III. Responses to Comments

III. Responses to Comments

A. Introduction

CEQA Guidelines Section 15088(a) states that "The lead agency shall evaluate comments on environmental issues received from persons who reviewed the Draft EIR and shall prepare a written response. The lead agency shall respond to comments that were received during the notice comment period and any extensions and may respond to late comments." In accordance with these requirements, this section of the Final EIR provides responses to each of the written comments received regarding the Draft EIR.

Section III.B, Matrix of Comments Received in Response to the Draft EIR, includes a table that provides a summary of the environmental issues raised by each commenter in response to the Draft EIR. Section III.C, Response to Comments, provides responses to each of the written comments raised regarding the Draft EIR. Copies of the original comment letters are provided in Appendix FEIR-1 of this Final EIR.

III. Responses to Comments

B. Matrix of Comments Received in Response to the Draft EIR

Table III-1
Matrix of Comments Received in Response to the Draft EIR

Letter No.	Commenter	Executive Summary	Project Description	Environmental Setting	Aesthetics/Visual Character and Views	Air Quality	Geology and Soils	Greenhouse Gas Emissions	Hazards and Hazardous Materials	Land Use	Noise	Population and Housing	Fire Protection	Police Protection	Schools	Parks and Recreation	Libraries	Transportation/Traffic	Wastewater	Water	Solid Waste	Hydrology/Groundwater	Energy Conservation	Alternatives	General/Other	Support
State and Regional																										
1	Scott Morgan, Director State Clearinghouse and Planning Unit Governor's Office of Planning and Research State of California 1400 Tenth St. P.O. Box 3044 Sacramento, CA 95812-3044																								X	

Table III-1 (Continued)
Matrix of Comments Received in Response to the Draft EIR

Letter No.	Commenter	Executive Summary	Project Description	Environmental Setting	Aesthetics/Visual Character and Views	Air Quality	Geology and Soils	Greenhouse Gas Emissions	Hazards and Hazardous Materials	Land Use	Noise	Population and Housing	Fire Protection	Police Protection	Schools	Parks and Recreation	Libraries	Transportation/Traffic	Wastewater	Water	Solid Waste	Hydrology/Groundwater	Energy Conservation	Alternatives	General/Other	Support
2	Dianna Watson LD-IGR Review Branch Chief District 7—Office of Transportation Planning Department of Transportation 100 S. Main St., MS 16 Los Angeles, CA 90012-3712																	X				X				
3	Elizabeth Carvajal Transportation Planning Manager Los Angeles County Metropolitan Transportation Authority One Gateway Plaza Los Angeles, CA 90012-2952		X															X								
4	Lijin Sun, J.D. Program Supervisor, CEQA IGR Planning Rule Development & Area Sources South Coast Air Quality Management District 21865 Copley Dr. Diamond Bar, CA 91765-4178					X		X																	X	

Table III-1 (Continued)
Matrix of Comments Received in Response to the Draft EIR

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5	Ali Poosti, Division Manager Wastewater Engineering Services Division LA Sanitation																		X	X	X	X				
6	Charles C. Holloway Manager of Environmental Planning and Assessment Los Angeles Department of Water & Power P.O. Box 51111 Los Angeles, CA 90051-5700						X												X	X						
7	Eimon Smith CEQA Project Manager/Contract Professional Office of Environmental Health and Safety Los Angeles Unified School District 333 S. Beaudry Ave., Fl. 21 Los Angeles, CA 90017-1466			X											X			X								

Table III-1 (Continued)
Matrix of Comments Received in Response to the Draft EIR

Letter No.	Commenter	Executive Summary	Project Description	Environmental Setting	Aesthetics/Visual Character and Views	Air Quality	Geology and Soils	Greenhouse Gas Emissions	Hazards and Hazardous Materials	Land Use	Noise	Population and Housing	Fire Protection	Police Protection	Schools	Parks and Recreation	Libraries	Transportation/Traffic	Wastewater	Water	Solid Waste	Hydrology/Groundwater	Energy Conservation	Alternatives	General/Other	Support
Organizations																										
8	Board of Directors Golden State Environmental Justice Alliance P.O. Box 79222 Corona, CA 92877-0174			X		X				X	X	X						X						X	X	
9	David Bass Ferris Wehbe Hollywood Media District Property Owners Association 1040 N. Las Palmas Ave. Hollywood, CA 90038-2409											X						X								
10	Theresa Rettinghouse Paralegal Lozeau Drury LLP 410 12th St., Ste. 250 Oakland, CA 94607-4486																								X	

Table III-1 (Continued)
Matrix of Comments Received in Response to the Draft EIR

Letter No.	Commenter	Executive Summary	Project Description	Environmental Setting	Aesthetics/Visual Character and Views	Air Quality	Geology and Soils	Greenhouse Gas Emissions	Hazards and Hazardous Materials	Land Use	Noise	Population and Housing	Fire Protection	Police Protection	Schools	Parks and Recreation	Libraries	Transportation/Traffic	Wastewater	Water	Solid Waste	Hydrology/Groundwater	Energy Conservation	Alternatives	General/Other	Support
11	Richard T. Drury Counsel for SWRCC and LIUNA Local Union 300 Lozeau Drury LLP 410 12th St., Ste. 250 Oakland, CA 94607-4486 Theresa Rettinghouse Paralegal Lozeau Drury LLP 410 12th St., Ste. 250 Oakland, CA 94607-4486 Toyer Grear Office Manager/Legal Assistant Lozeau Drury LLP 410 12th St., Ste. 250 Oakland, CA 94607-4486								X																	X	
12	Michael R. Lozeau Richard T. Drury Lozeau Drury LLP 410 12th St., Ste. 250 Oakland, CA 94607-4486	X	X	X		X	X	X	X	X		X						X	X	X	X	X	X		X	

Table III-1 (Continued)
Matrix of Comments Received in Response to the Draft EIR

Letter No.	Commenter	Executive Summary	Project Description	Environmental Setting	Aesthetics/Visual Character and Views	Air Quality	Geology and Soils	Greenhouse Gas Emissions	Hazards and Hazardous Materials	Land Use	Noise	Population and Housing	Fire Protection	Police Protection	Schools	Parks and Recreation	Libraries	Transportation/Traffic	Wastewater	Water	Solid Waste	Hydrology/Groundwater	Energy Conservation	Alternatives	General/Other	Support
Individuals																										
13	William Brodersen FotoKem 6855 Santa Monica Blvd. Los Angeles, CA 90038-1119				X													X								
14	Brad Karrfalt 1130 N. Orange Dr. Los Angeles, CA 90038-1008			X	X						X							X						X	X	
15	John D. Nicely II johnnynicelyii@gmail.com				X																					
Late																										
16	Ralph M. Terrazas Fire Chief Fire Department												X													

III. Responses to Comments
C. Comment Letters

Comment Letter No. 1

Scott Morgan
Director
State Clearinghouse and Planning Unit
Governor's Office of Planning and Research
State of California
1400 Tenth Street
P.O. Box 3044
Sacramento, CA 95812-3044

Comment No. 1-1

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on April 14, 2017, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

> "A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Enclosure (1 page): Document Details Report—State Clearinghouse Data Base

Enclosure (2 pages): Caltrans letter dated April 11, 2017

Response to Comment No. 1-1

This comment acknowledges receipt of the Draft EIR by the State of California Governor's Office of Planning and Research, State Clearinghouse and Planning Unit, and compliance with State Clearinghouse review requirements for draft environmental documents, in accordance with CEQA. In addition, this letter transmits comments from Caltrans, which are included and responded to as part of Comment Letter 2, below. This comment is noted for the record and will be forwarded to the decision-makers for review and consideration.

Comment Letter No. 2

Dianna Watson, Branch Chief
LD-IGR/CEQA Branch
Caltrans District 7
Office of Regional Planning
Department of Transportation
100 S. Main St., MS 16
Los Angeles, CA 90012-3712

Comment No. 2-1

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above referenced project. The Project includes the demolition and removal of the existing office and automobile storage building and developing a mixed-use building, including seven stories of residential multi-family units (231 total units) and 15,000 square feet of ground-floor neighborhood-serving commercial uses, and 390 vehicle parking spaces within two levels of subterranean parking.

Senate Bill 743 (2013) mandated that CEQA review of transportation impacts of proposed development be modified by eliminating consideration of delay- and capacity- based metrics such as level of service (LOS) and instead focusing analysis on another metric of impact. The Governor's Office of Planning and Research (OPR) is currently updating its CEQA Guidelines to implement SB 743 (https://www.opr.ca.gov/s_sb743.php) and is proposing that vehicle miles traveled be the primary metric used in identifying transportation impacts.

Response to Comment No. 2-1

The Commenter accurately characterizes the Project as well as the current status of OPR's guidance regarding use of a vehicle miles traveled metric to evaluate potential traffic impacts of a Project. The comment is noted for the record and will be forwarded to the decision-makers for review and consideration.

Comment No. 2-2

Caltrans is aware of challenges that the region faces in identifying viable solutions to alleviating congestion on State and Local facilities. With limited room to expand vehicular capacity, this development should incorporate multi-modal and complete streets transportation elements that will actively promote alternatives to car use and better manage existing parking assets. Prioritizing and allocating space to efficient modes of travel such

as bicycling and public transit can allow streets to transport more people in a fixed amount of right-of-way.

Caltrans supports the implementation of complete streets and pedestrian safety measures such as road diets and other traffic calming measures. Please note the Federal Highway Administration (FHWA) recognizes the road diet treatment as a proven safety countermeasure, and the cost of a road diet can be significantly reduced if implemented in tandem with routine street resurfacing. The City should refer the project's traffic consultant to OPR's website, guidelines on evaluating transportation impacts in CEQA if VMT methodology is used:

https://www.opr.ca.gov/docs/Revised_VMT_CEOA_Guidelines_Proposal_January_20_2016.pdf

If the City decides to use Level of Service (LOS) when preparing the traffic analysis on the State facilities, please refer the project's traffic consultant to Caltrans' traffic study guide Website:

http://www.dot.ca.gov/hg/tpp/offices/ocp/igr_ceqa_files/tisguide.pdf

Response to Comment No. 2-2

The City of Los Angeles concurs that multi-modal and complete streets transportation elements are an effective way to prioritize limited space used for transportation and should be incorporated for projects throughout Los Angeles. This project will meet City of Los Angeles code-required bicycle parking with up to 23 short-term and 134 long-term spaces, thus encouraging bicycle ownership and usage. The City of Los Angeles Department of Transportation (LADOT) Traffic Study Guidelines, dated August 2014 and updated December 2016, requires intersection analysis based on Transportation Research Board Circular 212 Critical Movement Analysis (CMA). The CMA methodology determines the volume-to-capacity (V/C) ratio on a critical lane basis and LOS associated with each V/C ratio at signalized intersections. The CMA methodology was used in the analysis of potential impacts for the project in the June 2015 Traffic Study and June 7, 2016, addendum. Along the state facility, Santa Monica Boulevard, intersections with La Brea Avenue, Orange Drive, and Highland Avenue were evaluated. The traffic growth due to the project did not exceed the City of Los Angeles levels of significant traffic impacts in the Existing + Project or Future With Project scenarios.

Comment No. 2-3

The project will generate a net 1,010 daily trips and 78/84 AM/PM peak hour trips. The project site is located in the Hollywood community. There are more than 100 related projects in the Hollywood community, therefore significant cumulative impacts may occur. As a reminder, the decision makers should be aware of this issue and be prepared to mitigate cumulative traffic impacts in the future.

