboards proposal consisted of two proposed billboards. Specifically:

- One billboard was proposed to be located at approximately 4027 West Century Boulevard, on the north side of West Century Boulevard. This site is west of the intersection with South Prairie Avenue, across the street from the Proposed Project site's West Parking Garage. This location is not part of the Proposed Project site.
- One billboard was proposed on to be located in public right-of way between 10204 South Prairie Avenue and 10200 South Prairie Avenue. This location is on the east side of South Prairie Avenue, south of the intersection with West 102nd Street. This location is adjacent to, but is not part of, the Proposed Project site. Rather, the location is southwest of the Arena, south of the pedestrian bridge that will span South Prairie Avenue between the Arena and the West Parking Garage.

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The comment states that the Billboard project will be "placed on property apparently soon to be owned or controlled by Murphy's Bowl, pursuant to the draft Disposition and Development Agreement. (Exh. 39 at p. 21 [Disposition and Development Agreements].)" (Silverstein June 16, 2020, letter, p. 40.) As explained above, this statement is incorrect. Neither billboard was proposed to be located on land that has been proposed to be part of the Project Site or on land that has been proposed for disposition.

Case law involving analogous facts makes it clear that, even if the Billboards proposal remained pending, the proposal is not part of the Proposed Project. *Paulek v. California Department of Water Resources* (2014) 231 Cal.App.4th 35 is on point. In that case, the Department of Water Resources ("DWR") devised a three-part plan to address seismic risks at a dam in Riverside County: (1) structural improvements to the dam itself; (2) replacing an "outlet tower" (a structure that diverts water to users and also allows for emergency releases); and (3) constructing an "emergency outlet extension" to channel water released during emergencies away from residential development in a downstream floodplain. The Draft EIR considering all three portions of the plan, but the Final EIR removed the emergency outlet extension; DWR wanted to analyze the emergency outlet extension in a separate CEQA process to allow for examination of additional alternatives. The court held that the removal of the emergency outlet extension from the EIR did not impermissibly segment environmental review. The extension was neither a foreseeable consequence, nor a future expansion, nor an integral part, of the dam remediation project. Instead, the extension served a different principal purpose: preventing flood damage during an emergency release. (231 Cal.App.4th at pp. 45-48; see also *Banning Ranch*, *supra*, 211 Cal.App.4th 1209, 1225 [EIR analyzing proposed park did not need to include concurrent development proposal on adjacent land, even though park and development would share main access road; although building the park's access road could be "reasonably seen as easing the way" for the development, the construction of the road was "only a baby step toward" the development].)

These cases show that temporal or geographic proximity is not enough to require two proposals to be analyzed as parts of a single project. Instead, in order to be considered part of a single project, the proposals must be causally or legally connected in some manner, such that approval of one begets the other. That causal or legal link is missing here. That is particularly true given that the Billboards project is no longer a pending proposal. Thus, there is no pending application to which to forge a link.

The Billboard project was proposed to be located on the north side of West Century Boulevard, and on the east side of South Prairie Avenue. Both locations have never been proposed as part of the Proposed Project. In any event, as noted above, the City is not moving forward with the Billboard project, and the Billboard project is no longer pending.

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Hotel. As noted above, the proposed hotel is part of the Proposed Project, is included in the project description, and is analyzed throughout the IBEC EIR. (See, e.g., Draft EIR, pp. 2-45 – 2-46 [description of proposed hotel].) For this reason, the claim that the City has performed piecemeal review is incongruous. The City has never taken the position that the hotel is not part of the project. It is and is analyzed as such.

The comment states that the EIR provides insufficient details to analyze the Hotel component of the Proposed Project. (Silverstein June 16, 2020, letter, p. 41.) This statement is incorrect. The EIR consistently describes and analyzes the Hotel as follows:

> Proposed uses consist of "[h]otel rooms, lobby area, administration offices, support areas, and parking." (Draft EIR, Table 2-2, p. 2-18.)
>
> Up to 150 hotel rooms. (Draft EIR, Table 2-2, p. 2-18.)
>
> "The hotel could include amenities such as a lobby, business center, a fitness room, a guest laundry facility, a market pantry, and/or an outdoor gathering area. The hotel would not include meeting spaces or restaurant services. The hotel would be approximately six stories, with a maximum height of approximately 100 feet." (Draft EIR, p. 2-45.)

The EIR provides sufficient information to analyze the impacts of the Hotel as part of the Proposed Project. Please see Response to Comment Silverstein-14. "Piece-meal" review has not occurred.

ITC. The Inglewood Transit Connector project ("ITC") is a proposal to construct an Automated People Mover ("APM") in public right of way. The APM would transport riders to and from the regional Metro Rail system to Downtown Inglewood, the Forum, the Los Angeles Sports and Entertainment District ("LASED") which includes the new SoFi NFL stadium (currently under construction and scheduled to open in 2020), and the Proposed Project. The ITC would consist of an elevated APM system with dual guideways to allow for continuous trains to travel in each direction. The southern terminus of the ITC would be located at the intersection of West Century Boulevard and South Prairie Avenue.

The purpose of the ITC is to provide a convenient and efficient public-transit option to those travelling to or from the IBEC, SoFi Stadium, The Forum, or other destinations in the City along the proposed route. The ITC would provide a public transit option for those travelling from elsewhere in the Los Angeles region, in that the northernmost station would align with Metro's Downtown Inglewood station on the Crenshaw/LAX line. ITC is a transportation project; its purpose and objectives are distinct from those associated with the IBEC. The ITC is proposed by the City, not by the Proposed Project applicant. While the ITC is designed to provide public-transit access to the IBEC (among other locations), the ITC is not located on the Proposed Project site. Rather, the

ITC's southernmost station will be located near, but not within, the Proposed Project site. For these reasons, the ITC is not part of the IBEC.

The comment does not cite case law involving "piece-mealing" claims. One case that is often cited in support of such claims provides a helpful counterpoint. In *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214, a developer applied to the city to construct a new home improvement center. In approving the project, the city adopted a condition of requiring the developer to relocate an adjacent roadway, as envisioned by the longstanding city and county plans. According to the Court of Appeal, "[o]ne way to evaluate which acts are part of a project is to examine how closely related the acts are to the overall objective of the project. The relationship between the particular act and the remainder of the project is sufficiently close when the proposed physical act is among the 'various steps which taken together obtain an objective.' [Citation.]" (155 Cal.App.4th at p. 1226; see also *id.* at p. 1228 [scope of project is determined by considering "whether the act is part of a coordinated endeavor"].) In this case, the developer's objective was to open and operate a home improvement center in the city. "The commencement of business operations at the site is conditioned upon the completion of the realignment of [the road]. As a result, the road realignment is a step that [the developer] must take to achieve its objective." (*Id.* at p. 1227.) Moreover, the realignment of the road and the home improvement center were related in time and physical location, and both activities would be undertaken by the same entity. These temporal and causal links indicated the activities were "part of a larger whole." There were therefore "related acts that constitute a single CEQA project." (*Ibid.*) Because the condition of approval required the developer to realign the store, it was immaterial whether the store and the road realignment had independent utility. (*Id.* at pp. 1228-1231.)

Here, functional links of this sort do not exist. The Proposed Project applicant is not required to construct or operate the ITC. The Proposed Project may benefit if the ITC is constructed, in that the ITC will provide Arena patrons with another option for accessing the site. But the IBEC is not dependent upon the ITC; the IBEC's transportation plans have been designed without relying on the ITC. Instead, the IBEC incorporates a shuttle program connecting the IBEC to regional transit. (See IBEC Draft EIR, pp. 2-58 – 2-59; see also Final EIR, Appendix K.4 [Event Transportation Management Plan, including Transit Element].) Timing and funding for the ITC are uncertain, whereas the Proposed Project is scheduled to commence operations in 2024. The ITC proposal has a geographic scope that overlaps slightly with the Proposed Project, in that the southernmost station would be designed to serve as a public transit option for those travelling to or from the Arena, but the ITC is a linear proposal that stretches across the City, and has a project site that is entirely distinct from that of the Proposed Project. For these reasons, there is no credible evidence that the ITC should be considered part of the Proposed Project.

The comment also states that the ITC is "relied upon" as a mitigation measure to address the Proposed Project's transportation impacts. This statement is incorrect. The transportation analysis in the IBEC EIR does not assume that the ITC will be in operation and does not reduce vehicle trips based on the assumption that the ITC will be operational. The IBEC EIR explains why it would be inappropriate to assign trips to the ITC. (IBEC Draft EIR, pp. 3.14-140 – 3.14-141.) As the EIR explains, "[t]he mode split implications of the ITC were not considered due to the uncertainty of how it would be operated (i.e., hours of operation, headways, etc.)." (*Ibid.*) Thus, the proposal was too undeveloped and too uncertain to be cited and relied upon as a mitigation measure. The Proposed Project will instead provide a shuttle service connecting to nearby Metro stations. If the ITC comes to fruition, it may provide a link to regional transit that obviates the need for some of these shuttles. The Proposed Project does not, however, depend on that outcome.

Public Works Improvements on West Century Boulevard and South Prairie Avenue. Roadwork along the West Century Boulevard corridor has been ongoing since 2015. The work consists of upgrading traffic control systems, improving landscaping, and other related improvements along this corridor. Phase 2 of this work is currently underway; it is scheduled for completion in August 2020. The work was approved before the environmental review process commenced for the Proposed Project. The work will improve transportation conditions along, and the visual character of, the West Century Boulevard corridor. The work is unrelated to the Proposed Project.

The City is installing fiber optic cable along South Prairie Avenue as part of its program to upgrade the City's ITS Network. The City recently completed this work along this segment of South Prairie Avenue. The City is also resurfacing portions of South Prairie Avenue as part of its ongoing maintenance of City streets. Neither project is related to the Proposed Project.

The comment states that the proposal to adopt a parking permit program is part of the Proposed Project. This statement is incorrect. Please see Response to Comment Silverstein-17.

Environmental Justice Element. The City Council approved the Environmental Justice Element on June 30, 2020. The Environmental Justice Element applies throughout the City, to all proposals, and not solely to one specific proposal or one particular area. The IBEC proposal is within the City and is therefore be subject to the Environmental Justice Element, but to no greater or lesser extent than any other development proposal. The record contains no evidence that approving the IBEC will be a reasonably foreseeable consequence of adopting the Environmental Justice Element. At most, the Environmental Justice Element contains policies that the City will use to evaluate the IBEC, just like any other development project proposed in the City.

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Nor has adoption of the Environmental Justice Element enabled the Proposed Project to evade CEQA review. The environmental review process for IBEC has been underway since early 2018 when the City issued its Notice of Preparation, almost a year before the City commenced community outreach for the Environmental Justice Element. In December 2019, the City issued a Draft EIR providing a comprehensive analysis of the IBEC proposal. The EIR included an analysis of the project through the lens of many of the same policy concerns that animate the Environmental Justice Element. (See, e.g., Draft EIR, pp. 3.12-15 – 3.12-17, Appendix S (ALH Urban and Regional Economics, *Inglewood Sports and Entertainment Venue Displacement Study* (July 2019)).) The City's decision to consolidate those policy concerns in an Environmental Justice Element does not make the Proposed Project any more or less likely than before.

The opposite is also true. The Proposed Project is a significant proposal, but it does not purport to establish City-wide policy. Indeed, if approved, the Proposed Project will have no effect on City policy except with respect to those policies applicable to the Project site itself. The City's decision whether to approve IBEC had no bearing on its decision to approve the Environmental Justice Element. As one Court summarized, the "key term" – "consequence" – is missing from the equation. (*Aptos Council*, *supra*, 10 Cal.App.4th at p. 282.)

Finally, as noted above, the second prong of the *Laurel Heights* test is whether "the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects." (47 Cal.3d at p. 396.) In this instance, the Environmental Justice Element does not provide for, authorize, approve, or describe any particular development activity. It does not increase or change development densities or intensities. It does not authorize any particular land use. Although the Environmental Justice Element provides for evaluation by the City of its existing zoning regulations with a focus on promoting environmental justice policies, it does not include, result in, or authorize any development activity or other physical change to the environment, and does not mandate any specific changes to zoning regulations. For these reasons, the Environmental Justice Element is exempt from CEQA review under CEQA Guidelines sections 15060(c)(2) and 15061(b)(3) and falls within the Class 8 Categorical Exemption under CEQA Guidelines Section 15308, which applies to actions taken by regulatory agencies. Thus, even if there were some causal link between the Environmental Justice Element and the Proposed Project, there is no evidence that the Environmental Justice Element will "change the scope or nature of the [Proposed Project] or its environmental effects." (*Laurel Heights*, *supra*, 47 Cal.3d at p. 396.)

Under these circumstances, case law confirms the common-sense conclusion that the City is not required to analyze the Environmental Justice Element as a component of the IBEC, nor is the City required to analyze the IBEC as a component of the

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Environmental Justice Element. (See, e.g., *Rodeo Citizens Assn. v. County of Contra Costa* (2018) 22 Cal.App.5th 214, 223-225 ("*Rodeo Citizens*") [substantial evidence supported EIR's consistent statements that improvements designed to recover propane and butane gas would not facilitate oil refinery's ability to process heavier crude]; *Aptos Council*, *supra*, 10 Cal.App.5th at p. 282 [city not required to analyze as a single project separate proposals to modernize different chapters of its zoning ordinance]; *Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, 1450 [county was not required to analyze, as part of the project, the possibility that some residences would seek to construct second units on each parcel] ("*Save Round Valley*").)

Finally, the City notes the practical absurdity of the comment's contention. Under the approach suggested by the comment, any contemporaneous proposal under review ought to be reviewed as a single project, in a single CEQA analysis. Under the comment's approach, that principle would apply to planning efforts, public works, and private development projects proposed by different applicants, regardless of whether those various proposals depend upon one another, simply because they are proposed during the same general period. Such an approach would transform virtually every CEQA document into an unwieldy analysis of everything happening in the City at any given period of time, regardless of whether they are related to one another. The City believes that such an approach would paralyze the decision-making process and be unworkable.

Silverstein-42 The comment states that the City has engaged in piece-meal review of General Plan Land Use Element amendments. The comment also states that the amendment to the City's Circulation Element is inconsistent with the correlation requirement in the State Planning and Zoning Law.

Piece-mealing claim. With respect to the general standards regarding such comments, please see the response to Silverstein-41. The City Council approved the amendments to the Land Use Element of the General Plan on June 30, 2020. The amendments do not alter land-use policy. The amendments apply throughout the City, to all proposals, and not solely to one specific proposal. The amendments therefore have independent utility and are not a necessary or essential component of any particular project. (*Banning Ranch*, *supra*, 211 Cal.App.4th at p. 1223.) The Proposed Project is located within the City and would therefore be subject to the amendments to the extent they are relevant to the Proposed Project, but to no greater or lesser extent than any other development proposal. The record contains no evidence that approving the Proposed Project will be a reasonably foreseeable consequence of adopting these amendments.

The EIR for IBEC concludes that with the proposed amendments that are included as part of the Proposed Project, the Proposed Project would be consistent with the Land Use Elements goals and objectives included in the General Plan. (Draft EIR, p. 3.10-34.) The General Plan Land Use Element amendments approved on June 30, 2020, were not necessary for approval of IBEC. Instead, the amendments are derived from existing

standards and land use designations included in the General Plan. With respect to non-residential land uses, the General Plan and Municipal Code provide setback and landscape buffer requirements and include provisions that effectively define the maximum buildable area. The Land Use Element amendments use these existing standards and requirements to define a maximum building intensity for each non-residential land use designation. The amendments do not therefore allow for more intense development than is currently allowable.

Nor has adoption of the amendments enabled the Proposed Project to evade CEQA review. Environmental review for IBEC has been underway since early 2018 when the Notice of Preparation was issued. The IBEC EIR includes an extensive analysis of the extent to which the Proposed Project is consistent with applicable land-use policies. (IBEC Draft EIR, Chapter 3.10.) Under such circumstances, City staff concludes that the City does not need to analyze the proposed Land Use Element amendments as a component of the Proposed Project. Case law supports this conclusion. (See, e.g., *Rodeo Citizens*, *supra*, 22 Cal.App.5th at pp. 223-225; *Aptos Council*, *supra*, 10 Cal.App.5th at p. 282; *Save Round Valley*, *supra*, 157 Cal.App.4th at p. 1450.)

Finally, as noted above, the second prong of the *Laurel Heights* test is whether "the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects." (47 Cal.3d at p. 396.) In this instance, the amendments to the General Plan Land Use Element do not provide for or describe any particular development activity, do not increase or change development densities or intensities from those already included elsewhere in the General Plan and Municipal Code, and do not authorize any particular land uses that are not already authorized under the current General Plan. Rather, the amendments incorporate into the Land Use Element population density and non-residential building intensity information derived from existing limitations and standards in the General Plan and the Municipal Code. For these reasons, the amendments would not result directly or indirectly in environmental impacts. They are therefore exempt from CEQA review pursuant to CEQA Guidelines §§15060(c)(2) and 15061(b)(3). The amendments also constitute "minor alterations in land use limitations" under CEQA Guidelines Section 15305 because they "do not result in any changes in land use or density," but instead clarify uses and densities that are already embodied in existing General Plan policies. Moreover, there are no unusual circumstances that would render this categorical exemption inapplicable under CEQA Guidelines section 15300.2.

Under these circumstances, case law confirms the common-sense conclusion that the City is not required to analyze the General Plan Land Use Element amendments as a component of the IBEC, nor is the City required to analyze the IBEC as a component of the amendments. (See *Aptos Council*, *supra*, 10 Cal.App.5th at p. 282 [city not required

to analyze as a single project separate proposals to modernize different chapters of its zoning ordinance].)

Circulation Element Amendments. The entitlements requested by the applicant include amending the General Plan Circulation Element. The amendments consist of updating maps and text to reflect the proposal to vacate portions of West 101st Street and West 102nd Street and to show the location of the Proposed Project. The City Council would also have to approve the vacation of these streets, and to adopt findings required in connection with such an approval.

These amendments are designed to ensure that the Circulation Element shows the City's road network in the event the City approves the Proposed Project.

The EIR explains why these actions are needed if the Proposed Project is to go forward:

> The Arena Site also includes a portion of West 102nd Street that would be vacated as part of the Proposed Project. The portion of West 102nd Street that would be vacated is approximately 900 feet long, from South Prairie Avenue on the west to 3820 West 102nd Street to the east. This portion of West 102nd Street includes narrow sidewalks on both the north and south sides of the street, a few trees and minimal landscaping on the north side of the street, and overhead utility lines and poles on the south side of the street.
>
> (IBEC Draft EIR, p. 2-15.)
>
> The West Parking Garage Site also includes a portion of West 101st Street that would be vacated as part of the Proposed Project. The portion of West 101st Street that would be vacated is approximately 350 feet long, between the Airport Motel on the west and the Sunshine Coin Laundry building to the east. This portion of West 101st Street includes narrow, separated sidewalks on both the north and south sides of the street, two mature trees on the north side of the street and one mature tree on the south side of the street, streetlights on the south side of the street, and overhead utility lines and poles on the north side of the street. Portions of the West Parking Garage Site are temporarily being used for construction staging by the City of Inglewood Public Works Department.
>
> (IBEC Draft EIR, p. 2-16.)

The site plan shows why it is necessary to vacate these streets:

- West 102nd Street is an east/west road that bisects the Arena site. The footprint of the Arena is directly atop West 102nd Street between South Prairie and South Doty Avenues. If the Arena is constructed, this particular segment of West 102nd Street will cease to exist.

- West 101st Street is an east/west road that bisects the West Parking Garage site. The footprint of the West Parking Garage is directly atop the eastern portion of the block of West 101st Street between South Flowers Street and South Prairie Avenue. If the West Parking Garage is constructed, this particular segment of West 101st Street will cease to exist.

The EIR addresses whether vacating these streets will result in physical environmental effects. (See IBEC Draft EIR, pp. 3.10-30 – 3.10-31.) The EIR concludes that this impact will not be significant.

The comment states that this is a "late disclosed" change. This statement is false. The abandonment of these streets was disclosed in the Draft EIR. The author did not submit comments on the Draft EIR on this or any other issue.

The comment states that the abandonment of these streets is inconsistent with the Circulation Element. The comment does not identify a particular goal or policy in the Circulation Element with which this proposal is purported to be inconsistent. Rather, the comment states that any proposal that involves vacating a street is necessarily inconsistent with the Circulation Element. No goals or policies in the Circulation Element support this view. In particular, the General Plan's Circulation Element does not contain a goal or policy that prohibits the City from considering an application to vacate a public street. Moreover, a project need not be in perfect conformity with each and every General Plan policy. Rather, General Plans are aspirational documents, and it may be impossible to satisfy every policy therein, given the various issues that a General Plan must address. In light of these policies, a city's determination regarding a project's consistency with its General Plan is generally accorded significant deference. In this case, the City's elected officials are best suited to determine whether a particular project is consistent with the City's General Plan.

Silverstein-43 The comment states that an EIR must analyze whether a project is consistent with the General Plan. This comment is misleading. CEQA Guidelines section 15125, subdivision (d), states: "(d) The EIR shall discuss any *inconsistencies* between the proposed project and applicable general plans, specific plans and regional plans." (Emphasis added; see *The Highway 68 Coalition v. County of Monterey* (2017) 14 Cal.App.5th 883, 894 [focus is in plans with which project is inconsistent; EIR need not discuss policies with which project is consistent].)

The IBEC EIR contains a discussion of the extent to which the project is inconsistent with applicable plans. This discussion appears throughout the document, in the context of the specific resource addressed by the plan at issue. (See, e.g., IBEC Draft EIR, Chapter 3.10, discussion of Impact 3.10-2 at pp. 3.10-32 – 3.10-35.)

The comment states that the Proposed Project is inconsistent with "Environmental Justice Principles," citing comments by the Natural Resources Defense Council. The

City disagrees. Please see IBEC Final EIR, Chapter 3, Responses to Comments, Response NRDC-4.

The comment also references comments by the State Legislature. The State Legislature did not submit comments on the IBEC Draft EIR. The reference is therefore unclear.

The comment intimates that the Environmental Justice Element is mandatory. This statement is misleading. In 2016, the State of California passed Senate Bill 1000 (SB 1000) which established California Government Code section 65040.12(e) directing cities and counties to address environmental justice in their general plans. Cities and counties may choose to adopt a separate standalone Environmental Justice Element or address environmental policies throughout the General Plan. The City approved a stand-alone Environmental Justice Element on June 30, 2020. City staff has analyzed the extent to which the Proposed Project is consistent with the policies set forth in this element and has concluded that the project is consistent. This analysis is reflected in draft findings that staff is presenting to the City Council for its consideration.

Silverstein-44 The comment states that the City violated the Brown Act in approving agreements to settle four lawsuits. This statement is incorrect. Please see Response to Comment Silverstein-2.

The comment states that the agreement approved by the City on March 24, 2020, constitutes significant new information. This statement is incorrect. In approving the agreement on March 24, the City did not take any action on the Proposed Project or constrain the City's authority to approve a mitigation measure or alternative, including the "no project" alternative. Please see Response to Comment Silverstein-18 for a discussion of the California Supreme Court's decision in *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, and its applicability to the March 24 agreement.

The comment incorporates by reference claims advanced by other parties concerning the City's approval of the ENA. The comment does not explain why or how these claims are relevant to the March 24 agreement. The comment therefore does not provide the City with sufficient information to be able to respond. (PRC §21177; *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2020) 47 Cal.App.5th 588, 618-619; *Mani Brothers Real Estate v. City of Los Angeles* (2007) 153 Cal.App.4th 1385, 1394.)

With respect to the litigation concerning the ENA, the plaintiffs and petitioners in those cases have filed dismissals. None of those claims is pending. With respect to the claim that the City violated CEQA by approving the ENA, a trial court entered judgment denying that petition. (*Inglewood Residents Against Takings and Evictions v. City of Inglewood* (Los Angeles Superior Court, Case No. BS170333), Hearing on Petition for Writ of Mandate, Ruling on Submitted Matter (December 27, 2018).) The plaintiff in that case filed a notice of appeal of the trial court's decision to deny the petition. On

May 4, 2020, the plaintiff filed a request for dismissal with the Court of Appeal. That same day, the Court of Appeal filed a dismissal order. The case is now completed. (*Inglewood Residents Against Takings and Evictions v. City of Inglewood* (Second Dist. Court of Appeal, Case No. B296760).) Please see Response to Comment Silverstein-6.

Silverstein-45 The comment makes reference to PRC §15186(a). The correct reference to §15186(a) should be to the CEQA Guidelines, which is Title 14, Division 6, Chapter 3, Sections 15000 – 15387 of the California Code of Regulations, and not the Public Resources Code, which includes CEQA as Sections 21000 - 21189. Assuming that the reference is to the CEQA Guidelines, its applicability to the Proposed Project is incorrect. Guideline §15186(b) defines projects to which this section is applicable as

> "a project located within one-fourth mile of a school that involves the construction or alteration of a facility that might reasonably be anticipated to emit hazardous emissions, or that would handle an extremely hazardous substance or a mixture containing extremely hazardous substances in a quantity equal to or great than the state threshold quantity specified in subdivision (j) of Section 25532 of the Health and Safety code, that may impose a health and safety hazard to persons who would attend or would be employed at the school,…"

The Proposed Project meets none of these standards. The Draft EIR Section 3.2, Air Quality, clearly recognizes the presence of nearby schools and education uses. Figure 3.2-2, Draft EIR page 3.2-21, identifies the Dolores Huerta Elementary School, the Morningside High School, and the early childhood education facility, as "Air-Sensitive Receptors." As is described in Figure 3.2-4, Draft EIR page 3.2-99), the closest school to the Project Site, the Lennox School District's Delores Huerta Elementary School, is located outside the 1 in a million cancer isopleth for the combined construction and operational health risk assessment conducted in the EIR. Thus, the Proposed Project would not emit hazardous emissions.

The Draft EIR includes clear and unambiguous consideration of the potential impacts of the Proposed Project on schools in the vicinity of the Project Site, irrespective of whether they are located in the Inglewood Unified School District, or other neighboring districts. In footnote 38, the commenter has misleadingly cited a figure (Draft EIR Figure 3.13-3) which identifies the schools within the Inglewood Unified School District. The purpose of Draft EIR Figure 3.13-3, situated in the Public Services section of the Draft EIR, is to support the analysis of the impact of the Proposed Project on public schools. As is explained on Draft EIR page 3.13-62, because the Project Site is located within the IUSD, project employees could request an inter-district attendance permit to an IUSD school for parent employment reasons; thus, information about IUSD schools was relevant for inclusion in that section of the Draft EIR. However, as discussed below, for other impact analyses, information on potentially affected schools is presented irrespective of the particular district with which the school is affiliated, if any.

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As discussed above, the Draft EIR Air Quality analysis clearly identifies the presence of the Dolores Huerta Elementary School, the Morningside High School, and the early childhood education use in Figures 3.2-2 and 3.2-4. Further, on Draft EIR page 3.8-19, the relationship of the Project Site to nearby schools is clearly presented, including specific information about proximity to the Dolores Huerta Elementary School in Lennox (620 feet, or 0.12 miles, from the Project Site), the Morningside High School in Inglewood (985 feet, or 0.19 miles, from the Project Site), as well as the referenced early childhood education use that is located immediately south of the Project Site on West 104th Street.

Draft EIR Impact 3.8-3, Draft EIR page 3.8-37 to -39, describes the hazardous emissions and hazardous materials that would be used, stored and/or handled within 0.25 miles of an existing or proposed school, and Impact 3.8-9, Draft EIR pages 3.8-52 to -53 describes the same issues in the cumulative context. During construction, it is noted that "the Proposed Project would require use of limited quantities of hazardous materials, including fuels, oils and lubricants for construction equipment; paints and thinners; and solvents and cleaners." None of the hazardous materials used during construction would fall into the category of extremely hazardous substances. In the case of both Impact 3.8-3 and Impact 3.8-9, the Dolores Huerta Elementary School and other schools or educational uses within 0.25 miles of the Project Site would be exposed to on negligible, less than significant, risks "[b]ecause a comprehensive and enforceable set of federal, State, and local laws and regulations govern the transport, storage, use and disposal of hazardous materials and wastes to reduce the potential for accidental release and exposure of people and the environment, and because the type and quantity of hazardous materials used at the Proposed Project and other cumulative projects would be small and typical of current development and business operations..."The Draft EIR also describes that during operations "the Proposed Project would involve the use of relatively small quantities of common hazardous materials including paints and thinners, cleaning solvents, fuels, oils, low risk medical wastes, and lubricants. The operation of the Proposed Project would not involve the types of hazardous emissions that are typical of industrial land uses and which require source regulation and permitting."

For the reasons explained above, the Proposed Project would not result in hazardous emissions or involve the handling of extremely hazardous substances. As such, CEQA Guideline §15186 does not apply to the Proposed Project and was not required to be complied with in the development of the EIR.

Contrary to the assertion in the comment, the analysis of human health hazards in the Draft EIR is extensive, detailed, with fully articulated explanations of both the methodology and the results. Not only did Draft EIR Section 3.2, Air Quality, include a regional Health Impact Assessment to determine potential health consequences of regional pollutants such as ozone and small particulate matter, but it also included a

detailed Health Risk Assessment (HRA), consistent with the OEHHA guidelines examining the cancer risks associated with local exposures to project related pollutants over a 30+ year construction and operational period. The methodology for the HRA is presented in Draft EIR, Section 3.2, Air Quality, pages 3.2-54 through 3.2-61, including Tables 3.2-11, 12 and 13. The results of the HRA are discussed under Impact 3.2-3, on Draft EIR pages 3.2-97 through 3.2-102, including Tables 3.2-31 through 3.2-36, and Figure 3.2-4.

Because cancer risk is based on long-term (i.e., lifetime) exposures, the EIR analyses assumed exposures over an extended period that varies depending on the type of use. For residential receptors, the period is conservatively defined as 30.25 years (from third trimester in utero, forward), 24 hours per day, 365 days per year. For intermittent land uses, such as schools, day care centers, or work, total exposure is defined for shorter periods of time, such as 8 hours per day, approximately 188 days per year, and for a shorter period (e.g., 7 years for a school). Detailed explanation of the cancer risk exposure parameters used in the Health Risk Assessment is provided in Draft EIR Table 3.2-11, page 3.2-58.

The results of this land use specific modeling is that at the same general location, a use like the Early Childhood Education Facility or a school pose less risk than the adjacent residential uses. This differential modeling is reflected in Figure 3.2-4, reproduced in the comment, which depicts the combined construction and operational incremental increase in cancer risk at a dense grid of receptor locations around the Project Site, including the Dolores Huerta Elementary School and at the Early Childhood Education Facility where it is indicated that the increased risk at each location would be less than one in a million.

As described above and presented in the Draft EIR, the analyses of human health hazards in the EIR is painstakingly detailed, substantive, consistent with guidance of both OEHHA and the SCAQMD, and anything but cursory. Please also see Final EIR, Chapter 3, Response to Comment NRDC-11 for further discussion of the consideration of human health impacts in the Draft EIR.

Silverstein-46 Section 3.14 of the Draft EIR presents all relevant impacts of the Proposed Project on traffic, transportation and circulation during construction and operation of the Proposed Project. The Dolores Huerta Elementary School is situated on 104th Street (a two-lane collector street) west of Prairie Avenue. The school can be accessed by the signalized intersection at Prairie Avenue/104th Street and the all-way stop-controlled 104th Street/Freeman Avenue intersection. Since the school is situated directly on 104th Street, changes in traffic volumes on this street are a good measure of how school impacts may be judged. The section of 105th Street that runs from South Prairie Avenue to South Freeman Avenue does not carry substantial traffic and the intersections are not signalized, thus not warranting analysis.

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The traffic analysis considers impacts of the Proposed Project traffic at the intersections of 104th Street and South Prairie Avenue, as well as at Hawthorne Boulevard, the two key signalized intersections serving the Dolores Huerta Elementary School. In addition, the segment of 104th Street from South Prairie Avenue to South Freeman Avenue was evaluated in the Neighborhood Street impact analysis. Table 3.14-16 of the Draft EIR shows that the ancillary land uses would cause the weekday daily volume on this segment of 104th Street to increase from 3,900 vehicles (Adjusted Baseline No Project) to 4,500 vehicles (Adjusted Baseline Plus Ancillary Land uses). Similarly, Table 3.14-32 of the Draft EIR shows that a Major Event at the Proposed Project would cause the weekday daily volume on this segment to increase from 3,900 vehicles (Adjusted Baseline No Project) to 4,500 vehicles (Adjusted Baseline Plus Major Event). These increases are not considered to be significant because the resulting volume would remain well below the capacity of a two-lane collector street and the impact criterion established on page 3.14-63 in the Draft EIR for residential collector street segments. Moreover, elementary schools are known to have peak school-related travel periods (i.e., from 8 to 9 AM, and from 2 to 3 PM) that typically do not overlap with most peak travel at the Proposed Project.

The Project would not alter access to the school directly from 104th Street, nor from either Prairie Avenue or Freeman Avenue. Multiple project scenarios (e.g., Ancillary Land Uses, Daytime Events, and Major Events) are found to cause significant impacts at the Prairie Avenue/104th Street intersection. Mitigation Measure 3.14-3(l) includes operational improvements to increase the capacity of the intersection and to better accommodate left-turns from Prairie Avenue onto westbound 104th Street.

Please see Response to Comment Silverstein-45 for a discussion of the consideration of health and safety impacts, including air pollution effects, on schools in the vicinity of the Project Site.

Silverstein-47 Section 3.8 of the Draft EIR, Hazardous Materials and Hazards, was based on two technical memoranda prepared by EKI which was supported by an independent database review of the project site and surrounding area. Specifically, the EKI reports included reviewing database records for all the project parcels and database records of up to one mile from the project site. A soil and soil gas sampling program was implemented based on the database records to evaluate surface soils for the potential presence of contaminants of concern indicated by the database records and site reconnaissance of current land uses.

The potential hazards of asbestos are discussed in the Draft EIR on page 3.8-4 and specifically addresses the potential health hazards associated with demolition of structures that could include asbestos containing materials (ACMs). Page 3.8-7 mentions the 3901 West 102nd Street location as a site that is associated with disposal of 33 tons of asbestos. Page 3.8-33 of the Draft EIR discusses the regulatory requirements for the

identification, removal, and disposal of ACMs which is regulated under 8 CCR 1529 and 5208. Therefore, any demolition activities that would be associated with the proposed project would be required to evaluate the structure for the potential presence of asbestos by a state certified contractor, and any ACMs discovered must be removed and disposed of in a manner that is protective of human health for the workers and the public consistent with 8 CCR 1529 and 5208, OSHA requirements, and the South Coast Air Management District. Adherence to these regulatory requirements would also be protective of any sensitive receptors in the vicinity of the project site including schools.

Otherwise, the Draft EIR recognizes the potential for contaminants of concern to be present at the site. Page 3.8-43 of the Draft EIR states that "based on available information about past uses and existing levels of contaminants in soil samples analyzed from each part of the Project Site, the potential exists to create a significant hazard to the public or the environment as a result of exposure to existing contamination." As a result, Mitigation Measure 3.8-4 is required for all project construction activities, to ensure that a Soil Management Plan is prepared and implemented to protect workers, the public, and the environment from any contaminants that may be present in the subsurface. Implementation of Mitigation Measure 3.8-4 would ensure that construction activities can be conducted to identify, isolate, and confirm the potential presence of suspect soils. Therefore, considering the investigative work that has already been completed for the site combined with mitigation that provides the means to address known and potentially discoverable contamination during construction, there is justification for a determination of less than significant impacts with mitigation and no need for any further investigation.

As described above, all the issues associated with hazards that are addressed in this comment were fully considered in the Draft EIR. As such, none of the criteria for recirculation established in CEQA Guidelines §15088.5 are triggered, and there is no need for recirculation of the Draft EIR.

Silverstein-48 Contrary to the assertion of the commenter, the Mitigation Monitoring and Reporting Program (MMRP) that was included in the Final EIR, and which has been subsequently refined for presentation to the City Council, meets all of the requirements established in CEQA and reflected in CEQA Guideline §15097(e). Contrary to the assertion that the MMRP "focuses mainly on temporary construction impacts," the MMRP includes 69 distinct mitigation measures, including 165 specific sub-measures, addressing construction and operational phases of the Proposed Project, measures addressing an extensive set of operational scenarios (including conduct of concurrent events at the Proposed Project, The Forum, and/or Sofi Stadium), under both Adjusted Baseline and Cumulative conditions. In addition to all of the mitigation measures identified in the EIR, the MMRP includes construction and operational Project Design Features, elements of the Proposed Project that have been designed into the project for the express

purposes of avoiding or substantially lessening environmental effects, as well as Conditions of Approval that are required pursuant to the Proposed Project's certification under AB 987 (PRC §21168.6.8). Again, contrary to the assertion in the comment, the mitigation measures included in the MMRP include actions that are to be taken to reduce significant impacts to less than significant in some cases, and in other cases to reduce the magnitude of those impacts to the maximum extent feasible.

Mitigation Measure 3.14-2(h) was added in the Final EIR based on consultation between the City and Caltrans. It provides that "[t]he project applicant shall provide a one-time contribution of $1,524,900, which represents a fair share contribution of funds towards Caltrans; I-405 Active Traffic Management (ATM)/Corridor Management (CM) project." The MMRP clearly denotes that the project applicant is responsible for implementation of the measure, in consultation with Caltrans, and the City's Department of Public Works, Transportation & Traffic Division is responsible to monitor the implementation of the measure and confirm that the payment has been made. The payment to Caltrans is required to be made prior to the City's issuance of the first building permit for Arena construction (following the excavation phase), giving Caltrans more than 2 years to complete the improvements prior to the first major event at the Proposed Project arena. Thus, the MMRP provides substantive detail on the amount, use of, responsible parties, and timing of this measure, and is not "silent on this arrangement" as asserted in the comment.

The comment misleadingly conflates the contributions to Caltrans' I-405 ATM/CM program provided for in Mitigation Measure 3.14-24(h) with the provisions of Mitigation Measure 3.14-2(j) (obliquely cited as MMRP p. 53), which address mitigation improvements at the I-105 westbound off-ramp at Crenshaw Boulevard. The measure itself calls for the widening of the westbound off-ramp. Preliminary review by the City suggests that this measure would be feasible. However, because the measure falls entirely within Caltrans right-of-way, it would be required to be processed by Caltrans through its project development process, which includes a variety of steps including, potentially a cooperative agreement between the agencies, a permit engineering evaluation report, project study report, project report, environmental and engineering studies, project design and construction. It is typical that these steps in the Caltrans process take a number of years.

Rather than simply determining that the mitigation is infeasible, the MMRP directs that prior to the Certificate of Occupancy, the project applicant is required to work with the cities of Inglewood and Hawthorne, along with Caltrans to determine the feasibility of the improvements. If it is determined to be feasible, the improvements either need to be completed, or the project applicant needs to provide "adequate security" for the estimated cost of the improvements, thereby assuring the financial ability to implement the measure. Because the City cannot guarantee that the measure is feasible and can be

implemented prior to the opening of the Proposed Project arena (the triggering impact is a Major Event at the arena) because the measure is within the authority of another agency (Caltrans) and is required to go through a design and permitting process overseen and implemented by the other agency, it has determined and would make findings that the impact is considered Significant and Unavoidable. This finding is consistent with the provisions of CEQA Guideline §15091(a)(2) and is neither improper deferral of mitigation nor a "gross subversion" of CEQA, as asserted in the comment.

Silverstein-49 The comment claims that the Statement of Overriding Considerations is unsupported. The City disagrees.

First, the comment states that the Statement of Overriding Considerations renders the Proposed Project inconsistent with various elements of the City's General Plan. The comment does not identify any specific inconsistencies. For this reason, no response can be provided.

Second, the comment claims that the statement of overriding considerations must address the overriding benefits that outweigh each of the project's significant and unavoidable impacts. The statute does not require such an impact-by-impact statement of overriding considerations. Rather, the statute requires that the lead agency adopt a finding concerning those impacts where "[s]pecific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report." (Pub. Resources Code, § 21081, subd. (a)(3).) For those impacts that are identified as "significant and unavoidable," the lead agency must adopt a finding that "specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment." (Pub. Resources Code, § 21081, subd. (b).) The statement of overriding considerations prepared by City staff, and recommended for approval by the City Planning Commission, includes this information. Among other things, the statement (a) lists the impacts identified as "significant and unavoidable," and (b) describes the overriding benefits of the project that outweigh those impacts. The statement therefore complies with both the letter and spirit of the statute.

The comment states that the benefits cited in the statement are not supported by substantial evidence. This statement is incorrect. The statement cites the evidence upon which it relies. Please see Draft Development Agreement, Exhibits C, H-1, H-2 and H-3 (community and air quality benefits); HR&A, *Economic and Fiscal Impact Report: Inglewood Basketball and Entertainment Center*, May 2020; *Peer Review – Economic and Fiscal Impact Report: Inglewood Basketball and Entertainment Center*, Memorandum from James Rabe, CRE, Keyser Marston Associates, to Christopher E. Jackson, Director, Inglewood Economic & Community Development Department (June

10, 2020). The City believes that these reports, as well as other information in the record, constitute substantial evidence of the Proposed Project's benefits.

The comment states that the City does not have sufficient evidence of the infeasibility of alternatives that consists of a smaller project, or that would involve developing the Project site with less intensive uses. This statement is incorrect. The City's findings cite a detailed memorandum addressing the feasibility of alternatives, including alternatives that involve a smaller project, or alternative uses of the site. (See Memorandum from Brian D. Boxer, AICP, ESA, to Christopher Jackson, Fred Jackson, and Royce Jones, City of Inglewood (June 12, 2020).) The EIR contains additional information on alternatives considered for analysis but rejected as inconsistent with basic project objectives or infeasible. (See IBEC Draft EIR, Chapter 6.3; see also IBEC Final EIR, Responses to Comments NRDC-4 and Channel-40 through Channel-47.

Silverstein-50 The comment states that proposed amendments to the Inglewood International Business Park Specific Plan (IIBP Specific Plan) are unlawful. This statement is incorrect.

