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September 11, 2023

Via E-Mail Only

Members of Culver City Council
Culver City Hall
9770 Culver Blvd
Culver City, CA 90232
Email: city.council@culvercity.org.
Attn: City Clerk
(city.clerk@culvercity.org)

Re: September 11, 2023 City Council Agenda Item No. A-3 (CEQA review
concerning Move Culver City)

Dear Members of Culver City Council,

My name is Ed Casey, the land use attorney who sent you a letter dated April 21, 2023 (copy enclosed), which provides substantial evidence that the demolition and removal of existing protected bike lanes in the Downtown Corridor to create a general purpose lane for automobiles may create significant environmental impacts, which impacts must be analyzed in an Environmental Impact Report (“EIR”) in accordance with the California Environmental Quality Act (“CEQA”)(Cal. Public Resources Code section 21000 et seq.). Removal of a segment of the protected bike lanes to create an additional general purpose lane (the “Proposed Project”) will be the action before the City Council at its September 11, 2023 meeting. In reviewing the staff report for that meeting, City staff is not recommending the preparation of an EIR or any type of environmental review document under CEQA. Instead staff recommends using a categorical exemption and a statutory exemption to avoid review of the potential environmental impacts of the Proposed Project. Since those exemptions are inapplicable to the Project, I am submitting this letter for inclusion in the administrative record.

My April 2023 letter identified environmental impacts attributable to the Proposed Project in the areas of traffic, air quality and public safety. Evidence of those impacts was based on analyses from, among others, the NRDC and the Friends of Move Culver City. Those impacts remain front and center.

In the staff report, the Proposed Project as fashioned at the Council’s April 24, 2023 meeting also remains essentially the same. The designs propose removing the 1.6

miles of existing protected bike lanes in order to add a lane of “general purpose” travel to both sides of the street

Despite the similarity between the Project articulated at the Council meeting in April 2023 and the Project described in the September 2023 staff report, City staff recommends conducting *no* environmental review but instead rely on the categorical exemption for minor changes to “existing facilities” under CEQA Guideline 15301 and the statutory exemption for transit projects under CEQA Section 21080.25. The staff report argues that those exemptions apply because the environmental baseline in this case is the physical condition that existed *before* the Mobility Project was constructed. That legal position runs contrary to well-established CEQA law, which is embodied in CEQA Guideline 15125. That Guideline provides that the CEQA review document “must include a description of the physical environmental conditions in the vicinity of the project. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant.” (Emphasis added.)

The exceptions to this rule of using existing conditions to measure the impacts of a proposed project are limited, and the staff report seeks to rely on a limited exception in CEQA Guideline 15301. That Guideline provides a categorical exemption for minor changes to “existing facilities” “involving negligible or no expansion of existing or former use.” The staff report asserts that the phrase “former use” means that this exemption applies to the physical conditions that existed *before* a new project was built and therefore, demolition or removal of that recent project constitutes a change to an existing facility covered by the exemption in Guideline 15301.

That position, however, is not supported by the legislative history of this Guideline, the language of the Guideline, or logic itself. The phrase “former use” was added in 2018 by the California Natural Resources Agency, the agency in charge of updating the CEQA Guidelines. (Refer to page 47 of the first document in this link—<https://opr.ca.gov/ceqa/guidelines/updates.html> .) The reason for adding that phrase is discussed by the Resources Agency at page 61 of the second document in the link. The phrase “former use” was added only to account for *vacant* properties that were recently vacated. An illustrative example is provided in subsection (d) of Guideline which extends the existing facilities exemption to “restoration or rehabilitation of deteriorated or damaged structures,” which damage or deterioration often leads to vacant sites. Clearly, that exception to the normal rule for establishing the environmental baseline does not apply to the Proposed Project in this case since the subject properties are not vacant but have the infrastructure for the Mobility Project. Further, the rationale for this exception also does not apply to the Proposed Project. As explained by the Resources Agency (at page 61) as well as in CEQA Guideline 15125(a)(1), past historical conditions can only be used to modify the baseline “where necessary to provide the most accurate picture practically possible of the project's impacts.” Here, the most accurate picture of the Proposed Project’s impacts is measured by existing conditions since removal and

demolition of the Mobility Project will cause a number of potentially significant environmental impacts.