Response to Comment No. 2-3

Comment noted. The LADOT Traffic Study Guidelines require evaluation of Existing, Existing + Project, Future Without Project, and Future With Project scenarios. Traffic impacts are based on comparison of Existing and Existing + Project traffic conditions and Future Without Project and Future With Project traffic conditions. Future Without Project traffic volumes are determined by adding 1 percent per year ambient growth and traffic volumes from other known projects in the area. For this study, traffic volumes for 139 potential projects in the Hollywood were added to the study intersections. These added volumes increase the base existing conditions to a conservative future growth (since not all of the projects are likely to be built or built to the intensity originally anticipated, and any cumulative project's proposed mitigation improvements are not incorporated in the analysis) without potential traffic improvements or mitigation required of the cumulative projects. This increases the future conditions to a higher growth level than likely to be realized. The Future With Project traffic evaluation adds the Project traffic to the Future Without Project volumes. The increase to the future traffic volumes with the cumulative traffic, ambient growth, and Project traffic allows for a conservative estimate of potential project impacts. Based on LADOT's established significance thresholds, a relatively smaller amount of Project traffic will cause a significant impact at an intersection with a worse (higher) LOS as compared to an intersection with a better (lower) LOS. For example, adding the conservative cumulative traffic volumes and ambient growth to the existing base may create an intersection that would otherwise be identified as operating at LOS "C" to increase to LOS "E," thereby creating a situation where a 1-percent growth in Project traffic (0.01 increase in V/C) is identified as a significant impact instead of a 4-percent growth (0.04 increase in V/C). Potential cumulative growth in the Project area is, therefore, addressed by increasing the future baseline.

Comment No. 2-4

The sidewalks should meet ADA standards. In addition, Caltrans recommends crosswalk upgrades on Santa Monica Blvd. (SR-02) between Orange Ave. and Mansfield Ave. Please be reminded that any work performed within the State Right-of-way will require an Encroachment Permit from Caltrans. Any modifications to State facilities must meet all mandatory design standard and specifications.

Response to Comment No. 2-4

Sidewalks adjacent to the Project Site will comply with ADA requirements in accordance with City requirements. In addition, the Project will implement street improvements in accordance with City requirements.

Comment No. 2-5

In addition, a truck/traffic construction management plan may be needed for this project when high volume of construction vehicles are working on/near by the State facility. Traffic Management Plans involving lane closures or street detours which may impact the circulation system affecting traffic to and from freeway on/off-ramps should be coordinated with Caltrans.

Response to Comment No. 2-5

Project Design Feature K.2 within Section 4.K, Transportation/Traffic, of the Draft EIR requires the Applicant to prepare and submit (to LADOT) a Construction Traffic Management Plan (CTMP), including street closure information, detour plans, haul routes, and staging plans, as necessary. As set forth in Section II, Corrections and Additions, of this Final EIR, language has been added to Project Design Feature K.2 requiring coordination with Caltrans.

Comment No. 2-6

Storm water run-off is a sensitive issue for Los Angeles and Ventura counties. Please be mindful that projects should be designed to discharge clean run-off water. Additionally, discharge of storm water run-off is not permitted onto State highway facilities without any storm water management plan.

Response to Comment No. 2-6

The Project will comply with City and National Pollutant Discharge Elimination System (NPDES) requirements with regard to storm water. In particular, the Project would implement Best Management Practices (BMPs) for managing stormwater runoff in accordance with the current City of Los Angeles Low Impact Development (LID) Ordinance requirements. With implementation of these requirements, storm water flows from the Project would not increase and the quality of the surface water would be improved relative to existing conditions.

Comment No. 2-7

Transportation of heavy construction equipment and/or materials, which requires the use of oversized-transport vehicles on State highways, will require a transportation permit from Caltrans. It is recommended that large size truck trips be limited to off-peak commute periods.

If you have any questions, please feel free to contact Alan Lin the project coordinator at (213) 897-8391 and refer to GTS # LA-2017-00710AL-DEIR.

Response to Comment No. 2-7

As set forth in Project Design Feature K.2, the CTMP will include, but not be limited to, provisions requiring the Applicant to obtain the required Caltrans permit for the use of oversized vehicles on Caltrans facilities and to schedule construction-related deliveries other than concrete and earthwork-related deliveries to reduce travel demand during peak travel periods.

Comment Letter No. 3

Elizabeth Carvajal
Transportation Planning
Los Angeles County Metropolitan Transportation Authority
One Gateway Plaza
Los Angeles, CA 90012-2952

Comment No. 3-1

Thank you for the opportunity to comment on the Notice of Completion and Availability of the Draft Environmental Impact Report for the 6901 Santa Monica Boulevard Mixed-Use Project (Project) located at 1100–1126 Orange Drive; 6906–6931 Santa Monica Boulevard; and 1107–1121 Mansfield Avenue in the City of Los Angeles. This letter conveys recommendations from the Los Angeles County Metropolitan Transportation Authority (Metro) Concerning issues that are germane to our agency's statutory responsibility in relation to our facilities and services that may be affected by the proposed project.

Metro is committed to working with stakeholders across the County to support the development of transit oriented communities (TOCs). TOCs are built by considering transit within a broader community and creating vibrant, compact, walkable, and bikeable places centered around transit stations and hubs with the goal of encouraging the use of transit and other alternatives to driving. Metro looks forward to collaborating with local municipalities, developers, and other stakeholders in their land use planning and development efforts, and to find partnerships that support TOCs across Los Angeles County.

Project Description

The proposed project includes the demolition and removal of the existing office and automobile storage buildings (totaling 54,661 square feet) located on the Project Site, and development of the Project Site with a mixed-use building, including seven stories of residential multi-family Units (231 total units) and 15,000 square feet of ground floor neighborhood-serving commercial uses (including up to a 5,000 square foot high-turnover restaurant and up to 100,000 square feet of general retail), and 390 vehicle parking spaces within two levels of subterranean parking. Approximately 8% of the permitted base density, equal to 15 units, would be restricted for Very Low-Income households. The Project would vary in height from 23 feet to 80 feet, 4 inches, and would have a floor-area-ratio (FAR) of 3.2:1.

Response to Comment No. 3-1

This comment summarizing Metro's responsibilities is noted for the record. The summary of the Project provided in this comment is accurate with the exception of the general retail square footage and FAR. The total general retail square footage would be up to 10,000 square feet, not 100,000 square feet as indicated in the comment. In addition, with the proposed discretionary actions, the FAR would be 3:1.

Comment No. 3-2

Metro Comments

Bus Service Adjacency

Metro bus line 4 operates on Santa Monica Boulevard, adjacent to the proposed project. One Metro bus stop on the corner of Santa Monica Boulevard and Orange Drive is directly adjacent to the proposed project. The following comments relate to bus operations and the bus stop:

1. Although the project is not expected to result in any long-term impacts on transit, the developer should be aware of the bus facilities and services that are present. The existing Metro bus stop must be maintained as part of the final project.

2. During construction, the stop must be maintained or relocated consistent with the needs of Metro Bus Operations. Please contact Metro Bus Operations Control Special Events Coordinator at 213-922-4632 regarding construction activities that may impact Metro bus lines at least 30 days in advance of initiating construction activities. For closures that last more than six months, Metro's Stops and Zones Department will also need to be notified at 213-922-5188, 30 days in advance of initiating construction activities. Other municipal bus [sic] may also be impacted and should be included in construction outreach efforts.

3. LACMTA encourages the installation of bus shelters, benches and other amenities including continental crosswalks connecting bus stops and the development that improve the transit rider experience. The City should consider requesting the installation of such amenities as part of the development of the site.

4. Final design of the bus stop and surrounding sidewalk area must be Americans with Disabilities Act (ADA) compliant and allow passengers with disabilities a clear path of travel to the bus stop from the proposed development.

5. Specific to the site, the westbound Santa Monica Boulevard stop at Orange Avenue nearside and located in front of the northwest corner of the project will be maintained after the project is complete. This stop may be temporarily relocated to facilitate construction, but it must be relocated to its original location shortly after completion of the project and maintained thereafter.

Response to Comment No. 3-2

The existing bus stops will be maintained as part of the Project. During construction, the bus stop will be maintained, and, if relocated, Metro Bus Operations and/or Metro Bus Operations Control Special Events Coordinator will be contacted.

The existing bus stop on the north side of Santa Monica Boulevard east of Orange Drive (along the project frontage) is improved with bus benches, a trash receptacle, and bus signs. These elements will be maintained and/or improved as needed as part of project construction.

ADA-compliant sidewalk and transit facilities will continue to be provided during construction and after completion of the Project construction.

Comment No. 3-3

Congestion Management Program (CMP)

Beyond impacts to Metro facilities and operations, LACMTA must also notify the applicant of state requirements. A Transportation Impact Analysis (TIA), with roadway and transit components, is required under the State of California Congestion Management Program (CMP) statute. The CMP TIA Guidelines are published in the "2010 Congestion Management Program for Los Angeles County", Appendix D (attached). The geographic area examined in the TIA must include the following, at a minimum:

1. All CMP arterial monitoring intersections, including monitored freeway on/off-ramp intersections, where the proposed project will add 50 or more trips during either the A.M. or P.M. weekday peak hour (of adjacent street traffic).

2. If CMP arterial segments are being analyzed rather than intersections, the study area must include all segments where the proposed project will add 50 or more peak hour trips (total of both directions). Within the study area, the TIA must analyze at least one segment between monitored CMP intersections.

3. Mainline freeway-monitoring locations where the project will add 150 or more trips, in either direction, during either the A.M. or P.M. weekday peak hour.

4. Caltrans must also be consulted through the NOP process to identify other specific locations to be analyzed on the state highway system.

The CMP TIA requirement also contains two separate impact studies covering roadways and transit, as outlined in Sections D.8.1–D.9.4. If the TIA identifies no facilities for study based on the criteria above, no further traffic analysis is required. However, projects must still consider transit impacts. For all CMP TIA requirements please see the attached guidelines.

Response to Comment No. 3-3

As noted, a traffic impact study (Traffic Report), included as Appendix I-1 of the Draft EIR, was conducted for the Proposed Project. The June 2015 Traffic Report was reviewed and approved by LADOT, with a letter to Department of City Planning dated July 28, 2015, and a subsequent letter of correction dated August 5, 2015. A June 7, 2016, addendum to the Traffic Report, Appendix I-2 of the Draft EIR, was prepared, which expanded the related project list and included a new significant impact analysis. LADOT reviewed and approved the supplemental analysis, issuing a letter of approval to City Planning dated July 19, 2016, Appendix I-3 of the Draft EIR.

Page 51 of the Traffic Report provides an analysis of impacts on regional transportation system. The intersection of Santa Monica Boulevard and Highland Avenue is identified as the nearest CMP intersection. This intersection is evaluated as a study intersection in the Traffic Report. The analysis indicates that the intersection operates at LOS F during the A.M. and P.M. peaks with a traffic increase of 0.5 percent and 0.2 percent with the Project, respectively. This is less than the 2-percent significance threshold established by the CMP guidelines. No further analysis was required.

Page 51 of the Traffic Report indicates that an increase of up to 17 vehicles during the peak hours is anticipated on the area freeway segments with the Project. This is less than the 150-trip threshold requiring further analysis. No further analysis was required.

Comment No. 3-4

If you have any questions regarding this response, please contact Elizabeth Carvajal at 213-922-3084 or by email at DevReview@metro.net. **LACMTA looks forward to reviewing the Final EIR. Please send it to the following address:**

LACMTA Development Review
One Gateway Plaza, MS 99-23-4
Los Angeles, CA 90012-2952

Response to Comment No. 3-4

This comment providing the contact information for LACMTA is noted for the administrative record.

Comment No. 3-5

Attachment: CMP Appendix D: Guidelines for CMP Transportation Impact Analysis (7 pages)

Response to Comment No. 3-5

This comment transmits a copy of the Guidelines for CMP Transportation Impact Analysis set forth in the Congestion Management Plan. These guidelines have been used where relevant in the traffic analysis contained in Section 4.K, Transportation/Traffic, of the Draft EIR.

Comment Letter No. 4

Lijin Sun, J.D.
Program Supervisor, CEQA IGR Planning
Rule Development & Area Sources
South Coast Air Quality Management District
21865 Copley Dr.
Diamond Bar, CA 91765-4178

Comment No. 4-1

The South Coast Air Quality Management District (SCAQMD) staff appreciates the opportunity to comment on the above-mentioned document. The following comments are meant as guidance for the lead agency and should be incorporated into the Final EIR.