The City approved the IIBP Specific Plan in 1993. The purpose of the IIBP Specific Plan was to encourage the redevelopment of the site as a campus-like business park. The IIBP Specific Plan encompasses portions of the Proposed Project site. As set forth in an analysis of alternative uses of the site:

> These parcels have remained vacant and underutilized despite the City's efforts to encourage investment and redevelopment. In particular, in 1993 the City approved the Inglewood International Business Park Specific Plan encompassing much of the site. This plan envisioned the development of an attractive, campus-like business park, and established guidelines designed to encourage this use. During the intervening 27 years, however, the development anticipated and encouraged under the plan has not occurred due to a lack of investment interest in such a project. Available evidence indicates, therefore, that if the business park plan remains the operative land-use plan for the Project Site, it will remain vacant and/or underutilized. None of the City's economic development goals, as expressed in the City's adopted plans and policies, will be achieved.
>
> (Memorandum from Brian D. Boxer, AICP, ESA, to Christopher Jackson, Fred Jackson, and Royce Jones, City of Inglewood (June 12, 2020), p. 5.)

As this memorandum notes, portions of the Proposed Project site are located within the IIBP Specific Plan area. The uses authorized under the IIBP Specific Plan focus on the development of the area as a business park. The Proposed Project is not consistent with those uses. For this reason, if the City approves the Proposed Project, the City would amend the IIBP Specific Plan so that the policies it contains do not apply to those

Proposed Project parcels that are located within the IIBP Specific Plan area if developed with the Proposed Project. If the amendments are approved, then the policies set forth in the IIBP Specific Plan will no longer apply to the parcels within the IIBP Specific Plan area that are included in the Proposed Project site if developed with the Proposed Project. The IIBP Specific Plan will continue to apply, however, to all other parcels located within the specific plan area not developed with the Proposed Project.

The comment states that the amendment of a specific plan necessarily constitutes a variance, such that variance findings are required. The comment is incorrect. Amending a specific plan is a legislative act. The local legislature that adopted a specific plan in the first instance has discretion to amend it. Doing so does not constitute a variance or spot zoning. Rather, doing so reflects a change in the exercise of local, legislative decision-making. If a specific plan is amended so that it does not apply to particular parcels, then none of the specific plan policies applies to the parcels that are no longer subject to the plan. If those policies do not apply to the parcels at issue, then no variance is needed, and variance findings need not be adopted.

Silverstein-51 [no bracketed comment]

Silverstein-52 The comment states that the EIR does not contain sufficient information regarding the Proposed Project's consistency with the General Plan or IIBP Specific Plan. This statement is incorrect. With respect to General Plan consistency, please see Response to Comment Silverstein-43. With respect to IIBP Specific Plan consistency, if the Proposed Project is approved, then the IIBP Specific Plan will be amended such that its policies do not apply to any portions of the Project Site within the IIBP Specific Plan area if developed with the Proposed Project. Because the IIBP Specific Plan and the policies set forth therein will no longer apply, no inconsistency will exist. (See *Sierra Club v. City of Orange* (2008) 163 Cal.App.4th 523, 543.) The street widening and open space contemplated by the IIBP Specific Plan will not occur on the Project Site. The Proposed Project incorporates, however, a publicly accessible plaza that will provide significant open space in the area. (See IBEC Draft EIR, pp. 3.13-43 – 3.13-44 [description of plaza], 2-22, 2-40 – 2-41 [description and views of plaza area].)

Silverstein-53 The comment states that there is insufficient evidence to support the findings necessary to grant a variance. The applicant has not requested a variance. Please see Response to Comment Silverstein-50.

Silverstein-54 The comment states that amending the Specific Plan boundary constitutes impermissible "spot zoning." The term "spot zoning" is inherently imprecise. The courts have not identified a specific test for determining when spot zoning has occurred, or when the approval of spot zoning is impermissible. As a general matter, however, the phrase refers to the practice of zoning a discrete parcel of land in a manner that restricts uses in a manner that does not apply to similarly situated surrounding parcels, where there is no rational basis for distinguishing between the parcel and its surroundings. (See, e.g., *Ross v.*

City of Yorba Linda (1991) 1 Cal.App.4th 954.) Impermissible spot zoning may also occur where the agency singles out a particular parcel for greater uses than those of its surroundings. (*Foothill Communities Coalition v. County of Orange* (2014) 222 Cal.App.4th 1302, 1311-1314.) A claim that impermissible spot zoning has occurred must generally show that the agency's decision was based on retaliation or some other nefarious purpose unrelated to the actual regulation of land use. (See, e.g., *City and County of San Francisco v. Bullock* (1996) 50 Cal.App.4th 1886 [no evidence that exercise of zoning power was motivated by improper purposes].) The Courts recognize that the exercise of the zoning power invariably involves drawing lines and making distinctions between parcels. This exercise is impermissible, however, only when the line-drawing exercise becomes completely arbitrary or based entirely on improper motives.

In this case, portions of the Project Site are located within the IIBP Specific Plan area. If approved, the City will amend the IIBP Specific Plan to exclude those portions of the Project Site from the IIBP Specific Plan such that its policies do not apply to the Project Site if developed with the Proposed Project. Given the history of the site, however, the claim that this exercise of the zoning power constitutes impermissible "spot zoning" is unintelligible. The IIBP Specific Plan has been in place since 1993. Despite the City's longstanding encouragement of redevelopment of the area, that has not occurred. The areas within the IIBP Specific Plan area not developed with the Proposed Project will still be subject to these policies should development interest emerge for a business park, and such development could still be implemented. The Project Site is not being singled out, however, for an impermissible reason. The City's former vision for the area, as a business park, has not come to fruition. A new vision – the Proposed Project – is being proposed. The City's interest in facilitating that alternative vision is not evidence of spot zoning. Rather, it is evidence of the City's desire to put the property to productive use, rather than having the area continue to languish in its largely vacant state.

The comment states that the Proposed Project will benefit visitors from other communities, rather than City residents and businesses. The comment is not substantiated. In any event, the City Planning Commission disagreed with this view. City staff notes that there is abundant evidence supporting the conclusion that the Proposed Project, if approved, would benefit City residents and businesses. This evidence is set forth in the Statement of Overriding Considerations, and in comments and testimony that has been submitted. The comments and testimony provided by local residences and businesses has not been uniformly supportive, but the vast majority of those providing comments and testimony have encouraged the City to approve the Proposed Project.

Silverstein-55 The comment states that the City has not cited a substantial public need justifying the benefits conferred on the Proposed Project, particularly in light of the narrow sidewalks in the area, and amendments to the IIBP Specific Plan so that those of the Proposed

Project's parcels that are within the IIBP Specific Plan boundary would not be subject to the IIBP Specific Plan.

The comment appears to be based, not on the existing, physical characteristics of the site, but on policies set forth in the IIBP Specific Plan that would be implemented if and when the IIBP Specific Plan area is developed as a business park.

To the extent the sidewalks are narrow, that is an existing condition, not an impact of the Proposed Project. The City has analyzed impacts associated with pedestrians traveling to and from the Project Site, based on those existing conditions, and the pedestrian improvements proposed as part of the Proposed Project. (See IBEC Draft EIR, Chapter 3.14 – see, e.g., Figure 3.14-5 [Existing Pedestrian Facilities], pp. 3.14-132 – 3.14-136 [evaluation of pedestrian access], 3.14-248 – 3.14-249 [impact evaluation and mitigation to provide pedestrian access].) Please see Responses to Comments Silverstein-35 and Silverstein-38 addressing sidewalk widths and pedestrian access,

The IIBP Specific Plan includes policies that would require larger setbacks if the area developed as a business park. If the Proposed Project is approved, then those policies will not apply to the Proposed Project.

The Proposed Project site has been largely vacant for decades. Proposals to develop the site as a business park have not proven to be viable. Thus, the existing setting does not consist of a business park with large setbacks. Rather, the existing setting consists of a largely vacant site with sidewalks that vary from five to eight feet in width. The Proposed Project includes a pedestrian bridge across South Prairie Avenue, a large plaza, and other sidewalk and wayfinding improvements designed to accommodate pedestrians. A project variant provides that, if the project applicant is able to obtain easements from property owners on the north side of West Century Boulevard, a second pedestrian bridge will span that roadway as well. The IBEC EIR analyzes these improvements and concludes that, as mitigated, the site will provide adequate access to pedestrians.

The comment refers to the Project Site as an "island." This description is inaccurate. Under existing conditions, the Project Site and surrounding parcels are generally designated and zoned for commercial and industrial uses. (IBEC Draft EIR, Figures 2-5 and 2-6.) If the Proposed Project is approved, then the General Plan designation of the Commercial properties would be changed to Industrial so the entire site would have an Industrial designation. For certain parcels, vestigial residential zoning designations (which do not conform to the corresponding General Plan designation for those parcels) would be rezoned. One use that would be an "island" if it were approved in this location would be residential, in light of the incompatibility of such uses with the proximity to LAX and the Federal Aviation Administration (FAA) grant program that was used to acquire much of the site. (See Response to Comment Silverstein-59.) The Proposed Project, however, does not include residential uses. Thus, the comment that the Proposed Project would result in an island with discordant land-use designations and

zoning is false. The record does not support the claim that the City is arbitrarily conferring preferential General Plan or zoning designations on the Project Site.

The comment states that the changes to land-use policy are being made solely to serve private needs. It is unclear why the consideration of private needs is an improper consideration when a local agency exercises its legislative authority over land-use. In any event, such an exercise becomes improper only where it is retaliatory or based on some other improper purpose that does not relate to the use of land. There is no evidence of such improper use here.

In addition, the Proposed Project, if approved, will confer significant benefits on City residents and businesses. These benefits are described in the Statement of Overriding Considerations endorsed by the City Planning Commission. Please see Responses to Comments Silverstein-49 and Silverstein-54.

Silverstein-56 The comment states that the City should not approve the Proposed Project's proposed subdivision map because (1) the Proposed Project is not consistent with the City's General Plan, as required by Government Code section 66473.5, and (2) the City must deny the map based on the criteria set forth in Government Code section 66474.

The entitlements currently requested by the applicant do not include a subdivision map. For this reason, the comment is not relevant to the entitlements requested by the applicant.

The entitlements contemplate that the applicant may apply for a subdivision map or lot line adjustment in the future. At that time, the City will apply the standards set forth in the Subdivision Map Act with respect to consideration of the proposed map.

The City has performed a detailed analysis of the extent to which the Proposed Project is consistent with the City's General Plan. That analysis, referred to as the "General Plan Consistency Analysis," is attached to the City Council's staff report. The analysis concludes that, if the City Council approves the requested entitlements, the Proposed Project will be consistent with the City's General Plan. Staff notes that this same analysis would be relevant to the City's consideration of a proposed subdivision map or lot-line adjustment.

With respect to the criteria set forth in section 66474, the comment does not explain the basis for its position, other than citing the significant and unavoidable impacts disclosed in the EIR. The contention appears to be that, if a project will have significant and unavoidable impacts, then an agency cannot approve a tentative subdivision map or lot-line adjustment. There is no case law supporting this position. Instead, CEQA provides that an agency can approve a project despite its significant and unavoidable impacts, if the agency finds that the project's benefits warrant overriding those impacts. (Pub. Resources Code, § 21081, subd. (b).)

In a footnote, the comment cites a recent, published decision issued by the Fourth District Court of Appeal: *Golden Door Properties v. County of San Diego* (2020) – Cal.App.5th – [2020 WL 3119041]. The footnote is unrelated to the comment pertaining to the Subdivision Map Act. Instead, the *Golden Door* decision focuses on the criteria that emission reduction credits, or "offsets," must meet to serve as CEQA mitigation for a project's greenhouse gas emissions. For additional information on the *Golden Door* decision, please see Response to Letter 18 (NRDC).

Silverstein-57 The comment states that the Proposed Project is not suitable for the site. The opinion expressed in the comment is noted. Staff observes that the majority of those providing comments or testimony to the City have expressed strong support for the Proposed Project. This support is not unanimous, as evidenced by the comment. Nevertheless, it is accurate to note that those residents and businesses that support the Proposed Project vastly outnumber those who are opposed.

The comment states that the ordinance violates the Subdivision Map Act by allowing ministerial lot line adjustments. Lot line adjustments, if any, would be subject to both the Subdivision Map Act and the City's subdivision code. Under certain circumstances, lot line adjustments may be ministerial. (See Gov. Code, § 66412; *Sierra Club v. Napa County Board of Supervisors* (2012) 205 Cal.App.4th 162, 179-180.) The Lot Line Authorization provision in Section 6 of the proposed Zoning Code Amendment ordinance states that lot lines may be adjusted in accordance with the provision of Government Code §66412(d), which exempts lot line adjustments between four or fewer parcels from the Subdivision Map Act. There is no basis for the commenter's assertion that lot lines are being or would be proposed for five or more parcels in contravention of the Subdivision Map Act.

The comment notes that certain parcels are owned by the City's Successor Agency. The comment is noted. The City will comply with procedural requirements associated with the disposition of these parcels.

Silverstein-58 The comment states that new information exists that the proposed Disposition and Development Agreement violates the Surplus Land Act, citing the inclusion of a proposed hotel in the Proposed Project.

The evidence cited in support of this claim consists of an appellate brief filed in a lawsuit alleging that, in entering into an Exclusive Negotiating Agreement ("ENA") with the Proposed Project Applicant, the City pre-committed to the Proposed Project, in violation of CEQA. The appellate brief argued that the ENA precluded the City from considering affordable housing as an alternative use of the site, as required by the Surplus Land Act (Gov. Code, § 54220 et seq.). As noted above, the trial court denied the petition, ruling that the City had not pre-committed to the Proposed Project. (*Inglewood Residents Against Takings and Evictions v. City of Inglewood*, Case No. BS170333 (Los Angeles County

Superior Court).) The plaintiff appealed this ruling but subsequently dismissed its appeal. For this reason, the trial court's judgment is now final.

Another lawsuit raised directly the applicability of the Surplus Land Act to the Proposed Project site. (*Uplift Inglewood Coalition v. City of Inglewood*, Case No. BS172771 (Los Angeles County Superior Court).) In that case, the trial court ruled that the portions of the Project Site that are owned by the City or the Successor Agency are not surplus lands within the meaning of the Surplus Land Act. For this reason, among others, the City was not required to make the land available for the development of the parcels as affordable housing, parks or open space. The trial court's ruling also provides a detailed history of the site, including the FAA's grant funding program, and the City's efforts to redevelop the area for uses that are compatible with the noise contours created by proximity to LAX runways.[6]

Regarding the commenter's assertion that the Project includes a residential structure, see Response to Comment Silverstein-14. The proposed hotel does not alter the analysis set forth in the trial court's judgment. There, the trial court ruled that the Project Site was not surplus, and therefore not subject to the Surplus Land Act, because the City held the land for purposes of economic development with uses compatible with the Project Site's proximity to LAX and with the FAA's grant program. The development of a portion of the site for a hotel is consistent with those purposes.

Silverstein-59 The comment states that the disposition and development agreement is based on fraud and is therefore invalid.

The comment contains no evidence that such fraud occurred. The exhibit cited in support of this claim consists of a newspaper article published in September 2018. The article discusses a Superior Court ruling in a lawsuit filed by MSG Inc., the former owner of The Forum. The article describes allegations made by MSG in that lawsuit. Such allegations by an entity suing the City are not evidence that such events occurred; rather, they are simply allegations by one party against another. These allegations have not proceeded to trial. MSG has dismissed its lawsuit.

The comment states that the site formerly contained residences that the City acquired and then demolished. This statement is correct. The EIR describes the site's history. As the EIR explains, most of the Project site (approximately 23 acres) has been and remains vacant and undeveloped. The vacant or undeveloped parcels were acquired and cleared by the City between the mid-1980s and the early 2000s with the support of grants issued by the Federal Aviation Administration (FAA) to the City of Inglewood as part of the Noise Control/Land Use Compatibility Program for Los Angeles Airport (LAX). The objective of this program was to acquire sites with incompatible land uses due to the

[6] *Uplift Inglewood Coalition v. City of Inglewood*, Case No. BS172771 (Los Angeles County Superior Court), Judgment Entered November 14, 2019.

noise levels of airport operations. Under that program, the FAA and the City of Inglewood approved the acquisition of several parcels on the Project Site. The residences were acquired because they are incompatible uses. (See IBEC Draft EIR, pp 3.10-4 – 3.10-5; see also Memorandum from Brian D. Boxer, AICP, ESA, to Christopher Jackson, Fred Jackson, and Royce Jones, City of Inglewood (June 12, 2020), pp. 3-4 [history of FAA grant program]; *Uplift Inglewood Coalition v. City of Inglewood*, Case No. BS172771 (Los Angeles County Superior Court), Judgment Entered November 14, 2019 [describing history of site, including acquisition of residential uses under FAA's grant program].)

Since that time, the City has engaged in efforts to redevelop the area with uses that are compatible with its proximity to LAX. These efforts include the approval of the Inglewood International Business Park Specific Plan in 1993. The plan calls for redevelopment of a portion of the area as a campus-like business park. Since the mid-1980s and up until the current IBEC Project proposal, the City has sought to attract a variety of uses to the Project Site but has not been able to generate momentum or build interest in the site from private sector developers.

The comment states that the City cleared the site of residential uses to facilitate the development of the Proposed Project. This statement is incorrect. The acquisition of these properties preceded the IBEC proposal by well over a decade. The City has a longstanding policy of seeking to develop the Proposed Project site for uses that are compatible with the noise contours generated by the LAX runways. The Proposed Project is one such use. At the time the City acquired the parcels, however, the Proposed Project had not been proposed, however, so the City did not have this particular use in mind.

Silverstein-60 In responding to the comments provided in this letter, the City has at points provided additional clarification or expanded upon information and analyses provided in the Draft and/or Final EIRs. For the most part, the comments raise issues about the Draft EIR that were previously considered and addressed in the Final EIR, or raise procedural issues regarding the City's implementation of CEQA or non-CEQA aspects of the City's process to review and consider the merits of the Proposed Project. The comments and responses do not constitute "significant new information" as defined in CEQA Guidelines section 15088.5(a), in that they do not: (1) identify any significant impacts that were not disclosed in the Draft EIR, (2) identify any impacts that are substantially more severe than disclosed in the Draft EIR, (3) identify any feasible mitigation measures or alternatives that were not identified and required of the Proposed Project to avoid or substantially lessen significant impacts, or (4) establish that the Draft or Final EIRs were so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. Therefore, neither the Draft EIR nor the Final EIR require circulation for additional review and comment.

EXHIBIT B

ADDITIONAL LETTERS AND EMAILS WITH COMMENTS ON THE PROPOSED IBEC PROJECT

From: Veronica Lebron
To: Fred Jackson; Mindala Wilcox
Cc: Esther Kornfeld; Naira Soghbatyan; Robert Silverstein
Subject: Comments & Objections to April 13, 2020 Planning Commission Special Meeting Agenda Items 5.d and 5.e; Advance Notice Request
Date: Monday, April 13, 2020 6:54:17 PM
Attachments: 4-13-20 [SCAN] Advance Notice Request; Comments & Objections to Notices of Exemption; Agenda Items 5.d and 5.e.PDF

Without wavier of our objections to tonight's Planning Commission meeting going forward, please include the attached in the record for the identified matters and please distribute to the Planning Commissioners. Please confirm receipt. Thank you.

Veronica Lebron
The Silverstein Law Firm, APC
215 North Marengo Avenue, 3rd Floor
Pasadena, CA 91101-1504
Telephone: (626) 449-4200
Facsimile: (626) 449-4205
Email: Veronica@RobertSilversteinLaw.com
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April 13, 2020

VIA EMAIL fljackson@cityofinglewood.org; mwilcox@cityofinglewood.org

Fred Jackson, Senior Planner
Mindy Wilcox, AICP, Planning Manager
City of Inglewood, Planning Division
1 West Manchester Boulevard, 4th Floor
Inglewood, CA 90301

Re: Advance Notice Request and Comments and Objections to Notices of Exemption for, and of General Plan Amendment GPA-2020-01 and GPA-2020-02; CEQA Case Nos. EA-CE-2020-036 and EA-CE-2020-037

Dear Mr. Jackson and Ms. Wilcox:

I. INTRODUCTION AND ADVANCE NOTICE REQUEST.

This firm and the undersigned represent Kenneth and Dawn Baines, owners of the property located at 10212 S. Praire Ave., Inglewood. Please keep this office on the list of interested persons to receive timely notice of all hearings and determinations related to the proposed approval/adoption of the General Plan Amendments and Categorical Exemptions listed above ("Project(s)").

Pursuant to Public Resources Code Section 21167(f) and all applicable rules and regulations, please provide a copy of each and every Notice of Determination issued by the City in connection with these Projects. We incorporate by reference all Project objections raised by others with regard to both the present Notices of Exemption and amendments/adoption of General Plan Elements. To the extent the Projects are part of or interrelated with the Clippers IBEC project, we incorporate by reference all public comments/objections to the IBEC project as well as its Draft EIR.[1],[2],[3].

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[1] See http://ibecproject.com/

[2] We specifically request that all the hyperlinks in this letter be downloaded and printed out, submitted to the agency, and be included in the City's control file and record

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for the Project, as duly provided by applicable case law.

[3] See http://opr.ca.gov/ceqa/docs/ab900/20190201-AB900_IBEC_Community_letters_1.pdf, http://opr.ca.gov/ceqa/docs/ab900/20190201-AB900_IBEC_Community_letters_2.pdf , http://opr.ca.gov/ceqa/docs/ab900/20190204-AB900_IBEC_Inglewood_Residents_Against_Takings_Evictions_Comments.pdf, http://opr.ca.gov/ceqa/docs/ab900/20190204-AB900_IBEC_MSG_Forum_AB_987_Comment_Letter_without_Exhibits.pdf, http://opr.ca.gov/ceqa/docs/ab900/20190204-AB900_IBEC_MSG_Forum_AB_987_Comment_Letter_EXHIBITS_1-4.pdf, http://opr.ca.gov/ceqa/docs/ab900/20190204-AB900_IBEC_MSG_Forum_AB_987_Comment_Letter_EXHIBIT_5.pdf, http://opr.ca.gov/ceqa/docs/ab900/20190204-AB900_IBEC_MSG_Forum_AB_987_Comment_Letter_EXHIBITS_6-7.pdf, http://opr.ca.gov/ceqa/docs/ab900/20190204-AB900_IBEC_MSG_Forum_AB_987_Comment_Letter_EXHIBITS_8-10.pdf, http://opr.ca.gov/ceqa/docs/ab900/20190222-AB900_IBEC_Comment_Climate_Resolve.pdf, http://opr.ca.gov/ceqa/docs/ab900/20190304-AB900_IBEC_NRDC.pdf, http://opr.ca.gov/ceqa/docs/ab900/20190422-AB900_IBEC_MSG_Supp_Lette_re_IBEC_App_Tracking_No-2018021056.pdf, http://opr.ca.gov/ceqa/docs/ab900/20190422-AB900_IBEC_MSG_Supp_Lette_re_IBEC_App_Tracking_No-2018021056.pdf, http://opr.ca.gov/ceqa/docs/ab900/20190621-IBEC_Comment_NRDC_Clippers_response_6-21-19.pdf, http://opr.ca.gov/ceqa/docs/ab900/20190628-AB900_Inglewood_Comment_Opposition_to_Supplemental_Application.pdf, http://opr.ca.gov/ceqa/docs/ab900/20190628-AB900_Inglewood_Comment_resident_letters.pdf, http://opr.ca.gov/ceqa/docs/ab900/20190628-AB900_Inglewood_Comment_Resident_Letters_1.pdf, http://opr.ca.gov/ceqa/docs/ab900/20190628-AB900_Inglewood_Comment_Resident_Letters_2.pdf, http://opr.ca.gov/ceqa/docs/ab900/20190628-Final_Inglewood_Community_Letters.pdf, http://opr.ca.gov/ceqa/docs/ab900/20190628-MSG_AB_987_Letter_re_Supplemental_Application_with_exhibits.pdf, http://opr.ca.gov/ceqa/docs/ab900/20190628-IBEC.pdf, http://opr.ca.gov/ceqa/docs/ab900/20190729-Public_Counsel_letter_RE_AB_987_Inglewood_Arena_Project.pdf,

This letter is also an **Advance Notice Request** that the City of Inglewood Department of City Planning, the City Clerk's office, and all other commissions, bodies and offices, provide this office with advance written notice of any and all meetings, hearings and votes in any way related to the above-referenced proposed Projects and any projects/entitlements/actions related to any and all events or actions involving these Projects.

Your obligation to add this office to the email and other notification lists includes, but is not limited to, all notice requirements found in the Public Resources Code and Inglewood Municipal Code. Some code sections that may be relevant include Public Resources Code Sections 21092 and 21092.2.

This Advance Notice Request is also based on Government Code § 54954.1 and any other applicable laws, and is a formal request to be notified in writing regarding the Projects, any invoked or proposed CEQA exemptions, any public hearings related to the Draft or Final EIR for the IBEC project, together with a copy of the agenda, or a copy of all the documents constituting the agenda packet, of any meeting of an advisory or legislative body, by email and mail to our office address listed herein. We further request that such advance notice also be provided to us via email specifically at: Robert@RobertSilversteinLaw.com; Esther@RobertSilversteinLaw.com; Naira@RobertSilversteinLaw.com; and Veronica@RobertSilversteinLaw.com.

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http://opr.ca.gov/ceqa/docs/ab900/20190903-AB900_IBEC_Community_Letters.pdf, http://opr.ca.gov/ceqa/docs/ab900/20190903-AB900_IBEC_Inglewood_Community_Letters-2.pdf, http://opr.ca.gov/ceqa/docs/ab900/20190909-AB900_IBEC_MSG_OPR_Letter_September_2019_with_exhibits.pdf, http://opr.ca.gov/ceqa/docs/ab900/20191112-AB900_IBEC_AB987_Inglewood_Residents_Against_Takings_and_Evictions%20.pdf, http://opr.ca.gov/ceqa/docs/ab900/20191114-Barbara_Boxer_GHG_Emissions_Commitment_Letter.pdf, http://opr.ca.gov/ceqa/docs/ab900/20191127-AB900_IBEC_AB987_Resident_Letters_Supplement_to_GHG_Emissions_Commitment.pdf, http://opr.ca.gov/ceqa/docs/ab900/20191127-AB900_IBEC_AB987_Resident_Letters_Supplement_to_GHG_Emissions_Commitment_2.pdf, http://opr.ca.gov/ceqa/docs/ab900/20191127-AB900_IBEC_AB987_MSG_Forum_Supplement_to_GHG_Emissions_Commitment.pdf, http://opr.ca.gov/ceqa/docs/ab900/20191205-AB987_IBEC_Comment_MSG_Forum.pdf.

Finally, to the extent that an advance written request is required for any and all City hearings regarding the above-referenced project to be recorded and/or transcribed, this letter shall constitute that advance written request. Please include this letter in the record for this matter.

Please, acknowledge receipt of the Advance Notice Request above.

Please also provide a current time line of all scheduled and anticipated events, including hearings or approvals of any type, related to the Projects.

II. OBJECTIONS TO THE LACK OF ADEQUATE AND CONSISTENT NOTICE AND REQUEST TO RESCHEDULE THE APRIL 13, 2020 HEARING.

On April 13, 2020, our office came across the City's *special* meeting agenda for the Planning Commission's Special Meeting on April 13, 2020, at 7:00 p.m. The agenda included Items 5(d) and 5(e) related to the Projects – i.e., amendments to the General Plan.

Based on information we have obtained, the City of Inglewood ("City") is closed for COVID-19 reasons effective April 13 through April 27, 2020. Yet we were informed at approximately 6:00 p.m. tonight that despite the shutdown of City Hall, this Planning Commission hearing is proceeding nonetheless. That is an outrage to the concept of transparency and public participation.

We hereby object to the City's short imposed deadlines, special meetings, inadequate and inconsistent notices, and particularly, to the notice of the special meeting on April 13, 2020 during this time of the COVID-19 crisis. Moving forward with the Projects would also be in violation of the Brown Act's open meetings requirements and any decision taken today will be invalid.

We therefore request that the City reschedule the Special Meeting of April 13, 2020 and properly circulate the notice and all documents related to the Projects, including but not limited to the drafts of the Land Use and Environmental Justice Elements, to afford meaningful opportunity to the public and public agencies to comment on the proposed amendments to the General Plan – prior to any approval. The City's failure to reschedule and duly circulate the documents prior to the respective approvals of the Projects will constitute an abuse of discretion and failure to proceed in a manner required by law.

We also request that the City postpone any action or hearing on General plan amendments until and unless 90 days after the stay-at-home orders have been lifted by the California Governor. State and Planning and Zoning laws necessitate public participation for all actions, whereas the presently-utilized remote participation is often disrupted because of connection problems. The City should not take advantage of these unfortunate times, where people are fighting against the virus and some people are fighting for their lives, to rush through projects of such magnitude as amendments to the City's General Plan.

We also object to the City's imposition of strict deadlines for non-essential projects during the COVID-19 crisis given that – as evidenced by the recent letter of the League of California Cities to the Governor asking for tolling of all deadlines – city staffing shortages affect the efficiency of their work. We request that the City toll and extend its deadlines for public comment period on all environmental documents, including the Notices of Exemption for the Projects, until after the COVID-19 crisis is contained and the Governor lifts stay-at-home orders.

III. LACK OF MEANINGFUL OPPORTUNITY FOR PUBLIC PARTICIPATION PARTICULARLY FOR COVID-19 REASONS.

The City cannot approve the Projects or Notices of Exemption or related findings because it cannot make a finding that those are consistent with the City's General Plan, as the City has not duly circulated the documents for the public to review and comment upon.

Further, the City may not be able to satisfy the public participation requirement under Cal. Gov't Code § 65351, which provides: "During the preparation or amendment of the general plan, the planning agency shall provide opportunities for the involvement of citizens, public agencies, public utility companies, and civic, education, and other community groups, through public hearings and any other means the city or county deems appropriate."

To the extent that the Projects, specifically, the General Plan amendments, are also interrelated with and being piecemealed from the IBEC project and its DEIR, the Projects will unavoidably facilitate or be used in furtherance of the IBEC project. In turn, the City may not rely on Categorical Exemptions to approve the Projects because doing so would facilitate the IBEC project, which project will have significant, unmitigable impacts. In other words, the use of Categorical Exemptions is facially improper because the Projects are being used to facilitate and expedite approval of the IBEC project and its DEIR. Accordingly, the approval of the instant Projects will cause or contribute to direct or

indirect physical impacts to the environment. Piecemealing the Projects out of the IBEC project and its review is independently a violation of CEQA.

IV. THE PROPOSED LAND USE AND ENVIRONMENTAL JUSTICE ELEMENTS ARE INTERRELATED WITH THE IBEC PROJECT AND THEREFORE ARE ILLEGALLY PIECEMEALED FROM IT.

These rushed proposed General Plan amendments come at a time when the Clippers IBEC project is being processed and promoted. The IBEC project itself requires zoning changes and amendments to the General Plan's Land Use Element.

The IBEC project has been severely criticized for its 42 environmental adverse impacts, including GHG emissions by bringing in millions of cars, causing severe traffic impacts, and adversely impacting the disadvantaged community of Inglewood, including their health and safety.

The IBEC project has been criticized for its conflicts with environmental justice principles.

Therefore, it appears that the City's efforts to amend the General Plan and include Land Use Element Amendments and the Adoption of an Environmental Justice Element on such a rushed basis, without adequate process for the public, and with zero environmental review in an obvious effort to piecemeal this issue away from where it should be analyzed as part of the IBEC project CEQA review, aims to further the IBEC project without properly and timely disclosing that purpose to the public.

V. THE LAND USE ELEMENT AMENDMENT MAY NOT BE ADOPTED DUE TO LACK OF A CIRCULATED DOCUMENT FOR PUBLIC REVIEW AND COMMENT.

The draft Land Use Element amendment was not available online or was not locatable in a place on the City's website that the public would easily or logically identify. Therefore, it was impossible for the public to see the amendments to be able meaningfully to comment on them. The proposed amendments may not be adopted on this additional ground.

VI. CEQA EXEMPTIONS ARE INAPPLICABLE FOR THE GENERAL PLAN AMENDMENTS AND THE CITY HAS NOT MET ITS BURDEN TO INVOKE THE EXEMPTION.

The City's invoked Exemptions for the proposed Projects - i.e., general plan amendments and adoption of the elements – are in error. Pursuant to the Notices, the City invokes Categorical Exemptions under CEQA Guidelines Sections 15061(b)(3) and 15060(c)(2), by claiming a "common sense" exemption.

> Guidelines Section 15061(b)(3) reads:
>
> "(3) The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with **certainty** that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." (Emphasis added.)

Based on the quoted language, CEQA requires certainty that there is no possibility that the activity in question may have a significant effect on the environment. There cannot be such certainty where the proposal is to "clarify" the densities in the Land Use Element, where the draft Land Use Element amendment was never properly circulated to the public, and where – in the case of the common sense exemption – it is the duty and burden of the agency to prove with certainty that the Projects will have no environmental impacts.

Moreover, to the extent the Projects here are interrelated to the IBEC project and facilitate it or its components, as clearly appears to be the case, the Projects may not invoke any common sense exemption at all.

The Projects cannot be approved using categorical exemptions since it is impossible for the City to demonstrate the "certainty" of no potential environmental impacts. Exemptions from CEQA's requirements are to be construed narrowly in order to further CEQA's goals of environmental protection. See Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster (1997) 52 Cal.App.4th 1165, 1220. Projects may be exempted from CEQA only when it is indisputably clear that the cited exemption applies. See Save Our Carmel River v. Monterey Peninsula Water Management Dist. (2006) 141 Cal.App.4th 677, 697.

VII. CONCLUSION.

We respectfully request that the City cancel the Planning Commission of April 13, 2020 related to the Projects, duly circulate the draft amendments to the public for public comment, conduct meaningful environmental review, including as part of a recirculated IBEC project Draft EIR, and not further process the subject Projects as stand-alone approvals, much less based upon categorical exemptions under CEQA.

Very truly yours,

/s/ Robert Silverstein

ROBERT P. SILVERSTEIN
FOR
THE SILVERSTEIN LAW FIRM, APC

RPS:vl

Letter 3

From: Veronica Lebron
To: Louis Atwell; Mindala Wilcox; Yvonne Horton
Cc: Esther Kornfeld; Naira Soghbatyan; Robert Silverstein
Subject: California Public Records Act Request | IBEC Project SCH 2018021056; Billboard Project Case No. EA-MND-2019-102
Date: Wednesday, April 22, 2020 5:16:57 PM

Dear Public Works Officials:

This is a public records request made pursuant to Government Code § 6250, et seq.

Please provide the following documents:

1) All documents and communications - from January 1, 2020 through the date of your compliance with this request - which relate or refer to the public works, construction, or improvements on **S. Prairie St., between 10200-10212 S. Prairie St.** or within 300 feet of same in each direction, including but not limited to the purpose of these ongoing improvements and or construction, the associated projects and applicants that the construction/improvement work is related to, as well as any road or sidewalk widening plans for the noted area on S. Prairie St.;

2) All documents and communications - from January 1, 2018 through the date of your compliance with this request - which relate or refer to the **IBEC Project's (aka Murphy's Bowl) SCH 2018021056** proposed signage, or signage that would be used, in whole or in part, in connection with events at the proposed IBEC project including but not limited to communications from the planner, the City's various departments, Mayor Butts and Council members, as well as the Applicant Murphy's Bowl, LLC and its representatives and agents;

3) All documents and communications - from January 1, 2018 through the date of your compliance with this request - which relate or refer to the **Billboard Project EA-2019-102 by WOW Media, Inc.** and the installation of motion billboard signs on S. Prairie St. between 10200-10204 S. Prairie St., including but not limited to communications from the planners, the City's various departments, Mayor Butts and Council members, as well as WOW Media, Inc. and its representatives and agents.

Govt. Code § 6253.9(a) requires that the agency provide documents in their native format, when requested. Pursuant to that code section, **please also provide the requested documents, including all applications, in their native and electronic format.**

Because I am emailing this request on April 22, 2020, please ensure that your response is provided to me by no later than **May 2, 2020.** Thank you.

Also, **please include** this correspondence and CPRA request in the administrative record and council files for both the IBEC Project and the Billboard Project, as described above.

Thank you.

Veronica Lebron
The Silverstein Law Firm, APC
215 North Marengo Avenue, 3rd Floor
Pasadena, CA 91101-1504
Telephone: (626) 449-4200
Facsimile: (626) 449-4205
Email: Veronica@RobertSilversteinLaw.com
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====================================
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Message

From: Veronica Lebron [Veronica@robertsilversteinlaw.com]
Sent: 5/1/2020 7:04:46 PM
To: Artie Fields [/o=Inglewood/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ac3ecaf73edc4c538f3344c6ac33b5d9-Artie Fields]; Alex Padilla [/o=Inglewood/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cc84bb897dac418a995d07762397a18b-Alex Padilla]; Eloy Morales Jr. [/o=Inglewood/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=07c9b1e9657a4657b5036d0fd25d17ac-Eloy Morales J]; Fred Jackson [/o=Inglewood/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b7154513b3a5468cab5e42bf795b937b-Fred Jackson]; gdolson@cityofinglewood.org; James Butts [/o=Inglewood/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d9b93f1c960c40a6bca9bd40977f3940-James Butts]; Ken Campos [/o=Inglewood/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=00c613199f8d4e558197d4b5a6c297fd-Ken Campos]; Mindala Wilcox [/o=Inglewood/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b46bfd8a1e12482fb4f973bea21d23c4-Mindala Wilcox]; Ralph Franklin [/o=Inglewood/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a774d983c3fe4be5a854b0e82a38bafc-Ralph Franklin]; Wanda Brown [/o=Inglewood/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=50de847afde7413fa2672542e1f397c8-Wanda Brown]; Yvonne Horton [/o=Inglewood/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=112c1fcb52164d5d9721a08db5ba3485-Yvonne Horton]
CC: Esther Kornfeld [Esther@robertsilversteinlaw.com]; Naira Soghbatyan [Naira@robertsilversteinlaw.com]; Robert Silverstein [Robert@robertsilversteinlaw.com]
Subject: Objections to Improper Recordings; IBEC Project Case No. SCH 2018021056
Attachments: 5-1-20 [SCAN] Objections to Improper Recordings; IBEC Project Case No. SCH 2018021056.PDF

Please see attached. Please confirm receipt.

Thank you.

Veronica Lebron
The Silverstein Law Firm, APC
215 North Marengo Avenue, 3rd Floor
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==================================

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May 1, 2020

VIA EMAIL yhorton@cityofinglewood.org
Yvonne Horton, City Clerk
City Clerk's Office
City of Inglewood
1 Manchester Blvd.
Inglewood, CA 90301

VIA EMAIL
mwilcox@cityofinglewood.org
Mindy Wilcox, AICP, Planning Manager
City of Inglewood, Planning Division
1 West Manchester Boulevard, 4th Floor
Inglewood, CA 90301

Re: Objections to Improper Recordings;
IBEC Project Case No. SCH 2018021056

Dear Ms. Horton and Ms. Wilcox:

Please include this letter in the administrative record for the IBEC DEIR and matter.

This firm and the undersigned represent Kenneth and Dawn Baines, owners of the property located at 10212 S. Prairie Ave., Inglewood. Please keep this office on the list of interested persons to receive timely notice of all hearings and determinations related to the proposed approval of the IBEC Project, Case No. SCH 2018021056.

It has come to our attention that the video and audio quality of the City's recordings related to the IBEC project – mandatory for inclusion in any administrative record for litigation challenging the validity of the IBEC EIR – are so poor as to be frequently unintelligible. This is true, for example, and without limitation, of the March 24, 2020 hearing, posted at

https://www.facebook.com/751594431603489/videos/141867820568859/

and for the August 15, 2017 hearing, posted at

https://www.facebook.com/cityofinglewood/videos/1420166261412966/

Moreover, based on our review of these project hearing videos, the videos have been edited, i.e., the taping is stopped then resumed, without any notification of why or warning that it will be, or clarity as to what has been omitted.

We object that the City's frequently inaudible and amateurish recordings are a violation of Pub. Res. Code 21167.6(e) governing record content. In particular, the City's recordings violate Pub. Res. Code § 21167.6(e), which sets the content of the record and requires "any transcripts or minutes" of the agency proceedings to be included in the record. Obviously, the recordings must be clear, audible and unedited/unaltered in the first place in order for complete and accurate transcripts to be prepared, as CEQA requires. Accordingly, we are putting the City on notice that its faulty recordings are a form of spoliation of evidence for which the City and project applicant will be liable.

While the City might, and we demand that it will, henceforth create clear quality and unadulterated recordings for the benefit of the public and any future judicial proceedings, it appears impossible that the City can rectify its prior spoliation of evidence, i.e., of the actual proceedings, statements and objections made at past hearings or meetings. Has the City had certified court reporters at all past IBEC-related hearings or meetings, and are transcripts presently in existence and publicly available?

Please explain how the City intends to address this situation. Thank you for your response and prompt attention to this matter.

Very truly yours,

/s/ Robert P. Silverstein
ROBERT P. SILVERSTEIN
FOR
THE SILVERSTEIN LAW FIRM, APC

RPS:vl

cc: James T. Butts, Jr, Mayor (via email jbutts@cityofinglewood.org)
George W. Dolson, District 1 (via email gdolson@cityofinglewood.org)
Alex Padilla, District 2, (via email apadilla@cityofinglewood.org)
Eloy Morales, Jr., District 3 (via email emorales@cityofinglewood.org)
Ralph L. Franklin, District 4 (via email rfranklin@cityofinglewood.org)

Wanda M. Brown, Treasurer (via email wbrown@cityofinglewood.org)
Artie Fields, Executive Director (via email afields@cityofinglewood.org)
Kenneth R. Campos, City Attorney (via email kcampos@cityofinglewood.org)
Fred Jackson, Senior Planner (via email fljackson@cityofinglewood.org)

From: Veronica Lebron
To: Fred Jackson; Mindala Wilcox
Cc: Esther Kornfeld; Naira Soghbatyan; Robert Silverstein
Subject: Objections to General Plan Amendments and Notices of Exemption for, and of General Plan Amendment GPA-2020-01 and GPA-2020-02; CEQA Case Nos. EA-CE-2020-036 and EA-CE-2020-037
Date: Tuesday, May 26, 2020 12:32:26 PM
Attachments: 5-26-20 [SCAN] Objections to General Plan Amendments & Notices of Exemption.PDF

Please include the attached letter in the administrative record for **both** the above-referenced matters **and** the Inglewood Basketball and Entertainment Center (IBEC) SCH No. 2018021056 project and its administrative record.

Please confirm receipt. Thank you.

Veronica Lebron
The Silverstein Law Firm, APC
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May 26, 2020

VIA EMAIL fljackson@cityofinglewood.org; mwilcox@cityofinglewood.org

Fred Jackson, Senior Planner
Mindy Wilcox, AICP, Planning Manager
City of Inglewood, Planning Division
1 West Manchester Boulevard, 4th Floor
Inglewood, CA 90301

Re: Objections to General Plan Amendments and Notices of Exemption for, and of General Plan Amendment GPA-2020-01 and GPA-2020-02; CEQA Case Nos. EA-CE-2020-036 and EA-CE-2020-037

Dear Mr. Jackson and Ms. Wilcox:

Please include this letter in the administrative record for **both** the above-referenced matters **and** the Inglewood Basketball and Entertainment Center (IBEC) SCH No. 2018021056.