The language in other parts of the existing facilities exemption in Guideline 15301 also cuts against the position in the staff report. For example, Subsection (c) extends the exemption to projects that add to “existing highways or streets” new bike lanes or “similar alterations that do not create additional automobile lanes.” (Emphasis added.) Here, the Proposed Project would do exactly the opposite—create a new general purpose lane for automobiles.

Finally, logic does not support the position in the staff report. Under that position, an agency can construct a new project and avoid environmental review by affixing the label “pilot project” to it, and then, perhaps years later, demolish that project without any environmental review by relying on the phrase “former use” in the existing facilities exemption. That legally untenable position would create a substantial exception to CEQA compliance, running contrary to the admonition by the California Supreme Court that an EIR is at the “heart of CEQA” and is “an environmental alarm bell whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.” (*Laurel Heights Improvement Association v. Regents of University of California* (1988) 47 Cal. 3d 376, 392.)

The staff report also tries to rely on the statutory exemption in CEQA Section 21080.25 because the Proposed Project would convert general purpose lanes to shared bike-bus lanes. The staff report claims that is the case because general purpose lanes would not be added “beyond pre-pilot permanent conditions.” Yet, the conditions that existed before the Mobility Project was constructed is not the proper baseline under CEQA for the reasons discussed above. And there is no language in Section 21080.25 that supports the use of a different baseline relative to the normal baseline called for in CEQA Guideline 15125, and the staff report points to no such language in this statutory exemption.

For all of these reasons, I urge the Council to instruct staff to prepare a full EIR if the Council still seeks to proceed with the Proposed Project.¹

Very truly yours,

A handwritten signature in blue ink, appearing to read "E. Casey", with a long, sweeping horizontal line extending to the right.

Edward J. Casey

cc: Members of the City Council

¹ An EIR and not a negative declaration should be used in this case. Since “[t]he adoption of a negative declaration . . . has a terminal effect on the environmental review process,” by allowing the agency “to dispense with the duty [to prepare an EIR],” negative declarations are allowed only in cases where “the proposed project will not affect the environment at all.” *Citizens of Lake Murray v. San Diego*, 129 Cal.App.3d 436, 440 (1989). CEQA contains a “preference for resolving doubts in favor of environmental review.” *Pocket Protectors v. City of Sacramento*, 124 Cal.App.4th 903, 927 (2004). If substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR. *Communities for a Better Environment v. South Coast Air Quality Management Dist.*, 48 Cal. 4th 310, 319-320 (2010). The evidence previously submitted contains more than a “fair argument” that removal of the lanes will cause significant adverse impacts to traffic and to air quality.

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April 21, 2023

Via E-Mail Only

Members of Culver City Council
Culver City Hall
9770 Culver Blvd
Culver City, CA 90232
Email: city.council@culvercity.org.

Re: Culver City-Mobility

Dear Members of Culver City Council,

I represent Friends of Move Culver City, which is comprised of numerous community organizations and individuals standing in support of making Move Culver City permanent and expanding it without adding additional space for personal passenger vehicles. On behalf of Friends of Move Culver City, I demand that the City Council fully comply with the California Environmental Quality Act (Cal. Public Resources Code Section 21000 et seq.) (“CEQA”) before taking any action to demolish and remove the protected bike lanes located in the Downtown Corridor in order to create additional space for a vehicle traffic lane on both sides of the street (the “Proposed Project”).