In the project description, the Lead Agency proposes to demolish the existing structure and construct a mixed-use building. The mixed-use building will provide 231 multi-family units, 15,000 square feet of commercial space, and two levels of subterranean parking. In the air quality analysis, the Lead Agency found that regional and localized construction and operational emissions would be less than significant.

Air Quality Analysis

The goal of an EIR is to inform other governmental agencies and the public generally of the environmental impacts of a proposed project (CEQA Guidelines Section 15003(c)). As the EIR is an informational document, it should provide the information to facilitate public disclosure (CEQA Guidelines Sections 15120, and 15121). Based on a review of the Air Quality Modeling report for the proposed project, the SCAQMD staff found that air emissions from subterranean parking were not calculated. Therefore, the Draft EIR has likely underestimated the project's air quality impacts. The SCAMQD [sic] staff recommends calculating emissions from subterranean parking and including them in the Final EIR.

Response to Comment No. 4-1

Based on modeling experience with CalEEMod and considering the size and the type of land use, parking spaces would not be considered a substantial source of pollutant emissions as parking spaces do not generate vehicular trips. Furthermore, construction impacts related to the grading/excavation for the 390 parking spaces were considered in the Draft EIR analysis. As shown in Table 4.C-6 in Section 4.C, Air Quality, of the Draft EIR, grading/excavation activities resulted in the maximum daily construction impacts. Nonetheless, to provide a more conservative analysis, the 390 parking spaces have been

included in the refined analysis included as Appendix D-1 of this Final EIR and summarized in Table 4.6 of Section II. Corrections and Additions of this Final EIR. As discussed in Response to Comment No. 12-48, no changes to the significance conclusions provided in the Draft EIR would occur based on the analysis in response to this comment. The refined analysis was submitted to and reviewed by the SCAQMD in September 2017 and SCAQMD provided no subsequent comments.

Comment No. 4-2

Mitigation Measure

In the Draft EIR, the Lead Agency found that the air quality impacts from construction of the proposed project would be less than significant and that no mitigation measures were required. Based on a review of the construction emissions in Table 6-4, *Comparison of Net Regional Construction Emissions*, of the Draft EIR and the supporting Appendix D, *AQ and GHG Modeling*, the SCAQMD staff found that Tier 4 construction equipment was used to calculate the mitigated construction emissions from NOx, PM10, and PM2.5 as substantial evidence to support the Lead Agency's finding. However, the use of Tier 4 construction equipment was not included as a mitigation measure. To ensure that air quality impacts from NOx, PM10, and PM2.5 during construction are adequately mitigated, and to be consistent with the air quality modeling assumption, SCAQMD staff recommends that the Lead Agency commit to using Tier 4 for all off-road construction equipment greater than 50 hp and include the following mitigation measure in the Final EIR:

> **Mitigation Measure:** All off-road construction equipment greater than 50 hp shall meet U.S. EPA Tier 4 emission standards to reduce NOx, PM10, and PM2.5 emissions at the project site.

Pursuant to Public Resources Code Section 21092.5 and the CEQA Guidelines Section 15088, SCAQMD staff requests that the Lead Agency provide the SCAQMD with written responses to all comments contained herein prior to the certification of the Final EIR. Further, when the Lead Agency makes the finding that the above-mentioned mitigation measure is infeasible, the Lead Agency shall describe the specific reasons for rejecting it in the Final EIR (CEQA Guidelines Section 15091).

SCAQMD staff is available to work with the Lead Agency to address these issues and any other questions that may arise. Please contact Jack Cheng, Air Quality Specialist, CEQA IGR Section, at (909) 396-2448, if you have any questions regarding the enclosed comments.

Response to Comment No. 4-2

Although Tier 4 emissions compliant equipment was specified in the referenced CalEEMod run under the mitigated scenario, the conclusions in Draft EIR were based on the unmitigated scenario in which off-road construction equipment used for the Project would be consistent with CalEEMod default emission factors. Both Table 4.C-6 (Estimated Daily Construction Emissions) in Section 4.C, Air Quality of the Draft EIR and revised Table 4.C-6 in Section II, Corrections and Additions, of this Final EIR show that both regional and localized unmitigated construction emissions would be below the SCAQMD significance thresholds. While it is acknowledged that the modeling file also included a mitigated condition that assumed Tier 4 equipment, use of the mitigated condition was in no way used for determining impact significance. No additional mitigation measures are warranted based on this comment.

Comment Letter No. 5

Ali Poosti, Division Manager
Wastewater Engineering Services Division
LA Sanitation

Comment No. 5-1

This is in response to your March 2, 2017 letter requesting a review of your proposed mixed-use project located at 1100–1126 Orange Drive, 6906–6931 Santa Monica Boulevard, and 1107–1121 Mansfield Avenue, Los Angeles, CA 90038. LA Sanitation has conducted a preliminary evaluation of the potential impacts to the wastewater and stormwater systems for the proposed project.

WASTEWATER REQUIREMENT

LA Sanitation, Wastewater Engineering Services Division (WESD) is charged with the task of evaluating the local sewer conditions and to determine if available wastewater capacity exists for future developments. The evaluation will determine cumulative sewer impacts and guide the planning process for any future sewer improvement projects needed to provide future capacity as the City grows and develops.

Projected Wastewater Discharges for the Proposed Project:

Type Description	Average Daily Flow per Type Description (GPD/UNIT)	Proposed No. of Units	Average Daily Flow (GPD)
Proposed			
Residential: APT- Studio	75 /DU	13 DU	975
Residential: APT- 1 BDRM	110 /DU	83 DU	9,130
Residential: APT- 2 BDRMS	150 /DU	63 DU	9,450
Residential: APT- 3 BDRMS	190 /DU	6 DU	1,140
Restaurant	750 GPD/1000 SQ.FT	5,600 SQ.FT	4,200
Office	120 GPD/1000 SQ.FT	6,884 SQ.FT	826
Total			**25,721**

SEWER AVAILABILITY

The sewer infrastructure in the vicinity of the proposed project includes an existing 8-inch line on Mansfield Ave. The sewage from the existing 8-inch line feeds into a 10-inch line on Orange Ave. The flow from the 10-inch line on Orange Ave feeds into another 10-inch line on Sycamore Ave Alley before discharging into a 36-inch sewer line on Melrose Ave.

Figure 1 shows the details of the sewer system within the vicinity of the project. The current flow level (d/D) in the 8-inch line, 24 inch line and a 30-inch line cannot be determined at this time without additional gauging.

The current approximate flow level (d/D) and the design capacities at d/D of 50% in the sewer system are as follows:

Pipe Diameter (in)	Pipe Location	Current Gauging d/D (%)	50% Design Capacity
8	Mansfield Ave.	*	290,073 GPD
10	Orange Dr.	8	415,790 GPD
10	Sycamore Ave Alley	47	371,894 GPD
24	Melrose Ave.	*	9.88 MGD
30	Melrose Ave.	*	11.80 MGD
36	Melrose Ave.	47	11.32 MGD

* No gauging available

Based on the estimated flows, it appears the sewer system might be able to accommodate the total flow for your proposed project. Further detailed gauging and evaluation will be needed as part of the permit process to identify a specific sewer connection point. If the public sewer has insufficient capacity then the developer will be required to build sewer lines to a point in the sewer system with sufficient capacity. A final approval for sewer capacity and connection permit will be made at that time. Ultimately, this sewage flow will be conveyed to the Hyperion Water Reclamation Plant, which has sufficient capacity for the project.

If you have any questions, please call Eduardo Perez of my staff at (323) 342-6207.

Response to Comment No. 5-1

In addition to providing this response to the Draft EIR, LA Sanitation also provided input that was used for the wastewater analysis included in the Draft EIR. Refer to Appendix J-1 of the Draft EIR. The statement in the comment that "it appears the sewer system might be able to accommodate the total flow for your proposed project" is consistent with Section 4.L.1, Utilities and Service Systems—Wastewater, of the Draft EIR, which concludes that adequate wastewater is expected to be available to accommodate the Project and that further detailed gauging will be conducted as part of the building permit process and any necessary improvements would be constructed by the Applicant. In addition, the statement in the comment that the Hyperion Treatment Plant "has sufficient capacity for the project" is consistent with the Draft EIR, which concludes that the Project's wastewater flow would not exceed the wastewater treatment requirements of the Los Angeles Regional Water Quality Control Board and that such impacts would be less than significant.

Comment No. 5-2

STORMWATER REQUIREMENTS

LA Sanitation, Watershed Protection Division (WPD) is charged with the task of ensuring the implementation of the Municipal Stormwater Permit requirements within the City of Los Angeles. We anticipate the following requirements would apply for this project.

POST-CONSTRUCTION MITIGATION REQUIREMENTS

The project requires implementation of stormwater mitigation measures. These requirements are based on Stormwater Low Impact Development (LID) requirements. The projects that are subject to LID are required to incorporate measures to mitigate the impact of stormwater runoff. The requirements are outlined in the guidance manual titled "*Development Best Management Practices Handbook—Part B: Planning Activities*". Current regulations prioritize infiltration, capture/use, and then biofiltration as the preferred stormwater control measures. The relevant documents can be found at: www.lastormwater.org. It is advised that input regarding LID requirements be received in the early phases of the project from WPD's plan-checking staff.

GREEN STREETS

The City is developing a Green Street Initiative that will require projects to implement Green Street elements in the parkway areas between the roadway and sidewalk of the public right-of-away to capture and retain stormwater and urban runoff to mitigate the impact of stormwater runoff and other environmental concerns. The goals of the Green Street elements are to improve the water quality of stormwater runoff, recharge local ground water basins, improve air quality, reduce the heat island effect of street pavement, enhance pedestrian use of sidewalks, and encourage alternate means of transportation. The Green Street elements may include infiltration systems, biofiltration swales, and permeable pavements where stormwater can be easily directed from the streets into the parkways and can be implemented in conjunction with the LID requirements.

CONSTRUCTION REQUIREMENTS

The project is required to implement stormwater control measures during its construction phase. All projects are subject to a set of minimum control measures to lessen the impact of stormwater pollution. In addition for projects that involve construction during the rainy season that is between October 1 and April 15, a Wet Weather Erosion Control Plan is required to be prepared. Also projects that disturb more than one-acre of land are subject to the California General Construction Stormwater Permit. As part of this requirement a Notice of Intent (NOI) needs to be filed with the State of California and a Storm Water

Pollution Prevention Plan (SWPPP) needs to be prepared. The SWPPP must be maintained on-site during the duration of construction.

If there are questions regarding the stormwater requirements, please call Kosta Kaporis at (213) 485-0586, or WPD's plan-checking counter at (213) 482-7066. WPD's plan-checking counter can also be visited at 201 N. Figueroa, 3rd Floor, Station 18.

Response to Comment No. 5-2

As set forth in the Initial Study included as Appendix A to the Draft EIR, construction and operation of the Project will comply with all applicable regulatory requirements, including the NPDES requirements related to preparation of a SWPPP during construction, and LID requirements during operation. As set forth in the Initial Study, with implementation of regulatory requirements, potential impacts associated with hydrology and water quality would be less than significant.

Comment No. 5-3

GROUNDWATER DEWATERING REUSE OPTIONS

The Los Angeles Department of Water and Power (LADWP) is charged with the task of supplying water and power to the residents and businesses in the City of Los Angeles. One of the sources of water includes groundwater. The majority of groundwater in the City of Los Angeles is adjudicated, and the rights of which are owned and managed by various parties. Extraction of groundwater within the City from any depth by law requires metering and regular reporting to the appropriate Court-appointed Watermaster. LADWP facilitates this reporting process, and may assess and collect associated fees for the usage of the City's water rights. The party performing the dewatering should inform the property owners about the reporting requirement and associated usage fees.