I. INTRODUCTION.

This firm and the undersigned represent Kenneth and Dawn Baines, owners of the property located at 10212 S. Prairie Ave., Inglewood. Please keep this office on the list of interested persons to receive timely notice of all hearings and determinations related to the City's proposed adoption of the General Plan Amendments for the Land Use Element and adoption of the Environmental Justice (EJ) Element ("Project(s)") and their Categorical Exemptions.

This is a further follow up to our April 13, 2020 objection letter about the Projects. (**Exh. 1** [April 13, 2020 Objections to GP Amendments].)

Please provide a current time line of all scheduled and anticipated events, including hearings or approvals of any type, related to the Projects.

II. PIECEMEALING AND PIECEMEAL APPROVAL OF THE GENERAL PLAN AMENDMENT OF THE LAND USE ELEMENT VIOLATES CEQA AND STATE PLANNING AND ZONING LAWS.

The Land Use Element amendment is proposed both as: (A) an *approval action* for the IBEC Project at Section 2.6 (DEIR, p. 2-88 [**Exh. 2**])[1, 2], and (B) an alleged stand-alone action outside of the IBEC Project, presented on April 1, 2020 –after the close of the IBEC DEIR's public comment period of March 24, 2020. The IBEC DEIR does not provide any detail as to land use amendments, including the density or setbacks in proposed zone changes. (DEIR, p. 2-88 [**Exh. 2**].)[3] The stand-alone Land Use amendment supplies those details.

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1 For the IBEC DEIR, see https://saoprceqap001.blob.core.windows.net/60191-3/attachment/a-wQrPYfgqX6rH7PlozmRPEvEaRCdDy9wtEOIK6Lkzx9y2kM5Y76yA2pvL0h1Nhm4o1xu79V9PavU-kk0 (**Exh. 2**[IBEC DEIR, Section 2.6].)

2 We specifically request that all the hyperlinks in this letter be downloaded and printed out, submitted to the agency, and be included in the City's control file and administrative record for the Project and for the IBEC Project.

3 **Long after** the release of the DEIR on December 27, 2019 and the close of the public review period on March 24, 2020, the Project Applicant presented its own draft of the proposed amendments to the land use, circulation, and safety elements on May 4, 2020 (also the date of close of escrow between Murphy's Bowl and MSG Forum). See details at http://ibecproject.com/IBECEIR_031888.pdf . (**Exh. 3** [May 4, 2020 Draft of GP Amendments].) Not surprisingly, the IBEC Applicant *repeatedly inserted* the respective language for a new land use of the sports complex into the industrial zoning-allowed uses, goals, and policies in the Land Use Element. The Applicant also *removed* the designation of 102nd Street as a "collector street" (i.e., requiring a specific width and not subject to closure) from the Circulation Element, to allow its vacation. Both changes demonstrate that the Project is **inconsistent with** the existing General Plan and Land Use & Circulation Elements, contrary to the DEIR's finding of consistency. And both changes are illegal since it is the Project that must be consistent with the General Plan, not the opposite. Finally, the after-the-fact presentation of the General Plan amendments rather than incorporating those in the IBEC DEIR makes the IBEC DEIR fatally flawed, including because these omissions impaired informed meaningful public comment and informed public participation.

The review of both actions shows that they are **interrelated** and **complementary** parts of a single **coordinated endeavor** to achieve **increased density and intensity** to further, first and foremost, the **IBEC Project** currently proposed for City approval.[4]

A. Residential Density Increases.

At the outset, we object to the City's *labeling* of the proposed amendments as "clarifications," which misinforms and downplays the scope and impact of the amendments.

The Land Use Element amendments *add* a number of people for each dwelling unit and, for that purpose, use the California Department of Finance's 3.02 multiplier. The 3.02 multiplier is not supported by substantial evidence, since the majority of new projects are comprised of primarily single and one-bedroom units for a maximum two occupants. Moreover, the City could choose lower multipliers, such as the 2.7 multiplier from SCAG.[5] The City's choice of a bigger multiplier leads to a higher *allowable* density, which, in turn, will lead to more impacts (e.g., traffic increase, GHG increase, utility usage, need for public services, and open space).

Specifically, the density of the major mixed-use projects in the amendments furthers the IBEC Project's proposed hotel, for which the IBEC DEIR did not provide any detail beyond the approximate number of "up to 150 rooms." The new standard will allow the Project to enlarge and modify the IBEC DEIR's vague, and legally non-compliant project description.

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[4] The City's agenda for the Public Hearing on May 6, 2020, included three items, two of which are the General Plan amendments described here, and the third is listed as related to parking districts to accommodate major event patrons. Although the issue has been pulled out from the PC agenda, it was agendized for the City Council agenda of May 5, 2020. The staff report for the May 5, 2020 agenda on the issue shows the parking districts are associated with the IBEC project.

[5] Other jurisdictions have been using SCAG's more conservative 2.7 multiplier (e.g., City of Glendale, South Glendale Community Plan, see https://www.glendaleca.gov/home/showdocument?id=42160).

B. Building Intensity Increases: Industrial Zone.

The Land Use Element amendments also propose "building intensity" increases, which specifically intensifies the industrial land use designation.

Based on the table in the Resolution, the **industrial** use is provided at **1380% building intensity**. Notably, the IBEC Project proposes to redesignate commercial lots into industrial. (DEIR, p. 2-88.) The stand-alone amendment will qualify the IBEC lots for the maximum 1380% building intensity. Apart from the Resolution, the staff report mentions that those intensity parameters are related to the setbacks and landscaping. The IBEC Project has been criticized for its inadequate setbacks and landscaping. The proposed amendments will further the IBEC Project by purportedly making it consistent with the General Plan, again implicating clear piecemealing violations in and from the IBEC DEIR.

We further object to the City's failure to explain in the proposed stand-alone Land Use Element amendment *what* the proposed percentage intensities *practically* mean, to allow informed decisionmaking and comment.

C. Building Intensity: Medical Office Uses.

The proposed amendments include a separate intensity for hospital-medical/residential land use designation set at 390%. This is applicable to the 25,000 sq. ft. "Sports Medicine Clinic," included in the project. (DEIR, p. S-4). We similarly object to the City's failure to explain the practical meaning of the proposed intensities, and to the obvious piecemealing violations in and from the IBEC DEIR.

D. Lack of Baseline Disclosure to Enable Meaningful Informed Public Comment.

Neither the IBEC DEIR nor the recently published Resolution for General Plan Land Use Element density/intensity provides the *existing* density/intensity, therefore depriving the public – and decisionmakers – from setting the baseline conditions and consequently assessing the scope of the increases in density/intensity. CEQA requires setting the correct baseline for any project in order to begin/enable any environmental review.

E. **The Invoked CEQA Exemptions Are Improper.**

The City's invoked two CEQA exemptions under Guidelines §§ 15061(b)(3) and 15060(c)(2) are improper as both require a finding that the project *may not* have an environmental impact. Such finding cannot be made in this case. As shown above and with the example of the IBEC Project, the proposed amendments have the *potential* to impact the environment directly or indirectly. Moreover, in the staff report only, the City appears to invoke an exemption under CEQA Guidelines § 15305 for "minor alterations" related to less than 20% slope. The exemption is inapplicable since it applies to "minor" alterations and it is for specific physical development projects.

To comply with CEQA, the IBEC DEIR must be recirculated to include the proposed General Plan amendments, and provide opportunities for public review and comment. The proposed General Plan amendments of the Land Use Element – whether together with the IBEC Project or separate from it – cannot proceed without CEQA review and should incorporate all the missing information about the scope of practical changes, their impacts, and the baseline assumptions, as indicated above.

III. **PIECEMEALING OF THE GENERAL PLAN AMENDMENT: CIRCULATION ELEMENT.**

The City's Land Use Element amendment was improperly adopted because of the lack of corresponding amendments to the Circulation Element of the General Plan, as mandated by the correlation requirement under Govt. Code § 65302. The City may not allow more people per unit and more intensity per commercial/industrial/medical structure, yet piecemeal the issue of related traffic/pedestrian circulation and adopt those separately.

The IBEC Project includes amendments to the Circulation Element, but those are purportedly narrow and limited to "Updating Circulation Element maps and text to reflect vacation of portions of West 101st Street and West 102nd Street and to show the location of the Proposed Project." (DEIR, p. 2-88; pdf p. 228.)

The limited General Plan amendments of the Circulation element disclosed in the IBEC DEIR violate CEQA's mandate of good faith disclosure. Also, the IBEC DEIR's limited Circulation element amendment and the lack of the Circulation Element Amendment to support the actual land use changes of the IBEC Project and the Density/Intensity of the General Plan Land Use Element amendments violate the correlation requirement under Govt. Code § 65302.

IV. PIECEMEALING OF THE GENERAL PLAN AMENDMENT AND PIECEMEAL ADOPTION OF THE ENVIRONMENTAL JUSTICE ELEMENT, LACK OF PROPER NOTICE, NON-CONCURRENT ADOPTION, MISLEADING INFORMATION, AND IMPROPER USE OF EXEMPTIONS.

A. The IBEC DEIR Failed to Disclose EJ Element Adoption.

The IBEC DEIR downplayed EJ (DEIR, p. 3.12-16; pdf p. 1010 [**Exh. 4**]). It did not disclose the need for adoption of the EJ Element despite Section 2.6 (Approval Actions) amendments to three elements of the General Plan, *necessitating* an EJ Element *concurrent* adoption under Govt. Code § 65302(h)(2). We raised objections to the City's EJ piecemealing on April 13, 2020, which we incorporate by reference herein.

B. Lack of Proper Notice.

We object to the City's inadequate notice of the adoption of the EJ Element, especially in these COVID-19 critical times. The City published a Notice of Exemption on April 1, 2020, included it in two Planning Commission agendas, and yet produced the *link* to the actual text of the Draft EJ element only in the agenda packet for its May 6, 2020 hearing.[6] The City provided limited time and possibility for the public to find out about the text of the EJ Element and to review it prior to any amendments.

That workshops were conducted with the public on the EJ Element is irrelevant. During the workshops, the public was merely surveyed about concerns and had no chance to see the actual amendments and thus to participate "*during* the preparation" of the amendments. Gov't Code § 65351.

C. Misleading Information in the EJ Element and its Prior Outreach.

The City's EJ Element, as well as the workshops leading to it, have strayed from the EJ Element principles to ensure the *health* of the disadvantaged communities, as contemplated and mandated by the State Planning and Zoning Laws. The EJ workshops were reportedly focused on affordable housing. (**Exh. 6** [Article re EJ Workshop].)

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[6] Based on our office's continuous searches for the agenda packet for the May 6, 2020 hearing, it was not posted on the City's website until April 30, 2020 at **8:05 pm**. (**Exh. 5** p. 10 [City Agendas page printout on May 1, 2020].)

The City's EJ Element acknowledges that the majority of Inglewood's population constitutes a disadvantaged community; yet, it focuses on *additional funding* Inglewood is eligible for, instead of proposing practical development policies to avoid air pollution and to protect the health of the population. (**Exh. 7** p. 5 [EJ Element].)[7]

Moreover, the City's EJ Element does nothing more than propose what is **already guaranteed**; e.g., "no net loss of affordable housing" (EJ Element, p. 23) is guaranteed under AB 2222 in 2014,[8] "compliance with state and federal environmental regulations in project approvals" (EJ Element, p. 16).[9] Other policies in the provision of housing simply reiterate *aspirational* rather than *mandatory* policies (EJ Element, pp. 22-23).

The majority of EJ policies promote Developer-favored and community disfavored transit-oriented development (TOD) – i.e., higher density and reduced or no parking, which should be re-evaluated in view COVID-19's social distancing rules and long-term behavioral changes, resulting in the underlying assumptions undergirding the City's analysis being called into question.

Moreover, the EJ Element proposes vague measures to improve connectivity, with their own potential impacts. For example, the EJ Element does not explain what the EJ's "traffic calming measures" or "promote pedestrian movement" mean. Typically, one of the commonly known "traffic calming" methods is merging/removing lanes on arterial streets with heavy traffic and widening the sidewalks instead, to reduce the flow of cars and improve pedestrian walking experience. *Assuming* that is among the *unidentified* traffic-calming measures, such measure may have its own impacts, such as shifting the traffic from central streets onto the adjacent narrower streets and resulting in more traffic

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7 https://www.cityofinglewood.org/DocumentCenter/View/14211/Environmental-Justice-Element

8 https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB2222

9 Also, the City's incorporation of "compliance" with state and federal regulations for GHG emissions violates the "additionality" principle, as such compliance is included in the baseline assumptions of every project. See p. 32 at http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf (**Exh. 8** [Additionality].)

gridlock and associated delays in response times of emergency, fire, and police services, and/or pedestrian safety issues. All such issues should have been disclosed, analyzed and mitigated. They were not, thus constituting additional violations of law.

Last, the drafted EJ Element ignored numerous concerns raised by the public, including danger to bike riders, constrained parking, unsafe buses (EJ Element, Appendix A, p. 1); more police patrols needed in the City (EJ Element, Appendix A, p. 2); "the Clipper's arena and Forum area have huge increases in traffic and pollution from traffic. Rents are also skyrocketing", more bike lanes needed, "overcrowdings is also an issue and there is an increase in the spread of diseases due to overcrowding, rents are increasing the most near the stadiums." (Appendix A p. 4, EJ Element.)

In sum, the drafted EJ Element sets low and vague standards for EJ and will thereby induce and rubberstamp any large-scale residential or commercial transit-oriented developments, and particularly the IBEC Project, relying on illusory mitigation measures, such as mass transit, unspecified traffic calming methods, vacation of streets or merging of lanes, and reduced parking. The IBEC Project has been repeatedly criticized for its environmental inequity.[10] With the EJ element as proposed, the *IBEC Project will evade* the EJ mandates under state laws meant to ensure the health of Inglewood's disadvantaged population <u>and</u> such population's genuine involvement in the land use decisions prior to any large scale project approval, particularly the IBEC Project approvals. As a reasonably foreseeable consequence of the proposed lower standards, the proposed EJ Element will fail to identify and mitigate EJ violations when projects – and particularly the IBEC Project – severely impact human life and safety, which is a CEQA concern.

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[10] <u>See</u> e.g, NRDC's comment ("project that has little or **no social utility for the residents of Inglewood** who will bear the **brunt of these impacts** - including more air pollution in an already heavily-polluted area - and **who are not the target audience for expensive professional basketball ticket**") <u>http://ibecproject.com/IBECEIR_029924.pdf;</u> or public community comments ("project will have a **very damaging impact on our environment in terms of air quality as well as noise, traffic** and more. Can you please think about **all the cars spewing emissions** in our community? What are the **real impacts to our children and our older people**?") <u>http://opr.ca.gov/ceqa/docs/ab900/20190201-AB900_IBEC_Community_letters_1.pdf</u> <u>(**Exh. 9** [NRDC and Public Comments].)</u>

D. **The EJ Element Adoption Is Not Exempt from CEQA, Due to Its Potential to Cause Environmental Impacts.**

The City's invoking of the common sense exemption for the adoption of the EJ Element is inappropriate in view of the Element's *potential* to cause environmental impacts and *potential* to allow large scale projects, such as the IBEC Project, to evade mitigation of health and other environmental impacts on the population. The absence of an accurate, stable and finite project description, as well as the vagueness of the proposed measures (e.g., traffic calming, promoting pedestrian flows) makes the proposed EJ policies further *capable* of causing unmitigated environmental impacts.

The analysis of the inapplicability of CEQA exemptions in the Land Use Element section, supra, applies here as well; we incorporate it by reference.

V. **CONCLUSION.**

We respectfully request that the City Council reject the proposed Land Use Element amendments and Environmental Justice Element and require staff to supplement the missing information and comply with the law as detailed above. We also request that the City review the proposed amendments to the General Plan and their impacts *in conjunction with* the IBEC Project, and to fully disclose, evaluate and mitigate those in the IBEC DEIR, as either *part of* the IBEC Project or – at a minimum – cumulatively as *related projects*. Finally, we object to the City's use of categorical exemptions, and request meaningful CEQA review of impacts of both Projects.

Very truly yours,

/s/ Robert Silverstein
ROBERT P. SILVERSTEIN
FOR
THE SILVERSTEIN LAW FIRM, APC

RPS:vl
Encls.

Note to Reader:
All Exhibits attached to this letter are a part of the Administrative Record and can be found at ibecproject.com

EXHIBIT 1

From: richard garcia
To: Mindala Wilcox
Subject: Clippers Arena
Date: Monday, June 8, 2020 11:13:03 AM

Hi,

Will you be removing Church's Chicken on the corner? If yes, I know there will be retail/restaurants built. Re-locate Church's in there. If not, I love Louisana's Fried Chicken. They are the best. I the one on Manchester/Normandie.

Do you know if the Clippers will have a Clippers store selling their merchandise? I would love that.

If you planning on big name retail over there like Walmart. That's a Hell to the No. Anything but Walmart.

I notice there's no handicap parking close to Staples Center. Will there handicap parking close to the Clippers Arena? There's should should free parking for the disabled.

Where's the public hearing at? Address? I may go.

Richard
A Huge Clippers Fan

On Sun, Jun 7, 2020, 1:40 PM Mindala Wilcox <mwilcox@cityofinglewood.org> wrote:

> Thank you for your comments on the Draft Environmental Impact Report (DEIR) for the Inglewood Basketball and Entertainment Center. A response to your comments has been provided in the Final Environmental Impact Report (FEIR) which can be found on the following webpage:
>
> https://www.cityofinglewood.org/1036/Murphys-Bowl-Proposed-NBA-Arena
>
> Also attached to this email for your reference is the Planning Commission public hearing notice for June 17, 2020.
>
> Respectfully,
>
> **Mindy Wilcox, AICP** : Planning Manager : City of Inglewood
>
> Economic and Community Development Department

Planning Division : One Manchester Boulevard : Inglewood, CA 90301
V(310) 412-5230 : mwilcox@cityofinglewood.org

EXCELLENCE in Public Service. **C**OMMITMENT to Problem Solving. **D**ETERMINATION to Succeed.

PLEASE CONSIDER THE ENVIRONMENT BEFORE PRINTING THIS EMAIL.

From: Veronica Lebron
To: Aisha Thompson; Mindala Wilcox; Yvonne Horton
Cc: Esther Kornfeld; Naira Soghbatyan; Robert Silverstein
Subject: Deprived of Public Participation during June 9, 2020 City Council Meeting
Date: Tuesday, June 9, 2020 2:38:29 PM

Dear City Clerk, Mayor and City Council Members:

We have repeatedly attempted to call the City at the telephone number indicated on the City Council Agenda for June 9, 2020.

However, we have continuously received an auto response that the access code was not recognized. Please see attached the video of our failed attempts to call today.

Let the record reflect that we have been deprived of the possibility to submit a public comment during the meeting, in violation of the Brown Act.

We have also watched the meeting and obtained a new code 0833144#. However, we were unable to connect and participate in the meeting, other than in "listening mode" and we were not provided the opportunity to speak despite dialing the available mode of raising the hand.

Please include this correspondence in the administrative record of both General Plan Amendments before you today, as well as the administrative record for the IBEC DEIR.

Thank you.

Veronica Lebron
The Silverstein Law Firm, APC
215 North Marengo Avenue, 3rd Floor
Pasadena, CA 91101-1504
Telephone: (626) 449-4200
Facsimile: (626) 449-4205
Email: Veronica@RobertSilversteinLaw.com
Website: www.RobertSilversteinLaw.com
==================================
The information contained in this electronic mail message is confidential information intended only for the use of the individual or entity named above, and may be privileged. The information herein may also be protected by the Electronic Communications Privacy Act, 18 USC Sections 2510-2521. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone (626-449-4200), and delete the original message. Thank you.

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THE SILVERSTEIN LAW FIRM
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June 9, 2020

VIA EMAIL fljackson@cityofinglewood.org; mwilcox@cityofinglewood.org

Fred Jackson, Senior Planner
Mindy Wilcox, AICP, Planning Manager
City of Inglewood, Planning Division
1 West Manchester Boulevard, 4th Floor
Inglewood, CA 90301

Re: Further Objections to General Plan Amendments and Notices of Exemption for, and of General Plan Amendment GPA-2020-01 and GPA-2020-02; CEQA Case Nos. EA-CE-2020-036 and EA-CE-2020-037

Dear Mr. Jackson and Ms. Wilcox:

Please include this letter in the administrative record for **both** the above-referenced matters **and** the Inglewood Basketball and Entertainment Center (IBEC) SCH No. 2018021056. This letter applies to both June 9, 2020 City Council hearing Agenda Items PH-1 and PH-2.

I. INTRODUCTION.

This firm and the undersigned represent Kenneth and Dawn Baines, owners of the property located at 10212 S. Prairie Ave., Inglewood. Please keep this office on the list of interested persons to receive timely notice of all hearings and determinations related to the City's proposed adoption of the General Plan Amendments for the Land Use Element and adoption of the Environmental Justice (EJ) Element ("Project(s)") and their Categorical Exemptions.

Please also provide us timely notice of any filing of the Notice of Exemption or Notice of Determination under Pub. Res. Code § 21167(f) for both the amendment of the Land Use Element and the adoption of the Environmental Justice Element.

This is a further follow up to our April 13, 2020 and May 26, 2020 objection letters about the Projects. (**Exh. 1** [May 26, 2020 Objections to GP Amendments, which includes April 13, 2020 Objection as an Exhibit].)

II. THE CITY'S PROPOSED AMENDMENTS/ADOPTION OF LAND USE AND ENVIRONMENTAL JUSTICE ELEMENTS VIOLATE CEQA'S MANDATE FOR AN ACCURATE, STABLE, AND FINITE PROJECT DESCRIPTION.

CEQA's standard for a project description is well-settled:

> "'An accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity.' (Cit. omit.) A **narrow view** of a project could result in the fallacy of division, that is, overlooking its cumulative impact by separately focusing on isolated parts of the whole. (Id., at p. 1144, 249 Cal.Rptr. 439.) An **accurate**, **stable** and **finite** project description is the sine qua non of an informative and legally sufficient EIR; the defined project and not some different project must be the EIR's **bona fide** subject. (Cit. omit.) 'CEQA compels an **interactive** process of assessment of environmental impacts and **responsive** project modification which must be **genuine**. It must be **open** to the public, premised upon a **full** and **meaningful disclosure** of the scope, purposes, and effect of a consistently described project, with **flexibility** to respond to unforeseen insights that emerge from the process.' (Cit. omit.)" Burbank-Glendale-Pasadena Airport Authority v. Hensler (1991) 233 Cal.App.3d 577, 592. (Emph. added.)

The Court's statement pertaining to the EIR's need for an "accurate, stable and finite" and "bona fide" project description applies to all projects under CEQA. The City's project descriptions in both Land Use and Environmental Justice Element amendments/adoption do not pass muster under these standards.

A. Land Use Element Amendment.

The Land Use Element project description is flawed, including because of: (1) piecemealing from the IBEC Project; and (2) vague or incomplete Project description.

It is settled that "the selection of a narrow project as the launching pad for a vastly wider proposal frustrate[s] CEQA's public information aims . . . [The] calculated selection of its truncated project concept [is] not an abstract violation of CEQA." County of Inyo v. City of Los Angeles (1977) 71 Cal.App.3d 185, 199–200; Pub. Res. Code § 21168.5. The City here has used a *narrow* project description – Land Use Element amendment or even worse "clarification" – to avoid disclosure of the accurate project description of the planned amendments. Only in conjunction with the IBEC Project can *some* of the proposed density and building intensity changes be fully comprehended and evaluated.

For example, the IBEC DEIR discloses only cursory information about the hotel planned on the IBEC site: "An up to 150-room limited service hotel and associated parking would be developed east of the Parking and Transportation Hub Structure." IBEC DEIR, p. S-6. (**Exh. 2** [IBEC DEIR].) Later, on May 7, 2020 – through the IBEC Project Applicant's proposed Overlay Zone proposals included in the IBEC administrative record and unannounced to the unwitting public – it became clear that the hotel will have at least two types of rooms:

> "(C) Hotel. Two (2) parking spaces, plus one (1) parking space for each bedroom or other room that can be used for sleeping purposes up to ninety (90) rooms, plus one (1) parking space for each additional **two (2) bedrooms** or **other rooms** that **can be used for sleeping purposes** in excess of ninety (90) rooms." (**Exh. 3**, pdf p. 9 [SE Overlay Zone Proposals, May 7, 2020], emph. added.)

Thus, the proposed Land Use Element density clarifications allowing the highest density of up to 85 units per acre for mixed-use residential projects will enable the IBEC Project to build a hotel of up to 150 rooms accommodating much more population than before and still be in alleged substantial conformance with the General Plan's *new* Land Use Element density.

Also, the IBEC Project Overlay Zone proposal – if adopted – indicates that any lot line adjustments of the adjoining parcels to the current IBEC Project will be allowed and will require only a ministerial approval. Put differently, if the vaguely described hotel site in the IBEC DEIR needs a lot line adjustment and expands into the adjoining parcels, then such expansion will automatically be covered by the new intensity/density in the Land Use Element. (**Exh. 3**, pdf p. 14 [SE Overlay Zone].)

Another example of inadequate project description in the Land Use Element Amendments is the *vague* building intensity of the industrial and commercial zones. In particular, the proposed 1380% building intensity for industrial obtains practical significance and clarification only in conjunction with the IBEC Project. Thus, as disclosed by the IBEC Project Applicant's own draft of the Overlay Zone on the site, the IBEC arena will have no setbacks:

> "Section 12-38.95.2 Front Yard, Side Yard, and Rear Yard Setbacks
>
> (A) Sports and Entertainment Complex. No front yard, side yard, or rear yard shall be required, except as provided in the SEC Design Guidelines.
>
> (B) Hotel. Front yard, side yards, and rear yards shall conform to the requirements of Section 12-16.1 of this Chapter." (**Exh. 3** pdf p. 8 [SE Overlay Zone].)

The "Sports and Entertainment Complex" is what includes all IBEC Project components (e.g., retail, medical office, arena), other than the hotel site. Thus, the elimination of setbacks in the IBEC Project sheds light onto the otherwise vague building intensity percentages in the proposed Land Use Element amendments.

The IBEC Project proposes a Land Use Element map and text amendment to *add* the IBEC Project and its proposed uses in the specified location and *strikes* from the General Plan everything that may hinder the Project, such as the collector street, 102nd Street, from the Circulation Element. (**Exh. 4** [IBEC Project's Applicant Murphy's Bowl's Proposed General Plan Amendments in IBEC Project].) Also, the IBEC's proposed land use amendments indicate that there are *other unidentified* uses, such as "complementary transportation and circulation facilities," "in addition to" parking serving the arena and related uses for approximately 4,125 vehicles. (Id. at pdf p. 3.)

Thus, the Land Use Element amendments – because of piecemealing from the actual projects pending before the City and particularly the IBEC Project, as well as their inaccurate and vague description – provide a narrow and curtailed project description in violation of CEQA. The inadequate description further deprives the public and the decisionmakers of the ability to properly comprehend and evaluate the full scope and the "environmental price tag" of the proposed Land Use Amendments, and subverts CEQA's environmental protection mandates. Natural Resources Defense Council, Inc. v. City of Los Angeles (2002) 103 Cal.App.4th 268, 271.

The City also violates CEQA's accurate project description mandate by labeling the Land Use Amendments as "clarifications." "Where the agency provides an inconsistent description portraying the Project as having "no increase" while at the same time allowing for substantial changes in the existing conditions, [it] fails to adequately apprise all interested parties of the true scope and magnitude of the project, amounting to prejudicial abuse of discretion for failure to provide a stable and consistent project description." San Joaquin Raptor Rescue Center v. County of Merced (2007) 149 Cal.App.4th 645, 657. "By giving such conflicting signals to decisionmakers and the public about the nature and scope of the activity being proposed, the Project description [is] fundamentally inadequate and misleading." Id. at 655-657. A conflicting project description results in understated impact analysis. Id. at 672.

The City's project description is misleading and inaccurate, and violates CEQA.

B. Inadequate Project Description of the Environmental Justice Element.

"Where the agency uses an erroneous or entirely speculative project description as justification for its approval of the Project, but never intended to actually proceed with that project, such a situation would constitute much more insidious conduct than a failure to comply with CEQA. CEQA contemplates serious and not superficial or pro forma consideration of the potential environmental consequences of a project." Burbank-Glendale-Pasadena Airport Authority v. Hensler (1991) 233 Cal.App.3d 577, 593 (internal quotes marks om.). Such is the situation with the Environmental Justice (EJ) Element's project description, rendering it inadequate.

While the Project description claims to ensure environmental justice to Inglewood's disadvantaged community, the proposed measures – which solely require compliance with the *existing* state mandates in place or further bless transit-oriented development and completely ignore public concerns about the bus, street, or bicycling safety and lack of parking, as well as air pollution, traffic, and rent increases due to bigger projects, such as the stadiums – mislead the public about the proposed "safeguards." The proposed EJ Element fails to safeguard against health impacts or promote public participation.

The City's drafted EJ Element constitutes not only a CEQA violation for its inaccurate project description, but "more insidious conduct" for its misleading and empty assurances to the disadvantaged population.

III. THE CITY'S RESPONSES TO OUR OBJECTIONS ARE UNAVAILING AND LACK GOOD FAITH.

General Plan amendments under both CEQA and state planning and zoning laws require meaningful public participation, which includes meaningful good faith responses to public comments. The State of California requires citizen participation in the preparation of the General Plan. Gov't Code § 65351 provides: "During the preparation or amendment of the general plan, the planning agency shall provide opportunities for the involvement of citizens, public agencies, public utility companies, and civic, education, and other community groups, through public hearings and any other means the city or county deems appropriate." (Emphasis added.)

CEQA requires "good faith reasoned" responses as well. "The requirement of a detailed statement helps insure the integrity of the process of decision by precluding stubborn problems or serious criticism from being swept under the rug." Sutter Sensible Planning, Inc. v. Board of Supervisors (1981) 122 Cal.App.3d 813, 820-821.

The City's responses to our May 26, 2020 comment letter did not evince good faith, as detailed below.

A. Neither the Land Use Element Amendment nor the EJ Element Adoption Qualifies for a Common Sense Exemption.

The City's arguments in support of its categorical exemptions and particularly including the common sense exemption are unsupported, especially given that the City is rewriting – and increasing – the density and intensity of all City zones to accommodate first and foremost the IBEC project pending before the City, and similar large scale projects[1]. First, substantial evidence is not argument or speculation, but facts or a reasonable inference supported by facts. Guidelines § 15064(f)(5).

Second, the City's reliance on Davidon in the June 9, 2020 Staff report for the EJ Element Adoption for the proper judicial review standard applied for categorical exemptions and the common sense exemptions is misplaced. Davidon distinguishes the

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[1] The City does not respond to our objection of IBEC Project piecemealing – in both Land Use and EJ Element Amendment cases – short of claiming that the General Plan amendments are not a "consequence" of the IBEC Project. Apart from the City's misperception of the applicable terms, the City ignores our basic claim that both the Land Use and EJ Element were or should have been part of the IBEC Project to legally enable the Project, and not its reasonably foreseeable consequence.

common sense exemption from other categorical exemptions and attaches no *implied finding* of substantial evidence of no significant impacts:

> "In the case of the common sense exemption, however, the agency's exemption determination is not supported by an implied finding by the Resources Agency that the project will not have a significant environmental impact. Without the benefit of such an implied finding, the agency must itself provide the support for its decision before the burden shifts to the challenger. Imposing the burden on members of the public in the first instance to prove a possibility for substantial adverse environmental impact would frustrate CEQA's fundamental purpose of ensuring that government officials "make decisions with environmental consequences in mind." (Bozung v. Local Agency Formation Com. (1975) 13 Cal.3d 263, 283, 118 Cal.Rptr. 249, 529 P.2d 1017.)" Davidon Homes v. City of San Jose (1997) 54 Cal.App.4th 106, 116.

Finally, the City's arguments for the common sense exemption for both Land Use and EJ Elements – which is essentially a first-tier issue of whether the activity is a project under CEQA – is inaccurate in view of well-settled case law:

> "First and foremost, we point out that we are not dealing with an abstract problem. Again, this case does not involve – as the tone of some of defendants' arguments suggest – the question whether any LAFCO approval of any annexation to any city may have a significant effect on the environment. This is not the case of a rancher who feels that his cattle would chew their cuds more contentedly in an incorporated pasture. No one makes any bones about the fact that the impetus for the Bell Ranch annexation is Kaiser's desire to subdivide 677 acres of agricultural land, a project apparently destined to go nowhere in the near future as long as the ranch remains under county jurisdiction. The city's and Kaiser's application to LAFCO shows that this agricultural land is proposed to be used for "residential, commercial and recreational" purposes. Planning was completed, preliminary conferences with city agencies had progressed "sufficiently" and development in the near future was anticipated. In answer to the question whether the proposed annexation would result in urban growth, the city answered: "Urban

> growth will take place in designated areas and only within the annexation."
>
> It therefore seems idle to argue that the particular project here involved may not culminate in physical change to the environment." Bozung v. Local Agency Formation Com. (1975) 13 Cal.3d 263, 281.

And again:

> "Moreover, there is no evidence regarding the possible cumulative effect of repetitive tests of this nature in the same area. Finally, it cannot be assumed that activities intended to protect or preserve the environment are immune from environmental review. (See, e.g., Dunn–Edwards Corp. v. Bay Area Air Quality Management Dist. (1992) 9 Cal.App.4th 644, 11 Cal.Rptr.2d 850; Building Code Action v. Energy Resources Conservation & Dev. Com. (1980) 102 Cal.App.3d 577, 162 Cal.Rptr. 734.)" Davidon Homes v. City of San Jose (1997) 54 Cal.App.4th 106, 118–119.

The City's arguments that general plan amendments (both EJ and Land Use Elements) are not a specific physical project or that those are aimed at eliminating environmental impacts (as in case of EJ Element) ignore long-standing legal authority.

B. Land Use Element Amendments.

The City does not address our May 26, 2020 letter objections and evidence in its staff report prepared for the June 9, 2020 Council Hearing and does not even acknowledge receipt of such or include it in its staff report. (Staff Report, p. 5.) We reiterate our request that our May 26, 2020 Objection letter be included in the administrative record and files of each General Plan case, including the one for the Land Use Element.

At the same time, the City did improperly *alter* its previously issued Notice of Exemption and *added* another exemption,[2] which we have noted in our May 26, 2020

[2] The City's alteration of the Notice of Exemption and yet leaving the notice issue date as April 1, 2020 may qualify as a criminal violation under Govt. Code §§ 6200-6203. We note that the City has been previously challenged for altering its records.

Objection letter as being added in the May 26, 2020 staff report but not reflected on the Notice of Exemption on April 1, 2020. The City revised the entire Notice, added the new Guidelines exemption section and purported explanation, signed the Notice *again* and yet back dated the Notice of Exemption leaving it with the initial April 1, 2020 issue date, without noting the change to the public. (**Exh. 6** [initial Exemption Notice and the subsequent altered in the staff report for June 9, 2020[3]].)

The City appears to present the Land Use Element amendments as a duty it has under Govt. Code § 65302(a), which states: "The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan." Yet the City's invocation of the statute does not address either our prior objection that the City fails to identify the "baseline" to allow the commencement of any environmental impact analysis or the derivative problem of the City's failure to mitigate any impacts. For example, the statute does not require the City to identify *the* population density, but rather the "standards" of population density.

Historically, the population *standards* have been expressed through dwelling units per acre for residential zones, and floor area ratio for commercial and industrial sites; the multiplier for population density does not need to be uniformly applied since low density units may have more occupants, whereas newly built units in high-density zoned locations might not accommodate more than two people in one unit. (E.g., **Exh. 7**, pp. L-1 and L-3-4 [excerpt from Land Use Element of the Town of Gatos].) Thus, the City's response that it merely attempts to comply with the law and provide "clarifications" does not address our concerns about the misuse or misapplication of a high multiplier, where there are lower multipliers available (e.g., SCAG multiplier of 2.7). The City's response does not explain why the high multiplier is used throughout Inglewood – regardless of the disproportionate distribution of population per units in various residential zones.

(**Exh. 5** [article re City's editing of videos.])

[3] The City's agenda with the hyperlinked staff reports was published on the City's website at 8:28 p.m. on Friday, June 5, 2020. (**Exh. 8** [agenda posted time].) The City's continuous posting of the City Council hearing agenda after 8 p.m. for a meeting where the comments need to be submitted to the City Council at 12 p.m. on Tuesdays, adversely affects the public's ability to be apprised of the agenda items and to prepare a meaningful written response.

The City does not address why it chose to express building intensity in percentages rather than in floor area ratios and height restrictions. For example, the City did not address the issue of why it designates 1380% intensity to industrial zoning – which *coincidentally* enables the IBEC Project now pending review before the City – without explaining any setback or height restrictions, or land occupancy, for the public to understand how such percentage of building intensity is calculated and what it means in reality.

C. **Adoption of the Environmental Justice (EJ) Element And Its Exemptions.**

The City's responses to our objections to the proposed EJ Element Adoption are also unavailing.

The City's response to our claim that the EJ Element provides no enforceable policies is that the General Plan merely provides recommendations and not mandatory policies. This position is counter to the long-standing principle that a general plan is a "constitution" for future development to which all other land use decisions must conform. See Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal3d 553, 570. Moreover, it ignores the fact that state law provides special significance to the general plan elements by designating those "mandatory." Third, as stated by the Office of Planning and Research – given the authority by the Legislature to issue general plan guidelines – a General Plan may not be a "wish list" or a vague view of the future but rather must provide a concrete direction. Office of Planning and Research, State of California General Plan Guidelines (1990), p. 5. See also Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Bd. of Supervisors (1998) 62 Cal. App. 4th 1332, 1341 (a land use decision (zoning ordinance) must be deemed inconsistent with a general plan if it conflicts with a single, mandatory general plan policy or goal); Govt. Code §§ 65561(c) & 65562.

The City does not address or reject our claim that the EJ Element, as drafted, relaxes the standards and will enable the IBEC Project. As such, the City's arguments about the common sense exemption's alleged applicability are not supportable. See also Sec. III(A), supra.

Similar to the Land Use Element's later-added exemption in the staff report, which we raised in our May 26, 2020 Objection Letter, the City's June 9, 2020 staff report includes an *additional* exemption, which is not listed on the City's Notice of Exemption

even in the June 9, 2020 agenda package.[4] Without waiving any objection to the City's continuous efforts to end-run CEQA or deprive the public of the opportunity to be fairly apprised and challenge the City's CEQA claims, we note that the City's late-inserted CEQA exemption for the EJ Element adoption is inapposite. The City invokes the *new exemption* "under the Class 8 (Section 15308) exemption for actions Mayor and Council Members Public Hearing for GP A-2020-00I (EJ Element) taken by **regulatory agencies** to assure the maintenance, restoration, enhancement, or protection of the environment." (June 9, 2020 Council Hearing Staff Report, pp. 7-8, emph. added). The exemption is inapplicable since the City is not a regulatory agency, which is described in CEQA Guidelines § 15307. Moreover, based on Guidelines § 15308, "construction activities and relaxation of standards allowing environmental degradation are not included in this exemption." The City's EJ element, as explained in our prior letters, is tied to and will enable major construction activities, and it weakens the standards of environmental justice by providing illusory or misleading policies.

To address our claims of insufficient notice to the public because of not providing the hyperlink to the EJ element draft in the Notice or in the Agenda Package itself, the City justifies that the EJ element draft has been online since April 1, 2020.

The City's cavalier, let-them-use-internet attitude ignores the very real fact, widely known to the general public, that many Inglewood disadvantaged communities may not have computers or, if they do, may be unable to afford internet access. The libraries where they might usually access the internet are closed, making access to both a hard copy of the Draft EJ Element and the online version of it unavailable. The City's assertion also ignores our key claim that the public was provided no *hyperlink* to the draft EJ element and was thus required to search for the EJ Element itself on the City's not user-friendly website. Unaffordability of access to the internet is particularly and painfully true now, when rampant unemployment is making many people choose between food and rent payments. Assuming that all people can afford both a laptop and internet access is arrogant and discriminatory, and impairs or denies the ability to meaningfully

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[4] To the extent the *new* exemptions to both the Land Use and EJ Element approvals were added *after* the Planning Commission heard both cases and made its recommendations on both the respective approvals and their supporting CEQA exemptions, pursuant to the Inglewood Municipal Code, the added exemptions constitute modifications and the City Council may not act on the Planning Commission's prior recommendations, without first sending the cases back to the Planning Commission to consider the added new CEQA exemptions in both cases and issue a new recommendation for any approvals.

participate in the City's decision-making about the projects, and especially the EJ Element for the General Plan.

This conduct on the City's part does not comport with both long-standing and recent legislation defining environmental justice. Assembly Bill 1628 was signed into law by Governor Newsom on September 27, 2019, and took effect this year. The bill's Section 1, subd. (b), provides:

> "It is therefore the intent of the Legislature to ensure that the populations and communities disproportionately impacted by pollution *have equitable access to, and can meaningfully contribute to, environmental and land use decisionmaking*, and can enjoy the equitable distribution of environmental benefits." (Emphasis added.)

Arguing that it provided meaningful participation to the public in the course of the EJ Element drafting, the City actually refutes its own claims by stating:

> "The comment states that the EJ Element ignores numerous concerns raised by the public, including danger to cyclists, constrained parking, unsafe buses, and the need for additional police. EJ Element, Appendix A includes the topics of discussion from each focus group and comments made by participants. There is no legal requirement that the City respond to each comment or concern raised during the EJ focus groups. Adoption of the EJ Element is a legislative decision." (June 9, 2020, Staff Report, p. 13.)

The City denied meaningful participation to the public and ignored public concerns about the lack of parking, rising rents, bus safety, bicycling safety, and instead matched the EJ Element to the lucrative transit-oriented development opportunities favored by major stakeholder developers, including the IBEC. By doing so, the City also ignores the fact that those transit-oriented development policies – i.e., higher density, reduced parking, and reliance on transit – have been recently documented as being one of the main reasons of spreading COVID-19 especially among disadvantaged communities.

The City's EJ Element continues to fail in its mandatory purpose of protecting the health and meaningful participation of disadvantaged communities in Inglewood, and relaxes the EJ standards to allow for more pollution. It does not qualify for any exemption, including the common sense exemption or the newly added regulatory agency exemption.