CEQA embodies our state's policy that “the long-term protection of the environment ... shall be the guiding criterion in public decisions.” (CEQA Section 21001(b); see *Davidon Homes v. City of San Jose* (1997) 54 Cal App. 4th 106, 112.) “The overriding purpose of CEQA is to ensure that agencies regulating activities that may affect the quality of the environment give primary consideration to preventing environmental damage.” (*Save Our Peninsula Committee v. Monterey County Bd. Of Supervisors* (2001) 87 Cal App. 4th 99, 107.) Accordingly, CEQA applies to all “discretionary projects proposed to be carried out ... by public agencies.” (CEQA Section 21080(a).) A discretionary project has been defined by the courts as one which “requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular activity.” (*Friends of Westwood, Inc. v. City of Los Angeles* (1987) 191 Cal. App. 3d 259, 270.) If the proposed project or activity “may have a significant effect on the environmental,” then the public agency must prepare an

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Environmental Impact Report (“EIR”). (CEQA Section 21080(c).) The preparation of a full EIR is critical to the overarching objective of CEQA. As stated by the California Supreme Court, an EIR is at the “heart of CEQA” and is “an environmental alarm bell whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.” (*Laurel Heights Improvement Association v. Regents of University of California* (1988) 47 Cal. 3d 376, 392.)

There is no legal dispute that the removal of the protected bike lanes is a discretionary project within the meaning of CEQA. The City is under no state or federal mandate to remove the lanes, and therefore the removal of the lanes is purely a discretionary action by the City. Indeed, even City staff in its April 12, 2023 report to City Council acknowledged that “any modification to the Project design will need to be evaluated under the California Environmental Quality Act.” (Staff Report, p. 5.) Any modification clearly includes demolition of the protected bike lanes.

Consequently, the City must prepare an EIR to evaluate the potential environmental impacts attributable to their removal, which are numerous and considerable. For example, according to the California Induced Travel Calculator by UC Davis, removing the protected bike lane in favor of an additional lane of traffic on both sides of the project for 1.6 miles would induce 3.8M additional VMT per year, creating as much as 1326.98 metric tons of CO₂ in the process according to estimates by the EPA Automotive Trends Report. That is about the same amount of CO₂ as is emitted by 288 cars for a typical year (1326.98 metric tons of CO₂/4.6 metric tons emitted by average vehicle per year).

Additional environmental impacts were detailed in the letter dated April 17, 2023 from the NRDC. As detailed in that letter, removal of the protected bike lanes could lead to a dramatic increase in vehicle miles traveled (VMT). That substantial increase in VMT will result in significant environmental impacts associated with an increase in the emission of criteria air pollutants and greenhouse gasses.

In contrast, the benefits of maintaining the protected bike lanes are numerous. Those benefits were discussed at length in the letter dated April 17, 2023 from the Friends of Move Culver City. (A copy of that letter is attached as Exhibit A hereto.) Those benefits also lead the City’s Bicycle and Pedestrian Advisory Committee to pass a motion recommending that the Council vote to implement the MOVE Culver City downtown corridor “as a permanent installation in its current configuration.” (Staff Report, p. 3.)

The City Council is duty bound to comply with state law (CEQA) that mandates the “long-term protection of the environment.” We urge the City Council to direct staff to prepare an EIR if Council seeks to pursue demolition of the bike lanes or any other aspect

Members of Culver City Council

April 21, 2023

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of the Project so that the “environmental alarm bell” can be rung before the health and safety of the City’s residents are adversely affected and put at risk.

Very truly yours,



Edward J. Casey

cc: Heather Baker, (City Attorney, Culver City)(via email)
Alex Fisch - organizer, Friends of Move Culver City (via email)

EXHIBIT A

Monday, April 10, 2023
Move Culver City - Coalition Letter of Support



Members of Culver City Council
Culver City Hall
9770 Culver Blvd
Culver City, CA 90232

Mayor Vera, Vice Mayor McMorris, and Councilmembers Eriksson, O'Brien and Puza:

On behalf of a broad coalition of organizations working towards a better future for Culver City and beyond, **we urge you to make the existing Move Culver City project permanent without adding any additional lanes for passenger vehicles and begin the process of expanding the project to more neighborhoods across the city.** Move Culver City is a critical first step forward towards the safe, sustainable, equitable transportation network that is urgently needed region-wide, and **adding car lanes back to the project would severely hamper its efficacy and usability while only worsening congestion.**

The results of the Move Culver City project were consistently positive. Per staff's mid-pilot report, implementation of Move Culver City resulted in the following changes along the corridor:

- 52% increase in transit ridership from 2021 to 2022 compared to only a 26% increase system-wide
- 32% increase in cycling compared to pre-pandemic levels¹

It is clear from staff's analysis that the project has proven to be a success in achieving its original intent to facilitate growth in sustainable modes of transportation.