On April 22, 2016 the City of Los Angeles Council passed Ordinance 184,248 amending the City of Los Angeles Building Code, requiring developers to consider beneficial reuse of groundwater as a conservation measure and alternative to the common practice of discharging groundwater to the storm drain (SEC. 99.04.305.4). It reads as follows: "Where groundwater is being extracted and discharged, a system for onsite reuse of the groundwater, shall be developed and constructed. Alternatively, the groundwater may be discharged to the sewer."

Groundwater may be beneficially used as landscape irrigation, cooling tower make-up, and construction (dust control, concrete mixing, soil compaction, etc.). Different applications may require various levels of treatment ranging from chemical additives to filtration systems. When onsite reuse is not available the groundwater may be discharged to the

sewer system. This allows the water to be potentially reused as recycled water once it has been treated at a water reclamation plant. If groundwater is discharged into the storm drain it offers no potential for reuse. The onsite beneficial reuse of groundwater can reduce or eliminate costs associated with sewer and storm drain permitting and monitoring. Opting for onsite reuse or discharge to the sewer system are the preferred methods for disposing of groundwater.

To help offset costs of water conservation and reuse systems, LADWP offers the Technical Assistance Program (TAP), which provides engineering and technical assistance for qualified projects. Financial incentives are also available. Currently, LADWP provides an incentive of $1.75 for every 1,000 gallons of water saved during the first two years of a five-year conservation project. Conservation projects that last 10 years are eligible to receive the incentive during the first four years. Other water conservation assistance programs may be available from Metropolitan Water District of Southern California. To learn more about available water conservation assistance programs, please contact LADWP Rebate Programs 1-888-376-3314 and LADWP TAP 1-800-544-4498, selection “3”.

For more information related to beneficial reuse of groundwater, please contact Greg Reed, Manager of Water Rights and Groundwater Management, at (213)367-2117 or greg.reed@ladwp.com.

Response to Comment No. 5-3

As discussed in the Initial Study included as Appendix A of the Draft EIR, the Project Site is already developed and is not a source of groundwater recharge. However, as discussed in the Geotechnical Report, Appendix E-1 of the Draft EIR, construction of the subterranean parking structure may result in the need for a temporary dewatering system. In addition, if the subterranean portion of the parking structure is not designed for full hydrostatic pressure, a permanent dewatering system will be required. Any dewatering system would be constructed and operated in accordance with City requirements including Ordinance 184,248.

Comment No. 5-4

SOLID RESOURCE REQUIREMENTS

The City has a standard requirement that applies to all proposed residential developments of four or more units or where the addition of floor areas is 25 percent or more, and all other development projects where the addition of floor area is 30 percent or more. Such developments must set aside a recycling area or room for onsite recycling activities. For more details of this requirement, please contact Daniel Hackney of the Special Project Division at (213)485-3684.

Response to Comment No. 5-4

As set forth in Section 4.L.3, Solid Waste of the Draft EIR, the Project will comply with the City of Los Angeles Space Allocation Ordinance referred to in this comment and potential impacts associated with solid waste would be less than significant.

Comment No. 5-5

Attachment: Figure 1—Sewer Map (1 page)

Response to Comment No. 5-5

This attachment is associated with Comment No. 5-1, which is responded to above. No further response is required.

Comment Letter No. 6

Charles C. Holloway
Manager of Environmental Planning and Assessment
Los Angeles Department of Water & Power
P.O. Box 51111
Los Angeles, CA 90051-5700

Comment No. 6-1

The Los Angeles Department of Water and Power (LADWP) appreciate the opportunity to review the DEIR for the 6901 Santa Monica Boulevard Mixed-Use Project. The mission of LADWP is to provide clean, reliable water and power to the City of Los Angeles. In reviewing your proposed project description, the LADWP has determined that the project may have impacts to water resources. The following comments reflect our review for matters related to water resources for the project; you may receive additional comments from other divisions at LADWP separately referring to other respective areas in the DEIR.

1. **SECTION 4. Environmental Impact and Analysis. D) Geology & Soils—ENVIRONMENTAL SETTING—Groundwater (Page 4.D-3)**

Comment:

The project description states that it will include two levels of subterranean parking. According to Section 4.0 *Geology & Soils*, a recent groundwater level measurement from a nearby well showed a depth of 22.7 feet below ground surface (page 4.D-3). The depth of the subterranean parking is not described. If groundwater is encountered and dewatering is required during and/or after construction, LADWP recommends beneficial reuse of dewatering discharge (as an alternative to discharging to the storm drain or sewer) on or off-site as a conservation measure. In addition to water conservation, beneficial reuse may reduce or eliminate costs associated with storm drain and sewer permitting and monitoring. Common applications of beneficial reuse include, landscape irrigation, cooling tower make-up, and construction (dust control, concrete mixing, soil compaction).

Response to Comment No. 6-1

Section 4.L.2, Utilities and Service Systems—Water, of the Draft EIR provides an analysis of potential impacts associated with water infrastructure and demand. Based on data from LADWP's Urban Water Management Plan (UWMP) and the project's compliance with regulatory requirements, the analysis concluded that potential impacts associated with water supply and infrastructure would be less than significant.

With regard to groundwater, the subterranean parking structure would have a depth of approximately 22 to 32 feet. As discussed in the Geotechnical Report, Appendix E-1 of the Draft EIR, groundwater may be temporarily encountered during construction activities, and a temporary dewatering system may be required. In addition, if the subterranean portion of the parking structure is not designed for full hydrostatic pressure, a permanent dewatering system may be required. Any dewatering system would constructed and operated in accordance with City requirements including Ordinance 184,248.

Comment No. 6-2

2. SECTION 4. Environmental Impact and Analysis. L) Utilities & Service Systems—2) Water—ENVIRONMENTAL SETTING -Recycled Water (Page 4.L.2-4)

Comment:

Third paragraph, second sentence: "Recycled water must be closely monitored and tested to ensure that it meets stringent health and safety standards set by the California Department of Public Health (CDPH) and enforced by the State Regional Water Quality Control Board (RWQCB)."

Please consider the following information for revising the excerpt. Non-potable water reuse regulations are governed by the State Water Resources Control Board (SWRCB). SWRCB's Division of Drinking Water (DOW), previously under the jurisdiction of the California Department of Public Health, was transferred to SWRCB on July 1,2014.

Response to Comment No. 6-2

This suggested revision to the text of Section 4.L.2, Utilities and Service Systems—Water, provided in this comment has been incorporated into the EIR. Refer to Section II, Corrections and Additions, of this Final EIR.

Comment No. 6-3

3. SECTION 4. Environmental Impact and Analysis. L) Utilities & Service Systems—2) Water—Cumulative Impacts—Water Supply (Page 4.L.2-20)

Comment:

Third paragraph: "The remaining daily capacity of the LAAFP is 50 to 150 mgd of water, depending on the season. The total cumulative water demand (all related projects + Project) would be approximately 3.54 mgd and represent approximately 7.1 percent of the total remaining daily capacity during the more constrained summer months.[25] Therefore,

the LAAFP would have adequate capacity to treat the water demanded by the Project and related projects."

Please consider the following information for revising the excerpt. Determination of adequate treatment capacity is not based on proposed project's projected demand as compared to available treatment capacity. Los Angeles Aqueduct Filtration Plant (LAAFP) treatment capacity for any project is generally sufficient if the project's water demand is accounted for in LADWP's total City demand projections of the most recently adopted Urban Water Management Plan. The maximum water treatment capacity at LAAFP is 600 million gallons per day. LAAFP typically treats water from LA Aqueduct (LAA) and most of the purchases from Metropolitan Water District of Southern California. The current average annual flow through LAAFP is approximately 278 million gallons per day averaged over Calendar Year 2016.

For any questions regarding the above comments, please contact Ms. Nadia Parker of my staff at (213) 367-1745 or at nadia.parker@ladwp.com.

Response to Comment No. 6-3

This suggested revision to the text of Section 4.L.2, Utilities and Service Systems—Water, provided in this comment has been incorporated into the EIR. Refer to Section II, Corrections and Additions, of this Final EIR.

Comment Letter No. 7

Eimon Smith
CEQA Project Manager/Contract Professional
Office of Environmental Health and Safety
Los Angeles Unified School District
333 S. Beaudry Ave., Fl. 21
Los Angeles, CA 90017-1466

Comment No. 7-1

Thank you for the opportunity to comment on the 6901 Santa Monica Boulevard Mixed-Use Project (ENV-2015-4612-EIR). The Los Angeles Unified School District (LAUSD) previously submitted a comment letter on March 11, 2016 regarding the Project (attached)d. [sic] LAUSD has reviewed the Draft Environmental Impact Report (Draft EIR) for the Project. While the Draft EIR describes LAUSD's Hubert Howe Bancroft Middle School (Bancroft Middle School) as being outside of the Project's 0.25-mile radius, LAUSD is concerned about the potential cumulative impacts associated with this large-scale development as it is located within the immediate vicinity of (less than 0.50 mile from) the campus.

Bancroft Middle School's Principal has noted specific concerns about the planned construction surrounding the campus. Her specific concerns include ensuring that: 1) the Project off-set construction related congestion, changes to the traffic patterns, and site access which have the potential to cause safety concerns and delays for students who are transported or walk to school; 2) the campus is made aware of construction schedules; and 3) the City has considered that cumulative effects of the various planned and on-going large-scale development projects that are proposed near the campus and Project site. To address these concerns, LAUSD requests that the City consider the following recommendations for this Project:

- *Contractors should maintain ongoing communication with the administration of Hubert Howe Bancroft Middle School, providing sufficient notice to forewarn children and parents when existing pedestrian and vehicular routes to the campus will be impacted.*

- *The LAUSD Transportation Branch should be contacted at (213) 580-2903, regarding the potential impact of the proposed projects upon existing school bus routes. The Project Manager(s) or designee(s) should notify the LAUSD Transportation Branch of the expected start and ending dates for various portions of the proposed projects that may affect traffic in the areas.*

LAUSD's charge is to protect the health and safety of students, faculty, staff, and the integrity of the learning environment. If any issues are identified by LAUSD, we will bring them to the attention of the City. Please feel free to contact me at (213) 241-3417 should you require any additional information.

LAUSD's charge is to protect the health and safety of students and staff, and the integrity of the learning environment. If additional issues are identified by the LAUSD, we will bring them to the attention of the City.

Thank you for your attention to this matter. Please feel free to contact me at (213) 241-3417 should you require any additional information.

Response to Comment No. 7-1

With regard to construction-related impacts, as discussed in Section 4.J.3 of the Draft EIR, the closest school to the Project Site is Bancroft Middle School. This school is located approximately 0.2 mile southeast of the Project Site. Construction vehicles would access the Project Site via Santa Monica Boulevard and would not pass by Bancroft Middle School (located one and half blocks south of Santa Monica Boulevard). Specifically, trucks exiting the Project Site would travel east on Santa Monica Boulevard, and would proceed north on Highland Avenue to the US-101 Hollywood Freeway. Trucks traveling to the Project Site would exit the US-101 Hollywood Freeway at Highland Avenue and would proceed south on Highland Avenue and west on Santa Monica Boulevard to the Project Site. In addition, Project Design Feature K-2 includes provisions for temporary traffic control during all construction activities along public-rights-of-way (e.g., flaggers) as well as safety precautions for pedestrians and bicyclists, including students walking or biking to school, through such measures as alternate routing and protection barriers. These measures would assist in ensuring the safety of students in the Project vicinity that walk or bike to school. Thus, no construction-related traffic impacts to nearby schools would occur. Nonetheless, in response to this comment, to help protect the safety of students and staff, the Construction Traffic Management Plan required as Project Design Feature K-2 of the Draft EIR has been revised to include notification to Bancroft Middle School and the LAUSD Transportation Branch regarding commencement of proposed construction activities, including hauling activities. Refer to Section II, Corrections and Additions, of this Final EIR.