IV. CONCLUSION.

We request that the City Council reject the proposed Land Use Element amendments and Environmental Justice Element as being illegally piecemealed from the IBEC project, and also require staff to provide an accurate Land Use Element description, as well as rewrite the EJ Element to provide genuine safeguards for the Inglewood's disadvantaged population against air pollution and for responsive public involvement and participation in all land use decisions. This request is *in addition to* the requests in our prior letters[5].

Very truly yours,

/s/ Robert Silverstein
ROBERT P. SILVERSTEIN
FOR
THE SILVERSTEIN LAW FIRM, APC

RPS:vl
Encls.

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[5] We also incorporate all other public comments, objecting to the General Plan Amendments, including but not limited to the comments attached hereto. (**Exh. 9** [Articles re Inglewood's General Plan Amendments.])

To the Inglewood Planning Commission, 6/10/20

My family received your notice today of the public hearing scheduled for June 17, 2020 to consider the matters associated with the IBEC. We were troubled to see that this public event, by definition, was being held in the middle of a pandemic. So many other venues of greater public importance within our city, state and federal government are still closed and/or highly curtailed, yet this "business proposal" rubber stamping between a private corporation and the city must continue at the risk of all the attendees, who may or may not come due to the risk to their personal health. It has a calculated feeling.

My father an architect, city planner and retired LA county commissioner along with myself built the building standing on 3838 W. 102 st. over 30 years ago. Our business and temple were both situated there for decades. We have been part of the Inglewood community and invested there long before it was fashionable. My father is 87 years old an amputee with multiple underlying health issues and by doctors orders has not left his house in months, nor can he while the pandemic continues. He feels strongly about making his case in person as his right.

Our unsolicited experience with Murphy's Bowl LLC and their agents has not been positive. They have been opportunistic at the least if not deceptive. The city should not give any unfair advantage to a private business just because they have deeper pockets than a smaller business. Our building has been redlined within Murphy's Bowls plans to expand their business and profits. We are presumed out of the picture, without even asking. How exactly do they plan on building their business over us? This is not a city project, it is a private business trying to build their empire at our expense.

1) Please provide us with the plans on how our building will be incorporated in this project prior to the public hearing so we have reasonable time to review and respond.

2) Please provide contact information for the Mayor of Inglewood, our Councilperson and all others in charge of this project.

Please confirm receipt of this email via reply.

Respectfully,

Dev Bhalla

310-770-9660
dev@indiaimportsandexports.com

Message

From:	Evangeline Lane [/O=INGLEWOOD/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=95B9D8DB804945D1AADD60AF8A431286-EVANGELINE LAN]
Sent:	6/11/2020 1:17:21 PM
To:	Mindala Wilcox [/o=Inglewood/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b46bfd8a1e12482fb4f973bea21d23c4-Mindala Wilcox]
Subject:	Fwd: Public Records Request - Planning Commission Agenda

Hi Mindy,

When the agenda is ready today, do you want me to send her the on-line link in a reply email?

I'll await ypur directions.

E.

Sent from my Sprint Samsung Galaxy Note10.

From: Melissa Hebert <msmelissahebert@gmail.com>
Sent: Thursday, June 11, 2020 11:15:34 AM
To: Evangeline Lane <elane@cityofinglewood.org>; Aisha Thompson <aphillips@cityofinglewood.org>
Cc: Jacquelyn Gordon <jgordon@cityofinglewood.org>
Subject: Public Records Request - Planning Commission Agenda

Good morning Evangeline & Aisha!

I am seeking a copy of the planning commission agenda for June 17th meeting to approve the Clippers arena?

Melissa

Letter 13

Message

From:	Naira Soghbatyan [Naira@robertsilversteinlaw.com]
Sent:	6/11/2020 3:20:44 PM
To:	Mindala Wilcox [/o=Inglewood/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b46bfd8a1e12482fb4f973bea21d23c4-Mindala Wilcox]; Yvonne Horton [/o=Inglewood/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=112c1fcb52164d5d9721a08db5ba3485-Yvonne Horton]
CC:	Robert Silverstein [Robert@robertsilversteinlaw.com]; Veronica Lebron [Veronica@robertsilversteinlaw.com]
Subject:	Special Accommodation Advance Request for June 17, 2020 Planning Commission Hearing.

Dear Ms. Horton and Ms. Wilcox:

Please include this communication in the administrative record for the IBEC project.

As we informed you by email on June 9, 2020, despite our properly calling in, waiting on hold, and our repeated attempts to "raise our hand" to make a comment, we were not connected by the City, and were deprived of our statutory right to "address the legislative body" on June 9, 2020 "before or during the legislative body's consideration" of the General Plan Amendments, Agenda Items PH-1 and PH-. Govt. Code Sec. 54954.3(a).

While waiting on the phone, I also noticed that there were many others waiting (at least 6 in the queue, per the phone answering service), who did not have the chance to speak at all or whose comments were not clearly heard or considered by the City Council, either because of technical issues or simply because the City Council denied these intended speakers the right to speak, in violation of the Brown Act. Yet the City Council continued the hearing and voted on the items despite the acknowledged disruptions in public access to the teleconference.

The above-described obstructions were in addition to the City's failure to provide - in advance and in the agenda itself - a *correct* access code. As a result, numerous people wo could not watch the City Council hearing on the internet and relied on teleconferencing by phone were unable to learn about the later announced corrected access code and could not participate in the meeting at all. We believe there were more than 100 callers on June 9, 2020 who tried to call and participate in the June 9, 2020 meeting by phone but could not do so because of the incorrect access code provided by the City. This is an improper and disgraceful state of affairs.

Without waiving our objections to the June 9, 2020 meeting's violations of the Brown Act, but in an attempt to avoid any such interference with our and our client's rights, or disruptions to the general public, in connection with the upcoming June 17, 2020 Planning Commission hearing, we hereby request special accommodation to be able to be heard and to comment by telephone in the form of an uninterrupted teleconference opportunity, where we are actually called on to speak.

We request that the City inform us of its commitment to address this issue for us - and generally for the public - or otherwise postpone any Planning Commission or City Council hearings on any land use and/or CEQA decisions, including regarding the IBEC Project and EIR, until and unless the public may participate and comment without exclusion, "technical failures," or other conditions which deny members of the public of their right to participate in and comment at public hearings.

Please confirm what steps the City will take to accommodate our special accommodation request, and our requests generally. Thank you.

Naira Soghbatyan, Esq.
The Silverstein Law Firm, APC
215 North Marengo Avenue, 3rd Floor
Pasadena, CA 91101-1504
Telephone: (626) 449-4200
Facsimile: (626) 449-4205
Email: Naira@RobertSilversteinLaw.com
Website: www.RobertSilversteinLaw.com
====================================
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Letter 14

Message

From: Veronica Lebron [Veronica@robertsilversteinlaw.com]
Sent: 6/11/2020 11:35:30 AM
To: Aisha Thompson [/o=Inglewood/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2b82a68431394f299154b97b7cb90f78-Aisha Thompson]; Yvonne Horton [/o=Inglewood/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=112c1fcb52164d5d9721a08db5ba3485-Yvonne Horton]
CC: Esther Kornfeld [Esther@robertsilversteinlaw.com]; Naira Soghbatyan [Naira@robertsilversteinlaw.com]; Robert Silverstein [Robert@robertsilversteinlaw.com]
Subject: California Public Records Act Request | IBEC Project SCH No. 2018021056
Attachments: 6-11-20 [SCAN] CPRA Request to City (Horton) re IBEC Project.PDF

Please see attached. Please confirm receipt.

Thank you.

Veronica Lebron
The Silverstein Law Firm, APC
215 North Marengo Avenue, 3rd Floor
Pasadena, CA 91101-1504
Telephone: (626) 449-4200
Facsimile: (626) 449-4205
Email: Veronica@RobertSilversteinLaw.com
Website: www.RobertSilversteinLaw.com

===================================
The information contained in this electronic mail message is confidential information intended only for the use of the individual or entity named above, and may be privileged. The information herein may also be protected by the Electronic Communications Privacy Act, 18 USC Sections 2510-2521. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone (626-449-4200), and delete the original message. Thank you.

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THE SILVERSTEIN LAW FIRM
A Professional Corporation

215 NORTH MARENGO AVENUE, 3RD FLOOR
PASADENA, CALIFORNIA 91101-1504
PHONE: (626) 449-4200 FAX: (626) 449-4205
ROBERT@ROBERTSILVERSTEINLAW.COM
WWW.ROBERTSILVERSTEINLAW.COM

June 11, 2020

VIA EMAIL yhorton@cityofinglewood.org; aphillips@cityofinglewood.org

Yvonne Horton, City Clerk
City Clerk's Office
1 Manchester Boulevard
Inglewood, CA 90301

Re: California Public Records Act Requests re IBEC Project, State Clearinghouse No. 2018021056.

Dear Ms. Horton:

This request is made under the California Public Records Act pursuant to Government Code § 6250, et seq. Please provide copies of the following from the City (as "City" is defined below).

Please also include this correspondence in the running administrative record for the IBEC Project.

For ease of reference in this document, please refer to the following **defined terms**:

The "City" shall refer to the City of Inglewood, its City Council, the Mayor and all members of the City Council, all members, officials, employees, consultants, and agents of the City commissions, boards, offices, departments, divisions, the City Attorney's office and any and all outside counsel retained by the City, for your respective office, division, or Department.

"Project" shall refer to State Clearinghouse No. 2018021056, "IBEC Project," "Inglewood Basketball and Entertainment Center Project," "Murphy's Bowl," or "Clippers Arena," or APNs or Project Addresses, as listed below:

APN 4032-001-005: 10022 S. Prairie Ave., Inglewood, CA 90303

APN 4032-001-035: 3900 W. Century Blvd., Inglewood, CA 90303

APN 4032-001-039: 10004 S. Prairie Ave., Inglewood, CA 90303

APN 4032-001-048: 3915 W. 102nd St., Inglewood, CA 90303

APN 4032-001-049: 3940 W. Century Blvd., Inglewood, CA 90303

APN 4032-001-902: 3901 W. 102nd St., Inglewood, CA 90303

APN 4032-001-903: 3939 W. 102nd St., Inglewood, CA 90303

APN 4032-001-904: 10116 S. Prairie Ave., Inglewood, CA 90303

APN 4032-001-905: 3947 W. 102nd St., Inglewood, CA 90303

APN 4032-001-906: 10020 S. Prairie Ave., Inglewood, CA 90303

APN 4032-001-907: 10112 S. Prairie Ave., Inglewood, CA 90303

APN 4032-001-908: 10108 S. Prairie Ave., Inglewood, CA 90303

APN 4032-001-909: 3941 W. 102nd St., Inglewood, CA 90303

APN 4032-001-910: 10104 S. Prairie Ave., Inglewood, CA 90303

APN 4032-001-911: 3921 W. 102nd St., Inglewood, CA 90303

APN 4032-001-912: 3922 W. Century Blvd., Inglewood, CA 90303

APN 4032-001-913: 3930 W. Century Blvd., Inglewood, CA 90303

APN 4032-002-913: 3822 W. Century Blvd., Inglewood, CA 90303

APN 4032-002-914: 3831 W. 102nd St., Inglewood, CA 90303

APN 4032-002-915: 3843 W. 102nd St., Inglewood, CA 90303

APN 4032-002-916: 3851 W. 102nd St., Inglewood, CA 90303

APN 4032-002-917: 3821 W. 102nd St., Inglewood, CA 90303

APN 4032-003-914: 3700 W. Century Blvd., Inglewood, CA 90303

APN 4032-003-915: 3703 W. 102nd St., Inglewood, CA 90303

APN 4032-007-035: 3838 W. 102nd St., Inglewood, CA 90303

APN 4032-007-900: 3818 W. 102nd St., Inglewood, CA 90303

APN 4032-007-901: 3836 W. 102nd St., Inglewood, CA 90303

APN 4032-007-902: 3844 W. 102nd St., Inglewood, CA 90303

APN 4032-007-903: 3832 W. 102nd St., Inglewood, CA 90303

APN 4032-007-904: 3812 W. 102nd St., Los Angeles, CA 90303

APN 4032-007-905: 3850 W. 102nd St., Inglewood, CA 90303

APN 4032-008-001: 10200 S. Prairie Ave., Inglewood, CA 90303

APN 4032-008-002: 10204 S. Prairie Ave., Inglewood, CA 90303

APN 4032-008-006: 10226 S. Prairie Ave., Inglewood, CA 90303

APN 4032-008-035: 10212 S. Prairie Ave., Inglewood, CA 90303

APN 4032-008-900: 3910 W. 102nd St., Inglewood, CA 90303

APN 4032-008-901: 3926 W. 102nd St., Inglewood, CA 90303

APN 4032-008-902: 3900 W. 102nd St., Inglewood, CA 90303

APN 4032-008-903: 10220 S. Prairie Ave., Inglewood, CA 90303

APN 4032-008-904: 3930 W. 102nd St., Inglewood, CA 90303

APN 4032-008-905: 3920 W. 102nd St., Inglewood, CA 90303

APN 4032-008-907: 3940 W. 102nd St., Inglewood, CA 90303

APN 4032-008-908: 3936 W. 102nd St., Inglewood, CA 90303

APN 4034-004-027: 4000 W. Century Blvd., Inglewood, CA 90304

APN 4034-004-900: 4045 W. 101st St., Inglewood, CA 90304

APN 4034-004-901: 4037 W. 101st St., Inglewood, CA 90304

APN 4034-004-902: 4019 W. 101st St., Inglewood, CA 90304

APN 4034-004-903: 4039 W. 101st St., Inglewood, CA 90304

APN 4034-004-904: 4015 W. 101st St., Inglewood, CA 90304

APN 4034-004-905: 4040 W. Century Blvd., Inglewood, CA 90304

APN 4034-004-906: 4043 W. 101st St., Inglewood, CA 90304

APN 4034-004-907: 4046 W. Century Blvd., Inglewood, CA 90304

APN 4034-004-908: 4042 W. Century Blvd., Inglewood, CA 90304

APN 4034-004-909: 4032 W. Century Blvd., Inglewood, CA 90304

APN 4034-004-910: 4036 W. Century Blvd., Inglewood, CA 90304

APN 4034-004-911: 4033 W. 101st St., Inglewood, CA 90304

APN 4034-004-912: 4020 W. Century Blvd., Inglewood, CA 90304

APN 4034-004-913: 4026 W. Century Blvd., Inglewood, CA 90304

APN 4034-005-900: 10117 S. Prairie Ave., Inglewood, CA 90303

APN 4034-005-901: 4030 W. 101st St., Inglewood, CA 90304

APN 4034-005-902: 4043 W. 102nd St., Inglewood, CA 90304

APN 4034-005-903: 4037 W. 102nd St., Inglewood, CA 90304

APN 4034-005-904: 4031 W. 102nd St., Inglewood, CA 90304

APN 4034-005-905: 4018 W. 101st St., Inglewood, CA 90304

APN 4034-005-906: 4023 W. 102nd St., Inglewood, CA 90304

APN 4034-005-907: 4025 W. 102nd St., Inglewood, CA 90304

APN 4034-005-908: 4019 W. 102nd St., Inglewood, CA 90304

APN 4034-005-909: 4036 W. 101st St., Inglewood, CA 90304

APN 4034-005-910: 4044 W. 101st St., Inglewood, CA 90304

APN 4034-005-911: 4026 W. 101st St., Inglewood, CA 90304

APN 4034-005-912: 4022 W. 101st St., Inglewood, CA 90304

APN 4032-001-006: address n/a (vacant land)

APN 4032-001-033: address n/a (vacant land)

APN 4032-001-900: address n/a (vacant land)

APN 4032-001-901: address n/a (vacant land)

APN 4032-003-912: address n/a (vacant land)

APN 4032-004-913: address n/a (multi-family residential)

APN 4032-004-914: address n/a (multi-family residential)

APN 4032-008-034: address n/a (vacant land).

"Project Applicant" shall refer to Murphy's Bowl, LLC or Steve Ballmer, and their officers, principles, employees, representatives, agents, attorneys, experts and consultants.

"Email" includes, but is not limited to, correspondence to or from any email account through which any City business is being conducted, including but not limited to email accounts assigned by the City's Information Technology Agency to City officials, employees or consultants, and consistent with City of San Jose v. Superior Court of Santa Clara County, each and every personal email account outside the City's email system upon which any City business has been conducted.

"Text messages" includes, but is not limited to, correspondence to or from any communications device of the City or a City official, employee or consultant's personal communications device over which text messages may have been sent or received and stored which are City business.

"Meeting Notes" includes, but is not limited to any personal handwritten or electronic notes maintained by any City employee, contractor, or agent, regardless of the ownership of the media.

"Exchanged between" shall mean the passing of a document from one person to another by any means of transmission or delivery.

"Document," as defined in Govt. Code § 6252(g), shall mean any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail, message texting or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

Please note that Documents and Emails includes, but is not limited to, correspondence to or from any email account through which any public business is conducted, including but not limited to **personal or otherwise private email accounts belonging to government officials, employees or consultants**, pursuant to the California Supreme Court's recent decision in City of San Jose v. Superior Court (2017) 2 Cal.5th 608. This also includes text messages on any public or private device on which discussions about the Project and other public matters was discussed. **Please ensure that you have secured and produced all such personal or otherwise private emails and texts.** Therefore, we are also requesting that all relevant officials, employees and agents **preserve intact under a litigation hold** all such "personal" and official emails and text messages, and not to destroy, delete, allow to be automatically purged, or otherwise to engage in or permit spoliation of such evidence. To the extent that such emails or texts have been deleted, purged or otherwise spoliated, we demand that the holders of these devices immediately be informed that they must take all efforts to retrieve any deleted or otherwise purged emails and texts, and make all efforts to retrieve and preserve them. **Please confirm that you will do so.**

The public records requests include:

(1) All documents that refer or relate to historic oil well operations on any portion of the Project site (defined above), including but not limited to contamination issues, properly or improperly capped or abandoned oil wells, and any and all communications that refer or relate thereto, including

but not limited to with Division of Oil, Gas, and Geothermal Resources ("DOGGR") and California Geological Energy Management ("CalGEM").

(2) All documents that refer or relate to hazardous wastes generation, hauling, disposal, recognized environmental conditions (REC), remedial actions, cleanups, contamination, No Further Action letters, Underground Storage Tanks and/or leaks at the Project site and within ½-mile radius of any point of the Project site, including but not limited to communications with the Department of Toxic Substances Control ("DTSC").

(3) All documents from January 1, 2016 through the date of your response to this request that refer or relate to or are communications with the Inglewood Unified School District concerning the Project, including but not limited to communications with the City, Project Applicant, ESA (preparer of the Project EIR) and other environmental consultants, their agents, attorneys, experts, and representatives.

(4) All documents that refer or relate to methane zone or methane buffer zone, methane testing or methane leaks at the Project site and within a 1000-foot radius thereof.

(5) All documents that are, refer, or relate to Phase I, Phase II, or any supplemental Environmental Site Assessment or soil testing of any and all lots within the Project site.

(6) All daily calendars of meetings of the Mayor and Councilmembers, and City Manager, from January 1, 2016 through the date of your response to this request.

(7) All documents that are, refer or relate to communications about the potential use of eminent domain for or in furtherance of the Project, including but not limited to all such documents between, among and/or including the City on the one hand, and the Project Applicant [as defined above] on the other hand, from January 1, 2016 through the date of your response to this request. Please note that <u>Citizens for Ceres</u> holds that communications between the City and the Applicant, and/or their respective counsel, are not privileged and must be produced. <u>Citizens for Ceres v. Superior Court</u> (2013) 217 Cal.App.4th 889, 922. Accordingly, you may

not withhold any documents exchanged between, to/from or including the City and the Project Applicant.[1]

(8) All documents that are, refer or relate to communications about vacant and or cleared land within the Project site and their acquisition by the City, from January 1, 2015 through the date of your response to this request.

(9) All documents that are, refer or relate to communications about Federal Aviation Administration (FAA) noise mitigation grant, conditions and requirements for the grant, and any of the Project sites that the City purchased with the FAA grant funds.

(10) All documents that are, refer or relate to communications about noise reduction projects and funding therefor within a ½-mile radius of the Project site, from January 1, 2016 through the date of your response to this request.

(11) All documents, from January 1, 2020 through the date of your response to this request, that are, refer, or relate to communications with Metro, CalDOT, Caltrans, and LA Public Works, including but not limited to issues related to the Crenshaw Line operation, metro stations, timelines and delays in their construction, grade separation activities, and shuttle services and/or bus/shuttle schedules to/from the Project site.

(12) All documents, from January 1, 2017 through the date of your response to this request that are, refer, or relate to CA Public Records Act requests and/or FOIA requests, and responses and document productions in response thereto, related to the IBEC Project and/or Murphy's Bowl, filed or requested by or on behalf of MSG (and all affiliated persons and entities), IRATE, or any other person or entity, as well as all records responsive to any outstanding CPRA requests to the City that were otherwise

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[1] This principle and admonition applies to ALL documents and communications between the City, as broadly defined above, and the Applicant, as broadly defined above. No pre-Project-approval documents to, from, between, among, or including them may be withheld. This applies to all of the requests contained in this letter.

Please confirm that you are not withholding or redacting any such documents and/or communications, or parts of such documents and/or communications.

resolved/ended pursuant to the Settlement Agreement authorized by the City Council on March 24, 2020 during the closed-door session.

(13) All documents, contracts, communications about or with or including Overland, Pacific and Cutler related to the IBEC project.

(14) All documents (and communications) from January 1, 2019 through the date of your response to this request, that are, refer, or relate to documents or records that were flagged or requested to be removed from the administrative record by any person or entity, Confidential Information Confidential Information Confidential Information and further all documents that were actually removed from the draft/running administrative record.

(15) All documents and communications that refer or relate to the City's practices and procedures regarding the editing of the recordings, including audio and video, of City Council and other City government hearings or meetings.

(16) All documents and communications that refer or relate to the editing of video- and/or audio-recordings of the City Council and other administrative hearings related to the IBEC Project, including but not limited to the recording of the March 24, 2020 City Council hearing.

(17) All documents – in their unredacted form – that were ordered sealed in MSG Forum, LLC v. City of Inglewood, et al., Case No. YC072715, as well as all other documents that were sealed, including the discovery referee's reports.

(18) All documents from January 1, 2016 through the date of your compliance with this request which refer, relate to, or are any communications exchanged between or including any member of the City Planning Department, including but not limited to the planner(s) assigned to this Project, and any principal, owner, employee, agent, consultant or attorney representing Murphy's Bowl, LLC or ESA (or any entity linked to the IBEC Project), including but not limited to any and all staff reports, including drafts and documents in Planner "working files," "screen check EIR documents and drafts, studies, photographs, memoranda and internal

memoranda, agenda items, agenda statements, correspondence, emails, attachments to emails, notes, photos, and audio and/or video recordings.

(19) All documents from January 1, 2016 through the date of your compliance with this request, that are not currently posted online in the draft/running administrative record, which refer or relate to the Project, including but not limited to any and all staff reports, including drafts and documents in Planner "working files," studies, photographs, memoranda and internal memoranda, agenda items, agenda statements, correspondence, emails, attachments to emails, notes, photos, and audio and/or video recordings.

(20) All objection and/or comment letters, emails and other communications through the date of your compliance with this request, that are not currently posted online in the draft/running administrative record, regarding the Draft Environmental Impact Report for the Inglewood Basketball and Entertainment Center (IBEC) project at any time, including but not limited to all objection and/or comment letters, emails or other communications related to or in response to any and all Notices of Preparation and any other preliminary CEQA documents for the Inglewood Basketball and Entertainment Center (IBEC) project.

(21) All documents from January 1, 2016 through the date of your compliance with this request that (i) are, refer or relate to, and/or that (ii) are communications with, between, among and/or including the City on the one hand, and the Project Applicant [as defined above], including ESA (the IBEC EIR preparer) on the other hand, which refer or relate to:

(a) The Project;

(b) The Project Draft EIR and Final EIR;

(c) The Project's land use applications and review;

(d) The Forum, Madison Square Garden, MSG Forum, LLC, and any of their officers, owners, members, principals, attorneys, agents, or representatives;

(e) Kenneth or Dawn Baines, and/or Let's Have a Cart Party, and/or

(f) 10212 S. Prairie Ave., Inglewood;

(g) APN No. 4032-008-035;

(h) Robert Silverstein or The Silverstein Law Firm;

(i) Latham & Watkins, including but not limited to Benjamin Hanelin and Maria Pilar Hoye;

(j) Chatten, Brown & Carstens, including but not limited to Douglas Carstens;

(k) Nielsen, Merksamer, Parrinello, Gross & Leoni, including but not limited to Arthur G. Scotland, Sean P. Welch, Kurt R. Oneto, Hilary J. Gibson;

(l) Document(s) the Mayor signed on March 24, 2020,, including but not limited to the tri-party and/or settlement agreements (**signed** versions), as well as staff reports, communications, internal and external memo, correspondence and other documents that refer or relate to said settlement agreement;

(m) Federal Aviation Administration noise mitigation grant, conditions and requirements for the grant, and documents related to the City's purchase of any lots included in the Project with that grant;

(n) Capitol building annex project, annex project related work, or the state office building project, environmental leadership development project, or leadership project;

(o) Requests for extension of public comment period due to the COVID 19 situation; communications re publishing of the notice of extension or its circulation;

(p) All unredacted versions of letters or text messages, which are redacted in the public record, including but not limited to those dated March 24, 2020 and thereafter;

(q) Leases or any types of agreements between the Project Applicant and the City, including exclusive negotiating agreements and their amendments;

(r) Amendments to the General Plan, including but not limited to amendments to the Land Use, Circulation, Safety Elements and adoption of the Environmental Justice Element, as well as the Project's inconsistency with the General Plan;

(s) Amendments to the Inglewood International Business Park Specific Plan, including but not limited to the exclusion of Project parcels from the Specific Plan, the Project's inconsistency with the Specific Plan, and the Specific Plan itself.

(22) All documents that are, refer or relate to communications about the Billboard Project, Case No. EA-MND-2019 or its MND, its Applicant WOW Media, Inc., PlaceWorks environmental document preparer, their representatives, IBEC Project Applicant, their agents, officers, attorneys, from January 1, 2016 through the date of your compliance with this request. The requested records include records about any and all approvals, notices of approvals or determination, as well as records about the lots on which the billboard signs are proposed to be installed and communications about vacating any of those lots or City/public right of way and including those in or part of the IBEC Project.

(23) The administrative record (AR) certified by the City and lodged in the Case of Inglewood Residents Against Takings and Evictions v. Successor Agency To The Inglewood Redevelopment Agency, et al., LASC Case No. BS174709.

Please produce all responsive documents to each item in the same organization as listed above.

I draw your attention to Government Code § 6253.1, which requires a public agency to assist the public in making a focused and effective request by: (1) identifying records and information responsive to the request; (2) describing the information technology and physical location of the records; and (3) providing suggestions for overcoming any practical basis for denying access to the records or information sought.

If you determine that any information is exempt from disclosure, I ask that you reconsider that determination in view of Proposition 59 which amended the State Constitution to require that all exemptions be "narrowly construed." Proposition 59 may modify or overturn authorities on which the City has relied in the past.

If you determine that any requested records are subject to a still-valid exemption, I request that you exercise its discretion to disclose some or all of the records notwithstanding the exemption and with respect to records containing both exempt and non-exempt content, you redact the exempt content and disclose the rest. Should you deny any part of this request, you are required to provide a written response describing the legal authority on which you rely.

Please be advised that Government Code § 6253(c) states in pertinent part that the agency "shall promptly notify the person making the request of the determination **and the reasons therefore**." (Emphasis added.) Section 6253(d) further states that nothing in this chapter "shall be construed to permit an agency to delay or obstruct the inspection or copying of public records. The **notification of denial** of any request for records required by Section 6255 shall set forth the names and titles or positions of each person responsible for the denial."

Additionally, Government Code § 6255(a) states that the "agency shall justify withholding any record by demonstrating that the record in question is exempt under expressed provisions of this chapter or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record." (Emphasis added.) This provision makes clear that the agency is required to justify withholding any record **with particularity as to "the record in question."** (Emphasis added.)

Please clearly state in writing pursuant to Section 6255(b): (1) if the City is withholding any documents; (2) if the City is redacting any documents; (3) what documents the City is so withholding and/or redacting; and (4) the alleged legal bases for withholding and/or redacting as to the particular documents. It should also be noted that to the extent documents are being withheld, should those documents also contain material that is not subject to any applicable exemption to disclosure, then the disclosable portions of the documents must be segregated and produced.

Govt. Code § 6253.9(a) requires that the agency provide documents in their native format, when requested. Pursuant to that code section, please also provide the requested documents, including all applications, in their electronic format (i.e., pdf soft copies).

I further request that **no** IBEC Project approvals or EIR certification occur **until** we have been provided all records responsive to our CPRA requests herein, as well as to our prior CPRA requests on April 22 (to Public Works) and April 23, 2020 (re minutes and notes of the closed session), June 4, 2020 (March 24, 2020 hearing video/audio recordings and all signed documents) and on June 8, 2020 (re redevelopment plan issues) **with sufficient advance time** to review the produced records.

If the documents exist in electronic form, we ask that you provide copies on a disk or flashdrive at cost. For any non-electronic documents, if the copy costs for those documents do not exceed $500, please make the copies and bill this office. If the copy costs exceed $500, please promptly contact us in advance to arrange a time and place where we can inspect the records.

As required by Government Code § 6253, please respond to this request within ten days. Because we are emailing this request on June 11, 2020, please ensure that your response is provided to us by no later than **June 21, 2020**. Thank you.

Very truly yours,

/s/ Robert Silverstein

ROBERT P. SILVERSTEIN
FOR
THE SILVERSTEIN LAW FIRM, APC

RPS:vl
Encls.

Note to Reader:
All Exhibits attached to this letter are a part of the Administrative Record and can be found at ibecproject.com

EXHIBIT 1

From: Veronica Lebron
To: Jacquelyn Gordon; Mindala Wilcox; Yvonne Horton
Cc: Esther Kornfeld; Naira Soghbatyan; Robert Silverstein
Subject: Follow-up California Public Records Act Request
Date: Thursday, June 11, 2020 8:32:07 PM

Dear Ms. Horton and Ms. Wilcox:

As a further follow up to our further Public Records Act request of earlier today, in addition to the ordinance and redevelopment plan we have been requesting, please provide us with Ordinance No. 2045 on July 7, 1981, approving and adopting the Redevelopment Plan for the century Redevelopment Project and adopted Ordinance No. 93-18 on June 29, 1993, approving and adopting the first amendment to the Redevelopment Plan.

Thank you.

Veronica Lebron
The Silverstein Law Firm, APC
215 North Marengo Avenue, 3rd Floor
Pasadena, CA 91101-1504
Telephone: (626) 449-4200
Facsimile: (626) 449-4205
Email: Veronica@RobertSilversteinLaw.com
Website: www.RobertSilversteinLaw.com
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>>>

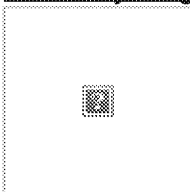
From: Jacquelyn Gordon <jgordon@cityofinglewood.org>
To: "Veronica@robertsilversteinlaw.com" <Veronica@robertsilversteinlaw.com>
CC: Yvonne Horton <yhorton@cityofinglewood.org>
Date: 6/11/2020 3:33 PM

Subject: RE: California Public Records Act Request | Ordinance 94-24
>
Hello Veronica,

Mrs. Horton asked me to forward a copy of Ordinance 94-24.

Best regards,

Jacquelyn Gordon
Staff Assistant: City of Inglewood
City Clerk's Office
One Manchester Boulevard, 1st Floor, Inglewood, CA 90301
Phone 310 412.8809 Fax 310 412.5533
www.CityofInglewood.org



From: Yvonne Horton
Sent: Thursday, June 11, 2020 3:17 PM
To: Jacquelyn Gordon <jgordon@cityofinglewood.org>
Subject: Fw: California Public Records Act Request | Ordinance 94-24

From: Veronica Lebron <Veronica@robertsilversteinlaw.com>
Sent: Thursday, June 11, 2020 7:30 AM
To: Aisha Thompson; Mindala Wilcox; Yvonne Horton
Cc: Esther Kornfeld; Naira Soghbatyan; Robert Silverstein
Subject: RE: California Public Records Act Request | Ordinance 94-24

Dear Ms. Horton:

We searched the Municipal Code for Ordinance 94-24 with no results. There was a link for an Ordinance List, but that also did not contain results for 94-24.

Please promptly provide a direct link to the ordinance. Thank you.

Please include our emails on this subject in the IBEC administrative record.

Veronica Lebron
The Silverstein Law Firm, APC
215 North Marengo Avenue, 3rd Floor
Pasadena, CA 91101-1504
Telephone: (626) 449-4200
Facsimile: (626) 449-4205
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From: Yvonne Horton <yhorton@cityofinglewood.org>
To: Veronica Lebron <Veronica@robertsilversteinlaw.com>
Date: 6/10/2020 1:57 PM
Subject: RE: California Public Records Act Request

Hello Ms. Lebron,
I have forward your request to the department who would have the documents you are looking for.
As for the ordinance 94-24 this can be found on the Cities Website under municipal code.

From: Veronica Lebron [mailto:Veronica@robertsilversteinlaw.com]
Sent: Monday, June 08, 2020 7:30 PM
To: Yvonne Horton
Cc: Esther Kornfeld; Naira Soghbatyan; Robert Silverstein
Subject: California Public Records Act Request

Dear Ms. Horton:

Please ensure that this communication is included in the administrative record for the IBEC Project matter (SCH 2018021056).

This is a public records request pursuant to Govt. Code Sec. 6250 et seq.

Please provide:

1) Ordinance No. 94-24;

2) All redevelopment plan(s) and map(s) for the Century Redevelopment Project and Merged Inglewood Redevelopment Project, as well as all CEQA approval documents (including but not limited to EIRs) for the adoption of the redevelopment plan(s)

If these documents are available online, provide a link.

Govt. Code § 6253.9(a) requires that the agency provide documents in their native format, when requested. Pursuant to that code section, please also provide the requested records in their native and electronic format.

We do not expect that the City will have unusual circumstances to produce the few requested public records.

Because I am emailing this request on June 8, 2020, please ensure that your response is provided to me by no later than **June 18, 2020**. Please confirm receipt. Thank you.

Veronica Lebron
The Silverstein Law Firm, APC
215 North Marengo Avenue, 3rd Floor
Pasadena, CA 91101-1504
Telephone: (626) 449-4200
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One California Plaza
37th Floor
300 South Grand Avenue
Los Angeles, California
90071-3147

PHONE: (213) 620-0460
FAX: (213) 624-4840
DIRECT: (213) 621-0815
E-MAIL: kbrogan@hillfarrer.com
WEBSITE: www.hillfarrer.com

June 15, 2020

Via E-mail (ibecproject@cityofinglewood.org)

Hon. Chair and Members of the Planning
Commission
City of Inglewood
One West Manchester Blvd., 4th Floor
Inglewood, CA 90301

Re: **Public Hearing re Inglewood Basketball and Entertainment Center**
June 17, 2020

Ladies and Gentlemen:

This firm represents the Michino family which owns 3915 W. 102nd Street, bearing Assessor's Parcel Number 4032-001-048. The owners object to the adoption of the proposed General Plan Amendment redesignating their parcel from Commercial to Industrial, object to the redefinition of the scope of industrial uses to include sports and entertainment facilities, object to the proposed vacation of streets, and to the zoning code amendments and changes. It appears these changes are a precursor to the City attempting to take private property from the owners for a private use by Murphy's Bowl and its affiliates. Please make this letter part of the public record.

Very truly yours,

Kevin Brogan (digital signature)

KEVIN H. BROGAN
OF
HILL, FARRER & BURRILL L

NRDC

June 15, 2020

Mindy Wilcox, AICP, Planning Manager
City of Inglewood, Planning Division
One West Manchester Boulevard, 4th Floor
Inglewood, A 90301
Ibecproject@cityofinglewood.org

Re: Comments on the Draft Environmental Impact Report for the Inglewood Basketball and Entertainment Center (IBEC), SCH 2018021056

Dear Ms. Wilcox:

This is a brief comment on the City of Inglewood's responses to my March 24, 2020 comment letter on the Clippers arena project.

One argument in my March 24 letter focused on the differences in the GHG analysis between the AAB 900 certification application and the DEIR. One of the City's responses is that the AB 900 process requires a fixed baseline – the time of the NOP – but the EIR used a baseline that was adjusted annually.

An annually adjusted baseline is improper under CEQA in the circumstances of this case. The standard rule is that, as CARB realized, the CEQA baseline is the actual condition on the ground at the time of the NOP. CEQA Guidelines Section 15125 provides:

> An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant.

Although less than clear, what the City's comment response appears to contemplate is use of a future baseline as emission standards and the like are tightened. In doing so, the project attempts to take credit for circumstances that it has nothing to do with, and that would occur whether the project is ever built or not – such as tightened auto GHG emission standards over time. Indeed, even if those standards are tightened, building

the project will make emissions worse than they otherwise would be because of increased VMT directly attributable to the project.

In *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority*, 57 Cal.4th 439 (2013), the California Supreme Court evaluated use of a future baseline in an EIR for the Expo Line light rail project. The agency used a baseline for air quality that projected traffic fifteen years into the future, based on projections from SCAG. The court upheld that baseline in the case before it, explaining that a future baseline for traffic may be permissible where an agency can show that an analysis based on the usual standard would tend to be "misleading or without informational value" and is "justified by unusual aspects of the project or the surrounding conditions."

There is nothing unusual about the Clippers project that would validate departure from the standard rule about CEQA baselines. It is a large stationary project, not a rail line or other transportation project. A baseline as of the date of the NOP is easy to calculate. Whether cars are, or are not, more efficient in the future does not change the fact that the project will draw many tens of thousands of new vehicle trips into the area. The EMFAC program can easily account for changes in emissions factors over time and the program's results can be directly compared with the pre-project baseline. Thus, the special circumstances described in the *Neighbors For Smart Rail* case do not exist here.

The reason that developers like using a future baseline is that is makes the increase in emissions look smaller and so mitigation will be less costly. That is not sufficient reason to bend the law in favor of the Clippers project.

Finally, I would like to draw your attention to the June 12, 2020 decision of the California Court of Appeal, 4th Appellate District, in *Golden Door Properties v. County of San Diego*, available at 2020 WL 3119041. The Court's opinion rejects the County's attempt to short-circuit GHG mitigation by using standardless GHG offset protocols, even if sold by an agency certified by CARB. Based on the *Golden Door* opinion, the City needs to take another look at the Clippers project's offsite mitigation proposals and make sure that they are each additional and enforceable – which San Diego's were not.

Thank you for your consideration of this letter.

Yours truly,

David Pettit
Senior Attorney
Natural Resources Defense Council

From: Naira Soghbatyan
To: Aisha Thompson; Mindala Wilcox; Yvonne Horton
Cc: Esther Kornfeld; Robert Silverstein; Veronica Lebron
Subject: Brown Act Violation on June 9, 2020; Comments to June 16, 2020 CC Agenda Item Nos. SPH-2 and SPH-3; and Objection to June 16, 2020 CC Agenda Item No. O-1
Date: Tuesday, June 16, 2020 2:41:38 PM
Attachments: June 9 2020 City Council Hearing FB Comments.pdf

Dear Mayor, City Council and City officials

Please include this letter in the administrative record of the IBEC Project SCH SCH 2018021056.

This letter is in response to the City's communication we received yesterday, June 15, 2020, June 16, 2020 City Council Hearing Agenda items SPH-2 and SPH-3 that the June 15, 2020 relates to, as well as an objection to the June 16, 2020 City Council Hearing Agenda Item O-1 related to the Adoption of the Citywide Permit Parking Districts Program and related Ordinance.

1. **Deprivation of Public Right to Address Decisionmakers under Govt. Code Sections 54954(b)(3) and 54954.3**

It is a fact that the Agenda of June 9, 2020 had provided an incorrect access code, which was the only way the public could directly address the decisionmakers, distinct from their right to also contact the CIty in writing. It is also a fact that we and the public attempted to contact the City at the incorrect access code provided on the agenda. The City violated the Brown Act's requirements to provide a correct advance agenda notice of the access code, as well as to provide uninterrupted and reasonable opportunity for the public to contact the City even upon the late correction access code, in violation of Govt. Code Sections 54954(b)(3) and 54954.3. These statutory requirements are also consistent with the COVID-19 Executive Order N-29-20, which solely waives the physical presence requirements and yet mandates both notice and accessibility of all public meetings.

In view of our and others' failed attempts to address the decisionmakers on June 9, 2020, we have requested special assurances and special accommodations to ensure that we and the public can be heard and can exercise our statutory right under the Brown Act at both June 17, 2020 Planning Commission Hearing and at any other public meeting. Our statements that over 100 people were deprived of the opportunity to address the decisionmakers on June 9, 2020 are supported by over 100 comments people left on Facebook in real time - during the very June 9, 2020 meeting - asking for an opportunity to speak and complaining of the technical difficulties to hear others' speeches.

Attached hereto is a printout of all the real time correspondence by the public, as well as the City's acknowledgment of the problem during the June 9, 2020 meeting. The list of comments arguably does not include the people who had attempted to call and yet were unable to view the meeting on Facebook either to learn about the corrected code or to leave comments on Facebook - all due to the lack of access to

computer/internet or lack of computer skills.

We also note that for those who had been calling the City on June 9, 2020 - even with the City's late-corrected access code - were still deprived of the opportunity to speak because the instructions given at the meeting to dial # and then again # "to raise your hand" to make a comment were incorrect, as the "raise your hand" command given on the phone was "#2.". The incorrect instructions with the dial code were provided by staff orally during the hearing and were provided in writing on Facebook in real-time communications from the City.

We and the public request assurances and special accommodations to ensure that the City's teleconferencing is supported by an advance agenda, with a correct telephone and access code, printed in the same large print as the rest of the agenda, and free of any interruptions, background or static noises or other technical disturbances.

2. Re-Consideration of SPH-2 and SPH-3 and Recirculation of the IBEC DEIR.
In view of the undisputed technical problems with teleconferencing and the CIty's Brown Act violations to provide due notice and accessibility to the June 9, 2020 meetings, we support the reconsideration of the items upon accurate timely notice of the new hearing provided for the consideration of the General Plan Amendments in Items SPH-2 and SPH-3.

We also reiterate our claim that the General Plan Amendments will further the IBEC Project, are part of the latter, and must be considered in the IBEC Project EIR and together with all IBEC Project approvals.

