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Public Comments Not Uploaded SWRCC - [City of Los Angeles, 1066 South La Cienega Boulevard] - SCEA Comment Letter

Barrie Brown Martinez <barrie@mitchtsailaw.com>

Tue, Nov 1, 2022 at 10:01 AM

Reply-To: clerk.plumcommittee@lacity.org

To: Oliver Netburn <oliver.netburn@lacity.org>

Cc: clerk.plumcommittee@lacity.org, Mitchell Tsai <mitch@mitchtsailaw.com>, Talia Nimmer <talia@mitchtsailaw.com>, Malou Reyes <malou@mitchtsailaw.com>, "Mitchell M. Tsai Attorney at Law, P.C." <info@mitchtsailaw.com>, Hind Baki <hind@mitchtsailaw.com>, Steven Thong <steven@mitchtsailaw.com>, Maria Sarmiento <maria@mitchtsailaw.com>, Jonathan Montano <jonathan@mitchtsailaw.com>, Rebekah Youngblood <rebekah@mitchtsailaw.com>

Good morning,

Please see our attached Comment Letter regarding the [1050 La Cienega Boulevard Project \(1066 South La Cienega Boulevard\)](#), in the city of Los Angeles.

Additionally, we would like to request that you confirm receipt of this email and its attachment.

Thank you for your attention,

--

B. Brown Martinez

Paralegal

Mitchell M. Tsai, Attorney At Law

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*** Our Office Has Recently Moved. Please Note New Mailing Address ****

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VIA E-MAIL

November 1, 2022

Los Angeles City Clerk

200 N. Spring St.

Los Angeles, CA 90012

Em: oliver.netburn@lacity.org; clerk.plumcommittee@lacity.org

**RE: Agenda Item No. 15 Council File No. 22-1098 1050 La Cienega
Boulevard Project [ENV-2022-2280-SCEA]**

Dear Chair Marqueece Harris-Dawson and Honorable Councilmembers,

On behalf of the Southwest Regional Council of Carpenters (“**Southwest Carpenters**” or “**SWRCC**”), my Office is submitting these comments to the City of Los Angeles regarding the Sustainable Communities Environmental Assessment (“**SCEA**”) for the 1050 La Cienega Boulevard project (“**Project**”).

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

Individual members of the Southwest Carpenters live, work, and recreate in the City and surrounding communities and would be directly affected by the Project’s environmental impacts.

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

The Southwest Carpenters incorporates by reference all comments raising issues regarding the environmental review for the Project submitted prior to the approval for the Project. See *Citizens for Clean Energy v City of Woodland* (2014) 225 Cal.App.4th 173, 191 (finding that any party who has objected to the project’s environmental documentation may assert any issue timely raised by other parties).

Moreover, the Southwest Carpenters requests that the City provide notice for any and all notices referring or related to the Project issued under the California

Environmental Quality Act (**CEQA**) (Pub. Res. Code, § 21000 *et seq.*), and the California Planning and Zoning Law (“**Planning and Zoning Law**”) (Gov. Code, §§ 65000–65010). California Public Resources Code Sections 21092.2, and 21167(f) and California Government Code Section 65092 require agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency’s governing body.

I. THE CITY SHOULD REQUIRE THE USE OF A LOCAL WORKFORCE TO BENEFIT THE COMMUNITY’S ECONOMIC DEVELOPMENT AND ENVIRONMENT

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

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

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

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

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

[L]abor should be considered an investment rather than a cost—and investments in growing, diversifying, and upskilling California’s workforce can positively affect returns on climate mitigation efforts. In other words,

well-trained workers are key to delivering emissions reductions and moving California closer to its climate targets.¹

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

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

People who live and work in the same jurisdiction would be more likely to take transit, walk, or bicycle to work than residents of less balanced communities and their vehicle trips would be shorter. Benefits would include potential reductions in both vehicle miles traveled and vehicle hours traveled.³

Moreover, local hire mandates and skill-training are critical facets of a strategy to reduce vehicle miles traveled (VMT). As planning experts Robert Cervero and Michael Duncan have noted, simply placing jobs near housing stock is insufficient to achieve VMT reductions given that the skill requirements of available local jobs must match those held by local residents.⁴ Some municipalities have even tied local hire and other workforce policies to local development permits to address transportation issues. Cervero and Duncan note that:

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

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

³ California Planning Roundtable (2008) Deconstructing Jobs-Housing Balance at p. 6, *available at* <https://cprroundtable.org/static/media/uploads/publications/cpr-jobs-housing.pdf>

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

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

Recently, the State of California verified its commitment towards workforce development through the Affordable Housing and High Road Jobs Act of 2022, otherwise known as Assembly Bill No. 2011 (“**AB2011**”). AB2011 amended the Planning and Zoning Law to allow ministerial, by-right approval for projects being built alongside commercial corridors that meet affordability and labor requirements. The City should consider utilizing local workforce policies and requirements to benefit the local area economically and to mitigate greenhouse gas, improve air quality, and reduce transportation impacts.