Comment Letter No. 8

Board of Directors
Golden State Environmental Justice Alliance
P.O. Box 79222
Corona, CA 92877-0174

Comment No. 8-1

Thank you for the opportunity to comment on the Environmental Impact Report (EIR) for the proposed 6901 Santa Monica Boulevard project. Please accept and consider these comments on behalf of Golden State Environmental Justice Alliance. Also, Golden State Environmental Justice Alliance formally requests to be added to the public interest list regarding any subsequent environmental documents, public notices, public hearings, and notices of determination for this project. Send all communications to Golden State Environmental Justice Alliance P.O. Box 79222 Corona, CA 92877.

Response to Comment No. 8-1

In response to this comment, Golden State Environmental Justice has been added to the public notification list for the Project.

Comment No. 8-2

1.0 Summary

As we understand it, the proposed project includes the development of a 218,316 square foot mixed-use building with seven stories of multifamily residential (231 apartment units) and approximately 15,000 square feet of ground floor commercial uses, including 10,000 square feet of general retail and 5,000 square feet of high-turnover restaurant. The project proposes a floor area ratio (FAR) of 3.2:1. 390 parking spaces will be provided within two levels of subterranean parking. The project site is currently developed with a surface parking lot and commercial businesses.

Discretionary actions related to the development of the proposed project include: (1) A General Plan Amendment to amend the Hollywood Community Plan land use designation from Highway Oriented Commercial and Medium Density Residential to Neighborhood Commercial; (2) A General Plan Amendment is requested for an Add Area so that all properties located between La Brea Avenue and Citrus Avenue that are designated Highway Oriented Commercial would be changed to the Neighborhood Commercial land use designation (to avoid “spot” zoning); (3) A Vesting Zone Change pursuant to LAMC Section 12.32-Q, to change the Project Site’s zoning from C2-1D and R3-1XL to C2-2D;

(4) Density Bonus Compliance Review, pursuant to LAMC Section 12.22-A,2S, for a 27.5% density bonus to permit 231 units of which 15 units would be reserved for Very Low Income Households (8% of permitted base density), an on-menu density bonus incentive to allow a density calculation based on pre-dedication lot area, pursuant to LAMC Section 12.22-A,2S(f)(7); and a Waiver of Development Standard, pursuant to LAMC Section 12.22-A,2S(G)(3) to permit a zero foot side yard along Santa Monica Boulevard in lieu of the ten feet otherwise required by LAMC Sections 12.14-C,2 and 12.11-C,2; (5) A Height District Change, to include a D limitation restricting maximum FAR to 3.2:1 in lieu of 6:1; (6) A Master Conditional Use Permit, pursuant to LAMC Section 12.24-W,1, to permit the sale and dispensing of a full line of alcoholic beverages for on-site consumption within up to three tenant spaces; (7) Site Plan Review, pursuant to LAMC Section 16.05-C, for a project that results in an increase of more than 50 dwelling units; and (8) A Vesting Tentative Tract Map, pursuant to LAMC Section 17.15.

Response to Comment No. 8-2

This comment generally described the Project and the discretionary actions proposed to implement the Project. Since publication of the Draft EIR, the Applicant has revised some of the requested actions. Refer to Section II, Corrections and Additions, of this Final EIR. Also, with the proposed discretionary actions, the FAR would be 3:1.

Comment No. 8-3

3.0 Environmental Setting

Sensitive Receptors

The EIR provides a list of sensitive receptors located within the project vicinity. The multifamily residential building located at 1121 N. Orange Drive is not included in this list even though it is the nearest sensitive receptor to the northwest. 1121 N. Orange Drive is adjacent to a single story building and a parking lot and will receive the negative impacts associated with the proposed project. This section must be revised to include this residential building.

Further, the list of seven sensitive receptors is misleading to the public and decision-makers. *Figure 3-3 Zoning Map* and the "adjoining parcels" statement indicate that the project site is surrounded by a residential neighborhood to the north/northwest. Not including the neighborhood as a whole in discussion about sensitive receptors is misleading because throughout the EIR only the closest single family residence is referenced with regard to negative impact analyses. The whole residential neighborhood must be discussed because it otherwise appears throughout the EIR that impacts will only affect one property. The EIR must be revised to include the whole residential

neighborhood to the north/northwest as a sensitive receptor and reference to the whole of the neighborhood throughout the EIR.

Response to Comment No. 8-3

The sensitive receptors listed in Section 3.3, Environmental Setting, of the Draft EIR are not intended to include a comprehensive list of each and every sensitive receptor in the Project vicinity. Rather, it is intended to characterize the types of sensitive uses located near the Project Site. The comment incorrectly identifies the residences at 1121 N. Orange Drive as the closest sensitive uses to the Project Site. The closest sensitive use to the Project Site is the residence located at 1130 North Orange Drive, just north of the Project Site. This residence is included in the list provided in Section 3.3, Environmental Setting, of the Draft EIR. The other sensitive residential uses located north of the Project Site, including the multi-family residences located at 1121 N. Orange Drive are further in distance from the Project Site. As such, the impacts associated with these other uses would be less than the impacts associated with the single-family residence. Refer to the Response to Comment No. 8-8 regarding the noise impacts at 1121 N. Orange Drive.

Comment No. 8-4

4.C Air Quality

The EIR gives a sample construction schedule. The construction schedule presents the project in phases; however, phased construction is not required of the project. The EIR does not present any analysis of impacts or potential mitigation measures from potential overlap of construction phases. There is no statement that the construction phases will not occur concurrently. The Air Quality Analysis (Appendix A) indicates that the building construction phase and architectural coating phase will overlap, but there is no discussion of this in the EIR. Also, there is no requirement that the Project be completed over a certain number of days given. Construction may occur faster as well, which would result in significantly greater daily impacts.

Response to Comment No. 8-4

As discussed on page 2-5 in Section 2, Project Description, of the Draft EIR, construction of the Project would take approximately 18 months. It would commence with demolition, followed by grading and excavation for the subterranean parking garage. Building foundations would then be laid, followed by building construction, paving and landscape installation. This construction sequence, typical of any development, is what comprises the construction phases. Appendix D, Air Quality and GHG Modeling, of the Draft EIR does show the Project's components would result in some overlap between building construction, architectural coating application, and paving/landscape. The

construction air quality analysis provided in Section 4.C, Air Quality, of the Draft EIR accounted for this overlap of construction activities and addressed potential air quality impacts based on peak daily activity (maximum number of pieces of equipment operating for the maximum number of hours per day) and would be indicative of an accelerated construction schedule (i.e., peak conditions anticipated during construction). Use of peak conditions is required per SCAQMD guidance to compare pollutant emissions against maximum daily SCAQMD significance thresholds. Any phasing suggested by this comment that would delay or spread out construction activities would lessen impacts as it would mean less construction activity would occur at any one time with a corresponding reduction in vehicular trips and on-site heavy duty construction equipment (e.g., excavators). The commenter speculates that construction could occur faster than 18 months. However, the analysis in the DEIR is based on detailed scheduling information from the Applicant's construction team that is consistent with other projects of similar size and scope. In addition, SCAQMD reviewed the air quality analysis for the Project and did not dispute the construction phasing calculations.

Comment No. 8-5

Section 41.40 of the LAMC prohibits construction activity (including demolition) and repair work between the hours of 9:00 P.M. and 7:00 A.M. Monday through Friday, and between 6:00 P.M. and 8:00 A.M. on Saturday. All such activities are also prohibited on Sundays and all federal holidays. Thus, the legal hours of construction in the City of Los Angeles are 7:00 AM.–9:00 P.M., Monday–Friday and 8:00 A.M.–6:00 P.M. on Saturday. The EIR does not provide a "worst-case scenario" analysis of construction equipment emitting pollutants for the legal 14 hours per weekday plus 8 hours on Saturday. It is legal for construction to occur for much longer hours and an additional day (6 days per week including Saturday) than modeled in the Air Quality Analysis. The Air Quality modeling must be revised to account for these legally possible longer construction days and increased number of construction days.

Response to Comment No. 8-5

The comment correctly identifies the allowable hours of construction. The construction noise analysis was based on equipment assumptions provided by the South Coast Air Quality Management District (SCAQMD). The SCAQMD conducted extensive construction site surveys as part of development of the SCAQMD Sample Construction Scenarios for Projects Less than Five Acres in Size (2005). Based on the SCAQMD construction surveys, a maximum of eight hours per day was considered an upper-end of daily use of heavy-duty construction equipment. Nonetheless, in accordance with Project Design Feature 4.C-1 included in Section II, Corrections and Additions of this Final EIR, heavy construction equipment would not be permitted to operate on-site more than eight hours per day. Please refer to Response to Comment No. 8-4 for additional details.

Comment No. 8-6

4.G Land Use and Planning

The project proposes two General Plan Amendments and a Vesting Zone Change. However, the EIR does not provide a proposed General Plan or Zoning Map reflective of the proposed changes. This does not comply with CEQA's requirements for meaningful disclosure. Having a map that reflects the proposed changes is especially vital because one of the General Plan Amendments proposes to change the Zone on properties that are not the proposed project site. The public and decision-makers are unfamiliar with exactly which properties this General Plan Amendment will impact. It is necessary to present a map demonstrating the Zone changes.

Response to Comment No. 8-6

Section 2, Project Description, and Section 4.G, Land Use, of the Draft EIR are clear about the Project Site boundaries and the proposed geography of the General Plan Amendment and Zone Change. In addition, Section 3, Environmental Setting, of the Draft EIR includes a map that provides an overlay of the Project Site boundary over the general plan land use designations and existing zoning in the site vicinity. The General Plan Amendment includes an "add area" including other nearby properties to allow the City decision-makers to consider the Project's General Plan Amendment in a broader context. In this case, the add area comprises 20 properties located along Santa Monica Boulevard between La Brea Avenue and Citrus Avenue that are currently designated Highway Oriented Commercial that would be changed to the General Commercial land use designation. A map of the proposed add area is included in Section II, Corrections and Additions, of this Final EIR. Contrary to the comment, the existing C2-1D zoning, which is a corresponding zone to both the existing and proposed land use designations, would not change in the add areas. As shown in Table 4.G-4A in Section II, Corrections and Additions of this Final EIR, development on those properties would continue to be limited to a residential density of 400 square feet of lot area and a maximum residential and/or commercial floor area ratio (FAR) of 0.5 to 1. Moreover, as set forth in Section II, Corrections and Additions, of this Final EIR, there are no additional or new entitlements that the property owners could file as a result of the General Plan Amendment that would result in greater density, intensity, or land use than are currently available under the Highway Oriented Commercial designation. Therefore, the proposed General Plan Amendment for the add area would not have the potential to result in new or increased environmental impacts. As in the case now, a property owner would need to apply for a discretionary approval, such as a zone change, and conduct CEQA review in order to increase the current maximum permitted density or FAR of any property in the add area. No such applications are currently on file.

Comment No. 8-7

The land use analysis concludes by stating that the proposed project will not "conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project" even though the project as proposed requires two General Plan Amendments and a Vesting Zone Change. This statement is misleading to the public and decision-makers. The EIR inaccurately describes the proposed project as in compliance with the existing land use plan/policy. The project as proposed does not comply with the existing land use plan/policy and thus requires two General Plan Amendments and a Vesting Zone Change to proceed. The EIR must be revised to conclude the land use analysis with an accurate description of the proposed project -that is does not comply with the existing land use plan/policy and requires two General Plan Amendments and a Vesting Zone Change to proceed.

Response to Comment No. 8-7

The Project's land use impacts are discussed in Section 4.G, Land Use and Planning, of the Draft EIR. As set forth in Section 4.G, the Project would be consistent with the applicable objectives, goals, and policies of the General Plan Framework and Health and Wellness Element. The Draft EIR clearly states the Project would not be consistent with the current land use designations under the Community Plan and zoning. However, upon approval of the requested entitlements, including the General Plan Amendment and Vesting Zone change, the Project would be consistent with all applicable land use regulations. Impacts would be less than significant, and no mitigation is required.