The General Plan amendments were proposed on April 1, 2020, when Notices of Exemption for both General Plan amendments were posted online. This was long after March 24, 2020, when the public review period for the IBEC DEIR closed. Since no analysis of the later-advanced General Plan amendments of density/intensity modifications in the Land Use element and new Environmental Justice element (and their impacts) occurred in the IBEC DEIR, the noted General Plan amendments constitute a significant change and mandate that the DEIR be recirculated to provide the respective analysis under CEQA Guidelines Sec. 15088.5(a).

We therefore request not only the reconsideration of the General Plan amendments to ensure proper public participation, but also the recirculation of the IBEC Project DEIR, to include the analysis of the General Plan Amendments and their impacts therein.

3. Objections to the Adoption of the Ordinance re Citywide Permit Parking Districts Program, Agenda Item No. O-1.
We object to the City's adoption of the Ordinance re Citywide Permit Parking Districts Program as it is in violation of CEQA's piecemealing prohibition.
The proposal to introduce citywide parking district changes was brought up after the IBEC DEIR public comment period closed on March 24, 2020. The language of the Ordinance itself mentions that the Ordinance and the proposed changes are

interrelated with the IBEC Project and are to address the parking issues associated with the foreseeable events upon the implementation and operation of the IBEC Project. Yet, the IBEC DEIR coes not mention the sweeping citywide parking regulation changes, which will significantly limit public right to park on residential streets. To the contrary, the IBEC DEIR claimed that the Project would reduce traffic by 15% due to the Project's proximity to Metro and shuttle services.

We therefore object to the City's adoption of the Citywide Permit Parking Districts Program and the associated Ordinance under Agenda Item No. O-1 because of piecemealing from the IBEC Project, and request that the analysis of the impacts of the parking ordinance be included in the IBEC Project DEIR. We also request that the IBEC Project DEIR be recirculated under CEQA Guidelines Sec. 15088.5(a), to address the significant change related to the changes in the parking regulations to further the IBEC Project.

Thank you. .

Naira Soghbatyan, Esq.
The Silverstein Law Firm, APC
215 North Marengo Avenue, 3rd Floor
Pasadena, CA 91101-1504
Telephone: (626) 449-4200
Facsimile: (626) 449-4205
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Letter 20

From: Naira Soghbatyan
To: Mindala Wilcox; Yvonne Horton
Cc: Robert Silverstein; Veronica Lebron
Subject: Request for Clarification and Decision/Documents re June 16, 2020 CC Agenda Item Nos. SPH-2 and SPH-3.
Date: Tuesday, June 16, 2020 7:24:19 PM

Dear Ms. Horton and Ms. Wilcox:

Please include this letter in the administrative record of the IBEC Project (SCH 2018021056).

I have watched the relatively short City Council hearing on June 16, 2020.

I heard staff requesting that the PH-1 and PH-2 items (General Plan amendments) - which were considered and approved on June 9, 2020 - "be rescinded" and reconsidered as "new items" on June 30, 2020. However, I did not see any motion or vote taken on the staff's request to rescind, beyond the Mayor's own single statement that Items SPH-2 and SPH-3 re General Plan Amendments will be set for a hearing on June 30, 2020.

Please forward us any official decision/document regarding Item Nos. SPH-2 and/or SPH-3, if any, including but not limited to Council action(s) taken on those items and anything indicating whether the General Plan amendments and respective CEQA exemptions approved on June 9, 2020 were indeed rescinded, as staff recommended.

Thank you.

Naira Soghbatyan, Esq.
The Silverstein Law Firm, APC
215 North Marengo Avenue, 3rd Floor
Pasadena, CA 91101-1504
Telephone: (626) 449-4200
Facsimile: (626) 449-4205
Email: Naira@RobertSilversteinLaw.com
Website: www.RobertSilversteinLaw.com
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From: Esther Kornfeld
To: Aisha Thompson; Christopher E. Jackson; Fred Jackson; ibecproject; Mindala Wilcox; vhorton@cityofinglewood.org
Cc: Alex Padilla; atrejo@cityofinglewood.org; drice@cityofinglewood.org; Eloy Morales Jr.; George Dotson; James Butts; Ken Campos; lsprings@cityofinglewood.org; Patricia G. Patrick; Ralph Franklin; Terry LeRoy Coleman; bgridley@kbblaw.com; rkj@kbblaw.com; Naira Soghbatyan; Robert Silverstein; Veronica Lebron
Subject: Objections re IBEC DEIR & FEIR (SCH 2018021056) and entitlements
Date: Tuesday, June 16, 2020 12:41:04 PM

Dear Ms. Wilcox and City Officials:

Please see below link to our objection letter + exhibits submitted on behalf of Kenneth and Dawn Baines, owners of 10212 S. Prairie Ave., Inglewood, in connection with the June 17, 2020 Planning Commission hearing.

As with all of our communications, please ensure that our objection letter + exhibits as contained in this link are included in the administrative record for this matter.

https://www.dropbox.com/s/zwosu7hl33k6569/6-16-20%20Objections%20to%20IBEC%20Project%20DEIR%20%26%20FEIR%3B%20SCH%20No.%202018021056.pdf?dl=0

We are submitting these comments a day and a half prior to the Planning Commission hearing to assist you in printing out and distributing hard copies for the Planning Commissioners and other officials.

As always, please contact us with any questions. Thank you.

Esther Kornfeld, Paralegal
The Silverstein Law Firm, APC
215 North Marengo Avenue, 3rd Floor
Pasadena, CA 91101-1504
T (626) 449-4200
F (626) 449-4205
Email: Esther@RobertSilversteinLaw.com
Website: www.RobertSilversteinLaw.com

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THE SILVERSTEIN LAW FIRM
A Professional Corporation

215 NORTH MARENGO AVENUE, 3RD FLOOR
PASADENA, CALIFORNIA 91101-1504
PHONE: (626) 449-4200 FAX: (626) 449-4205
ROBERT@ROBERTSILVERSTEINLAW.COM
WWW.ROBERTSILVERSTEINLAW.COM

June 16, 2020

VIA EMAIL Ibecproject@cityofinglewood.org; mwilcox@cityofinglewood.org; fljackson@cityofinglewood.org

Mindy Wilcox, AICP, Planning Manager
Fred Jackson, Senior Planner
City of Inglewood, Planning Division
1 West Manchester Boulevard, 4th Floor
Inglewood, A 90301

VIA EMAIL cejackson@cityofinglewood.org

Christopher E. Jackson, Sr.,
Economic & Community
Development Director
City of Inglewood Department of
Building & Safety
1 Manchester Boulevard, 4th Fl.
Inglewood, CA 90301

VIA EMAIL yhorton@cityofinglewood.org; aphillips@cityofinglewood.org

Yvonne Horton, City Clerk
City Clerk's Office on behalf of
Inglewood Planning Commission
Mayor and City Council
Inglewood Successor Agency, Inglewood Housing
Authority, Inglewood Parking Authority, Joint
Powers Authority
1 Manchester Boulevard
Inglewood, CA 90301

Re: (1) **Objections to IBEC Project, DEIR and FEIR; State Clearinghouse No. 2018021056**;

(2) City's failure to respond to Public Records Act requests;

(3) Interference with proper administrative record;

(4) City's fast-tracking of Project and improper notice;

(5) The City's FEIR responses to comments are improper and inadequate;

(6) Additional objections to DEIR and FEIR, including based on new information post-March 24, 2020;

(7) Piecemealing and illegal piecemeal adoption of Project components in violation of CEQA and State Planning and Zoning Laws;

(8) Illegal precommitment;

(9) Failure adequately to discuss impacts on schools;

(10) Illegal Mitigation Monitoring and Reporting Program;

(11) Illegal statement of overriding considerations;

(12) Illegal specific plan amendments;

(13) Violation of Subdivision Map Act;

(14) Violation of Surplus Land Law;

(15) Illegal Disposition and Development Agreement.

Dear Mayor, City Council, Ms. Horton, Ms. Wilcox and Mr. Jackson:

I. INTRODUCTION.

1

This firm and the undersigned represent Kenneth and Dawn Baines, owners of the property located at 10212 S. Prairie Ave., Inglewood. Please keep this office on the list of interested persons to receive timely advance notice of all hearings and determinations related to the City's actions and potential approvals related to the IBEC/Clippers Arena project ("Project") and any of its components, including but not limited to general plan amendments, eminent domain actions and resolutions of necessity, noise insulation projects, road improvement projects, street or alley vacation determinations, specific plan amendments, the Media WOW billboard project at Prairie and Century and its MND, the Inglewood Transit Connector project, and any environmental determinations and/or CEQA exemptions.

The request for the above advance notice is pursuant to all applicable laws, including but not limited to Pub. Res. Code § 21167(f).

This letter consists of several distinct objections, but all related to the Project.[1]

II. THE CITY HAS VIOLATED THE PUBLIC RECORDS ACT, PREJUDICING OUR ABILITY TO FULLY PARTICIPATE.

As a preliminary issue, while the administrative process and environmental review of the Project has been pending, we have made several Public Records Act ("CPRA") requests and have sought various documents related to the Project. Despite the specificity of our requests, the City has not responded to any of our requests, with the exception of one related to the documents exchanged or produced during the open and closed sessions on March 24, 2020, in response to which the City has provided incomplete and *unsigned* and/or signed but *undated* documents, among other deficiencies in that single, limited production

2

The City's failures to respond to our CPRA requests dated April 22, April 23, and May 28, 2020, as well as unreasonable improper invocation of claimed privileges or exemptions, places the City in violation of the California Public Records Act and has deprived us of being able to fully participate in meaningfully understanding and responding to the City and applicant Murphy's Bowl or Clippers' (sometimes "Applicant") contemplated actions.

Attached collectively at **Exhibit 1** hereto are true and correct copies of correspondence regarding this matter as well as copies of currently-outstanding CPRA requests, to which the City has failed to provide responsive documents, to our prejudice. (**Exh. 1** [CPRA requests to City (April 22, 23, May 8, June 4, 11, and 12, 2020].) Because these documents have not been produced, the City has hampered our ability to exhaust administrative remedies and object, and impaired our ability to submit the most meaningful and comprehensive evidence possible.

The California Supreme Court has stated: "Implicit in the democratic process is the notion that government should be accountable for its actions. In order to verify

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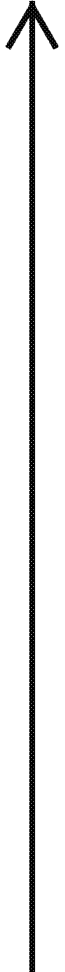
[1] These objections are provided under protest. Our client objects to the entire special CEQA scheme for the IBEC Project under AB 987, which is unconstitutional and illegal per se. Our client submits these objections while simultaneously asserting that AB 987 is illegal and unconstitutional, and as a result, that the process by which the City and Applicant are proceeding as to CEQA approvals and all approvals for the Project that depend on the City's finding of CEQA compliance are improper, invalid, and *void ab initio*. Our client expressly reserves all rights and remedies in connection therewith.



accountability, individuals must have access to government files. Such access permits checks against the arbitrary exercise of official power and secrecy in the political process . . . ." CBS, Inc. v. Block (1986) 42 Cal.3d 646, 651. Those precepts apply to the City's actions herein.

As stated by the Supreme Court in Laurel Heights Improvement Assn. v. Regents of University of California (1993) 6 Cal.4th 1112, CEQA's "purpose is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made. Thus, the EIR protects not only the environment but also informed self-government. To this end, public participation is an essential part of the CEQA process." Id. at 1123 (italics in original).

2

It has been held that "the whole purpose of the CPRA is to shed public light on the activities of our governmental entities . . . ." Fairley v. Superior Court (1998) 66 Cal.App.4th 1414, 1422.

Because the documents requested from the City relate to critical issues concerning the Project, its EIR, and the City's impending approvals of same, we ask that **no decision** be made until the requested documents have been produced to us. If necessary, we will seek to augment the administrative record to remedy the violations of our client's and the public's constitutional and due process rights to a fair and impartial hearing, among other violations committed by the City.

III. INTERFERENCE WITH THE ADMINISTRATIVE RECORD HAS ALSO PREJUDICED MEANINGFUL PUBLIC REVIEW.

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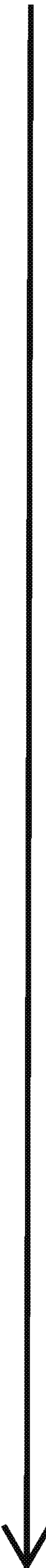
[2] Our firm downloaded the document at 9 p.m. on Friday, May 15, 2020, shortly after the Agenda was made available to the public. However, as of May 19, 2020 the hyperlink in the Council agenda was disabled and the page was unavailable. **(Exh. 3** [May 19, 2020 agenda and printout of the notice of the unavailable page].)

However, CEQA requires the decision makers and the public – and consequently the Court – to make a decision on the Project or on CEQA compliance in light of the entire record, rather than a record that is favorable to the Project Applicant or proponents.

> "The 'in light of the whole record' language means that the court reviewing the agency's decision cannot just isolate the evidence supporting the findings and call it a day, thereby disregarding other relevant evidence in the record. (*Bixby v. Pierno* (1971) 4 Cal.3d 130, 149 [93 Cal.Rptr. 234, 481 P.2d 242].) Rather, the court must consider all relevant evidence, including evidence detracting from the decision, a task which involves some weighing to fairly estimate the worth of the evidence. (*County of San Diego v. Assessment Appeals Bd. No. 2* (1983) 148 Cal.App.3d 548 [195 Cal.Rptr. 895].)" Lucas Valley Homeowners Assn. v. County of Marin (1991) 233 Cal.App.3d 130, 141-142.



4

The administrative record mandated by CEQA under Pub. Res. Code § 21167.6(e) and applicable to AB 987 projects under Pub. Res. Code § 21189.52(j) is broad and expansive. "First, the language is mandatory – *all* items described in the enumerated categories *shall* be included in the administrative record." Madera Oversight Coalition, Inc. v. County of Madera (2011) 199 Cal.App.4th 48, 63 (ital. orig.). "When an agency prepares and certifies the administrative record, it exercises no discretion and employs no specialized expertise; it performs a ministerial task when it applies the mandatory language of section 21167.6, subdivision (e)." Madera at 64.

> "Recently in [Madera], we made several observations about the contents of the administrative record as defined by these provisions. First, the language is mandatory: The administrative record shall include the listed items. Second, the list is non-exclusive; the administrative record's contents include, but are not limited to, the listed items. Next, the administrative record as defined is very expansive. We quoted language that originated in one Court of Appeal case and was subsequently quoted in another: Section 21167.6 'contemplates that the administrative record will include pretty much everything that ever came near a proposed development or to the agency's compliance with CEQA in responding to that development.'" Citizens for Ceres v. Superior Court (2013) 217 Cal.App.4th 889, 909-910. See also, County of Orange v. Superior Court (2003) 113 Cal.App.4th 1, 8, cited with approval by Eureka

4

Citizens for Responsible Government v. City of Eureka (2007) 147 Cal.App.4th 357, 366-367.

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the public and other agencies have been deprived of the opportunity to review the entire administrative record as mandated by CEQA and to comment on the DEIR. Thus our client and the public have been deprived of a full and fair opportunity to comment on the Project and its impacts in light of the whole of the record. All objections are expressly reserved.

IV. THE CITY'S FAST-TRACKING OF THE PROJECT DURING THE COVID-19 PANDEMIC AND FAILURE TO CIRCULATE THE IBEC DEIR NOTICE OF EXTENSION OF THE PUBLIC COMMENT PERIOD FURTHER IMPAIRED PUBLIC COMMENT.

5

The public review period of the IBEC DEIR coincided with the turmoil of the COVID-19 pandemic, when the public and public/responsible/trustee agencies were fighting for human lives. Because of that timing, the scheduled 2020 Olympic games were cancelled and postponed for one year.[3,4] California's leaders have suggested similar postponing of large scale events until 2021. (**Exh. 4** [article re halting sports events until 2021].) Yet Inglewood chose to fast-track the IBEC sports arena Project.

On March 13, 2020, when an extension was requested from the City and granted, the City *delayed* posting its notice of extension to the *public* and failed to circulate it properly.[5] Although the extension was provided on March 13, 2020 and for only a few days until March 24, 2020, it was posted on the County website only on March 18, 2020,

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3 See https://www.olympic.org/tokyo-2020

4 We specifically request that all the hyperlinks in this letter be downloaded and printed out, submitted to the agency, and be included in the City's control file and administrative record for the Project.

5 Culver City – a city immediately adjacent to Inglewood and to be directly impacted by the Project – had specifically requested a further extension of the public comment period beyond March 24, 2020, due to COVID-19 pandemic. The administrative record does not reflect that Culver City's request was granted. (**Exh 5.** [Culver City Request].)

which lost 5 days of circulation. (**Exh. 6** [extension notice on County website].) As for the State Clearinghouse's website, no official "notice" was posted there; only a short memo dated March 16, 2020, with attached email correspondence dated March 13, 2020 appeared. (**Exh. 7** [memo, March 16, 2020].) The City should not delegate its CEQA notice posting duties to the State Clearinghouse and should have provided proper and timely notice to the public, including to our client, which the City did not do. Furthermore, per the State Clearinghouse's memo, the notice was addressed to "all reviewing agencies" – not the public at large.

The City specifically made the decision not to publish the notice of extension. (**Exh. 8** [City correspondence to not publish the notice].)

Thus, the only way the public could have been timely informed of the extension was by continuously checking the City's website or County and State Clearinghouse websites on a daily basis. That is not adequate notice to the public. This is even more so in view of the Governor's safer-at-home order on March 19, 2020. (**Exh. 9** [Safer-at-Home Orders and Restrictions].)[6]

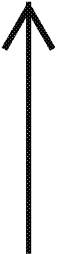
Per the Notice, the public comment period was extended to March 24, 2020 at 5 p.m. The City Council meeting on March 24, 2020 began at 2 p.m., i.e. slightly prior to the close of the public comment period. Had the public been duly apprised of the extended public comment period, the public – and our clients – could and would have made comments at the March 24, 2020 Council meeting. The City's lack of proper notice of the extension of the public comment period impaired public comment and opportunity to address the City Council on the DEIR.

The City's failure to duly notice was also in violation of Pub. Res. Code § 21092 and Inglewood Municipal Code noticing requirements, which require timely circulation and publishing of CEQA notices, especially related to DEIRs.

V. THE CITY'S FEIR RESPONSES TO COMMENTS TO THE DEIR ARE UNAVAILING AND NOT MADE IN GOOD FAITH.

We further object that the FEIR's so-called responses to comments fail adequately to provide meaningful, good faith responses to comments, including but not limited to the comments sent by sister governmental agencies, by the NRDC related to GHG violations, and by other objectors like the Forum and IRATE, including but not limited to objections

[6] See at https://covid19.ca.gov/stay-home-except-for-essential-needs/



about the illegal precommitment to the project in violation of CEQA by the City's entering into the Exclusive Negotiating Agreements ("ENA") (**Exh. 10** [we incorporate by reference all such arguments, including piecemealing arguments, as contained in the briefs attached collectively hereto]) and other documents demonstrating that the impending approvals were a *post hoc* rationalization for decisions already made.

6

The responses to comments also fail to show a good faith effort at full disclosure of the Project's environmental impacts, and how they will be mitigated, including in violation of Guidelines Section 15151. For example, as to impacts to the system of roadways and the State Highway system as raised in comments by Caltrans, the FEIR's ostensible mitigation measures are improper, inadequate and unenforceable, including because they do not guarantee feasibility of such mitigation and solely add funds to Caltrans' existing CM project addressing the *baseline* traffic impacts *without* the IBEC Project:

> "As mitigation for the significant cumulative impacts on the I-405 freeway, based on further consultations with Caltrans, the following mitigation measure is added to the Draft EIR following Mitigation Measure 3.14-24(g) on page 3.14-294:
>
> > **Mitigation Measure 3.14-24(h)**
> > *The proiect applicant shall provide a one-time contribution of $1.524.900 to Caltrans which represents a fair share contribution of funds towards Caltrans' I-405 Active Traffic Management (ATM)/Corridor Management (CM) proiect."*

7

Payment of fair share impact fees by a developer is not proper mitigation measures unless those "mitigation measures require the City to undertake an action"; i.e., to "prepare" the fair share plans and unless the City provides that those are feasible and not speculative, i.e., provide an estimate of the cost to prepare the fair share plans, if any, and the estimate of how much the mitigation measures themselves in those plans will cost or how they will be implemented." California Clean Energy Committee v. City of Woodland (2014) 225 Cal.App.4th 173, 197. Moreover, although Caltrans' CM project is aimed to reduce traffic impacts and was studied, if at all, to address the existing baseline traffic, it was not targeted to reduce the IBEC project impacts and any amendment to it may have its own impacts on the environment, which have not been accounted for.

8

The above noted response adds to the uncertainties already present in the case, whereby – according to the Project's AB 987 Application (p. 18) – "[t]he operational life of the IBEC Project is assumed to be 30 years and operational emissions were estimated from July 1, 2024 (the anticipated beginning of operations) through 2054. Operational emission sources include on-road motor vehicles (mobile), energy (electricity and natural gas), water and wastewater, solid waste, area, and stationary (emergency generators)."[7]

9

The response to comments and MMRP also fail adequately to demonstrate that the so-called mitigation imposed will be carried out or is feasible, including as to objections regarding GHG emissions, as raised by others in this process. Mitigation is required by CEQA to be fully enforceable, and to be carried out. Guidelines § 15126.4(a)(2); Lincoln Place Tenants Assn. v. City of Los Angeles (2005) 130 Cal.App.4th 1491, 1508. The FEIR and MMRP also improperly defers mitigation in violation of CEQA. The FEIR should not be certified, and the DEIR should be recirculated for proper disclosure, analysis and mitigation of all impacts.

10

VI. COMMENTS/OBJECTIONS TO THE PROJET DEIR BASED ON *NEW INFORMATION* RELEASED BY THE CITY AND/OR *NEW INFORMATION* THAT WAS NOT REASONABLY KNOWN DURING THE OFFICIAL PUBLIC COMMENT PERIOD MUST BE RESPONDED TO.

We incorporate by reference all prior objections to the Project, including but not limited to objections/comments to the Project in the administrative record, or that should have been in the administrative record, dated *prior* to the public comment period beginning on December 27, 2019 and objections to AB 987 certification. Since AB 987 certification documents do not appear in the administrative record, we are providing those as an exhibit hereto. (**Exh. 11** [AB 987 comment letters].) Each objection to the Project raised therein must be responded to by the City as part of a recirculated DEIR and process.

Moreover, pursuant to Pub. Res. Code Section 21189.55(d), the lead agency must still consider new information:

[7] See https://opr.ca.gov/ceqa/docs/ab900/20190104-AB900_IBEC_Application.pdf

"(d) The lead agency need not consider written comments submitted after the close of the public comment period, **unless** those comments address any of the following:

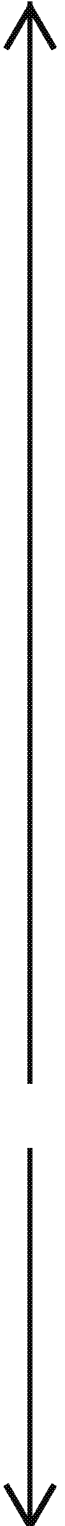
(1) **New issues** raised in the response to comments by the lead agency.

(2) **New information** released by the public agency **subsequent to the release** of the draft environmental impact report, such as new information set forth or embodied in a staff report, proposed permit, proposed resolution, ordinance, or similar documents.

(3) **Changes** made to the project **after the close** of the public comment period.

(4) Proposed conditions for approval, **mitigation measures**, or proposed findings required by Section 21081 or a proposed reporting and monitoring program required by paragraph (1) of subdivision (a) of Section 21081.6 , where the lead agency releases those documents **subsequent to the release** of the draft environmental impact report.

(5) **New information** that was not reasonably known and could not have been reasonably known during the public comment period." (Emph. added.)



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The comments below are based on such "new information" that came to light after March 24, 2020.

11

A. <u>The COVID-19 Crisis Mandates Re-evaluation of Mitigation Measures in the DEIR and AB-987 Certification, as well as Significant Impacts from Those Measures.</u>

The comment below is based on new information of health and safety concerns regarding the proposed mitigation measures of alternate modes of transportation. Pub. Res. Code § 21189.55(d)(4)-(5).

CEQA requires a mandatory finding of significance where "(4) The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly." Guidelines § 15065(a)(4). CEQA also requires agencies to consider the environmental impacts of the mitigation measures that are proposed for the project.

The COVID-19 crisis brought to light significant impacts related to the proposed mitigation measures of promoting the use of mass public transit, walking and bicycling, especially in crowded places and dense city centers, which were not reasonably known or could not have been comprehended or documented before March 25, 2020.

11

The Project's DEIR and AB-987 certification and their findings, including the GHG emission impacts and their alleged reduction, largely rely on the *assumption* of vast use of public transit, walking, and bicycling, to achieve 50% GHG reduction, as claimed.

However, the Project assumptions or even the enforceability of the proposed mitigation measures have not been supported by any substantial evidence and are even more attenuated now, in view of the pandemic. First, there are no statistics or studies to support the assumption that reduced parking or more bus lines will make people use buses, walk or ride bicycles. Metro ridership has been steadily declining in all major cities where public transit measures were improved and transit-oriented development ("TOD") policies were introduced. (**Exh. 12** [article re Metro ridership in major cities].)[8] Second, the COVID-19 crisis revealed the flipside of the proposed mitigation measures: there is now a documented correlation between public transit and the spread of diseases, including life-threatening ones, such as COVID-19. (**Exh. 13** [NY articles and study by MIT].)[9] Many cities have acknowledged this threat. (**Exh. 14** [articles re Carson City's request to Metro to stop service; deaths of Metro employees, NY Post; Article re NY Mayor Admitting to Transit Danger].)[10]

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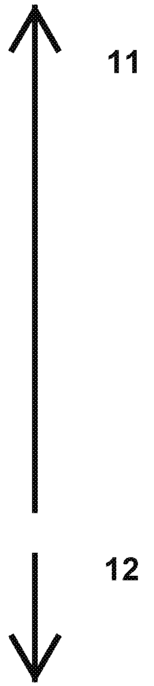
[8] See https://www.washingtonpost.com/local/trafficandcommuting/falling-transit-ridership-poses-an-emergency-for-cities-experts-fear/2018/03/20/ffb67c28-2865-11e8-874b-d517e912f125_story.html

[9] https://www.nytimes.com/2020/03/23/nyregion/coronavirus-nyc-crowds-density.html; https://nypost.com/2020/04/15/mit-study-subways-a-major-disseminator-of-coronavirus-in-nyc/; http://web.mit.edu/jeffrey/harris/HarrisJE_WP2_COVID19_NYC_24-Apr-2020.pdf

[10] See https://www.dailybreeze.com/2020/04/05/carson-calls-on-metro-to-stop-service-after-bus-driver-tests-positive-for-coronavirus/;



Third, the COVID-19 reality and the need for social distancing suggests that public reliance on and acceptance of public transit as a desirable and practical means of transportation will permanently change. (**Exh. 15** [article re potential permanent shifts; Federalist article re resilience; MTA cleaning protocol gaps].)[11] Dr. Anthony Fauci, Chief of Laboratory on Immunoregulation, opined that this pandemic may become seasonal.[12] (**Exh. 16** [article re Fauci statement re seasonal nature of virus].) Measures to make Metro ridership safe were not working as planned.[13] (**Exh. 17** [article re ineffective metro cleanups].) It is an absolute imperative – to avoid exposure to health and safety hazards from COVID-19 as well as other identified and *unidentified* viruses and bacteria – that people have a safer choice to get to their destinations rather than be forced to use mass transit, walk or ride a bike in crowded or dense places, especially on narrow sidewalks such as those that the Project proposes. (**Exh. 18** [density article].)[14]

Finally, the Project and EIR's assumptions that mass transit is indeed ecologically "green" in general is itself based on false or now infeasible assumptions.[15] (**Exh. 19**

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https://www.politico.com/states/new-york/albany/story/2020/04/22/with-death-toll-hitting-83-the-mta-contemplates-a-memorial-for-its-covid-fallen-1279032 ; https://nypost.com/2020/04/16/de-blasio-claims-he-said-early-on-to-avoid-nyc-mass-transit/

[11] See https://www.forbes.com/sites/rudysalo/2020/03/31/five-ways-covid-19-may-impact-the-future-of-infrastructure-and-transportation/ ; https://thefederalist.com/2020/04/22/how-public-transit-makes-the-nation-more-vulnerable-to-disasters-like-covid-19/ ; https://nypost.com/2020/05/04/mta-workers-cleaning-around-the-homeless-on-nyc-subways/

[12] https://www.businessinsider.com/fauci-coronavirus-is-likely-seasonal-after-global-outbreaks-2020-4

[13] https://thecity.nyc/2020/03/mta-bus-and-subway-pandemic-preparations-not-working-union.html

[14] See https://californiaglobe.com/section-2/coronavirus-spread-in-high-density-cities-halting-proposed-more-density-housing-measures/

[15] See the analysis of flawed assumptions behind allegedly "green" mass transit, as reported by Tom Rubin, the Controller-Treasurer of the Southern California Rapid

12

[article re analysis of bus transit].) Thus, pursuant to an analysis by Tom Rubin, author of numerous research reports on transit issues, the conclusion that mass transit is ecologically green was made based on the assumption of 70 people per bus and off the road. Even if this statistic were theoretically possible, the current rules of social distancing run counter to such crowded buses and will require more buses and more frequencies to accommodate the same 70-people/bus count. This will in turn amount to more GHG emissions and air pollution than assumed, and at the same time expose people to viruses.

13

In sum, COVID-19 demonstrated the dangers and health/safety hazards of mass transit or higher concentration of density at the Project site and radically affects the Project's baseline traffic and pedestrian safety assumptions and, derivatively, their impacts analyses and mitigation measures.

The DEIR and the Project's feasibility must be reevaluated in light of changed circumstances that have come about in the last approximately two months, including related to the EIR's now-demonstrably faulty assumptions and proposed transit-oriented mitigation measures for traffic and GHG impacts.

B. <u>The DEIR Lacks An Adequate Project Description.</u>

14

CEQA requires that the project description in the EIR be "accurate, stable and finite," to enable meaningful evaluation of Project impacts and informed decision-making and public comment as to Project impacts, mitigation, or approval in general. The DEIR leaves numerous Project elements – other than the sports arena itself – undefined and unspecified. For example, it does not specify the impacts or details about the hotel,[16] beyond mentioning that it will have up to 150 rooms; e.g., will it also have restaurants, bars, cafés, outdoor and indoor gathering areas and event space, pools, open to patrons or to the public in general?

Transit District from 1989 until 1993, who has written many research reports on transit issues. https://reason.org/commentary/does-bus-transit-reduce-greenhouse/

16 The Project's building of a hotel on the City lots acquired with the FAA is also illegal as violating the FAA grant conditions according to which no residential structure may be built on those lots. (**Exh. 20** [email confirming the hotel lots were purchased with FAA grant].) Hotels are treated as residential structures in Inglewood.

Further, as evidenced by the Applicant's May 7, 2020 (long after the March 24, 2020 closing of the public comment period) draft of the Sports and Entertainment Center ("SEC") "overlay zone" description, there are numerous land uses covered in the Project, yet not disclosed or evaluated in the DEIR.[17] (**Exh. 21** [Applicant's Overlay Zone draft].) The DEIR itself (at p. 2-89) failed to list the land uses in the overlay zone, beyond mentioning the height and setbacks and other *design* characteristics only.

15

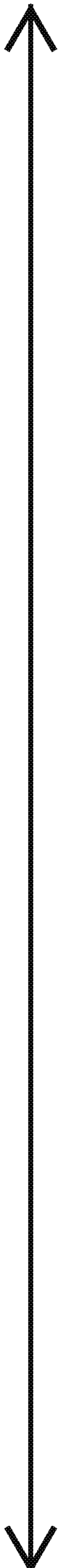
For example, per the Applicant's draft, the proposed SEC overlay zone will include "Other non-Arena uses that support the Arena and are located in the Event Center Structure," which suggest daily and potentially 24-hour activity (bars, restaurants), where:

> (C) "Event Center Supporting Structures and Uses" shall mean any of the following uses located within the boundaries of the SE Overlay Zone but not within the Event Center structure:
>
> (1) Retail uses, including, but not limited to, the sale or rental of products or services;
>
> (2) Dining uses, including **restaurants**, **bars**, **cafes**, **catering** services, and **outdoor eating** areas, including the sale of food and drink for consumption on-site or off-site **and the sale of alcoholic beverages for consumption onsite**;
>
> (3) Community-serving uses for cultural, exhibition, recreational, or social purposes." (Id. p. 2; emph. added.)

Further, the Overlay Zone contains events expressly held "outside" the Arena:

> "(D) "Infrastructure and Ancillary Structures and Uses" shall mean any uses or structures, temporary or permanent, that are accessory to, reasonably related to, or maintained in connection with the operation and conduct of an Event Center Structure and Use or Event Center Supporting Structure and Use, including, without limitation, open space and plazas,

[17] See the Applicant's proposed overlay zone description at http://ibecproject.com/IBECEIR_031906.pdf



> pedestrian walkways and bridges, transportation and circulation facilities, public or private parking facilities (surface, subsurface, or structured), signage, outdoor theaters, broadcast, filming, recording, transmission, production and communications facilities and equipment, and events **held outside of the Event Center Structure** that include, but are not limited to, sporting events, concerts, entertainment events, exhibitions, conventions, conferences, meetings, **banquets, civic and community events**, **social, recreation, or leisure events**, celebrations, and other similar events or activities." (Emph. added.)

The Overlay Zone also contains "any other" uses to be determined by the City:

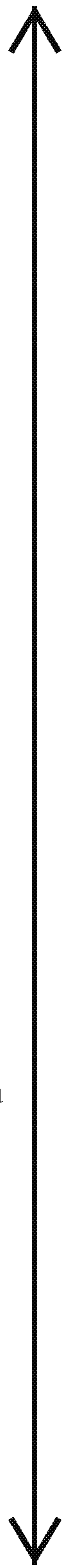
> "(E) "Sports and Entertainment Complex" shall mean a development that includes the following:
>
> (1) **Event Center** Structure and Uses;
>
> (2) Event Center Supporting Structures and Uses;
>
> (3) **Infrastructure and Ancillary Structures and Uses**; and
>
> (4) **Any other uses** that the Economic and Community Development Department Director ("Director") **determines** are similar, related, or accessory to the aforementioned uses." (Id. at p. 3, emph. added.)

These uses are all undefined and left to future identification. That is a wholesale violation of CEQA because this situation violates the required "accurate, stable and finite project description." These multiple and various uses, and their potential interaction with one another and other Project uses, have not been properly disclosed, analyzed or mitigated in the DEIR. They must be as part of a recirculated DEIR.

We emphasize, as the Court of Appeal recently held in Stopthemillenniumhollywood.com v. City of Los Angeles (2019) 39 Cal.App.5th 1, 16, where similar Design Guidelines were invalidated:

> "The requirement of an accurate, stable, and finite project description as the *sine qua non* of an informative and legally sufficient EIR has been reiterated in a number of cases since County of Inyo. (See, e.g., Treasure Island, supra, 227 Cal.App.4th at p. 1052, 174 Cal.Rptr.3d 363 ["This court is among the many which have recognized that a project description that gives conflicting signals to decision makers and the public about the nature and scope of the project is fundamentally inadequate and misleading"]; Communities for a Better Environment v. City of Richmond (2010) 184 Cal.App.4th 70, 85–89, 108 Cal.Rptr.3d 478 [EIR failed as an informal document because the project description was inconsistent and obscure as to the true purpose and scope of the project]; San Joaquin Raptor Rescue Center v. County of Merced (2007) 149 Cal.App.4th 645, 653, 57 Cal.Rptr.3d 663 [an EIR must include detail sufficient to enable those who did not participate in its preparation to understand and to consider 309 meaningfully the issues raised by the proposed project].)" Id. at 17.

> "'Only through an accurate view of the project may affected outsiders and public decision makers balance the proposal's benefit against its environmental costs, consider mitigation measures, assess the advantage of terminating the proposal . . . and weigh other alternatives in the balance.' [Citation.]" Id. at 18-19.

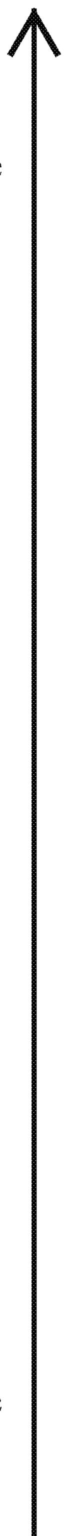


Finally, for the Applicability of the Overlay Zone, the Applicant's draft provides: "Except as otherwise provided in this Article and/or in the SEC Development Guidelines, the provisions of the Inglewood Municipal Code, Chapter 12, Planning and Zoning, shall apply. This Article and the **SEC Development Guidelines shall prevail** in the event of a conflict with other provisions of Chapter 12." (Id. at p. 4, emph. added.) Similarly, the draft provides: "(B) The SEC **Design Guidelines** establish specific design and review standards for the development of a Sports and Entertainment Complex within the SE Overlay Zone, including, without limitation**, standards for buildings and structures**, landscaping, signage, and lighting, and shall apply **in lieu of any** contrary provisions in the Inglewood Municipal Code, including without limitation the Site Plan Review process contained in Article 18.1 of this Chapter." (Id. at p. 7.) The draft also overrides setbacks, height and parking requirements in the Code, **provides for only the Planning Department Director's approval, i.e., with no further CEQA review,** and specifically states that any "lot line adjustments" will be "ministerial" actions; i.e., not subject to CEQA and public review.

This clearly runs afoul of CEQA. As recently explained in Stopthemillenniumhollywood.com, supra, at p. 14, where the Court of Appeal affirmed the trial court's invalidation of the project EIR and all project approvals there, under quite similar facts, including the power of the Planning Director to make future approvals with no further CEQA review:

> "Additionally, the trial court held that the conceptual approach used to define the project in this case impermissibly deferred a portion of the environmental impacts analysis. It noted that without knowing which of the project "concepts" would ultimately be built, the EIR could not (and did not) explain how the developers would avoid exceeding the maximum impacts when the project was finally designed and built. Moreover, the LUEP allowed Millennium to transfer or change uses within the project, and it allowed the planning director to approve a change request if the request demonstrated that it was consistent with the maximum allowable number of increased vehicle trips (trip captures) and did not exceed the maximum environmental impacts identified in the EIR. The trial court asked, "But how will the Planning Director make that determination for changing the Project and using what criteria?" It noted that since no additional CEQA review was required to ensure that Millennium was within maximum environmental standards, and no public input would be allowed, the final EIR essentially "defers the environmental assessment of the Project and ultimately fails to ensure that the finally designated Project will not be approved without all necessary mitigations of environmental harm.""

The Overlay Zone and the EIR do not pass CEQA muster regarding the critical and foundational accurate, stable and finite project description. As that fails, everything else fails with it. Accordingly, it is impossible to evaluate the Project's impacts – the whole of the action – in view of the ancillary uses, such as hotel, restaurants, cafes, retail uses, many of which are not currently identified or, apparently, even known. However, the gamut of potential uses suggests daily 24-hour activity, with the potential for generating much more traffic and/or activity and attendant impacts (noise, need for public services, such as police, utilities, GHG emissions) than discussed in the DEIR. The Project description is fatally flawed, and the FEIR and Project cannot be approved.



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C. Crenshaw Line Construction Delays and the DEIR's False Baseline Assumptions; the Project's Potential Inability to Meet the AB-987 Certification Threshold.

The DEIR is based on unrealistic baseline assumptions. Per the DEIR, the environmentally superior alternative is Alternative 3 for several reasons, one of which is the Project's proximity to Metro's Crenshaw Line and the provision of shuttle services from the respective stations to the Project site. (DEIR, pp. S-51-52; pdf. 71-72). For that purpose, the DEIR relies on the fact that the Crenshaw line – which will have 3 stations in Inglewood – is slated to start operation in 2019. (DEIR, p. 2-4; pdf. p. 144.)

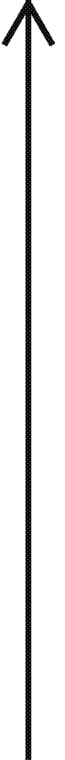
16

Yet, it was only after the DEIR comment period closed that Metro admitted that the Crenshaw line's construction will be delayed by 2 years, in view of recently discovered construction defects necessitating a redo; a planned grade separation will further delay that process. (**Exh. 22** [LA Times article re Crenshaw Line, April 10, 2020; Streetsblog article, May 20, 2020].)[18] Inglewood and the Project will be directly impacted by these delays. In turn, those dramatically changed circumstances that undermine the EIR's assumptions require recirculation of the DEIR. Based on the article, Mayor Butts did not respond with comment about these delays. Neither did Los Angeles Mayor Garcetti. (Id.)

Moreover, as cautioned by Metro in its DEIR comment to the City on March 24, 2020, the K-line (also known as Crenshaw Line) grade separation activities may coincide with construction of the IBEC Project and thereby present "operational limitations" by not being able to provide the level of service to the arena that is contemplated. (Metro Comment Letter, p. 3].) Metro's delays with the Crenshaw Line and grade separation activities by themselves will adversely impact the traffic in Inglewood.

The fact that Crenshaw Line construction, grade separation, and Project construction activities will coincide significantly also affects the DEIR's *cumulative* impacts analysis and adds more *construction* impacts than contemplated in the DEIR. Delays in construction activities translate into operational limitations (i.e., failure to serve the Project site as contemplated under AB 987 and the EIR). The cumulative operational and construction impacts, in turn, will result in more traffic, air pollution, and GHG

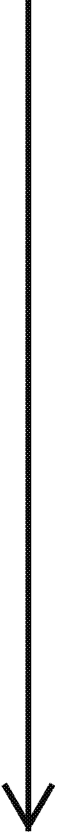
[18] See https://www.latimes.com/california/story/2020-04-10/metro-crenshaw-lax-line-opening-date-delayed; https://la.streetsblog.org/2020/05/20/metro-pursuing-disruptive-centinela-grade-separation-on-nearly-complete-crenshaw-line/



emissions than contemplated in the DEIR. All of this needs to be disclosed, analyzed and mitigated in a recirculated DEIR.

The DEIR needs to be amended to account for corrected baseline assumption changes, impacts and mitigation measures, and recirculated for comment to other public agencies like Metro, and the general public.