Despite some perceptions that the project has exacerbated car commute times along the corridor, only a two minute maximum increase in car travel time during peak evening commutes was observed while the same or increased capacity of vehicles was maintained.²

And while some have conjectured that business along the corridor took a hit due to the street design changes, the sales tax revenue collected (see below) shows a different story. Downtown Culver City became a regional attraction during the pandemic for its forward-thinking use of street space, and the implementation of the Move project made the area even more accessible to visitors across the L.A. basin arriving by rail, bike, bus, foot, or car.

¹ [Tactical Mobility Lane Mid-Pilot Report](#)

² The data collection process was independently validated by outside experts who verified that the collected data are appropriate, the methodology used is sound and reflects industry standards, and that the reported results are reproducible.



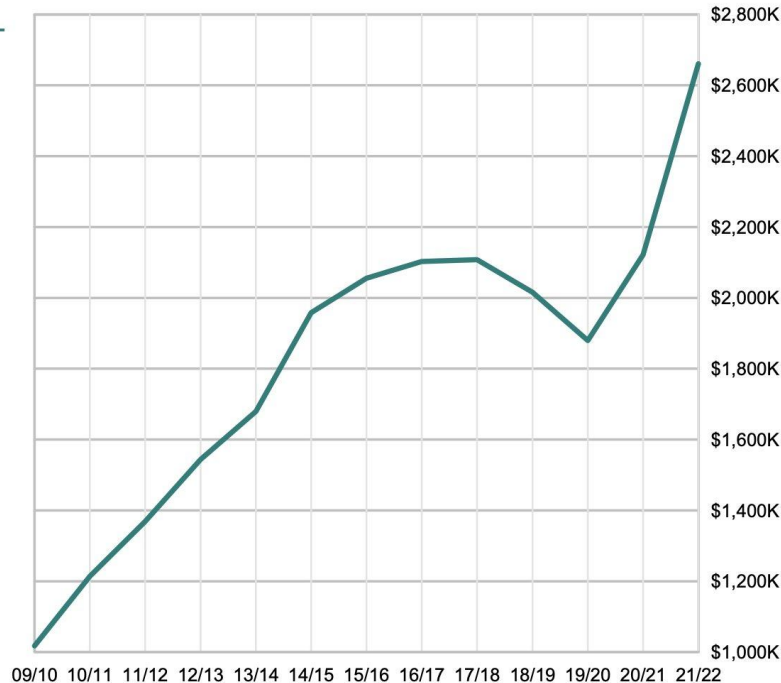
THE CITY OF CULVER CITY

ALL BUSINESS TYPES (2) GEO - 13 YEAR HISTORY*

Geo Area Names

Sales Tax by Geographic areas

Downtown
Count: 107



You have created a model project that has been integrated and improved throughout the pilot period, transforming streets that were previously mired in congestion and safety concerns for all users to enable safe, sustainable, and affordable access to anyone regardless of how they choose to travel. We recognize the hard work it takes to envision a future beyond and better than the present.

This project is a region-wide amenity that benefits not just the residents of Culver City but also the low income and people of color who rely on efficient transit and safe cycling routes to work in our job-rich community. We urge Council to not just take direction from a survey of Culver City residents, but to listen to the voices of all stakeholders, especially from those this project benefits the most. **Owning a vehicle costs the average family over \$11,000 a year³, and 82% of riders of the #1 bus along the Move Culver City corridor have a household income of less than \$35,000 a year compared to just 21% of Culver City residents.⁴** Watering down or removing any aspect of this bus lane would actively harm working class people who have no choice but to rely on transit and cycling to get to work and return to their families (see below).