Comment No. 8-8

4.H Noise

Noise Sensitive Receptors

The EIR provides *Table 4.H-2, Noise Monitoring Locations* which does not include the multi-story residential complex to the northwest (1121 N. Orange Drive) even though it is identified as a sensitive receptor in other sections of the EIR. The noise analysis must be revised to include 1121 N. Orange Drive as a sensitive receptor for modeling.

Response to Comment No. 8-8

Noise receptors were selected to represent the noise sensitive land uses (i.e., residential use) within 500 feet of the Project Site, pursuant to the L.A. CEQA Thresholds Guide. The noise receptor located at 1130 N. Orange Drive (Draft EIR receptor 5), which is adjacent to the Project Site and would be located approximately 10 feet from construction equipment, was selected to represent the closet residential use to the Project Site.

Generally, a receptor closest to the Project site would represent the worst-case noise impact scenario and is selected to represent a group of similar land uses. Therefore, receptor 5, as analyzed in the Draft EIR, is also a representative of noise impacts at the multi-story residential complex at 1121 N. Orange Drive, which is located on the west side of Orange Drive, approximately 65 feet from the Project Site. Thus, the analysis in the Draft EIR is conservative. However, in response to the comment, additional analysis was conducted to specifically evaluate the potential noise impacts at the multi-story residential complex at 1121 N. Orange Drive (also referred to within this Final EIR as receptor 8).

The Draft EIR construction noise analysis was also updated to evaluate impacts from multiple pieces of construction equipment associated with the various construction phases. Table III-2 on page III-41 (replacing Draft EIR Table 4.H-7), presents the updated construction noise levels at representative Project sensitive noise receptors, including receptor 8. Worksheets for the updated analysis are included as Appendix G-1 to this Final EIR. As indicated in Table III-2, the Project's estimated construction noise levels would exceed the Project significance threshold (5 dBA above ambient), without mitigation. As shown in Table III-3 on page III-42 (replacing Draft EIR Table 4.H-11), Mitigation Measures prescribed in the Draft EIR and refined to include specific sound barriers as set forth in Section II, Corrections and Additions, of this Final EIR, would reduce the potential noise impacts to a less than significant level. As such, noise impacts associated with Project construction would be less than significant with mitigation. Thus, the conclusions in theDraft EIR are unchanged.

These revised tables that replace Tables 4.H-7 and 4.H-11 in the Draft EIR are also included in Section II, Corrections and Additions, of this Final EIR.

Table III-2
Estimated Construction Noise Levels—Without Mitigation

Project Noise Sensitive Receptor	Distance to Cons. Site, Feet	Estimated Construction Noise Levels, dBA L_{eq}					Significance Threshold[a]	Significant Impact?
		Demolition	Grading	Foundation	Building Construction	Finishing		
1—Hollywood Casting and Film[b]	80	78.9	74.3	77.9	75.2	76.9	77.9	Yes
2—The Farm LA[b]	80	78.9	74.3	77.9	75.2	76.9	77.9	Yes
3—Mandt Bros. Reality TV Post[b]	80	78.9	74.3	77.9	75.2	76.9	77.9	Yes
4—Siren Studios[b]	80	78.9	74.3	77.9	75.2	76.9	77.9	Yes
5—1130 North Orange Drive Single-Family Residence	10[c]	87.4	86.5	85.4	84.2	87.8	68.5	Yes
6—FotoKem Recording and Production Studios[b]	60	79.5	75.1	78.2	75.6	77.4	77.7	Yes
7—SonicPool Post Production[b]	350	67.6	62.8	67.2	64.8	65.8	63.3	Yes
8—1121 North Orange Drive Multi-Family Residence	65	79.3	74.9	78.1	75.5	77.2	68.5	Yes

Notes:

[a] *Significance thresholds are equivalent to the measured ambient noise level (Draft EIR Table 4.H-2) plus 5 dBA, per the L.A. CEQA Thresholds Guide for construction activities lasting more than 10 days in a three-month period. Ambient noise at receptor 8 is based on the measured ambient at receptor 5. This is a conservative assumption as receptor 5 is located closer to Santa Monica Boulevard, which is the dominant ambient noise source.*

[b] *Per L.A. CEQA Thresholds Guide, studio uses are not considered noise-sensitive uses. However, receptors 1, 2, 3, 4, 6 and 7 are studio uses and are included as noise sensitive receptors for a conservative analysis.*

[c] *Distance is based on the construction equipment noise source to the affected receptor locations.*

Source: AES, 2017.

Table III-3
Estimated Construction Noise Levels—With Mitigation

Project Noise-Sensitive Receptor	Distance to Cons. Site, Feet	Estimated Construction Noise Levels, dBA L_{eq}					Sig. Threshold[a]	Sig. Impact?
		Demolition	Grading	Foundation	Building Construction	Finishing		
1—Hollywood Casting and Film[b]	80	75.9	71.3	74.9	72.2	73.9	77.9	No
2—The Farm LA[b]	80	75.9	71.3	74.9	72.2	73.9	77.9	No
3—Mandt Bros. Reality TV Post[b]	80	75.9	71.3	74.9	72.2	73.9	77.9	No
4—Siren Studios[b]	80	75.9	71.3	74.9	72.2	73.9	77.9	No
5—1130 North Orange Drive Single-Family Residence	10	67.4	66.5	65.4	64.2	67.8	68.5	No
6—FotoKem Recording and Production Studios[b]	60	76.5	72.1	75.2	72.6	74.4	77.7	No
7—SonicPool Post Production[b]	350	62.6	57.8	62.2	59.8	60.8	63.3	No
8—1121 North Orange Drive Multi-Family Residence	65	68.3	63.9	67.1	64.5	66.2	68.5	No

Notes:

[a] *Significance thresholds are equivalent to the measured ambient noise level (Draft EIR Table 4.H-2) plus 5 dBA, per the L.A. CEQA Thresholds Guide for construction activities lasting more than 10 days in a three-month period. Ambient noise at receptor 8 is based on the measured ambient at receptor 5. This is a conservative assumption as receptor 5 is located closer to Santa Monica Boulevard, which is the dominant ambient noise source.*

[b] *Per L.A. CEQA Thresholds Guide, studio uses are not considered noise sensitive uses. However, receptors 1, 2, 3, 4, 6 and 7 are studio uses and are included as noise sensitive receptors for a conservative analysis.*

[c] *Distance is based on the construction equipment noise source to the affected receptor locations.*

Source: AES, 2017.

Comment No. 8-9

Ambient Noise Levels

The EIR states that "15-minute (short-term) ambient noise measurements were taken at seven locations near the Project Site as depicted in Figure 4.H-1". However, the EIR does not specify where on the property the ambient noise was measured from and *Figure 4.H-1* does not give this information either. Ambient noise modeling should have modeled the existing conditions at the property lines of the sensitive receptors.

On-Site and Off-Site Construction Noise

Again, the EIR does not provide information stating where the sensitive receptors were placed on their properties for modeling. The modeling should have assessed the impacts to sensitive receptors given their exposure at their property lines. Further, the multifamily residential building at 1121 N. Orange Drive is not included for analysis here either.

Response to Comment No. 8-9

For clarification, Figure 4.H-1 of the Draft EIR shows the location of the noise receptor locations. The ambient noise measurements were made at the public sidewalk in front of the receptor locations, to avoid potential errors due to the reflecting surface (i.e., building). As stated by the LAMC (Section 111.02) "*Except when impractical, the microphone shall be located four to five feet above the ground and ten feet or more from the nearest reflective surface."* Furthermore, the noise analysis evaluated potential impacts at the exterior of the affected buildings. The distances between the source and the receptor are clearly specified in the EIR. Additional noise analysis for the multi-family residential building at 1121 N. Orange Drive is provided above, see Response to Comment No. 8-8.

Comment No. 8-10

A number of mitigation measures are instilled specifically to mitigate impacts to the single family residence located at 1130 North Orange Drive, including:

H-5 Haul trucks shall be routed and other sources of on-road noise shall be operated at least 50 feet away from the single-family residence located at 1130 North Orange Drive.

H-6 Earthmoving equipment shall be operated from at least 50 feet away from the single-family residence located at 1130 North Orange Drive and as far away as possible other surrounding vibration sensitive receptors.

H-10 Use of pavement breakers, vibratory rollers, and packers near sensitive uses, including the single-family residence located at 1130 North Orange Drive, shall be avoided.

H-11 Trucks, including those used for the hauling of exported soils and the delivery of construction equipment and materials, shall maintain a distance of no less than 50 feet from the single-family residence located at 1130 North Orange Drive.

However, these mitigation measures are problematic because even though the equipment is placed farther from the single family residence, it is still exposed to the multifamily residential building at 1121 North Orange Drive. For example, H-5, H-6, and H-11 make operating closer to 1121 North Orange Drive more attractive because they are required to be located away from the single family residence. Moving 50 feet south of the single family home is attractive to stay closer to Santa Monica Boulevard, but they are still exposing 1121 North Orange Drive to these negative impacts. No analysis is presented of the impacts these mitigation measures may have on the multifamily residential building at 1121 North Orange Drive.

Response to Comment No. 8-10

The intent of Mitigation Measures H-5, H-6, H-10 and H-11 within Section 4.H, Noise, of the Draft EIR is to reduce the potential noise impacts to the closest residential building, located directly north of the Project Site. In response to this comment, Mitigation Measure H-1 has been revised to more specifically address the multi-family residential building at 1121 North Orange Drive, as follows:

Mitigation Measure H-1: Temporary and impermeable sound barriers capable of blocking the line-of-sight to the adjacent noise sensitive receptors shall be erected at the following locations:

- Along the Project northern property line between the construction site and the adjacent residential use on the east side of North Orange Drive (receptor 5)—The temporary sound barrier shall be designed to provide 20 dBA noise reduction at the ground level of the adjacent noise sensitive receptor.
- Along the Project western property line between the construction site and the multifamily residential use on the west side of North Orange Drive (receptor 8)—The temporary sound barrier shall be designed to provide minimum 11 dBA noise reduction at the ground level of the noise sensitive receptor.
- Along the Project southern property line between the construction site and the studio uses on the south side of Santa Monica Boulevard (receptors 1, 2, 3 and 4)—The temporary sound barrier

shall be designed to provide minimum 3 dBA noise reduction at the ground level of the noise sensitive receptor.

- Along the Project southeastern property line between the construction site and the studio use on the east side of Mansfield Avenue (receptor 6)—The temporary sound barrier shall be designed to provide minimum 3 dBA noise reduction at the ground level of the noise sensitive receptor. Along the Project northeastern property line between the construction site and the studio use at the southeast corner of Lexington Avenue and Mansfield Avenue (receptor 7)—The temporary sound barrier shall be designed to provide a minimum 5 dBA noise reduction at the ground level of the noise sensitive receptor.

This updated mitigation measure is also included in Section II, Corrections and Additions, of this Final EIR.

Comment No. 8-11

Additionally, mitigation measure H-10 is unenforceable unless it is revised to state that using such equipment near any sensitive land use shall be *prohibited*.

Response to Comment No. 8-11

Mitigation Measure H-10 within Section 4.H, Noise, of the Draft EIR states that "Use of pavement breakers, vibratory rollers, and packers near sensitive uses, including the single family residence located at 1130 North Orange Drive, shall be avoided." As such, this activity would not occur. Nonetheless, in response this comment, the text has been clarified to use the word "prohibited." Refer to Section II, Corrections and Additions, of this Final EIR.

Comment No. 8-12

There is no analysis presented regarding the overlap of construction phases and the potential noise impacts that may occur as a result. The air quality appendix indicates that at minimum the paving and architectural coating phases will overlap. The EIR must address the potential noise impacts from overlap of construction phases.

Response to Comment No. 8-12

As discussed on Page 4.H-15, in Section 4.H, Noise, of the DEIR, demolition and grading activities would represent the peak noise levels during the construction duration. Noise levels for other phases of construction and any overlap between phases would not

be as loud nor as extensive as the demolition and grading phases. Since the construction noise analysis in the DEIR evaluated the worst-case scenario, no additional analysis is necessary.