Further, with these delays in Crenshaw Line construction and grade separation activities causing service operational limitations, the Project ultimately fails to meet all of the threshold requirements in Pub. Res. Code §21168.6.8(a)(3), and particularly the requirement that the Project "(A) Receives a Leadership in Energy and Environmental Design (LEED) gold certification for new construction within one year of the completion of the first NBA season." (Id.) The delays identified above may affect the Project's ability to achieve the expected GHG and traffic reductions "within one year of the completion of the first NBA season." Thus, the Project does not meet the definition of the ELDP project in Pub. Res. Code § 21168.6.8 and does not qualify for a certification as such.



D. The Citywide Parking Amendments in the Ordinance Exceed the Scope of the Project Analyzed in the DEIR.

This section is also based on *new information* released by the City after the release of the DEIR and not reasonably known during the public comment period, i.e., the City Council's approval and signing of the Settlement Agreement with MSG Forum, Murphy's Bowl, LLC, and others on March 24, 2020. Pub. Res. Code §§ 21189.55(d)(2) and (5).

Although the DEIR went to great lengths to document the existing parking regulations in the Inglewood Municipal Code and the proposed transportation management features, it failed to mention that the Project would be accompanied by a highly-impactful stealth ordinance allowing *any* parking facility Citywide to be used for parking for the proposed Sports and Entertainment Complex.[19] **(Exh. 21,** pdf. p. 14

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[19] The proposed Ordinance is also unconstitutionally vague because it fails to give a reasonable person notice of what is prohibited. Under what circumstances is parking provided "for" the SEC? A few hours prior to major events, or all day even for minor events, guests and employees? What percent of parking guests must be visiting the SEC? Does proximity matter? Can a nonconforming parking lot on the other side of the City remain open every day claiming to be "for" the SEC?

[Overlay Zone, Section 6]; see also **Exh. 23** [Citywide Permit Parking Ordinance].) The ordinance is undeniably part of the Project – not a related project, and not a stand-alone ordinance – because it is literally inoperable without the Project: without an approved Sports and Entertainment Complex, an ordinance allowing parking Citywide for the Sports and Entertainment Complex has no independent utility. Yet not one word about this seismic regulatory change appears in the Project Description or anywhere in the DEIR.

17

The proposed changes to Citywide parking regulations not only renders the Project description fundamentally incomplete, it also undermines the environmental analysis throughout the DEIR. Currently, Inglewood Municipal Code Section 3-63 permits parking facilities to serve as public off-street parking upon issuance of a permit by the Permits and Licenses Committee. Such permits may only be issued when required to reduce traffic hazards – a high standard that would likely apply only during the largest events. The proposed ordinance permits *any* lot to be used for public parking, Citywide, regardless of whether such parking lots are necessary to reduce traffic hazards. The proposed Ordinance radically expands the expected impacts of the Project. This failure also infected traffic and air quality analyses by failing to account for longer exposure to intrusion of traffic in residential neighborhoods. This further inadequate Project description deprived the public and other agencies of the opportunity to fully understand the Project's impacts. A recirculated DEIR should issue.

E. Illegal Precommitment.

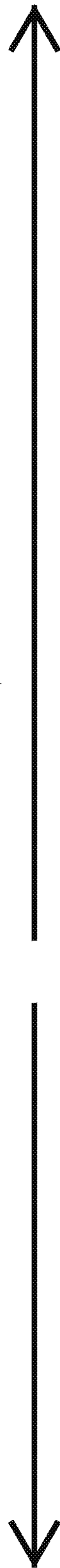
This section is also based on *new information* released by the City after the release of the DEIR and not reasonably known during the public comment period, i.e., the City Council's approval and signing of a settlement agreement with MSG Forum, Murphy's Bowl, LLC, and others on March 24, 2020. Pub. Res. Code §§ 21189.55(d)(2) and (5).

18

Despite the City's duty to independently make CEQA findings prior to any certification of the EIR as complete and prior to Project approval, the City's pre- and post-public review period demonstrate that the City and City Council/Mayor have precommitted to approving the Project, including on March 24, 2020 by signing a settlement agreement to dispose of MSG, the Forum, and IRATE's environmental and other challenges to the Project. (**Exh. 24** [article about Mayor signing the settlement agreement].)

> "The Inglewood City Council approved the settlement at its meeting Tuesday. Butts, smiling ear to ear, **paused the agenda** so he **could**

> **sign** the document immediately. A **copy of the agreement was not available** Tuesday. (Id.; emph. added.)



18

This occurred after the City Council and the Mayor had a closed-door session related to four pending lawsuits involving the same parties as in the settlement agreement. The meeting – with its open and closed sessions – was in violation of the Brown Act. (**Exh. 1** [Cure and Correct letter, April 23, 2020].)[20] The City's responses to our Cure and Correct – mailed on May 4, 2020 and May 5, 2020 – confirmed: (1) in closed session on March 24, 2020, City Council "unanimously authorized" the settlement agreement between the parties in all four lawsuits; (2) the City Council did not report taking this action in closed session, claiming that the action was not yet final; (3) Mayor Butts signed two other agreements related to the IBEC Project during the open session. (**Exh. 25** [City responses].) The settlement agreement "authorized" by the City Council behind closed doors allowed it to end all then-outstanding CPRAs and all claims and cases against Murphy's Bowl, the City, and Mayor Butts. The tri-party agreement, in turn, made sure that the Petitioners in all four actions were unable to submit comments on the Project any time thereafter: Petitioners would not be able to submit comments during the "standoff" period of escrow while MSG transferred title to the Forum to Murphy's Bowl, and would not be able to submit comments through third parties thereafter. Mayor Butts signed the tri-party agreement condoning those arrangements, which effectively ended those parties' prior CEQA claims, and foreclosed future CEQA and other claims by them.

19

The pre-DEIR administrative process was marred by the City's actions with the Court found that the Mayor misrepresented to MSG Forum the future development of the Project site. Although the litigation was against the Mayor, it was further reported that the Councilmembers supported the Mayor and condoned his actions. (**Exh. 26** [Dailybreeze article re Mayor may be personally liable].)

Brining it full circle, on March 24, 2020, the City's decision-making body again confirmed its precommitment to the Project by signing the settlement and tri-party agreement. Since the settlement/tri-party agreement(s) was/were not produced at the hearing, the public could not evaluate its terms or the import of those on the environmental issues under consideration as part of the EIR process.

The lead agency pre-commits to the project where it "'contracted away its power to consider the full range of alternatives and mitigation measures required by CEQA' and

[20] See http://ibecproject.com/IBECEIR_030991.pdf

had precluded consideration of a 'no project' option. (Citizens for Responsible Government, supra, 56 Cal.App.4th at pp. 1221–1222, 66 Cal.Rptr.2d 102.) 'Indeed, the purpose of a development agreement is to provide developers with an assurance that they can complete the project. After entering into the development agreement with [the developer], the City is not free to reconsider the wisdom of the project in light of environmental effects." (Id. at p. 1223, 66 Cal.Rptr.2d 102.)." Save Tara v. City of West Hollywood (2008) 45 Cal.4th 116, 138.

19

The City of Inglewood is listed as the Lead Agency to certify the Final EIR for the Project, without which the Project may not move forward. The lead agency must make its independent review of the EIR findings before certifying it. The Mayor's comments in the open session preceded by a closed door session on the same issue, the adoption/signing of the settlement agreement coupled with the inadequate agenda description and failure to produce the settlement agreement prior or during the public hearing for public review and comment – all suggest that the City again precommitted to the Project, and the Council/Mayor will not be able to make independent findings on the EIR, as required by CEQA, or to select an alternative or to reject the Project.

F. New Comments by Impacted Public Agencies Reveal New Unidentified and Unmitigated Impacts, Mandating Supplementation/Recirculation.

20

This section is based on the new information (comments of public agencies) released to the public on the City's administrative record website *after* the release of the DEIR and not reasonably known to the public. Pub. Res. Code § 21189.55(d)(4)-(5).

The Project's plans for increased use of mass transit and alternative modes of transportation were the major feature and baseline assumption to support AB 987 certification and the finding of net zero greenhouse gas (GHG) emissions. The DEIR similarly relies on the same assumptions. However, as evidenced by comment letters from various public agencies, those assumptions are neither enforceable nor realistic and the DEIR and FEIR fail either to identify or mitigate various impacts. Specifically:

21

1. Caltrans Comment and Request for More Mitigation Measures.

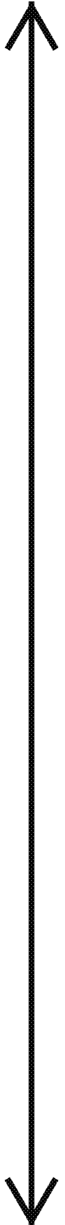
Caltrans is listed as a responsible agency[21] for the Project in the DEIR (DEIR, at p. 1-8 and 2-90).

[21] We also object that the City, as now definitively shown in the post-March 24, 2020 release of the proposed FEIR, has failed to comply with all of Caltrans' original

Based on Caltrans' comments sent on March 24, 2020 and seen after the public review period closed, Caltrans identified significant impacts and proposed additional mitigation measures, which is new information that the public did not or could not reasonably know (**Exh. 27** [Caltrans, March 24, 2020].)[22] In particular, Caltrans stated (in italics):

- *"The Daytime and Major Events at the proposed project arena **would cause significant impacts on State facilities, specifically 1-405**, under cumulative conditions. Given that this proposed project would result in **significant State facility usage**, it is recommended that the developer work closely with Caltrans to identify and implement operational improvements along 1-405. Such traffic management system improvements could include, but are not limited to, the following: Active Traffic Management (ATM) and Corridor Management **(CM)** Strategies such as queue warning, speed harmonization, traveler information; Transportation Management System (TMS) elements such as closed circuit television cameras (CCTV), changeable message signs (CMS), etc.*

  *To **mitigate the potential impacts on the 1-405, we recommend** that the project's developer work with Caltrans early on developing a **fair share mitigation agreement towards** a proposed project that involves **adding** the aforementioned improvements to the 1-405 within the project's vicinity."* (Id. p. 2, emph. added.)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Caltrans' comment identified non-mitigated significant impacts on the I-405, which means that the Project may cause significant traffic on the freeway; this in turn affects the GHG emissions and impacts analysis. Slowed traffic results in increased *time*

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study directions to the City for inclusion in the EIR. This is another failure to proceed by the City in the manner required by law. This objection also applies to the City and the FEIR's disregard of the comments and study directions provided by other responsible agencies like Los Angeles County Metro.

[22] http://ibecproject.com/IBECEIR_030279.pdf

21

for cars on the road, *more* cars on the road at the same time, and more GHG emissions. It follows that both the AB-987 and CARB approval and the DEIR use the wrong baseline of calculating GHG emissions based on the freeway speed of 65 mph instead of slower speeds, more cars, and more GHG emissions.

Second, Caltrans' proposal that the Developer work with Caltrans to develop a fair share mitigation agreement shows there is presently no enforceable agreement and by inference no enforceable mitigation at this time. This lack of enforceable agreement runs counter to CEQA's mandate that mitigation measures be fully enforceable. Pub. Res. Code § 21081.6(a)-(b), Guidelines, § 15126.4(a)(2).

22

- "*Per Table K.2-T, K.2-U, K.2-V, K.2-W, and K.2-X, Northbound (NB) and Southbound (SB) 1-405 mainline segments will have* ***direct significant impact(s)*** *due to* ***weaving/merging operation. Please identify the mitigation measures****, if any.*" (Id. at p. 2; emph. added.)

Caltrans' comment above indicates significant direct impacts for which the DEIR identified no mitigation measures. As to the requirement to both identify impacts and mitigation measures, as well as mitigate and/or prevent impacts under Guidelines § 15002(a) in the DEIR, the City failed, rendering the DEIR incomplete and precluding informed public comment or decisionmaking.

- "*Mitigation measure 3.14-3(c) includes restriping the center lane on the 1-405 NB Off-Ramp at West Century Boulevard to permit both left and right-turn movements. Caltrans anticipates that* ***the conversion of the middle lane to a shared lane will result in queue for the left turn traffic****. Please provide further explanation* ***to justify*** *that the mitigation measure at the 1-405 NB off-ramp at West Century Boulevard will not lead to* ***significant impacts.***

  If necessary, ***widening of the off-ramp*** *to add another right turn lane would be considered as a viable mitigation alternative. Please note that* ***ICE screening is required*** *if intersection modification is proposed.*" (Id.; emph. added.)

Caltrans' comment identifies potential significant impacts from the proposed conversion of the middle lane to a shared lane. This potential impact was not identified

for the public to comment on. Moreover, the comment proposes *widening of the off-ramp,* which will require Intersection Control Evaluation ("ICE") screening for the intersection modification. The DEIR failed to provide the requested information, precluding informed public comment and decisionmaking.

22

- "*According to the DEIR the following intersections have "Significant Impacts" under one or more scenarios. Please provide more details regarding* ***what mitigation measures*** *were proposed for these intersections and* ***why they were not feasible for this proposed project.***

  If no mitigation measures have been identified, Caltrans is able to help the developer identify any viable mitigation measures at the following locations for the proposed project:

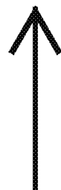
  o Eastbound (EB) 1-105 on-ramp from Imperial Highway
  o EB 1-105 on/off-ramps from 120th Street
  o Westbound (WB) 1-105 off-ramp to Hawthorne Boulevard." (Id.; emph. added.)

Caltrans' comment above shows that the City and the DEIR failed to identify ***all feasible*** mitigation measures, which in turn means that the DEIR is incomplete and the Project *may not* be approved with the Statement of Overriding Consideration pursuant to Pub. Res. Code § 21002. The Agency must work with Caltrans, perform all studies and use all methodologies directed by Caltrans, add mitigation measures that Caltrans suggests, and then recirculate the DEIR so the public may comment on those, as required by CEQA. There are at least three locations where, per Caltrans, mitigation measures are feasible and failure to incorporate those will affect the environment.

23

- "*As a reminder,* ***Caltrans requires*** *the Intersection Control Evaluation (ICE) Step One screening to be conducted as per the guidelines set forth in the Caltrans ICE Process Informational Guide for Traffic Operations Policy Directive 13-02 - Please perform Intersection Control Evaluation (ICE TOPD) at the* ***following locations.***

  o WB 1-105 off-ramp approach to South Prairie Avenue
  o WB 1-105 off-ramp to Crenshaw Boulevard." (Id. pp. 2-3.)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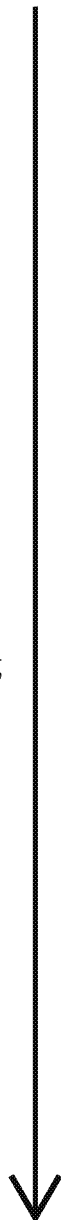
The comment shows that no ICE screening as to the viability of the intersection modifications occurred, which further shows that the DEIR's proposed mitigation measures have not been validated and shown to be enforceable as required by CEQA.

2. Metro Comment and EIR's False Baseline Assumptions.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On March 24, 2020, another responsible agency, Los Angeles County Metro, sent its own comments on the DEIR, which revealed new information. (**Exh. 28** [Metro's comment, March 24, 2020].)[23] The Comment raised numerous discrepancies in the DEIR, affecting the baseline and requiring new mitigation measures. Although Metro's focus in the comment letter was to eliminate discrepancies and seek cooperation with the Applicant/City to resolve those, Metro's comments provide substantial evidence of a host of environmental impacts that were not disclosed and not mitigated. In particular, Metro notes (in italics):

- "*Page 3.14-47, "Fixed-Route Bus Service": The narrative describes scheduling shakeups as occurring in December and July of each year. This should be corrected to* ***December and June*** *(not July). Also,* ***shakeups include both minor and major changes (not just minor*** *as the narrative describes*)." (Id. at p. 2; emph. added.)

"Major changes" and shakeups in "December and June" of each year in scheduling is substantial evidence of unstudied potentially significant impacts, contrary to the City's narrative. December is a busy month, in view of the holiday season accompanied by concerts and events. Major shakeups during two months vastly affect the baseline assumption in the Project regarding possibilities to coordinate events and transit services, themselves highly vague and imprecise "mitigation measures."

- "*Page 3.14-53, "Adjusted Baseline Transit Assumptions": The narrative describes rail operating plan C-3 that was adopted by the Metro Board of Directors (Metro Board) as being a two year service plan; however, the Metro Board motion indicates the proscribed [sic.] period is* ***only one year (not two).***" (Id. [Metro comment, p. 2].)

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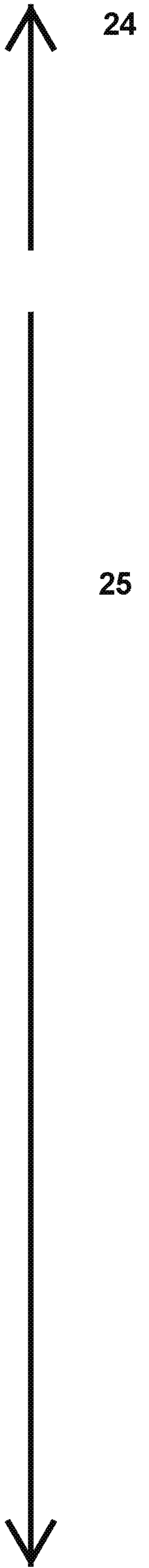
[23] http://ibecproject.com/IBECEIR_030294.pdf

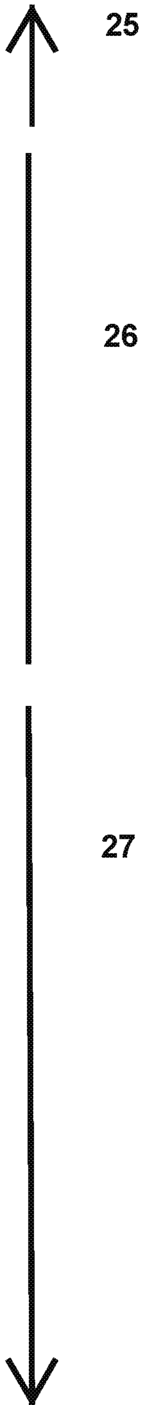


The fact that the adopted rail operating plan C-3 is for one year, not two, is substantial evidence of the remaining one-year impacts that were overlooked in the DEIR and improperly deemed as mitigated.

- *Page 3.14-130, "Transit System Evaluation": Metro C Line trains are typically two-car trains; however,* ***service is shifted to one-car or two-car trains starting in the 9 PM hour each night on weekdays****. The calculations of* ***train capacity*** *in Table 3.14-36 do not reflect* ***this reduction for weekday night post-event time periods.*** *Also, existing C Line schedules provide three trains an hour after 7 PM (one train every 20 minutes in each direction).* ***During weekends****, the C Line operates every 15 minutes with two-car trains* ***during the day****, and* ***every 20 minutes*** *with* ***one-car or two-car trains in the evenings****. C Line service and headways may or may not change once the K Line opens. Depending on resource availability such as rail cars, train operators, and budget, Metro Rail Operations may be able to keep two-car trains in service later than the 9 PM hour to accommodate post-event demand.*

  "Also, please note that the ***K Line*** *is being designed to provide service* ***with three-car trains. However****, platform lengths on segments of the existing C Line can* ***only*** *accommodate* ***two-car train service****. Metro is* ***seeking grant funding*** *from the State of California to extend platforms at four C Line stations. However, in the event that such grant funding is* ***not secured****,* ***trains may be limited to two-car service which would limit their carrying capacity for events at the Project site****."* (Id. at p. 2; emph. added.)

These passages are substantial evidence that the DEIR **inflated the baseline** by presenting more services and train capacity than realistically exists and therefore understated the Project impacts. It is also important to note that most if not all events occur in the *evenings* and on the *weekends*. A new DEIR should both correct the proper



information and analyze, quantify, and mitigate the impacts of such reduced services and capacity.[24]

- "*While funding and tentative construction timelines [of **grade separation project** for the K Line at the Centinela/Florence intersection] have not yet been identified by the Board for this project, the City and Applicant should be advised that **construction of this project** may **coincide with construction** of the Inglewood Basketball and Entertainment Center. For the duration of the grade separation construction, the K Line could have **operational limitations** and therefore **may not provide the same level of service to the arena and other venues** in the vicinity temporarily.*" (Id. at p. 3.)

Consistent with Metro's comment, the City must disclose/mitigate this operational limitation in the DEIR and the cumulative impacts of parallel construction.

- "*Shuttle Service provision: The EIR should describe/confirm, in the Project Description section and/or the Transportation and Circulation section:*

  *a) whether the **shuttles** will be a **private bus service**, funded and/or provided by the Applicant, or a **municipal/public-provided** service;*

  *b) the **frequency** of shuttles (headways) proposed for event days;*

  *c) whether **fares** for the shuttle will be free, paid, or TAP-card enabled.*

  *Shuttle **service hours** and **augmenting staff** (law enforcement, traffic officers and general support) pre- and post-event should be extended on days with*

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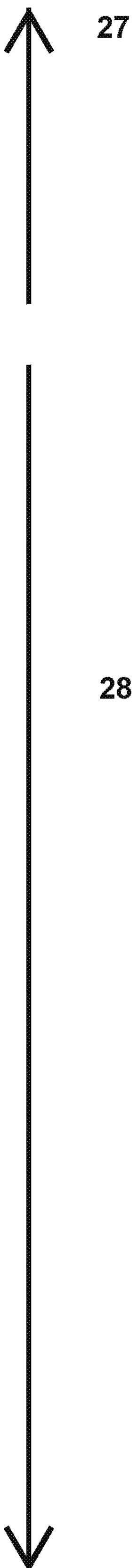
[24] We also note as a general objection applicable throughout this letter that the City may not, for the first time in an FEIR, introduce substantial new information or changed data that should have first been part of the DEIR. Any attempt to cure the deficiencies noted herein, and as noted by other commenters, in the FEIR will be a further violation of CEQA.



> *concurrent events at the Forum or SoFi Stadium to assist with excessive pedestrian and vehicle traffic.*" (Id. at p. 4; emph. added.)

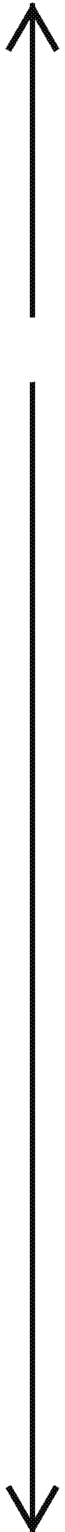
Similar to the above comment, the City must disclose the requested information and address all impacts, rather than leave those issues vague and defer mitigation.

- "*Curb space: **Adequate curb space and/or bus berths** should be allocated and designated for shuttle bus stops at each of the rail stations to be serviced. This is necessary to ensure **safe and efficient** service by shuttle buses and regular Metro Bus and Rail operations, as well as overall vehicular circulation. Metro has completed the Metro Transfers Design Guide, a best practices document on transit improvements. This can be accessed online at https:www.metro.net/projects/systemwidedesign.*

  *Street Closures. Pre- and post-event planning may or may not require **street closures and/or queuing of event** attendees on the sidewalk (i.e., public right-of-way) to uniformly control crowds. The City and Applicant should coordinate with transportation and public works staff of local jurisdictions where the shuttle services is anticipated to connect to Metro rail stations within and outside the City of Inglewood (e.g. City of Hawthorne, City of Los Angeles, County of Los Angeles) to identify needs for allocation of curb space and sidewalks.*

  *Staff Support **Additional traffic officers** and **law enforcement support** should be provided by the Applicant at transfer locations between rail and the shuttle service (at street level, not Metro property) to **mitigate pedestrian and vehicle conflicts** at intersections and sidewalks on the day of the event.*" (Id. at p. 5; emph. added.)

The above-noted omissions in the DEIR (adequate curb space, street closures, and more traffic officers and law enforcement officers) were not addressed in the DEIR and their impacts have not been considered. For example, if street widening is required then – as a domino effect – the Project's design and size will have to change. Street closures



mean more traffic spill-over to adjacent streets, and additional traffic officers suggest slower traffic. Slower traffic contributes to more cars on the road and more GHG emissions, not identified/mitigated in the EIR process.

The DEIR must be supplemented with the above noted information and recirculated to the public and public agencies for review and comments.

3. Los Angeles Department of Transportation Comment re Incorrect Baseline.

LADOT comment reveals several flaws and omissions in the DEIR which need to be corrected and addressed, to comply with CEQA. In particular, LADOT wrote:

- *"[T]he project analysis has been executed using an "**adjusted baseline**" calculation to establish the "**existing**" **traffic conditions** level against which to determine Project activity traffic increases. While LADOT agrees with this analytical approach, it should be noted that **the "adjusted" traffic activity** attributable to the HPSP **is additional traffic**, that in-and of itself, will contribute significant traffic activity increases to City of Los Angeles intersections while also creating elevated baseline traffic conditions for the proposed project. Therefore, although the IBEC project is being analyzed separately from the HPSP, there is clearly a need to ensure comprehensive coordination between the two projects, particularly in regard to stadium events. In order to provide comprehensive mitigation and ongoing collaboration, a cooperative mitigation program for both projects should be considered."* (**Exh. 29**, p. 2, emph. added. [LADOT Letter].)[25]

First, even though "LADOT agrees" with the DEIR's use of the "adjusted baseline" or elevated baseline of existing traffic conditions in view of the NFL stadium slated to complete construction in 2021, such baseline calculation violates CEQA. CEQA generally requires the baseline to reflect the "existing conditions" at the time the "Notice of Preparation" is published. Guidelines § 15125(a)(1). The requirement is to

[25] See http://ibecproject.com/IBECEIR_030295.pdf

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ensure that the impacts of the Project are considered at the *earliest* possible time.[26] The Notice of Preparation for the Project was published on February 20, 2018. Therefore, the EIR's use of an adjusted baseline of 2021 was an error as a matter of law, as it artificially inflated the baseline and understated the impacts. Put differently, the cumulative impacts of the Clippers Project *together with* the NFL project were not analyzed in the NFL project and evaded review in the IBEC DEIR – exactly what CEQA prohibits. POET, LLC v. State Air Resources Bd. (2017) 12 Cal.App.5th 52, 83.

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Second, even LADOT acknowledges the practical effect of the Project DEIR's analysis, which understated the cumulative "additional traffic" of the IBEC Project together with the NFL stadium and requires coordination of events. Even if MSG Forum and Clippers have agreed to coordinate their events for a "$400 million" settlement, there is no such agreement between the NFL and IBEC projects. For this additional reason, the Project DEIR is incomplete and flawed, requiring use of a corrected baseline and reevaluation and mitigation of understated impacts.

- LADOT's comment re "Traffic Mitigation" requests *mandatory* language to be added in the proposed mitigation measures to "deploy officers" to help with queuing conditions on streets, and requires collaboration with LADOT to secure approvals for the mitigation measures (removal of "*median islands*"). (**Exh. 29**, p. 2 [LADOT Comment].)

The noted recommendations suggest that there is no mandatory enforceable collaboration between LADOT and the Applicant, and that the DEIR improperly deferred mitigation measures for no acceptable reason under Guidelines § 15126.4(a)(1)(B). The improper deferral violated CEQA.

- In its Comment 5 re Traffic Mitigation, LADOT identifies another omission in the DEIR: "*The Project does not identify specific measures to address* ***the potential impact to key City of Los Angeles corridors*** *leading into the project. Therefore, it is imperative that* ***further collaboration on this issue*** *be afforded in order to fully explore potential mitigation. The discussion of this mitigation should also include direction to*

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26 Even though the Project *aims* for traffic reduction, there is no substantial evidence in the record that such traffic reduction is plausible. Public comments from the transit-regulating agencies have identified many omissions and flaws in those assumptions.

> *determine an appropriate agreement instrument in order ensure appropriate funding for any necessary event-day resources.*" (Id. at p. 3 [LADOT Comment].) The Comment also underscores deferred mitigation measure and the lack of any specific commitment or financial arrangement to resolve the problem. The DEIR's deferred mitigation violates CEQA.

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These defects render the DEIR invalid and require correction to the baseline assumptions, supplementation of the missing information, incorporation of enforceable mitigation measures, and recirculation of a correct DEIR for public review and comment.

4. LA Public Works Comment re Omitted Impacts/Mitigation and Methane Hazards.

"Good faith effort at full disclosure" is a key mandate in CEQA. Guidelines § 15151. LA Public Works' comment, which was "received" by the City on March 24, 2020, identified several instances where the Project DEIR failed in the required good faith full disclosure, thereby making it incomplete. LA Public Words wrote:

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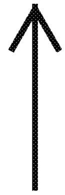
> "*A. The DEIR should* ***disclose*** *the following County* ***proposed traffic enhancements*** *in Westmont-West Athens:*
>
> - *The leading* ***pedestrian intervals*** *at the intersections of Century/Van Ness and Normandie/Century.*
> - ***Curb extensions*** *at Century Boulevard/Gramercy Place (Intersection #51) at the southeast and northeast comers. Note that although these curb extensions will not impede right-turning vehicles, please include a comment to the consultant to* ***ensure that defacto right turn lanes were not assumed*** *at this intersection in their line-of-sight calculations.*" (**Exh. 30**, p. 2 [Public Works Letter]; emph. added.)[27]

LA Public Works' comment requests disclosure and assurance that the DEIR is not based on an incorrect baseline. It fully questions the validity of the DEIR's

[27] See http://ibecproject.com/IBECEIR_030282.pdf



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calculations, which questioning has not been properly or adequately addressed in the FEIR.

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> "*B. The DEIR should disclose the following potential County traffic enhancements in Lennox:*
>
> - *The leading pedestrian intervals at the intersections of Lennox/Inglewood, Lennox/Hawthorne, 111th/Hawthorne, Lennox/Freeman, 104th/Inglewood, and 104th/Hawthorne.*" (Id. at p. 2 [Public Works Letter]; emph. added.)

The comment identifies another traffic impact that was not disclosed in the EIR. Any traffic enhancement may have its own impacts and needs respective disclosure and mitigation in the DEIR. This again shows the proposed FEIR to be legally deficient.

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> - "*SB 1383, which requires a 50 percent reduction in anthropogenic black carbon and a 40 percent reduction in hydrofluorocarbon and methane emissions below 2013 levels by 2030, where methane emission reduction goals include a 75 percent reduction in the level of statewide disposal of organic waste from 2014 levels by 2025* . . . " (Id. at p. 2; emph. orig. [Public Works Letter]).

The comment above regarding methane underscores the DEIR's lack of methane hazards disclosure. The Project EIR vaguely provides:

> "As indicated previously, the Project Site is not located within the immediate vicinity of an active or abandoned oil well. The closest known oil production well is located approximately 1,200 feet northeast of the Project Site and is categorized as "idle."
>
> "Methane (CH4) is a naturally occurring colorless gas associated with the decomposition of organic materials. In high-enough concentrations, methane can be considered an explosion hazard. According to the Los Angeles County Department of Public Works Solid Waste Information Management System, the Project Site or its elements are not within 300 feet of an oil or gas well or 1,000 feet of a methane producing site. As such, the potential for explosive

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> methane gases impacting the Project Site is low." (DEIR, pdf p. 541.)

The statement in the EIR is inaccurate. Based on information from DOGGR, there is an oil well API: 0403720016 as close as 449.6 ft. from the Project site; the oil well was reabandoned in 2016. (**Exh. 31** [oil well next to project site].)[28] This is apart from the *idle* oil well indicated in the DEIR. Moreover, the DEIR does not explain what "idle" means and suggests that it is somehow harmless, where in fact idle wells present more risks than properly abandoned ones. (**Exh. 33** [idle wells are a major risk].)[29]

Finally, the DEIR comment is non-specific as to whether any of the Project's proposed 28-acre site is located within a methane zone. (DEIR, pdf p. 491, 541.)

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The fact that the LA Public Works' comment requires the DEIR to mention methane reduction goals of 75% and that the DEIR inaccurately and vaguely presents methane hazards and the adjacent oil well near the Project site allow the DEIR to skirt analysis of oil well/methane combination hazards near the Project site. This is a failure to provide necessary information for informed decision making by the lead agency and the public, as well as other public agencies. It is known that methane being a light explosive gas seeks "preferential pathways" to reach the surface and is therefore more dangerous in the vicinity of oil wells providing such openings and conduits. (**Exh. 34**, [Lorena Plaza Project MND excerpt].)

Thus, while the DEIR denies that the Project is within 300 feet of an oil well or 1,000 feet of a methane producing site, it does not conclusively establish lack of methane hazards, especially where the DEIR inaccurately presents the closest known oil well to be 1,200 feet away. The DEIR presents incomplete and raw data and does not provide the analytic path traveling from those raw facts to the conclusion of low impacts. The EIR fails to provide substantial evidence on a critical safety issue of methane gas and methane explosion, while proposing to attract tens of thousands of people to the area.

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[28] Based on MSG Forum's unsealed court documents lawsuits, the City (Mayor Butts) and Clippers contemplated the IBEC Project in 2016. See (**Exh. 32** [Clippers' City's 2016 Concealment Efforts].) https://therealdeal.com/la/2019/02/26/l-a-clippers-city-worried-msg-would-learn-of-inglewood-arena-plans/

[29] https://www.fractracker.org/2019/04/idle-wells-are-a-major-risk/

- "*Clarify the type of* ***pedestrian flow management*** *that will be used. The document should note the type of proposed management, particularly in the southwest comer of the proposed project site.*" (**Exh. 30**, p. 3 [Public Works Comment, 3-24-20]).

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The comment reveals another significant omission in the DEIR related to transportation and circulation. That is that the Project won AB 987 certification primarily for its claim to be able to reduce GHG emissions through alternative modes of transportation, including walking and biking. Therefore, the DEIR's failure to regulate the pedestrian flows – for a Project that can accommodate 18,000-20,000[30] attendees at a time for the events and includes other amenities, such as a sports clinic, with their own flow of visitors – cannot omit disclosure and analysis of this critical pedestrian flow management issue. This concern was raised *inter alia* in Culver City's April 1, 2020 comment about narrow sidewalks. (See Sec. VI.F(5), infra [Culver City comment].)

Moreover, the more pedestrians that are crossing the streets and the less such flows are managed, the slower the traffic on the streets will become. The more pedestrians are on the streets, the more red light signals will be triggered to halt traffic. These impacts will be further aggravated in view of potential similar large events at the nearby Forum and NFL arenas.

- "*The DEIR only considers line of* ***sight E or F results as significant****; however,* ***multiple County intersections have significant impacts*** *at* ***LOS D, C,*** *etc, thresholds. Please include/denote these as significant impacts as well and then address them in the mitigation section.*

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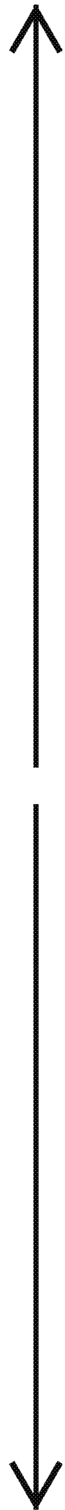
[30] Even though both the DEIR and the AB 987 certification project application have been consistently speaking about an 18,000-seat arena, the City's latest communications *after the DEIR public comment period closed* have been noting 18,000-20,000 seats. (**Exh. 35** [real estate appraisal item in City Council agenda packet, May 5, 2020].) This reveals another instance of filing to have an "accurate, stable and finite project description," and perhaps more importantly, reveals an undercounting and artificial diminishing of the Project's true magnitude and impacts. Based on this changed attendance/capacity figure, the entire DEIR should be recirculated and all measurements and metrics reanalyzed to account for this greater than 10% increase.

- *Please* ***use the enclosed ICU methodology*** *for all signalized intersections and unsignalized intersections within or shared with the County.*

- ***Address mitigations*** *for each County-impacted intersection.*

- *Provide an* ***event management plan to Public Works for review***" (Id. at p. 4 [Public Works Letter]).

The comment identifies a flaw and error in the DEIR's methodology, requiring it to identify *more intersections* as significantly impacted and to mitigate that impact. As stated in OPR's letter to the City dated December 4, 2019, "According to AB 987, the project's Travel Demand Management (TDM) program must achieve trip reduction of 15 percent by January 1, 2030 and 7.5 percent by the end of the first NBA season. The TDM program is required to include specific measures, as listed in the statute." (**Exh. 36** [travel efficiency comment from OPR, December 4, 2019].)



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The omissions noted in the Public Works comment on the DEIR establish that the findings of the DEIR, also relied upon in the AB 987 certification – which requires achieving 15% reductions in traffic and 50% reduction of GHG impacts – are not supported by substantial evidence. In the words of California legislators about this very Project:

> "To mitigate this **artificially low** estimate of net GHG emissions, the applicant proposes the **Transportation Demand Management** (TDM) program/targets (47-48% of total) and 50% of the reductions attributable to the LEED Gold certification (2.5% of total), both required by the bill. They **claim** this gets to 49.5-50.1 % of required reductions, conveniently achieving AB 987's local GHG mitigation floor of 50%. By **lowballing** net GHG emissions, the applicant **circumvents** the need to make any of the local GHG mitigation investments, and associated community benefits, touted when the bill was before the Legislature." (**Exh. 11,** at p. 420 [AB 987, California Legislators, June 28, 2019].)[31]

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[31] See http://opr.ca.gov/ceqa/docs/ab900/20190628-IBEC.pdf

The City must supplement/correct the information in the DEIR and recirculate the updated DEIR for public review and comment.

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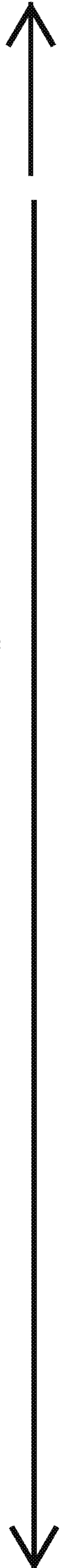

5. Culver City Comment About Sidewalk Width, Need for Bike Lanes, and Defined Transportation Management.

Culver City, which had requested several extensions of the public comment period to accommodate for COVID-19 constraints, submitted its comments on April 1, 2020. We could not have seen those comments prior to March 23, 2020. Culver City is adjacent to Inglewood, and will be immediately and negatively impacted by the proposed Project.

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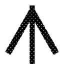
The comment raises the issue of the width of the sidewalks and the need for bike lanes to accommodate the Project's claimed pedestrian/bike flows. Since traffic and the noted alternative modes of transportation are directly associated with GHG emissions, the comment presents new information and proposes new mitigation measures, signaling more impacts than those disclosed. In particular, Culver City stated:

- *Chapter 3.14 page 50. Pedestrian Network.* It is unclear based on the description how wide different sections of the sidewalks are along South Prairie Avenue and West Century Boulevard. Immediately adjacent to the project site, along South Prairie Avenue and West Century Boulevard, it is also unclear whether the "8-foot landscaped area that also contains signage and utilities" is an area that people can walk on as well if the five foot wide sidewalk gets too crowded. Five feet wide sidewalks support two people walking side by side, and eight feet wide sidewalks support two pairs of people passing each other (Boston Complete Streets Guidelines). **Narrow sidewalks do not support heavy pedestrian activity** and can create **unsafe conditions** where people **walk on the street**. The project should consider **widening the sidewalks within the vicinity of the project** site to accommodate the thousands of attendees for Clippers games and other big events. https://nacto.org/wpcontent/uploads/2016/04/1-6_BTD_Boston-Complete-Streets-Guidelines-2.4-6-SidewalkWidths_2013.pdf" (**Exh. 37**, p. 1 [Culver City comment letter].)



This comment provides a link to studies about the width of sidewalks and recommends *widening sidewalks* near the Project area. While the comment focuses on the need and benefit to widen the sidewalk for pedestrians, it does not mention the environmental impacts of such widening of sidewalks, nor needed mitigation for that. Should the Project indeed widen the sidewalks, it will involve modifications to the streets or the Project, longer construction impacts, and need for additional mitigation. But if it doesn't widen them, the impacts and problems as noted remain unaddressed and unmitigated. The DEIR may not simply respond to the Culver City comment and specify the width of the sidewalk, without addressing concerns and recirculating the DEIR for public review and comment.

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The inadequate sidewalk width issue raised by Culver City is also renewed by the new information about the proposed two illuminated motion billboard signs proposed on both South Prairie St. and on Century Blvd. – exactly where the problem was identified by Culver City. See Sec. VII.A, infra (piecemealing of Billboard Project from IBEC Project and this firm's objection letter to the Billboard Project MND, April 14, 2020, incorporated herein by reference.) Tellingly, the DEIR misrepresents the specifications of the billboard signs at those locations and does not state that they are motion signs. The Billboard Project MND failed to disclose the IBEC Project, or its obvious connection to the IBEC Project, and that it is apparently proposed on the 5-foot-wide sidewalk itself.

- "*Chapter 3.14 page 50. Bicycle Network.* The project should also consider adding bike lanes on South Prairie Avenue and West Century Boulevard. E-scooters could also use the bike lanes as well. Creating a safer environment for bikes and e-scooters could provide first/last mile travel options for people traveling to/from the arena." (Id. p. 1 [Culver City comment, April 1, 2020].)

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On the other hand, the comment's recommendation of adding bike lanes, if followed, would require either eliminating one lane or curbside parking (and creating more traffic) or significantly altering the Project, each requiring mitigation and renewed review. Also, should the Project indeed add bike lanes, the DEIR must specify that information, City/Applicant must consult with various responsible agencies (including Metro, LADOT, CALTRANS, and LA Public Works) and address the associated impacts.

In sum, the comments by multiple public agencies disclose unidentified and unresolved issues, which CEQA requires the EIR to consider, mitigate and prevent to the extent feasible. The FEIR brushes these concerns aside and does not engage in a good faith effort at responding, much less at full disclosure. This is particularly troubling as a key purpose of receiving comments from other agencies is to engage in an open, iterative process that benefits from those other agencies' particular areas of expertise. As such, the DEIR and FEIR are faulty, may not be legally certified without supplementing the missing information and analysis, and recirculating the DEIR for renewed comment.

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VII. THE CITY HAS PIECEMEALED THE PROJECT IN VIOLATION OF CEQA AND STATE PLANNING AND ZONING LAWS IN SEPARATELY ADOPTING PIECEMEALED PROJECT COMPONENTS.

This section is based on *new information* released by the City after March 24, 2020. Pub. Res. Code §§ 21189.55(d)(2) and (5).

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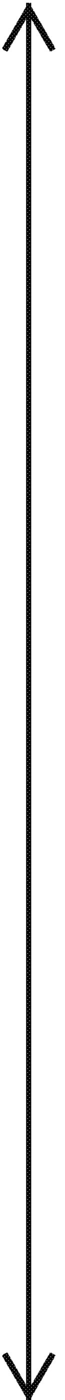
The City and the Applicant have engaged in blatant piecemealing of the IBEC Project, several examples of which came to light only after the close of the public comment period on the Project DEIR. As revealed to date, the Project piecemealed at a minimum five Project components: (1) the Billboard Project by WOW Media to install two motion illuminated billboard signs; (2) Hotel Project; (3) General Plan amendment of the Land Use Element; (4) General Plan amendment of the Circulation Element; and (5) General Plan amendment/adoption of Environmental Justice (EJ) Element. This list is not a complete list of piecemealing actions, but only reflects the information disclosed by the City to date, *after* March 24, 2020, and discovered by us.