³ [True Cost of Owning a Car, Money Under 30](#)

⁴ [Transit First: Culver City Washington Boulevard Transit Lane Feasibility Study](#)

Figure 27. Respondent Access to Private Vehicle

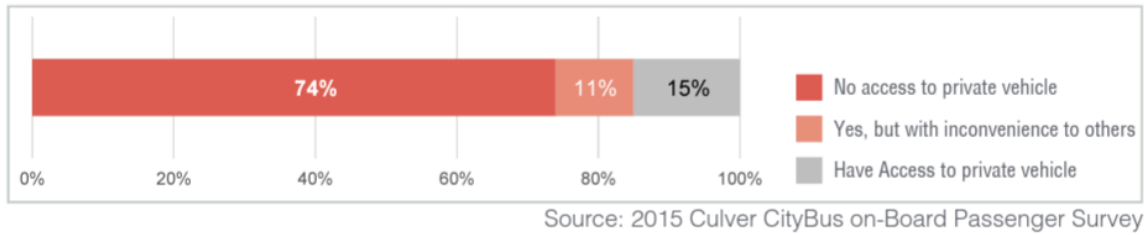
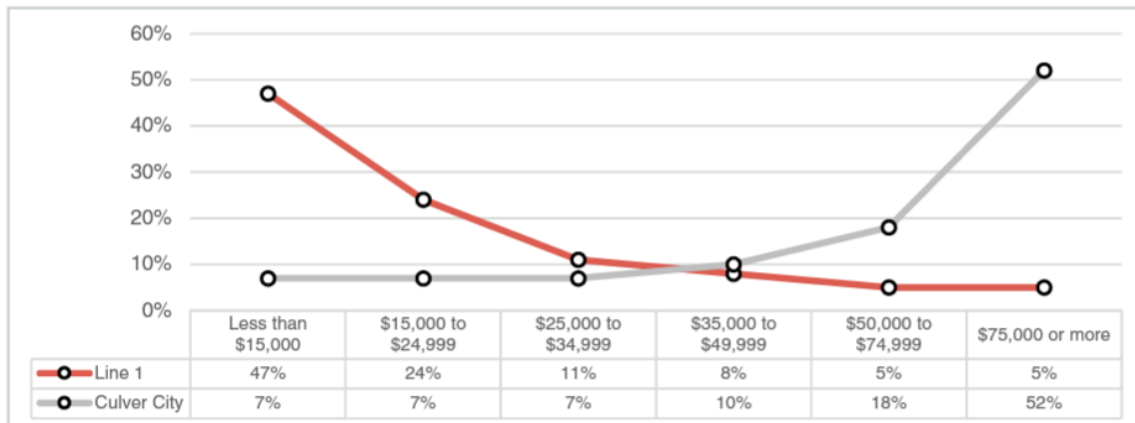


Figure 28. Respondent Household Income Comparing with Culver City Demographic



Move Culver City has also made a significant difference in the safety of those traveling by bicycle or by foot. **Vehicle collisions are the leading cause of death for children ages 5-14 in L.A. County.**⁵ Reducing the speed of cars through street design, including using bike and bus lanes and the removal of general travel lanes is crucial to reducing the speed of cars and reducing injuries and fatalities on the corridor. **From 2011 to 2020, 21 recorded collisions between cars and cyclists and 19 between cars and pedestrians occurred in the project area.**⁶ **Since Move Culver City's introduction, there has been one recorded accident involving a pedestrian and zero involving cyclists.** Removing the protected bike lane would not just endanger cyclists, it would hamper its use as a starting point for new cyclists who may not feel comfortable riding on the street with cars or even in a shared lane with buses.

The transportation sector is the largest contributor of greenhouse gas emissions in California, and passenger vehicles alone are the largest contributors by far-- responsible for 28% of all emissions.⁷ By incentivizing travelers to utilize public transit and cycling, Culver City has made a significant step towards a more sustainable transportation future. The project's dedicated transit lane is not just used by Culver City Bus, Metro, LADOT, Big Blue Bus, but also by

⁵ [LA County Mortality Report](#)

⁶ [Transportation Injury Mapping System, UC Berkeley](#)

⁷ [California's Largest Sources of Greenhouse Gas Emissions | Senator Josh Becker](#)

emergency vehicles that rely on Move Culver City to enable timely service during peak hours and a clear roadway for emergency use.