II. THE CITY SHOULD IMPOSE TRAINING REQUIREMENTS FOR THE PROJECT'S CONSTRUCTION ACTIVITIES TO PREVENT COMMUNITY SPREAD OF COVID-19 AND OTHER INFECTIOUS DISEASES

Construction work has been defined as a Lower to High-risk activity for COVID-19 spread by the Occupational Safety and Health Administration. Recently, several construction sites have been identified as sources of community spread of COVID-19.⁵

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

⁵ Santa Clara County Public Health (June 12, 2020) COVID-19 CASES AT CONSTRUCTION SITES HIGHLIGHT NEED FOR CONTINUED VIGILANCE IN SECTORS THAT HAVE REOPENED, *available at* <https://www.sccgov.org/sites/covid19/Pages/press-release-06-12-2020-cases-at-construction-sites.aspx>.

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

Construction Site Design:

- The Project Site will be limited to two controlled entry points.
- Entry points will have temperature screening technicians taking temperature readings when the entry point is open.
- The Temperature Screening Site Plan shows details regarding access to the Project Site and Project Site logistics for conducting temperature screening.
- A 48-hour advance notice will be provided to all trades prior to the first day of temperature screening.
- The perimeter fence directly adjacent to the entry points will be clearly marked indicating the appropriate 6-foot social distancing position for when you approach the screening area. Please reference the Apex temperature screening site map for additional details.
- There will be clear signage posted at the project site directing you through temperature screening.
- Provide hand washing stations throughout the construction site.

Testing Procedures:

- The temperature screening being used are non-contact devices.
- Temperature readings will not be recorded.
- Personnel will be screened upon entering the testing center and should only take 1-2 seconds per individual.
- Hard hats, head coverings, sweat, dirt, sunscreen or any other cosmetics must be removed on the forehead before temperature screening.
- Anyone who refuses to submit to a temperature screening or does not answer the health screening questions will be refused access to the Project Site.

- Screening will be performed at both entrances from 5:30 am to 7:30 am.; main gate [ZONE 1] and personnel gate [ZONE 2]
- After 7:30 am only the main gate entrance [ZONE 1] will continue to be used for temperature testing for anybody gaining entry to the project site such as returning personnel, deliveries, and visitors.
- If the digital thermometer displays a temperature reading above 100.0 degrees Fahrenheit, a second reading will be taken to verify an accurate reading.
- If the second reading confirms an elevated temperature, DHS will instruct the individual that he/she will not be allowed to enter the Project Site. DHS will also instruct the individual to promptly notify his/her supervisor and his/her human resources (HR) representative and provide them with a copy of Annex A.

Planning

- Require the development of an Infectious Disease Preparedness and Response Plan that will include basic infection prevention measures (requiring the use of personal protection equipment), policies and procedures for prompt identification and isolation of sick individuals, social distancing (prohibiting gatherings of no more than 10 people including all-hands meetings and all-hands lunches) communication and training and workplace controls that meet standards that may be promulgated by the Center for Disease Control, Occupational Safety and Health Administration, Cal/OSHA, California Department of Public Health or applicable local public health agencies.⁶

⁶ See also The Center for Construction Research and Training, North America's Building Trades Unions (April 27 2020) NABTU and CPWR COVID-19 Standards for U.S. Construction Sites, *available at* https://www.cpwr.com/sites/default/files/NABTU_CPWR_Standards_COVID-19.pdf; Los Angeles County Department of Public Works (2020) Guidelines for Construction Sites During COVID-19 Pandemic, *available at* https://dpw.lacounty.gov/building-and-safety/docs/pw_guidelines-construction-sites.pdf.