A. Illegal Piecemealing of the Billboard Project.

For violations of CEQA with respect to the Billboard Project piecemealed from the IBEC Project, we incorporate by reference our objection letter sent to the City on April 14, 2020. (**Exh. 38** [TSLF Objections to MND for the Billboard Project, April 14, 2020].)

The City's responses to and denials of our piecemealing objections, as expressed in the staff report, are unsupported. The billboard signs are proposed to be placed on property apparently soon to be owned or controlled by Murphy's Bowl, pursuant to the draft Disposition and Development Agreement. (**Exh. 39** at p. 21 [Disposition and Development Agreements].)



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B. Piecemealing of the Hotel Project.

The EIR references the construction of a hotel at the east side of the Project, but does not disclose details about it, such as the number of stories or parking spaces, setbacks, or height of the building. The DEIR only mentions an approximate number of rooms. For example, the DEIR does not mention whether the hotel will have any accessory uses, such as restaurants or bars, whether those will be allowed to serve alcohol or will be open to the general public. Answers to this missing information in the DEIR would better illuminate the Project's total impacts and would enable analysis and mitigation of those potential impacts. At a minimum, the DEIR fails as an informational document because of the lack of an accurate project description.

The March 31, 2020 Draft Disposition and Development Agreement prepared by the Applicant, Murphy's Bowl, discloses that the hotel will be developed by a different developer who will be responsible for obtaining entitlements for it.[32] The segmentation of the hotel from the whole of the action contemplated by the Project is piecemealing prohibited by CEQA and effectively curtailed CEQA review of the Project's overall impacts, along with those of the hotel, in the IBEC DEIR.

C. Piecemealing of the Inglewood Transit Connector Project.

The Project does not note that it is part of the Inglewood Transit Connector Project. However, the administrative record, including the AB-987 documents, show that the Project has two parts: the Arena site and a "transportation" component. Pub. Res. Code § 21168.6.8 (a)(6).

In the meantime, the Inglewood Transit Connector Project, which was officially initiated at the same time as the IBEC Project (Initial Study, July 2018),[33] is relied upon in the DEIR as a mitigation measure of traffic impacts, connecting the Project site to Metro's Crenshaw Line and originating exactly across from the Project site at the intersection of Century Blvd. and Prairie St.

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[32] See at p. 37 of http://ibecproject.com/IBECEIR_030287.pdf

[33] See https://www.cityofinglewood.org/DocumentCenter/View/11934/Initial-Study

The Inglewood Transit Connector Project has not advanced beyond the initial study at this time of the proposed approvals of the Project and certification of the Project EIR, which relies on it. Thus, the Project relies on another project as a mitigation measure, which did not have its own environmental review completed and which impacts are not included in the Project DEIR as either part of the IBEC Project itself, or at a minimum, a related project needed to be included in the IBEC Project DEIR for, *inter alia*, cumulative impacts purposes. These omissions are a further fatal flaw.

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D. Piecemealing of Public Works Improvements on Arterial Roads, Adding Lanes, and Enhancing the Capacity for Traffic Increase.

As evidenced by photos taken by our client and incorporated into our objections to the Billboard Project and its MND, the arterial streets around the Project site have been undergoing extensive road improvement work. We requested records on the road improvements from the Public Works Department on April 9, 2020; however, the City failed to respond to our requests. We reserve the right to request augmentation of the record with such evidence. Still, in light of the available evidence and on information and belief, it appears that the City's road improvement project was also part of the Project here and intended to enlarge the streets, add lanes, provide electrical circuits for the billboard signs, all as part of and in furtherance of the Project.[34]

E. Piecemealing and Piecemeal Approval of the General Plan Amendments.

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We incorporate by reference our April 13, May 26, and June 9, 2020 objection letters. (**Exh. 40** [Objection letters to GP Amendments].)

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[34] As noted above in Sec. VI.D, supra, the City has also planned and is separately implementing extensive amendments to parking regulations as part of the IBEC Project, whereby all residential streets in the City will become part of a parking district and will have only a limited number of cars allowed per unit, while IBEC may seek parking outside of its Project area. These extensive and drastic amendments to parking regulations – to the detriment of the residents of the City and for the benefit of the IBEC Project – are also an example of the IBEC EIR's piecemealing in violation of CEQA. Further, the City's changes to the parking regulations implicitly counters the IBEC Project's assumptions and claims of reduced traffic for IBEC Project events.

In addition to the violations listed in prior letters as to the City's illegal adoption of these General Plan amendments, the City's IBEC Project and EIR violated CEQA and the State Planning and Zoning Laws as follows:

1. The Circulation Element Amendment in the DEIR Violates State Planning and Zoning Laws.

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Even though the IBEC DEIR includes amendments to the Circulation Element, it does not serve the purpose of the correlation requirement in Govt. Code § 65302. The correlation requirement is to ensure that the City does not make significant land use amendments without resolving the infrastructure needs and traffic circulation issues to support them. Here, the IBEC Project – with anticipated 18,000-20,000 visitors for just the events, as well as numerous visitors to the Project's other amenities, such as the hotel, bars, restaurants, retail, and medical center – contemplates a dramatic influx of visitors to Inglewood, and to the area already impacted (to be impacted) by two other major arenas. The Circulation Element therefore was to *create* infrastructure to support such pedestrian and traffic influx.

However, the DEIR does not specify any change to the Circulation Element in Section 2.6 of the DEIR, and the only change suggested by the Applicant in its draft General Plan Amendments is striking out the designation of 102nd street as a collector street. Thus, the proposed changes are not to *create* the infrastructure to *support* the anticipated pedestrian and traffic circulation but rather to *remove* such infrastructure. By definition, collector streets in Inglewood's Circulation Element are to "collect" or link traffic from the small streets to the arterial streets. The Project proposes to remove this collector. This late-disclosed change is in addition to the fact that the Project also intends to vacate portions of both 101st and 102nd streets as well as to allow encroachments by the Project onto the public rights of way. Finally, based on the DEIR's unspecified and the Applicant's recently proposed overlay zone details, the Arena is proposed with absolutely no front, rear, or side yard setbacks and will therefore not allow for widening of any portion of the adjacent streets.

The amendments to the Circulation Element are a violation of the General Plan's internal consistency and the correlation requirement.

2. The IBEC DEIR Violates CEQA Because of the *Incomplete* General Plan Consistency Analysis in View of the Missing EJ Element.

CEQA requires any project EIR to analyze the consistency of such project with the General Plan. Guidelines § 15125(d); see also Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Bd. of Sup'rs (1998) 62 Cal.App.4th 1332, 1336 "Because an EIR must analyze inconsistencies with the general plan (14 Cal. Code Regs § 15125(d)), deficiencies in the plan may affect the legal adequacy of the EIR. If the general plan does not meet state standards, an EIR analysis based on the plan may also be defective. For example, in Guardians of Turlock's Integrity v. Turlock City Council (1983) 149 Cal.3d 584, 593, the general plan did not contain a noise element; thus "a necessary foundation" to acceptable analysis in the EIR was missing." 2 Kostka & Zischke, Practice Under the Cal. Environmental Quality Act, § 20.3, p. 20-9; see also Friends of "B" Street v. City of Hayward (1980) 106 Cal.App.3d 988, 998-999.

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The City's piecemealing of the EJ element from the IBEC DEIR has resulted in the missing mandatory EJ element and thereby an inadequate analysis of the IBEC Project's consistency with the General Plan in the DEIR.

Comments by others, such as the NRDC or members of the State Legislature, show that the Project is inconsistent with EJ principles as mandated by the Government Code, and therefore may not be adopted as the City proposes.

A land use decision (or zoning ordinance) must be deemed inconsistent with a general plan if it conflicts with a single, mandatory general plan policy or goal. Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Bd. of Supervisors (1998) 62 Cal.App.4th 1332, 1341. A local land use decision that is inconsistent with the applicable general plan is invalid when passed, i.e., *void ab initio*. Lesher Communications. Inc. v. City of Walnut Creek (1990) 52 Cal.3d 531, 540. Despite the questionable policies in the newly adopted EJ Element, the IBEC Project is inconsistent with the Element's goal – per state mandate – to ensure the health of the population.

The City's approach and piecemealing has made the "process exactly backward and allows the lead agency to travel the legally impermissible easy road to CEQA compliance." Berkeley Keep Jets Over the Bay Committee v. Board of Port Com'rs (2001) 91 Cal.App.4th 1344, 1371.

Despite the City and Applicant's throwing caution to the wind in rushing to approve the FEIR and Project, the IBEC EIR may not be certified and the Project may not be approved without a complete EIR, which discloses all pieces of the Project in their full scope, and which provides for genuine, responsive, informed and meaningful public participation in the drafting of the EIR and General Plan amendments. "[E]xpediency should play no part in an agency's efforts to comply with CEQA." San Franciscans for Reasonable Growth v. City and County of San Francisco (1984) 151 Cal.App.3d 61, 74-75.

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VIII. THE EIR AND PROJECT VIOLATE CEQA'S PRECOMMITMENT PROHIBITION BY THE CITY'S SIGNING THE EXCLUSIVE NEGOTIATING AGREEMENT AND PRIOR VIOLATIONS OF THE BROWN ACT.

On March 24, 2020, on the last day of the inadequately noticed public comment period, the City Council violated the public trust yet again by convening behind closed doors and unanimously voting to settle four lawsuits, including one on CEQA and one on Brown Act violations.

We have requested that the City cure and correct the Brown Act violations committed on March 24, 2020, which would have resulted in the invalidation of the settlement agreement approval and any action taken by the City Council on March 24, 2020. The City denied any Brown Act violation occurred on March 24, 2020 and denied the existence of a settlement agreement in its letter *backdated* April 30, 2020, mailed out on May 4, 2020, without any emailed copy, as claimed on the letter. The City then sent us a supplemental letter on May 5, 2020, where it admitted that on March 24, 2020, the City Council indeed authorized the settlement agreement. The copy provided by the City bears no dates of execution of the agreement by any signatory, including by Mayor Butts. Most importantly, both responses from the City to our Cure and Correct occurred *after* May 4, 2020, when Murphy's Bowl successfully closed escrow transferring MSG Forum to Murphy's Bowl.

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The City's settlement and disposal of CEQA and Brown Act lawsuits late on March 24, 2020 as to MSG/Forum, IRATE, and related persons is significant new information which was not and could not have been reasonably known during the public comment period.

We hereby incorporate by reference all the claims made by MSG, IRATE and related parties in all four lawsuits, including those of illegal precommitment in violation

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of CEQA and Brown Act violations, and further incorporate by reference, and request that the City include in this administrative record, all administrative records and evidence submitted in all of those matters. (See collectively **Exh. 10** [operative petitions in the various cases, trial briefs, and Court of Appeal briefs, as applicable].)

IX. THE DEIR AND FEIR FAIL ADEQUATELY TO DISCUSS IMPACTS ON SCHOOLS, IN VIOLATION OF CEQA.

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The Project's administrative record shows no consultation or communication occurred with Lennox Elementary School District, in violation of CEQA. Under Pub. Res. Code §15186(a), "CEQA establishes a special requirement for certain school projects, as well as certain projects near schools, to ensure that potential health impacts resulting from exposure to hazardous materials, wastes, and substances will be carefully examined and disclosed in a negative declaration or EIR, and that the lead agency will consult with other agencies in this regard."

Among other things, if the Project is within 1/4 mile of a school site, CEQA requires the lead agency not to certify an EIR unless the lead agency does both of the following: (1) **consult** with the affected school district regarding the potential impact of the project on the school; and (2) notify the affected school district or districts of the project, **in writing**, not less than 30 days prior to approval or certification of the EIR. Guidelines § 15186(b). Obviously, we could not have known that the City and the FEIR would not have complied with this requirement until after the March 24, 2020 close of the official public comment period.

The Applicant listed numerous schools located within 2 miles of the Project site, including several schools from the City of Lennox.[35] Yet the only school-related communications in the Project's administrative record are about the Inglewood School District's development fee nexus and calculations that the IBEC Project Applicant must pay to the Inglewood School District.[36] ,[37] Development fees, however, do not address the *air quality* or *traffic* mitigation issues the Project will cause to the surrounding schools, including to those of the Lennox School District.

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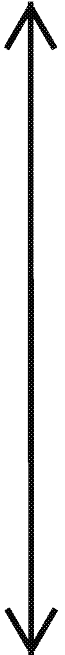
[35] See http://opr.ca.gov/ceqa/docs/ab900/20190124-AB900_IBEC_AB987_NOC_Form.pdf

[36] See http://ibecproject.com/PREDEIR_0000036.pdf

[37] See http://ibecproject.com/PREDEIR_0002337.pdf

Moreover, the IBEC Project is located within 0.2 miles of the Huerta Dolores Elementary School. (**Exh. 41** [Notice of AB 987 Certification Completion; Notice of EIR Completion, and Google Maps of Dolores Huerta Elementary School]**.**)[38] The Elementary School is part of the *Lennox* Elementary School District, serving the needs of about 5,000 young students.[39] (**Exh. 42** [Lennox and Huerta web page].) As depicted in the DEIR, p. 3.2-99 (and shown in the figure below), the Project is also adjacent to an Early Childhood Education Facility. Instead of analyzing and discussing the health hazards of the Project's extensive demolition, construction and operational activities to the nearby school children, the EIR's discussion of health hazards is limited to a cursory discussion of cancer risks and a conclusory assertion that the risks are less than significant. (DEIR, pp. 3.2-98 – 3.2-102.) Procedurally and substantively, this is improper under CEQA.

The EIR does not explain or justify the analysis of risks and does not show how those risks disappear in a straight line just above the school. See the figure below from the IBEC DEIR, p. 3.2-99 (arrows pointing to the school/education center):



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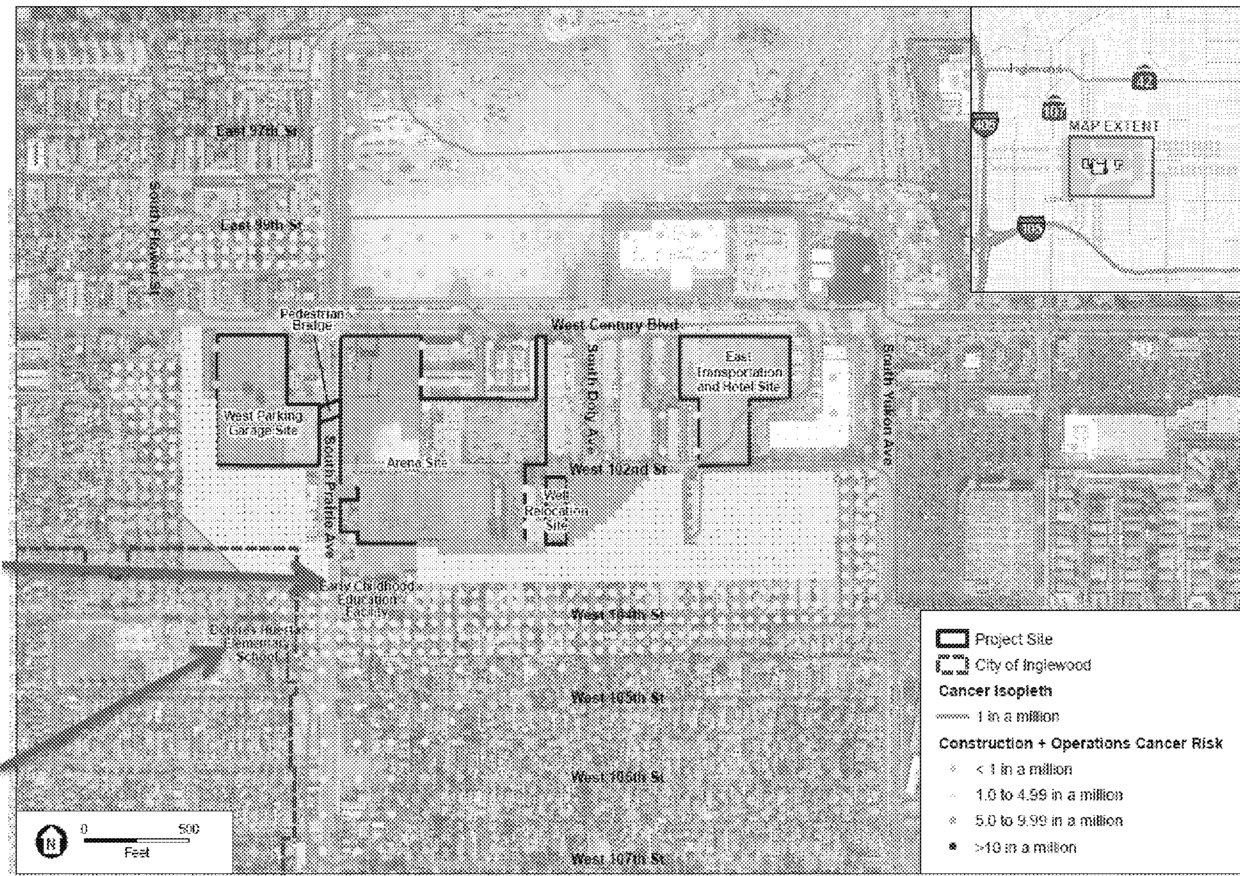
[38] The administrative record's document about schools completely omits the Huerta Dolores Elementary School from the list of schools within or adjacent to the Inglewood Unified School District. http://ibecproject.com/PREDEIR_027103.pdf

[39] See p. 5 of https://4.files.edl.io/a093/11/15/19/175500-608b5924-96d9-40ce-88db-b2f2b7da78f9.pdf



SOURCE: TerraServer, 2018; ESA, 2019.

Inglewood Basketball and Entertainment Center
Figure 3.2-4
Construction + Operations Cancer Risk

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The DEIR and the FEIR do not identify, analyze, or mitigate the traffic impacts on the school and the road closures for purposes of Project construction and operation, the permanent road closure on W. 102nd Street, which will spill over traffic onto adjacent streets including W. 104th Street and thereby present additional health and safety hazards for children, as well as the air pollution associated with the dramatic increase in traffic and the massive construction planned in the area. These omissions are also unacceptable since, based on the Project's administrative record, the Project's development fees are calculated based on the needs of the Inglewood Unified School District[40 41], leaving out

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[40] See, e.g., http://ibecproject.com/PREDEIR_027103.pdf

[41] Commercial development http://ibecproject.com/PREDEIR_0000036.pdf; Residential development http://ibecproject.com/PREDEIR_0002337.pdf

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the impact of the Project on the Lennox Elementary School District, which will be heavily impacted.

Moreover, DTSC responses to our CPRA requests revealed that properties along 102nd Street "within the perimeter" of the Project have EPA records and our further investigation showed asbestos records at one of the problem sites. (**Exh. 43** [DTSC Response 1 re Sites; Google Map of all sites; and records of 3818 102nd St.].) Asbestos is known for its dangers effects, especially on children with developing lungs.[42] (**Exh. 44** [asbestos dangers to school children].) DTSC's subsequent responses revealed more sites with DTSC records. (**Exh. 45** [DTSC's Response 2 with list of problem addresses].) The DEIR and FEIR are silent on that information, including the hazards of demolition. The proximity of the sites identified by the DTSC to the elementary school and the Child Education Center makes the DEIR and FEIR's omissions fatal.

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It is the City's duty to investigate the hazards at DTSC's listed addresses, to inform the public and decision makers about those in the EIR, to consult with the affected school district and education center, to address and mitigate the Project's impacts on school children, and now to recirculate a DEIR in full conformance with CEQA.

X. THE PROJECT CANNOT BE APPROVED DUE TO THE INADEQUACY AND UNENFORCEABILITY OF THE MITIGATION MONITORING PROGRAM.

The City's proposed Mitigation Monitoring and Reporting Program ("MMRP") is flawed and may not be approved. It focuses mainly on *temporary construction* impacts, requires only *noticing* to property owners, even though such notices do not mitigate any impact by themselves, and otherwise makes recommendations rather than provide any evidence that the Project's *long–term operational* impacts will indeed be mitigated. This critique by us applies to all sections in the MMRP and all mitigation measures.

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The AR and the City's response to Caltrans' DEIR comments show that the Project Applicant agreed to pay Caltrans over $1.5 million dollars to reduce impacts on the state highway. The MMRP is silent on this arrangement but provides that the Project Applicant must work with Caltrans and the determination of whether such activities will even be feasible will be made *prior to* the issuance of the "certificate of occupancy"[43]:

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[42] https://ehs.oregonstate.edu/asb-when

[43] See p. 53 at http://ibecproject.com/IBECEIR_033034.pdf

> "Prior to issuance of a Certificate of Occupancy, Applicant shall work with the City of Inglewood and Caltrans to determine that offramp improvements are feasible and acceptable to Caltrans, and if feasible and acceptable, such improvements shall be completed or adequate security for the estimated amount to complete such improvements provided to the City of Inglewood in a form acceptable to the City." (MMRP at p. 53.)

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The timing of determining the feasibility of mitigating the impact – prior to *issuance* of a *certificate* of occupancy, i.e., *after* the Project is fully developed – is a gross subversion of CEQA, including but not limited to CEQA requirements to provide enforceable mitigation measures *before* the Project approval, and not to defer mitigation.

The above example is only one of numerous instances of the MMRP's CEQA violations, warranting the rejection of the MMRP and FEIR as violating CEQA.

XI. THE STATEMENT OF OVERRIDING CONSIDERATIONS IS CONCLUSORY AND UNSUPPORTED BY EVIDENCE.

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We object to each and every factual claim made in the Statement of Overriding Considerations ("SOC") as unsupported by substantial evidence. The "findings" are not supported by the data cited. Moreover, to the extent the findings rely on the EIR – which is flawed for all the reasons noted above, including but not limited to flawed or changed baseline assumptions, piecemealing, deferred and unenforceable mitigation – it is further unsupported by substantial evidence.

Further, to the extent that the EIR, the MMRP, and other Project entitlements are based upon *falsified, omitted,* or *concealed* data, such data cannot support findings of overriding considerations.

Beyond the inadequate "findings" the SOC renders the IBEC Project inconsistent with various elements of the General Plan, such as the General Plan's Land Use Element densities and designations,[44] Circulation Element, Safety Element, and in violation of the consistency requirement under the state Planning and Zoning Law.

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[44] We note that the Project had to show consistency with the General Plan applicable *at the time the* Project Application was deemed complete and the FEIR was prepared. We have further objected to the City's amendment to the Land Use Element, which rewrote the densities and intensities on June 9, 2020 – *a week before* the Planning

The SOC – in conclusory terms and completely disregarding the public comments of lack of any benefit of the Project to the Inglewood community which will be impacted – declares that the IBEC Project's benefits will outweigh the 41 adverse environmental impacts. CEQA requires providing evidence of such benefit as to each impact. The SOC does not do so. Also, because the Project and EIR suffer from a lack of the mandatory "accurate, stable and finite project description," it is impossible for the decision makers to properly balance and weigh the Project's purported benefits from its detriments when multiple significant Project elements remain unknown and undefined, with those future decisions to be made by the Planning Director out of the public eye, and without public and CEQA review at that time. This is a clear CEQA violation. Stopthemillenniumhollywood.com, supra, at p. 14

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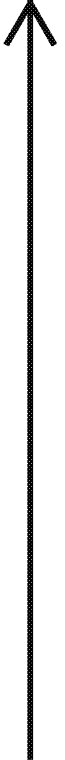
To approve a project with a significant impact, the agency is "required to make findings identifying (1) the "[s]pecific ... considerations" that "make infeasible" the environmentally superior alternatives and (2) the "specific ... benefits of the project [which] outweigh" the environmental harm. (Pub. Res. Code §§ 21002.1, subd. (b), 21081; Guidelines, § 15092, subd. (b).)" Preservation Action Council v. City of San Jose (2006) 141 Cal.App.4th 1336, 1352-1353. Such findings must be supported by substantial evidence and cannot be presumed by courts. Walnut Acres at 1312-1313; Guidelines § 15091(a)-(b). Such evidence must be supported by facts and cannot be an argument, assertion or clearly erroneous. Pub. Res. Code § 21082.2(c); Guidelines § 15384 (a)-(b). The SOC's failure is a CEQA violation separate from the EIR's other inadequacies. Guidelines § 15093(b)-(c) (SOC findings "shall be supported by substantial evidence"); Uphold Our Heritage v. Town of Woodside (2007) 147 Cal.App.4th 587, 603 (record does not support infeasibility finding). Moreover, such infeasibility must be *legal* (i.e., legal restraints), rather than *financial* (as in not financially profitable).

The City's findings of infeasibility to mitigate each and every one of the 41 adverse environmental impacts lack substantial evidence that it was infeasible to build a smaller Project or to develop the City's land with less intensive uses. The findings are also clearly erroneous, as they rely on the same illusory mitigation measures as in the EIR or in the latest MMRP.

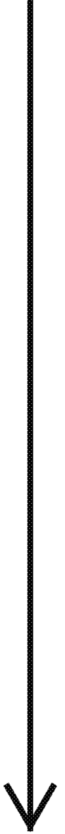
Commission's scheduled June 17, 2020 hearing on the IBEC Project – under the guise of merely "clarifications." We incorporate by reference all of our objections to the City's eleventh-hour rewriting of the General Plan's Land Use Element to allegedly make it consistent with the IBEC Project. Again the tail wags the dog.



The true nature and scope of the Project, and its alleged benefits, cannot be determined based on the faulty DEIR and FEIR, and thus the necessary balancing of competing issues required to lawfully support an SOC cannot be found. An SOC cannot properly be adopted, and should be rejected, along with the entirety of the Project and the proposed FEIR. In the words of the Court:

> "The EIR is intended to furnish both the road map and the environmental price tag for a project, so that the decision maker and the public both know, before the journey begins, just where the journey will lead, and how much they – and the environment – will have to give up in order to take that journey. As our Supreme Court said in Bozung v. Local Agency Formation Com. (1975) 13 Cal.3d 263, 283 [118 Cal.Rptr. 249, 529 P.2d 1017], '[t]he purpose of CEQA is not to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind.'" Natural Resources Defense Council, Inc. v. City of Los Angeles (2002) 103 Cal.App.4th 268, 271-272.

XII. THE PROJECT IS ILLEGAL DUE TO ITS FAILURE TO SUBSTANTIATE THE NEED FOR SPECIFIC PLAN AMENDMENTS AND DISCRIMINATORY SPOT ZONING.



The Project includes Specific Plan amendments and the following action:

> "Approval of a Specific Plan Amendment to the Inglewood International Business Park Specific Plan **to exclude properties** within the Project Site from the Specific Plan Area." (DEIR, p. 2-89.)

The proposed "exclusion" is improper as it constitutes: (A) an unsupported variance; and (B) discriminatory spot zoning.

A. The Specific Plan Amendment Amounts to a Variance Without Required Grounds to Justify It.

The DEIR and FEIR do not specify why exactly the sites must be excluded or why the Project will be inconsistent with the Specific Plan, short of mentioning wider setback requirements under the Specific Plan, i.e., 25-foot setbacks along South Prairie and 15-foot setbacks along West 102nd street and the need to "remove" portions of the IBEC

Project from the Specific Plan, allegedly to ensure consistency with both the Specific and General Plans. (DEIR, p. 3.1-13, pdf p. 263.)

The DEIR description, along with the fact that the Specific Plan amendment seeks to "remove the portions of the Project site" from the Specific Plan to obtain consistency with the General Plan, shows that the "Specific Plan amendment" is in reality a misnomer. In essence, the City is trying to de facto "exempt" the Project lots from certain Specific Plan requirements. This is also evidenced by the fact that on May 4, 2020, long after release of the Project DEIR on December 27, 2019, the Project Applicant presented its own draft of the Specific Plan amendments, which stated: "By doing so the City intends, as provided below, that if developed in connection with the IBEC Project the IBEC Project Related Parcels shall be excluded from the HBP Specific Plan, but otherwise the provisions of the HBP Specific Plan shall apply."[45] (**Exh. 46** [Applicant's Draft of Specific Plan Amendments].) As such, what is proposed is not a Specific Plan Amendment but rather a *variance* for the Project sites only. In any event, whether denominated a specific plan amendment or a variance, this entitlement triggers various required findings, including a necessary finding of "unnecessary hardship."

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"Unnecessary hardship" is a term of art generally used in the context of evaluating a zoning variance. For example, under the Los Angeles Municipal Code, no variance may be granted unless "'the strict application of the provisions of the zoning ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations.'" (West Chandler Boulevard Neighborhood Assn. v. City of Los Angeles (2011) 198 Cal.App.4th 1506, 1514, fn. 4, 130 Cal.Rptr.3d 360.) Although the test includes both "practical difficulties" and "unnecessary hardships," the focus should be on "unnecessary hardships" and not "practical difficulties," which is a lesser standard. (Stolman v. City of Los Angeles (2003) 114 Cal.App.4th 916, 925, 8 Cal.Rptr.3d 178; Zakessian v. City of Sausalito

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45 See the Applicant's draft at http://ibecproject.com/IBECEIR_031887.pdf The Applicant's draft also shows that the Specific Plan Amendment is expressly dependent on the concurrent amendment of the General Plan. This is to ensure that the Specific Plan Amendment is consistent with the General Plan. However, such an arrangement of amending the General Plan to find consistency of it with the subsequent Specific Plan Amendment violates the state planning and zoning laws requiring the *action's* consistency *with* the General Plan, not the opposite. "The tail does not wag the dog. The general plan is the charter to which the ordinance must conform." Napa Citizens for Honest Government v. Napa County Bd. of Supervisors (2001) 91 Cal.App.4th 342, 389.

(1972) 28 Cal.App.3d 794, 799, 105 Cal.Rptr. 105.)" Walnut Acres Neighborhood Assn. v. City of Los Angeles (2015) 235 Cal.App.4th 1303, 1305

> "Although the developer argued the unnecessary hardship was based on its purported lost "economy of scale," no evidence supported that claim. The record contained no evidence that following the zoning regulations and building a less dense facility would cause either financial hardship or unnecessary hardship. We therefore affirm the trial court's judgment requiring the City to rescind its approval of the proposed eldercare facility." Walnut Acres Neighborhood Assn. v. City of Los Angeles (2015) 235 Cal.App.4th 1303, 1306.

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Similarly, the Inglewood Municipal Code § 12-97.1 sets out four (4) grounds that must be met to approve a variance:

> "Before any variance may be granted, findings establishing the factual existence of each of the following grounds must be made:
>
> (1) That there are **exceptional** or **extraordinary circumstances** or conditions applicable to the property involved, including, but not limited to, size, shape, topography or surroundings, that do not apply generally to other property or uses in the same zone and vicinity; and
>
> (2) That the strict application of the zoning provisions of this Chapter would result in **practical difficulties** or **unnecessary hardships** inconsistent with the general purpose and intent thereof (the **costs** of providing required improvements or of correcting violations **shall not** constitute such hardship); and
>
> (3) That the granting of such variance will not be materially detrimental to the public health, welfare or safety or injurious to the property or improvements in such zone and vicinity in which the property of the applicant is located; and
>
> (4) That the granting of such variance will not conflict with the provisions of the comprehensive general plan." (**Exh. 47** [Inglewood Municipal Code § 12-97]; emph. added.)

The IBEC DEIR lacks any analysis or any findings to establish the variance grounds listed above.

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Moreover, the EIR lacks information about how the Project is inconsistent with its encompassing Specific Plan or the larger General Plan. This missing information is fatal for the FEIR certification for the following reasons:

1) The noted 25- and 15-feet setbacks under the Specific Plan are required to provide for open space and to allow for future street widening. The narrow setbacks left by the Project will significantly limit the City's options.

2) The EIR provides no good faith disclosure and no baseline of what is appropriate under the Specific Plan and General Plan and therefore provide no possibility for the public to identify the extent of proposed changes and associated impacts.

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The EIR and proposed Project approvals not only lack information about how the Project is inconsistent with the Specific Plan, but also misses the important findings necessary to approve the Specific Plan amendment under state law.

> "The planning commission's summary of 'factual data'—its apparent 'findings'—does not include facts sufficient to satisfy the variance requirements of Government Code section 65906.
>
> "As we have mentioned, at least two sets of legislative criteria appear applicable to the variance awarded: Government Code section 65906 and Los Angeles County Zoning Ordinance No. 1494, section 522. The variance can be sustained only if All applicable legislative requirements have been satisfied. Since we conclude that the requirements of section 65906 have not been met, the question whether the variance conforms with the criteria set forth in Los Angeles County Zoning Ordinance No. 1494, section 522 becomes immaterial." Topanga Assn. for a Scenic Community v. County of Los Angeles (1974) 11 Cal.3d 506, 518.

The DEIR must be supplemented with information about the inconsistency of the Specific and General Plans along with analysis of the proposed changes, and recirculated.

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The City may not approve the changes to the Specific Plan or remove the Project sites from it without the findings required by the Inglewood Municipal Code. Doing so would be a violation of the Inglewood Municipal Code, State Planning and Zoning Law, and CEQA.

B. The Specific Plan Amendment Results in Discriminatory Spot Zoning.

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The Project's Specific Plan amendment removing the Project sites from the Specific Plan and essentially exempting just the Project site lots from the Specific Plan requirements creates impermissible spot zoning without any justifiable public interest or benefit for the *Inglewood* community. Stated otherwise, even though the City of Inglewood through the Project will attract numerous people from *other* places for games and events and will become an entertainment center for *visitors,* the Project will bring no actual interest or benefit to Inglewood's disadvantaged community but only the brunt of the Project's 41 adverse environmental impacts.

The lack of public benefit or interest is particularly the case here, as the Specific Plan requires 25-foot setbacks on South Prairie St. and 15-foot setbacks on 102nd Street and where the Project significantly reduces the setbacks on South Prairie and vacates the portion of 102nd street around the Project area:

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> "South Prairie Avenue – In the vicinity of the project, the street has continuous sidewalks with widths varying from about 5 to 13 feet. Sidewalks **immediately adjacent** to the **Project Site** are **less than 5 feet**, and adjacent to an 8-foot landscaped area that also contains signage and utilities. Striped crosswalks are provided at signalized intersections, and most curb ramps do not have truncated domes.
>
> "West 102nd Street – Sidewalks on West 102nd Street near the Project Site range from 5 to 7 feet. Signage and utilities **obstruct the pedestrian path** of travel in **several locations**." (DEIR, p. 3.14-50, pdf p. 1134, emph. added.)

The *sidewalk* being the public right of way is *distinct* from *setbacks* that the Applicant itself must provide on the private property; therefore, the setbacks that the Project must provide should not count the 5-foot or less sidewalk towards its own setbacks. The setback reductions – and essentially the violations of the Specific Plan – are contrary to the public benefit for both the visitors of the Project and the residents of the Project's surrounding area.

The California Constitution, Article 1, Section 7(b) provides: "A citizen or class of citizens may not be granted privileges or immunities not granted on the same terms to all citizens." Under this provision, a "privilege" includes "a particular and peculiar benefit or advantage enjoyed by a person, company, or class beyond the common advantage of other citizens." Diagh v. Schaffer (1937) 23 Cal.App.2d 449, 454-455, unrelated language clarified in Johnson v. Superior Court (1958) 50 Cal.2d 693, 699. The case of Foothill Communities Coalition v. County of Orange (2014) 222 Cal.App.4th 1302, 1313 (Foothill) holds that to create a privileged "island of property with less restrictive zoning in the middle of properties with more restrictive zoning is spot zoning." Such discriminatory zoning can only be justified by a "*substantial* public need." Foothill, 222 Cal.App.4th at 1314 (emphasis added).

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Without citing to *any* "public need" and in defiance thereof, the Project proposes significant changes and amendments to benefit the *private needs* of the IBEC Project's Applicant. The City has not made findings of substantial public need, nor can it do so with the controversial Project objected to by many in Inglewood, by interested groups, and even legislators. (**Exh. 11** [AB-987 comments].)

Where there is discrimination, where the classification and resulting benefits given to the privileged "island" are not related to particular characteristics of the site that are not shared by the surrounding land, then a higher standard of review is applied, as in Foothill. Because it involves discrimination, spot zoning "entails a 'more rigorous form of judicial review.'" Avenida San Juan Partnership v. City of San Clemente (2011) 201 Cal.App.4th 1256, 1268, quoting Ehrlich v. City of Culver City (1996)12 Cal.4th 854, 900 (Mosk, J., conc.) While Ehrlich involved restrictive spot zoning, the principle should apply equally to preferential spot zoning, which is, in essence, discrimination against like-situated properties.

For these additional reasons, the Specific Plan amendments should not be approved.

XIII. THE PROJECT VIOLATES THE SUBDIVISION MAP ACT.

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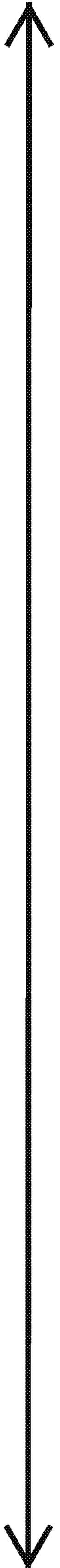
The Project's proposed actions for approval include:

> "• Approval of subdivision map(s) or lot line adjustments to consolidate properties and/or adjust property boundaries within the Project Site." (DEIR, p. 2-89.)

In fact, the Project will need to consolidate numerous lots and *vacate* portions of City streets at W. 101st and W. 102nd Street and encroach on public right of way. The requested approvals also include:

> "• Approval of the vacation of portions of West 101st Street and West 102nd Street, and adoption of findings in connection with that approval.
>
> • Approval of right-of-way to encroach on City streets." (DEIR, p. 2-89, emph. added.)



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The Project's proposed subdivision/tentative tract map(s) should not be approved because it violates the Subdivision Map Act, Govt. Code §§ 66410 et seq.

Pursuant to Govt. Code § 66473.5:

> "No local agency shall approve a tentative map, or a parcel map for which a tentative map was not required, unless the legislative body finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the general plan required by Article 5 (commencing with Section 65300) of Chapter 3 of Division 1, or any specific plan adopted pursuant to Article 8 (commencing with Section 65450) of Chapter 3 of Division 1.
>
> "A proposed subdivision shall be consistent with a general plan or a specific plan only if the local agency has officially adopted such a plan and the proposed subdivision or land use is compatible with the objectives, policies, general land uses, and programs specified in such a plan." (Id.)

In addition, Govt. Code § 66474 mandates that the agency make specific findings, prior to the approval of a tentative map or parcel map:

> "A legislative body of a city or county **shall deny** approval of a tentative map, or a parcel map for which a tentative map was not required, if it makes any of the following findings:
>
> (a) That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.

(b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

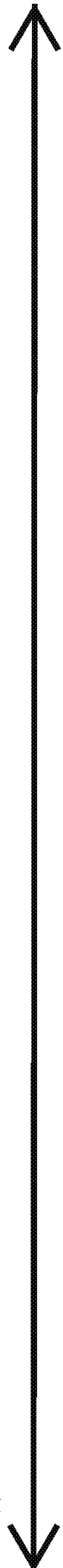
(c) That the site is not physically suitable for the type of development.

(d) That the site is not physically suitable for the proposed density of development.

(e) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

(f) That the design of the subdivision or type of improvements is likely to cause serious public health problems.

(g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision." (Id.; emph. added.)



Because of its 41 non-mitigated significant adverse environmental impacts – including but not limited to the impacts on traffic and pedestrian circulation, open space, displacement of numerous residential and commercial structures (including through the alleged right to use eminent domain), air quality and greenhouse gas emissions[46]

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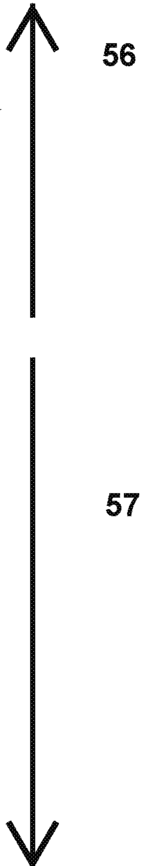
[46] We also direct your attention to the June 12, 2020 decision of the California Court of Appeal in Golden Door Properties v. County of San Diego (2020 WL 3119041). This



associated with both the Project construction and its operation – the Project presents a serious public hazard and substantial environmental damage to the Inglewood community and to nearby schools and school children.

Moreover, Subdivision Map approval is subject to CEQA, and we incorporate our CEQA challenges by reference for purposes of the Subdivision Map Act and all other land use applications and potential approvals.

The DEIR admits that the Project is inconsistent with the Specific Plan and seeks to amend it, in order to avoid such inconsistency. See supra. The DEIR also admits that the Project is inconsistent with the General Plan and therefore improperly seeks amendments thereto. Id. See also supra (General Plan Amendments and Piecemealing).

The Project – with its planned development, its proximity to other similar arenas, and its adverse impacts on and/or displacement of numerous commercial and residential properties involved[47] – is not physically suitable or consistent with the intensity of development for the area. The Project's inconsistency with the area where it is proposed is also evidenced by the City's piecemealing efforts to increase the building intensity and density in the General Plan, in large part to benefit the Project. See Sec. VII.E, supra (General Plan Amendments). Friends of "B" Street v. City of Hayward (1980) 106

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case also requires the City to deny certification of the FEIR and, instead, to amend and recirculate a new DEIR for public and agency review. Among other things, and applicable to the inadequate and illegal EIR herein, the Golden Door opinion eviscerates the validity of a GHG mitigation measure that depends on obtaining offsets from a registry registered with CARB. The Court in detail explained why such offsets are not as effective as compliance-grade offsets used in the cap-and-trade program. The Project and its EIR and MMRP's commission of these same errors is improper and incurable without recirculation of a new DEIR. The opinion also has a helpful summary of the law on cumulative impacts, alternatives, and deferred mitigation, especially why deferred mitigation (of GHG mitigation measures) without clear standards and performance criteria is impermissible. Again, the Project EIR and MMRP fail as to these critical issues. Finally, the opinion upheld the trial court's requirement for an environmental justice ("EJ") analysis as part of CEQA. The EJ "analysis" in the Project EIR is at best tissue thin, and as discussed above, actually fails to properly disclose, assess and mitigate impacts from the City's concurrent proposed EJ General Plan Amendment, which has been egregiously piecemealed out of the instant EIR.

[47] See **Exh. 10,** Case No.: BS170333 (IRATE FAP, Exhibit E).