We are urging you to reject calls to add more lanes for passenger vehicles, a strategy which has proven to exacerbate rather than improve congestion⁸ while creating hazardous conditions for vulnerable road users and increasing vehicle emissions.⁹ In fact, one additional car lane added to both sides of the project would induce 7 million additional vehicle miles traveled per year¹⁰ at a time when the latest Intergovernmental Panel on Climate Change report urges swift and drastic action to reduce emissions.¹¹

This is a pivotal moment for Culver City-- the Council can choose to cave to pressures from those hesitant to embrace change, or they can continue to lead in the region to improve the safety, affordability, and sustainability of its transportation choices.

Eyes across the region are watching what we do next, and we hope you will seize the mantle of leadership in this moment to build on our progress and create a safe, mobile, and affordable Culver City for everyone.

Sincerely,

The Undersigned Organizations

⁸ [What's Up With That: Building Bigger Roads Actually Makes Traffic Worse | WIRED](#)

⁹ [American roads are designed to be deadly](#)

¹⁰ [California Induced Travel Calculator](#)

¹¹ [New UN Report offers a 'survival guide for humanity' in the face of climate change](#)

Monday, April 10, 2023
Move Culver City - Coalition Letter of Support

BikeLA (formerly LACBC)

Eli Akira Kaufman
Executive Director

Streets Are For Everyone

Damian Kevitt
Executive Director

CCUSD Green New Deal

Claudia Egan, Ava Frans, Nava Weisman,
Tatiana Murphy, Aliza Khan
Organizers

Streets for All

Bubba Fish
Co-Director, State Policy

Climate Resolve

Chase Engelhardt
Housing and Transportation Specialist

Mar Vista Voice

Francisco Espinosa
Organizer

Santa Monica Spoke

Cynthia Rose
Director

Move LA

Eli Lipmen
Executive Director

Coalition for Clean Air

Joseph K. Lyou, Ph.D.
President & CEO

Women On Bikes Culver City

Mary Daval
Founder

Protect Culver City Renters

Danny Young
Steering Committee Member

Bike Culver City

Mary Daval & David Metzler
Co-Chairs

CCUSD Ballona Creek Renaissance Club

Fia Layne
Organizer

Culver City Action Network

Sebastian Hernandez
Organizer

People for Mobility Justice

Andres Ramirez
Executive Director

Biking While Black

Yolanda Davis-Overstreet
Mobility Justice Strategist & Director

CCUSD Endangered Species Club

Lily Maxson
President

Livable Communities Initiative

Eduardo Mendoza
Policy Director

LA Skate Hunnies

Jennifer Yonda
Founder

Abundant Housing LA

Leonora Camner
Executive Director

California Walks

Miha Babalai
Executive Director

Los Angeles Walks

John Yi
Executive Director

Santa Monica Safe Streets Alliance

Cris Gutierrez & Cynthia Rose
Co-Chairs

Culver City Community Coalition

Leah Pressman, Michelle Weiner,
Disa Lindgren, James Province,
Jeff Schwartz, & Rebecca Rona Tuttle
Steering Committee Members

Culver City Democratic Club

Jeff Schwartz
President

California Bicycle Coalition

Jared Sanchez
Senior Policy Advocate

Culver City for More Homes

Nancy Barba
Organizer

Ballona Creek Renaissance

Deborah Gregory
President

CCUSD Associated Student Body

Aliza Khan
Environmental Sustainability Coordinator

Alliance for Community Transit (ACT-LA)

Marissa Ayala
Policy and Advocacy Coordinator

Sierra Club, West Los Angeles Group

David Haake
Chair

Sunrise Movement Los Angeles

Nicolás Gardner Serna
Chapter Coordinator