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

Southwest Carpenters has also developed a rigorous Infection Control Risk Assessment (“**ICRA**”) training program to ensure it delivers a workforce that understands how to identify and control infection risks by implementing protocols to protect themselves and all others during renovation and construction projects in healthcare environments.⁷

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

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

III. THE CITY MUST REVISE AND RECIRCULATE THE SCEA

Although SWRCC maintains that a full EIR should be prepared for the Project, as discussed further below, the City must revise and recirculate the SCEA, at the very least, in light of the SCEA’s failure to substantiate all of its findings, provide adequate mitigation measures, and fully assess all relevant factors.

A. The SCEA Fails to Support its Energy and Utility Findings With Substantial Evidence

CEQA requires that an environmental document identify and discuss the significant effects of a Project, alternatives and how those significant effects can be mitigated or avoided. CEQA Guidelines § 15126.2; PRC §§ 21100(b)(1), 21002.1(a). With respect to energy impacts, CEQA Guidelines § 15126.2(b) requires that an environmental review document consider “the project's energy use for all project phases and components, including transportation-related energy, during construction and operation” to assess whether a project will result in wasteful, inefficient, or unnecessary consumption of energy. As noted in the SCEA, analysis to determine whether a project will result in wasteful, inefficient, or unnecessary consumption of energy should include “[t]he

⁷ For details concerning Southwest Carpenters’s ICRA training program, *see* <https://icrahealthcare.com/>.

project's energy requirements and its energy use efficiencies *by amount* and fuel type for each stage of the project” (emphasis added). SCEA at 5-55.

Similarly, for utility impacts, the SCEA requires consideration of whether the Project will “result in the relocation or construction of new or expanded. . . electrical power [and] natural gas” facilities. SCEA at 5-124.

Here, the SCEA does not even attempt to quantify the Project's estimated energy consumption during its construction phase. This is particularly disconcerting given that the SCEA estimates that the construction phase is expected to last about 32 months, i.e. over two years. SCEA at 5-107. Instead, the SCEA blanketly asserts that “[o]verall, construction activities associated with the Project would require limited electricity generation that would not be expected to have an adverse impact on available electricity supplies.” *Id.* at 5-55. Thus, the SCEA places the cart before the horse in speculating that the Project's energy and utility impacts will be less than significant without even assessing the Project's anticipated construction related energy consumption. Without such analysis and information, the SCEA's less than significant findings are no more than speculative.

B. The SCEA Improperly Defers its Mitigation Measures, Rendering the Project Ineligible for SCEA Review

If a project has a significant effect on the environment, an agency may approve the project only upon finding that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns”. CEQA Guidelines § 15092(b)(2)(A–B).

CEQA mitigation measures proposed and adopted are required to describe what actions will be taken to reduce or avoid an environmental impact. (CEQA Guidelines § 15126.4(a)(1)(B) [providing “[f]ormulation of mitigation measures should not be deferred until some future time.”].) While the same Guidelines section 15126.5(a)(1)(B) acknowledges an exception to the rule against deferrals, such exception is narrowly proscribed to situations where it is impractical or infeasible to include those details during the project's environmental review.

Here, the SCEA improperly defers numerous mitigation measures without providing any assertion or explanation as to why the measures cannot be formed at this time. In doing so, the SCEA not only deprives the public from meaningful review and comment of the mitigation measures but in fact renders the Project ineligible for SCEA review.

i. Hazardous Material Mitigation Measures

First, although the SCEA provides that “[b]ased on the groundwater data, the groundwater at the Site is impacted with constituents associated with gas stations (TPH-gasoline, benzene, ethylbenzene)”, it defers the measures it implements to mitigate such impacts. SCEA at 5-114. Specifically, the SCEA implements mitigation measures such as requiring a soil management plan (“SMP”) and retention of a dewatering contractor.

With regard to the SMP (MM-HAZ-1), the SCEA provides that it will be prepared at some unspecified time in the future by an unspecified and yet to be determined environmental consultant. SCEA at 5-114 (a SMP “*shall be prepared* for the proposed construction activities. . . [and] *will be developed* by a qualified environmental consultant for the site and implemented during site grading and excavation” (emphases added)). Similarly, for the dewatering contractor (MM-HAZ-2), the SCEA confirms that such contractor has yet to be retained, fails to provide required qualifications for the contractor, and fails to provide design specifications. SCEA at 5-116 (“a dewatering contractor *shall be retained* to design a treatment system to discharge groundwater during construction pursuant to applicable Los Angeles Water Quality Control Board requirements” (emphasis added)).