Cal.App.3d 988, 998 ("Such consistency is expressly required by Government Code section 66473.5").

Section 6 of the proposed Ordinance violates the Subdivision Map Act as it purports to allow unlimited ministerial lot line adjustments, involving five or more contiguous parcels, with one adjustment starting before another adjustment has been finalized with a recorded deed, and without specific approval of the local agency. The Subdivision Map Act excepts lot line adjustments only in compliance with Government Code Section 66412(d). Section 6 of the Ordinance conflicts with the scope of exception for lot line adjustments and is preempted by the Subdivision Map Act. Lot line adjustments granted pursuant to Section 6 of the Ordinance, therefore, would be illegal.

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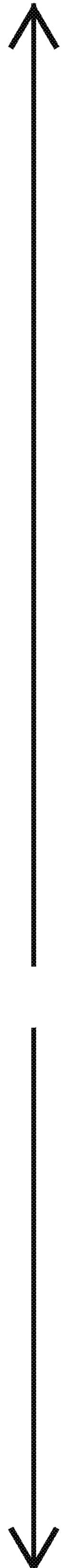
Finally, because many of the Project properties are former Inglewood Redevelopment Agency properties and/or Successor Agency properties, any lot line adjustments would have to be approved by the State Department of Finance or Real Estate. The City cannot assume either the granting, or the timing for granting, of such approvals by the DOF. If the City attempts to avoid this oversight requirement, this will subject the City and the Project to further legal challenge.

We hereby request notice of any and all applications for lot line adjustments for or in connection with the Project.

The Project and its Tentative/Parcel Map must be denied for violation of the Subdivision Map Act.



XIV. VIOLATION OF THE PROVISIONS UNDER SURPLUS LAND LAWS.

58

The Project approvals listed in the Notice of Preparation include DEIR Section 2.6, which states:

> "• Approval of a Disposition and Development Agreement (DDA) by the City of Inglewood governing terms of disposition and development of property." DEIR, p. 2-89.)

The Project is proposed in most part (23 acres out of 28) on public land. The Project has been challenged and the City (its various departments and related agencies) and the Project Applicant were sued for violation of applicable laws governing the disposition of surplus land. (**Exh. 10** [MSG pleadings related to surplus land].) The City's arguments in court to counter petitioner's claims that the lots could not be offered

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for residential affordable housing purposes first because of the FAA regulations and noise. However, the Project does include a residential structure – a hotel, another 14-story hotel is proposed in close proximity and across from the Project as part of the Hollywood Park Redevelopment Project, and the latest draft of the Disposition and Development Agreement includes a provision that the FAA restrictions should not bar the development of the Project as outlined in the DDA (i.e., including the hotel).

In view of this conflicting new and different evidence, not before the Court at the time, we reinstate the claims and allegations in the respective pleadings by MSG Forum. (See **Exh. 10** [collective pleadings].)

XV. THE DISPOSITION AND DEVELOPMENT AGREEMENT IS BASED ON FRAUD AND IS *VOID AB INITIO.*

59

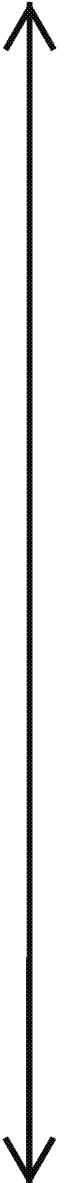
As the law prescribes and the Supreme Court has held since the founding of this state: "Fraud vitiates all transactions into which it enters." 34A Cal. Jur. 3d Fraud and Deceit § 4, Simmons v. Ratterree Land Co. (1932) 217 Cal. 201, 203-204.

Ample evidence exists – including evidence brought before the Court and found valid by the Court – that the Project itself commenced based upon fraudulent representations and concealment by the City and particularly by Mayor Butts as to what would be proposed on the lots the City purchased with the FAA grant. Specifically, Mayor Butts misrepresented to MSG Forum – and to the public – that the area would be used to build a technical or industrial park. (**Exh. 26** [fraud case against the City and Mayor Butts].)

There is also evidence that the area, much of which is vacant and proposed to be used for the Project, was previously home to numerous apartment buildings, whose tenants were relocated and their residences demolished. The City has been setting the stage up for the Clippers Project long before the community became aware of it. Hundreds of people were relocated because of the allegedly objectionable air plane noise, whereas the Clippers arena will bring in numerous people and even hotel guests despite those objections.

Tellingly, the latest draft of the Disposition and Development agreement[48] provides that the parcels that the City had previously acquired with the FAA grant and are therefore subject to developmental restrictions will be conveyed to the Project

48 See at http://ibecproject.com/IBECEIR_032579.pdf



Applicant with those same restrictions. However, the agreement then undermines this by providing: "However, **no** such covenants, conditions, **restrictions** or equitable servitudes **shall prohibit** or limit the development of the Project Site as permitted by the Scope of Development and this Agreement." (Disp. Agreement, Section E [283]; emph added.)

Also, due to the above-quoted carve-out related to the encumbrances and more specifically FAA restrictions, the City's justification that the Project site is not suitable for residential structures because of the FAA grant[49] conflicts with the IBEC Project's proposed hotel – a residential structure (**Exh. 48** [Inglewood Municipal Code § 8-121]), about which no specific information is provided in the EIR. This City justification – which helped the City counter claims of violation of the surplus land laws – is also sophistry in view of the City's approval of a 14-story hotel in the vicinity of the Project as part of the Hollywood Park Redevelopment Project.[50]

Finally, the DDA is illegal and fraudulent because it sets the stage for eminent domain action by the City to condemn private properties – all financed by the Project Applicant and for the latter's *private* purposes. The DDA further provides that – after eminent domain is exercised – all the properties taken by eminent domain will be conveyed to the Project Applicant. This is a naked abuse of the power of eminent domain (which power cannot be lawfully exercised here). The alleged public purpose for the City's intended use of eminent domain is pretextual and a transparent prevarication.[51]

Development of the Project and similar stadiums also increases nearby properties' rents and real property values. We believe that evidence that certain City officials (and decision makers), or those related to them such as family members, have been purchasing properties and expect a prospective economic advantage from approval of the Project. This situation can qualifies as a "bribe," and constitute a further basis for challenging any ostensible right to take.

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[49] See FAA Grant Agreement at http://ibecproject.com/IBECEIR_031082.pdf

[50] See pdf pp. 12 and 15 at https://www.cityofinglewood.org/DocumentCenter/View/108/II-Project-Description-PDF

[51] We have previously objected to the City's stated intended use of eminent domain to take private properties for the benefit of Murphy's Bowl and the Project, particularly our client's property at 10212 South Prairie Ave. We expressly reserve all objections thereto, which will be more fully raised if/when the City proceeds to a resolution of necessity hearing. (See, e.g., **Exh. 49** [April 23, 2020 letter].)

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Fraud vitiates any transaction and any potential approval of the DDA is therefore *void ab initio*. The City's approval of the DDA will also lead to the violation of our client's civil rights, and the civil rights of similarly situated property and business owners.

Finally, the DDA should not be approved as it is tainted and illegal due to the City's precommitment to the Project through its ENAs in violation of CEQA, the City's flawed CEQA findings, as well as the City's sanctioning of the illegal *rewriting* of the City's General Plan, Specific Plan, and the overlay zone to accommodate the Project.

XVI. CONCLUSION.

60

For all of the foregoing reasons, the FEIR must be rejected, the Project applications and entitlements denied, and a new and legally compliant DEIR circulated prior to any further consideration of the Project.

Very truly yours,

/s/ Robert P. Silverstein

ROBERT P. SILVERSTEIN
FOR
THE SILVERSTEIN LAW FIRM, APC

RPS:vl
Encls.

Note to Reader:
All Exhibits attached to this letter are a part of the Administrative Record and can be found at ibecproject.com

The Silverstein Law Firm, APC
June 16, 2020
Objections to IBEC Project, DEIR and FEIR;
State Clearinghouse No. 2018021056

EXHIBIT 1

From: Dev Bhalla
To: Mindala Wilcox; ibecproject; Evangeline Lane
Subject: To the Inglewood Planning Commission public hearing city of inglewood scheduled for June 17, 2020 IBEC
Date: Tuesday, June 16, 2020 11:02:36 PM

To the Inglewood Planning Commission

public hearing city of inglewood

scheduled for June 17, 2020

Dear All,

In reference to Item #5 under Public Hearing.

"promote the enjoyment and recreation of the public by providing access to the City's residents in the form of spectator sports"

Please let us know what percentage of this "City's residents," specifically Inglewood's residents will be able to afford the for profit tickets that often sell through third parties for hundreds of dollars? In the current planning commissions scenario the purchasing of a expensive ticket is required for "enjoyment and recreation." The initial quote above implies something all residents can enjoy like a public park, free of cost. This is a special privilege that is being given to a private business by the city, buried in mountains of documents.

Has there been a study conducted to see what percentage of Inglewood residents will be able to afford to go to these basketball games? I am sure it will not be affordable for the majority of the residents who will of course be effected by the traffic, congestion, trash and increase in living expenses.

Why have I never been informed by the city of their intentions?

Why has the warehouse to the east of my building not been included in the redeveloppment? Why have the businesses directly north of my building not been included? According to the project site aerial map they have deliberately drawn around them. What side deal has been cut?

Attachment No. 4 Zone Change and Zoning Code Amendment Findings

"All properties to be rezoned for consistency with the General Plan Land Use Element are owned by the City of Inglewood or the City of Inglewood as Successor Agency to the former Inglewood Redevelopment Agency (City as Successor Agency) and are currently vacant."

Is the above amendment referring to my property to? If so, it is obviously not true.

Please clarify the plans for my building?

I will be calling in to participate in the hearing. If you don't hear from me during the meeting you will know that yet another obstacle has been put in my way, not allowing me to be there due to the limitations of your technology.

Please confirm receipt of this email via reply.

Respectfully,

Dev Bhalla
Owner of:
3838 w. 102 st.
Inglewood, CA
310-770-9660

Note to Reader:
All Exhibits attached to this letter are a part of the Administrative Record and can be found at ibecproject.com

801 S. Grand Ave.
11th Floor
Los Angeles, CA 90017

FISHER & TALWAR
PROFESSIONAL LAW CORPORATION

PH (213) 891-0777
FAX (213) 891-0775
www.fishertalwar.com

J. Jamie Fisher, Esq.
jf@fishertalwar.com

June 16, 2020

Via Email (mwilcox@cityofinglewood.org)
City of Inglewood
Economic and Community Development Department
Special Planning Commission
Inglewood City Hall, Council Chambers, Ninth Floor
One West Manchester Boulevard
Inglewood, CA 90301

Re: Objections on Behalf of Dev and Roopa Bhalla to Proposed Actions Related to Inglewood Basketball and Entertainment Center to be Considered at June 17, 2020 Special Planning Commission Meeting of the Economic and Community Development Department of the City of Inglewood

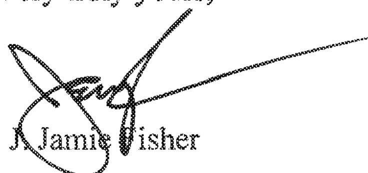
Dear Commissioners and Staff:

We have received notice of the meeting of the Special Planning Commission of the Economic Community Development Department of the City of Inglewood ("SPC") scheduled for June 17, 2020 wherein the SPC plans to take certain actions set forth in the Agenda relating to the Inglewood Basketball and Entertainment Center ("IBEC").

This purpose of this letter is to provide written objection on behalf of Dev and Roopa Bhalla (the "Bhallas"), owners of the improved property situated at 3838 W. 102 St., Inglewood, CA 90303 ("Subject Property") to the actions proposed in the City of Inglewood Agenda relating to the above referenced meeting. Accordingly, we request that this letter be included as part of the formal record for said Agenda.

Specifically, the Ballas object to Agenda Items 5(A)-5(F), inclusive, to the extent any such proposed actions adversely affect, *inter alia*, the zoning, utility, developability, salability and/or otherwise reduce the value of the Subject Property in any way. Additionally, since the Subject Property has been designated as part of the IBEC project area and presumably will be acquired by the City in the future in connection with said project, any action taken by the City to diminish the value of the Subject Property or otherwise adversely affect same prior to its acquisition of the property are in bad faith and are in violation of California law.

Very truly yours,



J. Jamie Fisher

From: Evangeline Lane
To: Mindala Wilcox
Subject: FW: Public Records Request - Planning Commission Agenda
Date: Wednesday, June 17, 2020 5:14:35 PM

Hi Mindy;

This just received from Ms. Hebert.

E.

From: msmelissahebert@gmail.com [mailto:msmelissahebert@gmail.com]
Sent: Wednesday, June 17, 2020 4:31 PM
To: Jacquelyn Gordon <jgordon@cityofinglewood.org>
Cc: Evangeline Lane <elane@cityofinglewood.org>; Aisha Thompson <aphillips@cityofinglewood.org>
Subject: Re: Public Records Request - Planning Commission Agenda

Please provide accompanying staff report related to this item that was provided to any member of the public who sent comment on this matter to the persons identified as receiving comments related to this item.

Melissa

Sent from my iPhone

> On Jun 17, 2020, at 2:09 PM, Jacquelyn Gordon <jgordon@cityofinglewood.org> wrote:
>
> Hello Melissa,
>
> I have attached a copy of the response to your request.
>
> *Jacquelyn Gordon*
> Staff Assistant: City of Inglewood
> City Clerk's Office
> One Manchester Boulevard, 1st Floor, Inglewood, CA 90301
> Phone 310 412.8809 Fax 310 412.5533
> www.CityofInglewood.org
> <image003.jpg>

From: Melissa Hebert [mailto:msmelissahebert@gmail.com]
Sent: Thursday, June 11, 2020 11:16 AM
To: Evangeline Lane <elane@cityofinglewood.org>; Aisha Thompson <aphillips@cityofinglewood.org>
Cc: Jacquelyn Gordon <jgordon@cityofinglewood.org>
Subject: Public Records Request - Planning Commission Agenda

Good morning Evangeline & Aisha!

I am seeking a copy of the planning commission agenda for June 17th meeting to approve the Clippers arena?

Melissa
<Melissa Hebert 20-03 Document.pdf>

Letter 26

From: Jasmine Lee
To: Mindala Wilcox
Cc: nagkyunglee
Subject: Local Property Owner Inquiry about the Inglewood Basketball and Entertainment Center Building Project
Date: Thursday, June 18, 2020 4:58:57 PM

Hello Manager Wilcox,

I am emailing on behalf of my father, Charles Lee the property owner of the California Prairie Plaza LLC (10300 S. Prairie Ave, Inglewood). He has a Yahoo email, and from the call I placed to your office, I learned that there is a firewall for Yahoo emails, so I am passing this along through my gmail account, with him Cc'ed.

"I had several questions in regards to the Inglewood Basketball and Entertainment Center Building Project.
1. My property is located on the cross of W. 103rd St and S. Prairie St., and I would like to know if the Project site overlaps into it.
2. How will businesses in that specific area be affected by the construction and project? The tenants of the plaza are concerned about the project's proximity to their location.
3. Who is the point person in regards to communicating with local businesses for their questions?
4. Is there a start date to the Project? And what is it?
Thank you, and I hope to hear back from you soon.
Sincerely,
Charles Lee"

Best,
Jasmine Lee

THE SILVERSTEIN LAW FIRM
A Professional Corporation

215 NORTH MARENGO AVENUE, 3RD FLOOR
PASADENA, CALIFORNIA 91101-1504
PHONE: (626) 449-4200 FAX: (626) 449-4205
ROBERT@ROBERTSILVERSTEINLAW.COM
WWW.ROBERTSILVERSTEINLAW.COM

June 19, 2020

VIA EMAIL kcampos@cityofinglewood.org
mpan@cityofinglewood.org

Kenneth R. Campos, City Attorney
Michael Pan, Sr. Deputy City Attorney
City of Inglewood
1 West Manchester Blvd.
Inglewood, CA 90301

Re: Response to Demand for Deletion of Alleged Privileged Documents
IBEC Project SCH 2018021056

Dear Mr. Campos and Mr. Pan:

I am in receipt of your June 17, 2020 letter. As a preliminary matter, please keep Naira Soghbatyan, Esther Kornfeld and Veronica Lebron of my office copied on all communications, especially as most of us are working remotely. I have copied them in the cover email of this letter.

Regarding the substance of your letter, I personally have not seen or read the document you reference in your June 17, 2020 letter. I understand that Ms. Soghbatyan in reviewing documents publicly posted by the City on its website and distributed to the general public as part of an open meeting agenda item saw the subject staff report and attachments.

I have now reviewed the staff report itself (not the subject attachment). As an initial matter, in addition to the fact that the document in question was published to the world by the City for at least several days, and perhaps also made physically available to the public, the staff report shows that the entire document that was uploaded for public access was vetted by multiple City officials and staff, as notated with initials and signatures, including from the City Manager and City Attorney.

However, the purpose of this letter is to acknowledge receipt of your letter and to inform you that although based on my preliminary understanding, the document in

question does not appear to qualify as privileged on various grounds, nonetheless, we will not disseminate it until we have had an opportunity to review in more detail your letter and the cases you have cited. It is my expectation to be able to more substantively respond to you in the next approximate week.

This is not a concession that the document in question was properly claimed to be privileged or, that there was not a waiver of any potential privilege by virtue of the City's broad public dissemination of the materials. However, we will review the issues further and get back to you regarding same.

Can you provide me with any anticipated dates for the City Council's final hearing and consideration of the IBEC project entitlements and FEIR certification?

As always, please contact me with any questions. Thank you.

Very truly yours,

/s/ Robert P. Silverstein
ROBERT P. SILVERSTEIN
FOR
THE SILVERSTEIN LAW FIRM, APC

RPS:vl
cc: Naira Soghbatyan, Esq. (Naira@RobertSilversteinLaw.com)
Esther Kornfeld (Esther@RobertSilversteinLaw.com)
Veronica Lebron (Veronia@RobertSilversteinLaw.com)

From:	Sheri Davis
To:	George Dotson
Subject:	CLIPPERS ARENA
Date:	Sunday, June 28, 2020 7:22:50 PM

We in Inglewood will be silent no more. The Mayor, councilman, have been missing in action during this pandemic. We have to get information from Mayor of Los Angeles to get the reports on status of Inglewood virus. Council meetings are on line that limit us the visibility and ability to be have our concerns expressed.

If you, councilman, cannot properly represent our District's needs and hear our concerned voices the votes for you will be silent.

We have serious concerns about Clippers Arena such as increased traffic, environmental impact, e.g. health, residents forced out of their housing and closing of small businesses. How is this to the benefit of Inglewood? Increased property taxes and sales taxes??

We need to be heard. There is power in our vote, and we use it at the polls.

Concerned Inglewood Resident for 30+ years

Sent from AT&T Yahoo Mail on Android

From: Tina Pool
To: George Dotson
Subject: Clippers Arena
Date: Sunday, June 28, 2020 12:55:25 PM

Mr Dotson
I am against the new Clippers Arena. If they want to play in Inglewood, they can play in the Forum since Balmer owns it now.
I am an original owner in Carlton Square; this was my first time living in Inglewood. I moved here because of its convenience and I liked the idea of moving into a brand new house. I also liked the small town atmosphere, where there wasn't a lot of congestion and noise – a bedroom community. When I came, I made a choice and was prepared to contend with Hollywood Park and the Forum.
Since then, the only choice I was given was the Walmart on the corner of Pincay and Prairie, which I and my neighbors voted down. Nobody asked me about the Hollywood Park casino or the new football stadium. I was surprised to see how close the stadium is to my home – guess I should have paid more attention, but I thought it would be where the racetrack was. I continue to see changes that will affect my daily life. Now, with the congestion that I expect and the prices for homes, I am seriously considering moving out of Inglewood.
Now, on top of all this, you want to add a basketball arena. I think you are making Inglewood a less desirable place for its residents to want to stay. I realize that all of Inglewood will not be as affected as I am, but I would appreciate consideration for those of us who have been subjected to this arbitrary (or is it?) discrimination. We happen to be the ones who own our homes, keep them up, pay our taxes, and vote.
I am asking that you rescind the approval to build the new Clippers Arena.
Thank you
Tina Pool

Letter 30

From: Veronica Lebron
To: afields@cityofinglewood.org; apadilla@cityofinglewood.org; aphillips@cityofinglewood.org; emorales@cityofinglewood.org; fjackson@cityofinglewood.org; gdolson@cityofinglewood.org; ibecproject@cityofinglewood.org; jbutts@cityofinglewood.org; kcampos@cityofinglewood.org; mwilcox@cityofinglewood.org; rfranklin@cityofinglewood.org; wbrown@cityofinglewood.org; yhorton@cityofinglewood.org
Cc: Esther Kornfeld; Naira Soghbatyan; Robert Silverstein
Subject: Further Objections to General Plan Amendments and Notices of Exemption for, and of General Plan Amendment GPA-2020-01 and GPA-2020-02; CEQA Case Nos. EA-CE-2020-036 and EA-CE-2020-037
Date: Tuesday, June 30, 2020 12:15:15 PM

Please click on the following link for our comments on the above-referenced matter. Please confirm receipt.

https://www.dropbox.com/s/rc6uy2ia2genfb6/6-30-20%20%5BSCAN%5D%20Further%20Objections%20to%20General%20Plan%20Amendments%20%28GPA%29%20%26%20Notices%20of%20Exemptions%20%28NOE%29.PDF?dl=0

Thank you.

Veronica Lebron
The Silverstein Law Firm, APC
215 North Marengo Avenue, 3rd Floor
Pasadena, CA 91101-1504
Telephone: (626) 449-4200
Facsimile: (626) 449-4205
Email: Veronica@RobertSilversteinLaw.com
Website: www.RobertSilversteinLaw.com

==================================
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==================================

Letter 31

THE SILVERSTEIN LAW FIRM
A Professional Corporation

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WWW.ROBERTSILVERSTEINLAW.COM

June 30, 2020

VIA EMAIL
yhorton@cityofinglewood.org;
aphillips@cityofinglewood.org
Yvonne Horton, City Clerk
City Clerk's Office on behalf of
Inglewood Planning Commission
Mayor and City Council
Inglewood Successor Agency, Inglewood
Housing Authority, Inglewood Parking
Authority, Joint Powers Authority
1 Manchester Boulevard
Inglewood, CA 90301

VIA EMAIL
fljackson@cityofinglewood.org;
mwilcox@cityofinglewood.org;
Ibecproject@cityofinglewood.org
Fred Jackson, Senior Planner
Mindy Wilcox, AICP, Planning Manager
City of Inglewood, Planning Division
1 West Manchester Boulevard, 4th Floor
Inglewood, CA 90301

Re: Further Objections to General Plan Amendments and Notices of Exemption for, and of General Plan Amendment GPA-2020-01 and GPA-2020-02; CEQA Case Nos. EA-CE-2020-036 and EA-CE-2020-037

Dear Mayor Butts, Council Members, Mr. Jackson and Ms. Wilcox:

Please include this letter in the administrative record for **both** the above-referenced matters **and** the Inglewood Basketball and Entertainment Center (IBEC) project, SCH No. 2018021056. This letter applies to both June 30, 2020 City Council hearing Agenda Items PH-2 and PH-3, as well as agenda items DR-1 and DR-2.[1]

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[1] We appreciate the staff recommendation to rescind the General Plan amendments and their CEQA exemptions adopted on June 9, 2020 in response to public comments about Brown Act violations that deprived the public of its participation rights (DR-1 and DR-2). However, the rescission staff report does not explain the reason for rescission. Also, staff's recommendation for a same-day re-approval of the General Plan amendments (PH-2 and PH-3), immediately after rescission – with the violations detailed in this letter, particularly the claimed incorporation of the June 9, 2020 staff report which contains *sub rosa* revisions therein – makes the City's actions all the more problematic, and further depriving the public of its information and participation rights.

I. INTRODUCTION.

This firm and the undersigned represent Kenneth and Dawn Baines, owners of the property located at 10212 S. Prairie Ave., Inglewood. Please keep this office on the list of interested persons to receive timely notice of all hearings and determinations related to the City's proposed adoption of the General Plan Amendments for the Land Use Element and adoption of the Environmental Justice (EJ) Element ("Project(s)") and their Categorical Exemptions.

Please also provide us timely notice of any filing of Notice of Exemption or Notice of Determination under Pub. Res. Code § 21167(f) for both the amendment of the Land Use Element and the adoption of the Environmental Justice Element.

This is a further follow up to our April 13, 2020, May 26, 2020, and June 9, 2020 objection letters about both Projects: Land Use Element and Environmental Justice Element. (**Exh. 1** [June 9, 2020 Objection Letter, which includes prior objection letters of April 13 and May 26, 2020].)

II. THE CITY'S PROPOSED AMENDMENTS/ADOPTION OF LAND USE AND ENVIRONMENTAL JUSTICE ELEMENTS VIOLATE CEQA'S MANDATE FOR GOOD FAITH DISCLOSURE OF PROJECT DESCRIPTION AND IMPACTS.

CEQA pursues four major goals, one of which is informational. Guidelines § 15002. "CEQA recognizes that in determining whether and how a project should be approved, a public agency has an obligation to balance a variety of public objectives, including economic, environmental, and social factors and in particular the goal of providing a **decent home** and satisfying **living** environment for every Californian." Guidelines § 15021(d). CEQA mandates the City's "good faith effort at full disclosure." Guidelines § 15204. An agency is not acting in good faith when "it gives conflicting signals to decision makers and the public about the nature and scope of the activity being proposed." San Joaquin Raptor Rescue Center v. County of Merced (2007) 149 Cal.App.4th 645, 655–656.

The City has repeatedly violated this good faith disclosure requirement under CEQA, as detailed in our prior objection letters. The City has yet again violated CEQA's good faith disclosure mandate through several **misrepresentations** in the June 30, 2020 City Council meeting staff reports for PH-2 and PH-3, as listed below.

A. Staff Reports for Both PH-2 and PH-3 Agenda Items Omit Any Reference to Our June 9, 2020 Further Objection Letter and Fail to Respond to It.

On June 9, 2020 – hours before the City Council meeting of that date commenced – we sent a detailed "Further Objection Letter" related to both Land Use and Environmental Justice (EJ) Elements and their Exemptions. Yet at p. 2 of the respective June 30, 2020 supplemental staff reports for PH-2 (EJ element) and PH-3 (Land Use element), staff fails to acknowledge receipt of our June 9, 2020 Objection Letter.

Derivatively, the June 30, 2020 staff reports for both PH-2 and PH-3 fail to address the concerns we raised in our June 9, 2020 objection letter, applicable to both Land Use and EJ Element approvals and their exemptions.

Thus, both the public and the decisionmakers were deprived of good faith disclosure of our letter, including critical CEQA concerns expressed therein, as well as of the City's responsive position, if any.

It is well-settled:

> "[T]he ultimate decision of whether to approve a project, be that decision right or wrong, is a nullity if based upon an EIR that does not provide the decision-makers, and the public, with the information about the project that is required by CEQA." (Santiago County Water Dist. v. County of Orange (1981) 118 Cal.App.3d 818, 829, 173 Cal.Rptr. 602 (Santiago); Vineyard Area Citizens, supra, 40 Cal.4th at p. 443, 53 Cal.Rptr.3d 821, 150 P.3d 709 ["That a party's briefs to the court may explain or supplement matters that are obscure or incomplete in the EIR ... is irrelevant, because the public and decision makers did not have the briefs available at the time the project was reviewed and approved."].)" Communities for a Better Environment v. City of Richmond (2010) 184 Cal.App.4th 70, 85-90.

The City is also violating CEQA, by depriving the public and decisionmakers of the mandatory good faith effort at full disclosure, by failing to respond to the concerns we raised in our June 9, 2020 letter.

B. Staff Reports for Both PH-2 and PH-3 Agenda Items Claim to Incorporate by Reference the *Prior* June 9, 2020 Staff Reports for PH-1 and PH-2, Respectively, but Actually Attach *Altered* June 9, 2020 Staff Reports, Without Any Indicia or Notice to the Public of Such Revisions.

Both June 30, 2020 Staff Reports for PH-2 (EJ Element) and PH-3 (Land Use Element) provide a page and a half supplemental staff-report, followed by attachments of what they *claim* to be the prior June 9, 2020 staff report for the respective items:

> "Attached to this Supplemental Staff report, and incorporated herein by reference, is the **full staff report** for the **originally** scheduled June 9, 2020 Public Hearing on the adoption of General Plan Amendment 2020-001 (GPA-2020-001) for an Environmental Justice Element of the General Plan. In order to ensure that members of the public have had full opportunity to participate in the public process, the City Council is holding a new public hearing on the Environmental Justice element following which the City Council may take action on the items listed above." (**Exh. 2** [PH-2 Staff Report for June 30, 2020]; emph. added.)

> "Attached to this Supplemental Staff report, and incorporated herein by reference, is the **full staff report** for the **originally** scheduled June 9, 2020 Public Hearing on the adoption of General Plan Amendment 2020-002 (GPA-2020-002) to amend the Land Use Element of the Inglewood General [sic] Plan to clarify existing population density and building intensity allowances for all land use designations. I n order to ensure that members of the public have had full opportunity to participate in the public process, the City Council is holding a new public hearing on the General Plan Land Use Element amendment following which the City Council may take action on the items listed above." (**Exh. 3** [PH-3 Staff Report for June 30, 2020]; emph. added.)

The above-quoted passage is then followed by pages of vetting signatures from various departments, including the City Attorney's office, as well as verifications from the City Manager's office.

Yet the purported June 9, 2020 staff report attached to the supplemental verified staff report of June 30, 2020 contains a number of revisions, without any notice or indicia of those revisions to the public. Some of the revisions in fact address arguments raised in our prior objection letters about the City's omissions. Some other additions and revisions attempt to counter our objections in the June 9, 2020 letter – but those responses would have been easily overlooked by us (and the public) had we not noticed the surreptitious revisions to the prior June 9, 2020 staff report, hidden in a **document that the City falsely claimed was identical to the original June 9, 2020 staff report**.

It is not the duty of the public to sift through extensive staff reports and search for inconspicuous revisions and then to try to catch the legal errors or respond to rebuttals. San Joaquin Raptor Rescue Center v. County of Merced (2007) 149 Cal.App.4th 645, 659 ("The decisionmakers and general public should not be forced to sift through obscure minutiae or appendices in order to ferret out the fundamental baseline assumptions that are being used for purposes of the environmental analysis"). Also, "a Lead Agency is responsible for the adequacy of its environmental documents. The Lead Agency shall not knowingly release a deficient document hoping that public comments will correct defects in the document." Guidelines § 15020. The City's release of an **altered June 9, 2020 staff report, masquerading as the original June 9, 2020 staff report**, as attachments to the June 30, 2020 staff report for PH-2 and PH-3 items, constitutes a knowingly false and misleading document by the public, putting the burden on the public to catch and correct the mistakes/revisions. Although we caught this falsification of the original June 9, 2020 staff report, we can reasonably assume that many if not all other members of the public did not. **The entire matter should be cancelled and renoticed for future hearing with clear, truthful, and non-falsified documents provided by the City to the public.**

As one example, the *altered* EJ Element (PH-2) June 9, 2020 staff report at p. 1 notes that the Planning Commission has adopted the EJ Element with "minor revisions." (Compare **Exh. 2**, p. 1 of the revised June 9, 2020 Staff Report with **Exh. 4,** p. 1 [Original June 9, 2020 Staff Report].) This revision might have been in response to our criticism that any revision after the Planning Commission's approval has to go back to the Planning Commission for re-approval before going to the City Council. (**Exh. 1**, p. 11, footnote 4.)

Similarly, the *altered* Land Use Element (PH-3) staff report of June 9, 2020, has *added* a full new paragraph trying to rebut our prior objections. (Compare **Exh. 3,** p. 3 of the revised June 9, 2020 staff report with **Exh. 5,** p. 3 [Original June 9, 2020 staff report].) Also, in response to our June 9, 2020 letter related to the City's failure to include our May 26, 2020 letter, the *altered* June 9, 2020 staff report has added reference

to it at p. 5. (P. 5 of both **Exhs. 3 and 5,** of the June 9, 2020 staff report.)

Further, and most importantly, the revised June 9, 2020 staff report adds two paragraphs addressing our June 9, 2020 objection letter and yet fails to acknowledge the commenter or the comment. (Compare **Exh. 3,** pp. 8-9 of the June 9, 2020 staff report and **Exh. 5,** p. 7 of the June 9, 2020 staff report.) The added two paragraphs attempt to rebut our arguments related to the CEQA exemptions in our June 9, 2020 letter, and – had it not been for our perusal of the documents and comparison of it with the prior version – we and the public/decisionmakers would have never been informed of the City's responses to the concerns we raised. The City's attempt to conceal responses to our concerns by pretending that the original June 9, 2020 staff report was simply being reproduced, was intended to prejudice us and foreclose any further comments to the City's responses.

The above examples are illustrative, not exhaustive.

Finally, the June 30, 2020 incorporated staff report for PH-2 (EJ Element) preserved the Notice of Exemption for the EJ element that it had attached to its June 9, 2020 letter. While we had not discovered or raised this objection the last time, we now note and object that – similar to the Land Use Element's changed Notice of Exemption which was altered and which we discovered before (see **Exh. 1,** p. 8) – the City's Notice of Exemption for the EJ Element, attached to both the June 9, 2020 and now June 30, 2020 staff reports, is also altered, as compared with the Notice of Exemption the City published initially since April, 2020 and presented to the Planning Commission on April 13, 2020. (Compare the Notices in the incorporated **Exh. 2** revised June 9, 2020 staff report with **Exh. 6** [City's originally published Notice of Exemption that was voted upon by the Planning Commission on April 13, 2020, with the preceding page from the Planning Commission's staff report].)

Thus, the City's attachment of the prior June 9, 2020 staff reports to the June 30, 2020 Staff Reports for PH-2 and PH-3 – with revisions and additions and lack of notice thereof – prejudiced the unwitting public and commenters, as well as the decisionmakers, due to not only a lack of good faith disclosure, but worse, an illicit attempt to conceal information from disclosure and public awareness of same. Secretly embedding new information under an old (June 9, 2020 staff report) title is not the way for government to operate.

III. THE CITY'S ATTACHMENT OF THE JUNE 9, 2020 STAFF REPORT WITH REVISIONS BUT NO NOTICE THEREOF TO THE PUBLIC MAY ALSO CONSTITUTE A CRIMINAL VIOLATION PER GOVT. CODE §§ 6200-6203.

Govt. Code § 6200 makes it a crime to alter or falsify public documents:

> "Every officer having the custody of any record, map, or book, or of any paper or proceeding of any court, filed or deposited in any public office, or placed in his or her hands for any purpose, is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, three, or four years if, as to the whole or any part of the record, map, book, paper, or proceeding, the officer willfully does or permits any other person to do any of the following:
>
> (a) Steal, remove, or secrete.
>
> (b) Destroy, mutilate, or deface.
>
> (c) Alter or falsify." Id.

Govt. Code §§ 6201-6203 make the violation of altering or falsifying a record actionable not only as to the custodian of records as in Section 6200, but also as to non-custodians and to those who certify and verify the record as correct.

The June 30, 2020 staff reports for both PH-2 and PH-3 agenda items, incorporating the *altered* versions of both June 9, 2020 staff reports of the same items, as well as *altered* Notices of Exemption of both Land Use and EJ Elements – all **without any notice to the public that the documents were altered** and yet claiming those records are the same ones previously published – effectively falsifies public records, in violation of Govt. Code §§ 6200-6203.

We request that the City – and all respective officials and personnel responsible for keeping the records or verifying them as being authentic and correct – formally and publicly acknowledge the revisions made to the June 9, 2020 staff reports (as attached to the June 30, 2020 staff report) and the Notices of Exemption, as part of the City's cancellation of this hearing, rescheduling it in accordance with law, and publishing non-altered, non-falsified documents, or making changes, but with clear notice to the public.

This is necessary so that the public has a chance to review the changes and revisions, prior to bringing them before the City Council for approval.

Finally, we request that the City cease and desist falsification of public records.

IV. THE CITY'S LATE-ADDED AND YET CONCEALED RESPONSE TO OUR OBJECTIONS RELATED TO THE COMMON SENSE EXEMPTION AND MINOR LAND USE ALTERATIONS ARE INCONSISTENT, MUTUALLY EXCLUSIVE AND LACK SUBSTANTIAL EVIDENCE.

The City's *altered* June 9, 2020 staff report incorporated into the June 30, 2020 staff report for PH-3 has added a purported rebuttal to our June 9, 2020 letter about the City's misuse of the common sense and minor alterations exemptions. Beyond being in violation of the required good faith effort at disclosure (for being placed in the June 9, 2020 staff report falsely claimed by the City to be the same as the original June 9, 2020 staff report), the City's responses lack merit.

It is incorrect for the City to assert or assume that there is an implied presumption of no significant impacts with the common sense exemption. (**Exh. 1,** p. 7.) Moreover, the land use changes provide for 1380% building intensity within the industrial zoning, where the City intends to include the IBEC Project into such industrial zoning qualification. Roughly, the 1380% FAR will allow anyone to build about fourteen times (13.8) bigger projects on the same lot (approximately 138 ft high). Since the City's 1380% building intensity does not specify what part of the structure will indeed be included in the calculation of the FAR, it is impossible to determine the implication of such percentage in the proposed land use element designation (e.g., some areas such as parking are typically not counted as part of the FAR). The Clipper's IBEC Project is proposed to be about 150 feet tall. (**Exh. 7** [excerpts from the IBEC DEIR, presently before the City].) Thus, the 1380% building intensity allowing to build almost 150 feet tall specifically enable the Clippers' IBEC Project's arena. The IBEC DEIR identified 41 significant environmental impacts which cannot be mitigated. Thus, the 41 significant impacts of the IBEC Project will be made possible by the present Land Use element's designation of building intensity for the industrial zoning, and are therefore impacts that disqualify the Land Use element amendment from the common sense exemption.

Moreover, while typically industrial zoning does not involve a lot of *commercial* activity and has *limited* hours of operation throughout the day and week, the IBEC project – based on its recent representations in the administrative record – contemplates round-the-clock activity on all days of the week. (**Exh. 8** [Feasibility Study and

Infeasibility of Same-Day Event limitation].) In particular, documents in the record show that the IBEC Project will involve far more activity than SoFi Stadium or MSG Forum, and will involve extensive commercial activity beyond the hours devoted to the games or special events. The extensive commercial activity by IBEC (or any future similar project), proposed in the industrial zoning designated with 1380% building intensity is yet further substantial evidence to rebut the City's claim of "no possibility" or "certainty" that the proposed land use designations will not have any significant impact.

Exemptions from CEQA's requirements are to be construed narrowly in order to further CEQA's goals of environmental protection. Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster (1997) 52 Cal.App.4th 1165, 1220. Projects may be exempted from CEQA only when it is indisputably clear that the cited exemption applies. Save Our Carmel River v. Monterey Peninsula Water Management Dist. (2006) 141 Cal.App.4th 677, 697.

Further, the above-noted changes enabling the massive IBEC Project constitute substantial evidence that the proposed changes under the Land Use element amendments are far more than "minor" alterations.

Moreover, the City's Class 5 "minor **alterations**" exemption and its reasoning are inconsistent with its justification for the "common sense exemption," according to which the Land Use "proposed amendments do not change development densities or intensities or authorize or change any preexisting land use designations" but "restate existing standards for land use designations in terms of population density and building intensity." The City may not argue out of both sides of its mouth.

Finally, as we have previously noted, substantial evidence is not argument or speculation. Pub. Res. Code § 21080(e)(1); Guidelines § 15384(a). The City has no substantial evidence to support its finding of any exemption, and particularly those of minor alterations or common sense exemption.

V. THE CITY'S RELAXING OF THE PRINCIPLES OF ENVIRONMENTAL JUSTICE IN THE NEW ENVIRONMENTAL JUSTICE ELEMENT WILL HAVE ADDITIONAL SIGNIFICANT AND DISPARATE IMPACTS ON INGLEWOOD IN VIEW OF ITS DEMOGRAPHICS.

Our prior June 9, 2020 objection letter, together with its referenced objection letters and public comments, demonstrates how the proposed EJ element fails to address numerous concerns of the public related to the safety of public transit or Inglewood

streets to enable alternate modes of transportation or walking. The safety concerns are compounded by the fact that any alternate mode of transportation – public transit, bicycling, walking – makes people more exposed to air pollution outside, whereas riding public transit is also counter to social distancing and makes people exposed and vulnerable to both known and unknown infections and diseases, such as COVID-19.

The concerns of air pollution are particularly grave in view of Inglewood's location close to LAX Airport, as well as the anticipated opening of the SoFi Stadium and the proposed IBEC Project, both of which will dramatically increase traffic in the City. The fact of increased traffic is beyond dispute, including in light of the City's adoption of the Parking Ordinance on June 16, 2020, to purportedly manage parking during the anticipated events.

While the above concerns apply to all people, the City's EJ element's relaxed standards threaten to visit worse significant impacts on Inglewood's population. Recent research of 32 million U.S. births showed that air pollution and climate change has a particularly disparate significant impact on low-income population and minorities. (**Exh. 9** [Article re Disproportionate Impact of Climate Change on Minorities and Black People].) Based on the EJ Element, about half of Inglewood's population is Black, while about the other half is Hispanic.

Therefore, Inglewood demographics mandates more stringent and careful Environmental Justice principles and safeguards than the illusory and non-enforceable policies in the draft EJ Element.

VI. CONCLUSION.

We request that the City Council reject the proposed Land Use Element amendments and Environmental Justice Element as being illegally piecemealed from the IBEC project, and also require staff to provide an accurate Land Use Element description, as well as rewrite the EJ Element to provide genuine safeguards for Inglewood's population against air pollution and for responsive public involvement and participation in all land use decisions. In addition, the use of Notices of Exemption under CEQA is a failure to proceed in the manner required by law.

We also request that the City Council require staff to address the grave concerns raised in this letter about the City's surreptitious alterations of the staff reports and exemption notices, before adopting any amendment to the General Plan, or any CEQA documents in connection therewith, and particularly inapplicable Notices of Exemption.

Very truly yours,

/s/ Robert Silverstein
ROBERT P. SILVERSTEIN
FOR
THE SILVERSTEIN LAW FIRM, APC

RPS:vl
Encls.

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Note to Reader:
All Exhibits attached to this letter are a part of the Administrative Record and can be found at ibecproject.com

The Silverstein Law Firm, APC
June 30, 2020
Further Objections to General Plan Amendments and Notices of Exemption for, and of General Plan Amendment GPA-2020-01 and GPA-2020-02;
CEQA Case Nos. EA-CE-2020-036 and EA-CE-2020-037

EXHIBIT 1