Comment No. 8-13

6.0 Alternatives to the Project

The Alternative Site alternative is rejected even though the proposed project requires two General Plan Amendments and Vesting Zone Change to proceed. This alternative should have been evaluated since the proposed project could not proceed at the project site without two General Plan Amendments and a Vesting Zone Change.

Response to Comment No. 8-13

In accordance with CEQA, alternatives to the Project that should be evaluated are those that reduce the significant impacts of a Project. Specifically, CEQA Guidelines Section 15126.6(a) states:

> *An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decisionmaking and public participation. An EIR is not required to consider alternatives which are infeasible.*

The need for discretionary actions such as a General Plan Amendment or Zone Change does not translate into a significant environmental impact. Rather as set forth in Section 4.G, Land Use, of the Draft EIR, the Project and its associated discretionary actions would not result in land use impacts. Furthermore, as discussed in Section 6, Alternatives to the Project, of the Draft EIR, an Alternative Site Alternative would not meet many of the basic Project Objectives and thus was rejected from further analysis.

Comment No. 8-14

Conclusion

For the foregoing reasons, GSEJA believes the EIR is flawed and an amended EIR must be prepared for the proposed project and recirculated for public review. Golden State Environmental Justice Alliance requests to be added to the public interest list regarding any

subsequent environmental documents, public notices, public hearings, and notices of determination for this project. Send all communications to Golden State Environmental Justice Alliance P.O. Box 79222 Corona, CA 92877.

Response to Comment No. 8-14

As demonstrated in this Final EIR, no new significant information (as defined by CEQA Guidelines Section 15088.5) that would require recirculation of the Draft EIR has been identified. Specifically, upon review of all of the comments received and analyzed, there are no new or substantially increased significant environmental impacts from the Project or from a mitigation measure that were identified subsequent to circulation of the Draft EIR. Neither the comments submitted on the Draft EIR nor the responses contained herein constitute new significant information warranting the recirculation of the Draft EIR as set forth in CEQA Guidelines Section 15088.5. Rather, the Draft EIR has been prepared in accordance with CEQA.

Golden State Environmental Justice will be included on future public notices regarding the Project. These comments are noted for the administrative record and will be forwarded to the decision-makers for review and consideration.

Comment Letter No. 9

David Bass
Ferris Wehbe
Hollywood Media District Property Owners Association
1040 N. Las Palmas Ave.
Hollywood, CA 90038-2409

Comment No. 9-1

On behalf of the Hollywood Media District Property Owners Association (BID), we are writing to provide our input on the Draft Environmental Impact Report (DEIR) for the proposed 6909 Santa Monica Boulevard Project. The BID has reviewed the DEIR and has found no significant impacts, which concern us.

This location is an important commercial corridor for the Hollywood Media District BID. We find that the architects have been sensitive to this location and have designed a project that will be aesthetically welcoming and community oriented. The project will include 270 bicycle parking spots and more parking spaces than required by code to prevent residents and their visitors from utilizing street parking. We are also pleased to see that the design provides for stepbacks in height as well as ground floor accessible units, which will help to activate the street for the surrounding pedestrian neighborhood. The developer has also set aside 15 of the units for very low-income residents.

One area that the Hollywood Media District BID feels strongly about is that the project's contribution of one percent for the arts be spent either within this project or within the boundaries of the BID. As a showplace for the City and with a large number of local artists, we would like to be sure that all art funds are utilized within the District.

We encourage your approval of this mixed-use project.

Response to Comment No. 9-1

This comment in support of the Project is noted for the administrative record and will be forwarded to the decision-makers for review and consideration. With regard to the arts fee, only the Project's commercial component would be subject to the arts fee requirement. As set forth in LAMC Section 91.107.4.6.5:

> *91.107.4.6.5. Use of Arts Fees Acquired Pursuant to Section 91.107.4.6. Any arts fee collected by the Department of Building and Safety shall be deposited in the Arts Development Fee Trust Fund. Any fee paid into this fund may be*

used only for the purpose of providing cultural and artistic facilities, services and community amenities which will be available to the development project and its future employees. Any cultural and artistic facilities, services and community amenities provided shall comply with the principles and standards set forth in the Cultural Master Plan when adopted.

At or about the time of collection of any fee imposed by this section, the Cultural Affairs Department shall identify the use to which the arts fee is to be put, and if the use is financing public facilities, the facilities shall be identified.

The comment is nonetheless noted for the administrative record and will be forwarded to the decision-makers for review and consideration.

Comment Letter No. 10

Theresa Rettinghouse
Paralegal
Lozeau Drury LLP
410 12th St., Ste. 250
Oakland, CA 94607-4486

Comment No. 10-1

I am writing on behalf of the Laborers International Union of North America, Local Union 300 ("LiUNA") and Southwest Regional Council of Carpenters ("SWRCC") and their members living in Los Angeles County and the City of Los Angeles, regarding the 6901 Santa Monica Boulevard Mixed-Use Project (SCH2016021044 [and ENV-2015-4612-EIR), including all actions related or referring to the demolition and removal of the existing office and auto storage buildings (totaling 54,661 sf) located on the project site, and new development of a mixed use building, including seven stories of residential multi-family units (231 total units), 15,000 sf of ground floor neighborhood serving commercial uses, and 390 vehicle parking spaces on the 1.67 acre project site located on APN's 5532-017-010,-011, and -020, also known as 1100, 1106, 1110, 1114, 1118, 1122, 1126 Orange Drive; 6906, 6911, 6917, 6921, 6931 Santa Monica Boulevard; and 1107, 1111, 1115, 1119, 1121 Mansfield Avenue in Los Angeles for a total of 218,316 square feet of floor area ("Project").

We hereby request that the City of Los Angeles ("City") send by electronic mail or U.S. Mail to our firm at the address below notice of any and all actions or hearings related to activities undertaken, authorized, approved, permitted, licensed, or certified by the City and any of its subdivisions, and/or supported, in whole or in part, through contracts, grants, subsidies, loans or other forms of assistance from the City, including, but not limited to the following:

- Notice of any public hearing in connection with the Project as required by California Planning and Zoning Law pursuant to Government Code Section 65091.

- Any and all notices prepared for the Project pursuant to the California Environmental Quality Act ("CEQA"), including, but not limited to:

  - Notices of any public hearing held pursuant to CEQA.

  - Notices of determination that an Environmental Impact Report ("EIR") is required for a project, prepared pursuant to Public Resources Code Section 21080.4.

- Notices of any scoping meeting held pursuant to Public Resources Code Section 21083.9.

- Notices of preparation of an EIR or a negative declaration for a project, prepared pursuant to Public Resources Code Section 21092.

- Notices of availability of an EIR or a negative declaration for a project, prepared pursuant to Public Resources Code Section 21152 and Section 15087 of Title 14 of the California Code of Regulations.

- Notices of approval and/or determination to carry out a project, prepared pursuant to Public Resources Code Section 21152 or any other provision of law.

- Notices of approval or certification of any EIR or negative declaration, prepared pursuant to Public Resources Code Section 21152 or any other provision of law.

- Notices of determination that a project is exempt from CEQA, prepared pursuant to Public Resources Code section 21152 or any other provision of law.

- Notice of any Final EIR prepared pursuant to CEQA.

Please note that we are requesting notices of CEQA actions and notices of any public hearings to be held under any provision of Title 7 of the California Government Code governing California Planning and Zoning Law. **This request is filed pursuant to Public Resources Code Sections 21092.2 and 21167(f), and Government Code Section 65092**, which requires 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.

Please send notice by electronic mail or U.S. Mail to:

Richard Drury
Theresa Rettinghouse
Lozeau Drury LLP
410 12th Street, Suite 250
Oakland, CA 94607
210 836-4200
richard@lozeaudrury.com
theresa@lozeaudrury.com

Please call if you have any questions. Thank you for your attention to this matter.

Response to Comment No. 10-1

Lozeau Drury LLP has been added to the City's public notification list for the Project.

Comment Letter No. 11

Richard T. Drury
Counsel for SWRCC and LIUNA Local Union 300
Lozeau Drury LLP
410 12th St., Ste. 250
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Theresa Rettinghouse
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This comment includes email correspondence between Lozeau Drury LLP and the City of Los Angeles. The correspondence and associated attachments are provided in date order followed by a response.

Comment No. 11-1

[March 29, 2017, email from Toyer Grear of Lozeau Drury LLP to Kathleen King, Department of City Planning]

Attached please find a CEQA and Land Use Notice Request on behalf of Laborers International Union of North America, Local Union 300 ("LiUNA") and Southwest Regional Council of Carpenters ("SWRCC") and their members living in Los Angeles County and the City of Los Angeles, regarding the 6901 Santa Monica Boulevard Mixed-Use Project. (SCH2016021044 and ENV20154612EIR)

Please note that a hard copy will follow via U.S. first class mail. If you have any questions, please feel free to contact our office.

[Attachment to March 29 email included as letter 10 above.]

[March 30, 2017, email correspondence from Kathleen King, Department of City Planning, to Toyer Grear of Lozeau Drury LLP]

Thank you for your email regarding the 6901 Santa Monica Project. As requested, I have attached the two notices prepared for the Project thus far. These documents include:

- 6901 Santa Monica Blvd. NOP (Published February 11, 2016)
- 6901 Santa Monica Blvd. NOA (Published March 2, 2017)

Please note that the NOP comment period has closed, however the Draft EIR comment period closes on April 17, 2017.

I have included Mr. Drury and Ms. Rettinghouse in this email and will add both of their email addresses to the Project's interested parties list so that they receive all future environmental and public hearing notices for this Project. If you, Mr. Drury, or Ms. Rettinghouse have any additional questions/requests regarding the Project please feel free to contact me.

[April 3, 2017, email from Theresa Rettinghouse of Lozeau Drury LLP to Kathleen King, Department of City Planning]

Can you please email me a copy of the "first Phase II investigation.. performed in 2006 and 2007 by Blackstone Consulting, LLC?" Highlighted in bold in the except below copied from the DEIR Section 4.F. Hazards and Hazardous Materials on page 13.

Phase II Site Assessment

These HRECs were evaluated during two Phase II ESA investigations performed at the Project Site. **The first Phase II investigation was performed in 2006 and 2007 by Blackstone Consulting, LLC**, while a second supplemental Phase II investigation was performed in 2014 by AEC.

If the document is too large, I can send you a link to our Dropbox folder.

[April 5, 2017, email from Theresa Rettinghouse of Lozeau Drury LLP to Kathleen King of Department of City Planning]

Any progress on acquiring the document from the client? We are quickly approaching the April 17 comment deadline.

[April 5, 2017, email from Toyer Grear of Lozeau Drury LLP to Kathleen King, Department of City Planning]

Attached please find correspondence written on behalf of the Southwest Regional Council of Carpenters ("SWRCC") and Laborers International Union of North America Local Union 300 ("LIUNA") concerning the Draft Environmental Impact Report ("DEIR") for the 6901 Santa Monica Boulevard Mixed-Use Project (EIR No. ENV-2015-4612-EIR; SCH No. 2016021044) ("Project").

Please note copies will follow by Fax and Overnight mail. If you have any questions, please feel free to contact Richard T. Drury directly.

[Attachment to April 5, 2017, email]

I am writing on behalf of the Southwest Regional Council of Carpenters ("SWRCC") and Laborers International Union of North America Local Union 300 ("LIUNA") concerning the Draft Environmental Impact Report ("DEIR") for the 6901 Santa Monica Boulevard Mixed-Use Project (EIR No. ENV-2015-4612-EIR; SCH No. 2016021044) ("Project"). We hereby request that the City of Los Angeles ("City") extend the public comment period for the DEIR by thirty days in light of the fact that crucial documents cited in the DEIR are not available for public review, in violation of CEQA.

This request is made pursuant to the California Public Records Act, Government Code Section 6250 et seq. and the California Environmental Quality Act ("CEQA"), Section 21092(b)(1) which requires that "all documents referenced in the draft environmental impact report or negative declaration" be available for review and "readily accessible" during the entire comment period.