In light of these deficiencies, the Project’s hazardous material impacts are not truly mitigated, rendering the Project ineligible for SCEA review in the first place. See PRC section 21155.1(a)(4)(B) [holding that a project is only eligible for SCEA review if “a potential for exposure to significant hazards from surrounding properties or activities. . . [is] mitigated to a level of insignificance”]. Thus, in addition to needing to rectify its mitigation measures, a full EIR should be prepared for the Project since it does not comply with all of the SCEA eligibility requirements.

ii. Noise Mitigation Measures

The SCEA’s noise mitigation measures, implemented to mitigate the Project’s significant noise levels on nearby sensitive receptors such as a temple, school, park, senior living community, and residences, are also improperly deferred. SCEA at 5-157. For example, the SCEA implements MM-NOI-1 to require sound barriers along the Project’s eastern boundary which are “to achieve a sound attenuation of at least 15 dBA” and which shall be “a minimum of 20 feet in height.” SCEA at 5-159. Similarly, the SCEA implements MM-NOI-3 to require sound barriers along the Project’s western boundary which are also “to achieve a sound attenuation of at least 15 dBA” and which shall be “a minimum of 7 feet in height.” *Id.* However, assuming the

barriers sit on the ground at the perimeter of the Project, the barriers would not adequately mitigate noise sources elevated above the ground level as construction of the building progresses. The mitigation measures must be revised to fully explain how noise barriers would be used to mitigate noise impacts at a minimum of 15 dBA for elevated sources during construction of the twenty eight-story building.

Moreover, to “ensure that the Project’s construction does not expose South Alfred Street Residences and a commercial building at 1080 La Cienega Boulevard to potentially damaging levels of groundborne vibration”, the SCEA implements a number of mitigation measures such as requiring a pre-construction survey to be performed and implementation of a groundborne vibration and structural/architectural monitoring program (MM-NOI-10). SCEA at 5-166.

However, although the SCEA provides objectives and performance standards for the survey and program, it also notes that such measures have yet to be prepared. *Id.* ([p]re-construction surveys *shall be performed* to document the existing conditions of contributing structures that are part of the Sought Carthay HPOZ. . . [and a] groundborne vibration and structural/architectural monitoring program *shall be implemented and recorded* during the Project’s excavation and any other phases that require the use of large earthmoving vehicles and/or vibratory rollers to ensure that groundborne vibration levels at the boundary of the Project Site adjacent to these Contributing Structures do not exceed 0.12 inches per second” (emphases added)).

iii. Transportation Mitigation Measure

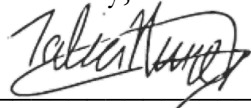
As with the other mitigation measures identified above, the SCEA also improperly defers its transportation project design feature, a mitigation measure in essence designed to “ensure that adequate emergency access exists during construction.” SCEA at 5-207. The SCEA provides that “[p]rior to the start of construction, the Project Applicant *shall prepare a detailed Construction Traffic Management Plan (CTMP)*, including street closure information, detour plans, haul routes, and staging plans, and submit it to LADOT for review and approval” (emphasis added). *Id.* Thus, the SCEA’s transportation mitigation measure is similarly deferred as the plan has yet to be prepared nor circulated for public review and comment.

In sum, the SCEA’s material mitigation measures, which the SCEA does not assert are somehow infeasible to develop at this time, are improperly deferred. The SCEA must be revised to include copies of the completed plans and surveys and to provide the specifications identified above to ensure that the public has opportunity to review and comment upon the adequacy of the measures.

IV. CONCLUSION

In accordance with the above, SWRCC requests that the City require a local and trained workforce, impose training requirements for the project's construction activities to prevent community spread of COVID-19 and other infectious diseases, and prepare an EIR for the Project. However, at the very least, the City should revise and recirculate the SCEA to address the aforementioned concerns. Should the City have any questions, please feel free to reach out to our office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Talia Nimmer', is written over a horizontal line.

Talia Nimmer

Attorneys for Southwest Regional
Council of Carpenters

Attached:

March 8, 2021 SWAPE Letter to Mitchell M. Tsai re Local Hire Requirements and Considerations for Greenhouse Gas Modeling (Exhibit A);
Air Quality and GHG Expert Paul Rosenfeld CV (Exhibit B); and
Air Quality and GHG Expert Matt Hagemann CV (Exhibit C).