On behalf of our clients we have requested supporting documents referenced in the DEIR be made available for review. In particular, we requested a copy of the Phase II Environmental Site Assessment (Phase II ESA), which is cited at page 4.F-13 of the DEIR. This document contains a critical analysis of toxic chemicals that may be present in soil and groundwater at the Project site. This issue is crucial to the members of SWRCC and LIUNA since construction workers will come in direct contact with soil excavated as part of Project construction.

Today, you informed us that the Phase II ESA is not available for public review, but that you will attempt to obtain a copy of the document. Given this, it is necessary for the City to extend the public comment period to 30-days from the date that this document is made available for public review.

CEQA section 21092(b)(1) requires that the CEQA notice for an EIR must include "the address where copies of the proposed EIR and all documents referenced therein are available for review and readily accessible during the agency's normal working hours." As noted by leading CEQA commentators, Remy and Thomas:

> The above-referenced section [21092(b)(1)] requires the agency to notify the public of the address at which "all documents referenced in a draft EIR" can be found (and presumably read)… seems to require agencies to make available for public review all documents on which agency staff or consultants expressly rely in preparing a draft EIR. In light of case law emphasizing the importance of ensuring that the public can obtain and review documents on which agencies rely for the environmental conclusions (see, e.g., *Emmington v. Solano County Redevel. Agency*, 195 Cal.App.3d 491, 502-503 (1987)), agencies should ensure that they comply literally with this requirement.

Remy, Thomas and Moose, *Guide to the California Environmental Quality Act*, p. 300 (Solano Press, 11th ed., 2007). The courts have held that the failure to provide even a few pages of a CEQA documents for a portion of the CEQA review period invalidates the entire CEQA process. *Ultramar v. South Coast Air Quality Man. Dist*., 17 Cal.App.4th 689 (1993).

Therefore, we request that the comment period for the DEIR for this Project be extended to at least thirty days from the date that the Phase II ESA is provided for public review. Given the shortness of time before the current comment deadline, please contact me as soon as possible with your response to this request.

[April 5, 2017, email from Kathleen King, Department of City Planning, to Theresa Rettinghouse of Lozeau Drury, LLP]

I apologize for the delay in responding to your email. Attached is the Phase II completed by Blackstone (please see Appendix B of the attachment).

[Phase II attachment to 2012 Environmental Conditions Summary —Refer to Appendix F-3 of this Final EIR.]

[April 10, 2017, letter from Luciralia Ibarra to Lozeau Drury]

The Department of City Planning received your letter, dated April 5, 2017, requesting an extension of the comment period for the 6901 Santa Monica Boulevard Mixed-Use Project Draft Environmental Impact Report (DEIR), which has a 47-day comment period that commenced on March 2, 2017 and ends on April 17, 2017. Your

request noted that documents cited in the DEIR were not available for public review, specifically the Phase II ESA investigation performed in 2006 and 2007 by Blackstone Consulting, LLC (2007 Phase II ESA). Ms. Rettinghouse requested the 2007 Phase II ESA via email on April 3, 2017. A copy of the 2007 Phase II ESA was provided to Ms. Rettinghouse via email on April 5, 2017.

As stated in the DEIR Section 4.F Hazards and Hazardous Materials on page 4.F-13, "The second Phase II ESA incorporates and summarizes the results of the first Phase II ESA." Further, as stated on pages 4.F-21 and 4.F-22, "The two Phase II ESAs (2007 and 2014) analyzed soil and groundwater samples extracted from the Project Site to characterize the type and level of contamination present." The 2014 Phase II ESA incorporates the findings of the 2007 Phase II ESA, including number and location of boring locations and specific soil boring locations that have exhibited petroleum hydrocarbon impacted soil that will require special handling and off-site disposal. Finally, it should be noted that at p. 4.F-1 it states the analysis contained in that section is based upon the Phase I and Phase II ESAs performed in December 2, 2014, both of which were included as Exhibits F-1 and F-2 in the Appendix to the DEIR. The 2007 Phase II ESA, together with other reference materials, is included in the case file for public review.

Pursuant to the California Environmental Quality Act (CEQA) Section 15105, "The public review period for the draft EIR should not be less than 30 days nor longer than 60 days except in unusual circumstances." An extension of the comment period, absent any extenuating circumstances, would be inconsistent with the provisions of CEQA. There are no extenuating circumstances here as the Appendix to the DEIR contained the two 2014 ESAs upon which the DEIR analysis was based and the City provided copies of additional documents referenced in those 2014 ESAs (2006 and 2007 ESAs) within forty-eight (48) hours of your request. Therefore, the City will not extend the comment period on the DEIR at this time and the comment period end date of April 17, 2017 shall remain.

Response to Comment No. 11-1

The comment above provides the correspondence between Lozeau Drury LLP and the Department of City Planning with regard to the request for extension of the Draft EIR public comment period made by Lozeau Drury LLP. As indicated above, Lozeau requested the extension on the basis that sufficient time would not be available to review a forthcoming Phase II ESA investigation that was prepared in 2007 and cited in the Draft EIR but was not appended to the Draft EIR.

As noted in the City's April 10, 2017, letter, the Draft EIR included a second updated Phase II analysis that was performed in December 2014. As stated on page 4.F-13 of Section 4.F, Hazards and Hazardous Materials, of the Draft EIR, "The second Phase II

ESA incorporates and summarizes the results of the first Phase II ESA." Specifically, the 2014 Phase II ESA incorporates the findings of the 2007 Phase II ESA, including details regarding the number and location of boring locations, and specific soil boring locations that have exhibited petroleum hydrocarbon impacted soil that will require special handling and off-site disposal. Thus, the first Phase II ESA that was sent to Lozeau Drury LLP on April 5, 2017, upon request and is included in Appendix F-3 of this Final EIR does not contain substantial new information regarding new or substantially increased significant impacts of the Project, nor does this circumstance result in unusual circumstances that would require extension of the Draft EIR comment period, which concluded on April 17, 2017.

Comment Letter No. 12

Michael R. Lozeau
Richard T. Drury
Lozeau Drury LLP
410 12th St., Ste. 250
Oakland, CA 94607-4486

Comment No. 12-1

I am writing on behalf of the Southwest Regional Council of Carpenters ("SWRCC"), Laborers International Union of North America Local Union 300 ("LIUNA"), and City of Los Angeles residents Dan Macdonald and Alexis Olbrei concerning the Draft Environmental Impact Report ("DEIR") for the 6901 Santa Monica Boulevard Mixed-Use Project (EIR No. ENV-2015-4612-EIR; SCH No. 2016021044) ("Project"). We hereby request that the City of Los Angeles ("City") fully comply with all requirements of the California Environmental Quality Act ("CEQA") in its review of the Project.

After reviewing the proposed project and the DEIR together with our expert consultants at SWAPE, including Matthew Hagemann, P.G., C.Hg., QSD, QSP, former Senior Science Policy Advisor, U.S. EPA Region 9 and Hydrogeologist, Superfund, RCRA and Clean Water programs, it is evident that the document contains numerous errors and omissions that preclude accurate analysis of the Project. Technical comments prepared by SWAPE are attached hereto as Exhibit A. As a result of these inadequacies, the DEIR fails as an informational document, fails to identify environmentally superior Project alternatives, and fails to impose feasible mitigation measures to reduce the Project's impacts.[1] A supplemental DEIR should be prepared and circulated for full public comment to address these issues.

[1] *We reserve the right to supplement these comments at later hearings and proceedings for this Project. See, Galante Vineyards v. Monterey Water Dist. (1997) 60 Cal. App. 4th 1109.*

Response to Comment No. 12-1

As demonstrated by the response to comments below, including the response the comments made by SWAPE, the Draft EIR has been prepared in accordance with CEQA Guidelines and there are no new impacts or substantial increases in previously identified impacts that result from the comments provided in this Final EIR. As such, in accordance with CEQA Guidelines Section 15088.5, recirculation of the Draft EIR is not warranted.

Comment No. 12-2

I. BACKGROUND.

The Project includes the demolition and removal of the existing office and automobile storage buildings located on the Project Site, and development of the Project Site with a mixed-use building, including seven stories of residential multi-family units (231 total units) and 15,000 square feet of ground-floor neighborhood-serving commercial uses (including up to a 5,000-square-foot high-turnover restaurant and up to 10,000 square feet of general retail), and 390 vehicle parking spaces within two levels of subterranean parking.

The Project requests a Vesting Zone and Height District Change to C2-2D, which would permit a base density of one unit per 400 square feet of lot area (R4 density). The Project Site lot area is 72,772 square feet prior to street dedications, which would permit 181 units (72,772 SF/400 SF). The Project includes a 27.5% density bonus that permits the 231 units in lieu of 181 units and a density bonus on-menu incentive to calculate density based on the lot area prior to street dedications. Approximately 8% of the permitted base density, equal to 15 units, would be restricted for Very Low-Income households. The Project would have a total of 218,316 square feet of floor area, with a corresponding floor area ratio (FAR) of 3.2:1 (FAR calculated based on lot area after street dedications which is 68,272 square feet).

The Project includes a request for a General Plan Amendment to change the land use designation from Highway Oriented Commercial and Medium Density Residential to Neighborhood Commercial, to permit the development of a mixed-use building. An additional General Plan Amendment is requested for an Add Area so that additional parcels would be changed from the Highway Oriented Commercial land use designation to the Neighborhood Commercial land use designation and would not result in the creation of "spot" zoning. The Project Site is located within a transition zone between industrial and medium density residential land use designations.

Response to Comment No. 12-2

This comment providing a summary of the Project is noted for the administrative record and will be forwarded to the decision-makers for review and consideration. Note that with the proposed discretionary actions, the FAR would be 3:1.

Comment No. 12-3

II. STANDING.

Members of SWRCC and LIUNA live, work and recreate in the immediate vicinity of the Project site. These members will suffer the impacts of an inadequately mitigated Project, just as would the members of any nearby homeowners association, community group or environmental group. Hundreds of members of SWRCC and LIUNA live and work in areas that will be affected by traffic, air pollution, and other impacts generated by the Project. Dan Macdonald and Alexis Olbrei are residents of the City of Los Angeles and will be directly affected by the air pollution, traffic and other impacts of the proposed Project.

In addition, construction workers such as the members of SWRCC and LIUNA will suffer many of the most significant impacts from the Project as currently proposed, including from air pollution emissions from poorly maintained or controlled construction equipment, possible risks related to hazardous materials in the soil and groundwater on the Project site, and other impacts. Therefore, SWRCC and LIUNA and their members have a direct interest in ensuring that the Project is adequately analyzed and that its environmental and public health impacts are mitigated to the fullest extent feasible.

Response to Comment No. 12-3

The Draft EIR provides a detailed analysis of the potential impacts associated with construction and operation of the Project. As demonstrated by the response to comments below and the analyses provided in Sections 4.C, Air Quality, and 4.F, Hazards, of the Draft EIR, construction and operation of the Project will not result in any significant impacts associated with air pollution or hazards. In addition, as set forth in Section 4.K, Transportation/Traffic, of the Draft EIR, potential traffic impacts of the Project will also be less than significant.

Comment No. 12-4

III. LEGAL STANDARDS.

CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an environmental impact report ("EIR") (except in certain limited circumstances). (*See, e.g.*, Pub. Res. Code § 21100.) The EIR is the very heart of CEQA. (*Dunn-Edwards v. BAAQMD* (1992) 9 Cal.App.4th 644, 652.) "The 'foremost principle' in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language." (*Communities for a Better Environment v. Calif. Resources Agency* (2002) 103 Cal.App.4th 98, 109.)

CEQA has two primary purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. (14 Cal. Code Regs. ("CEQA Guidelines") § 15002(a)(1).) "Its 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.'" (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 564.) The EIR has been described as "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." (*Berkeley Keep Jets Over the Bay v. Bd. of Port Comm'rs*. (2001) 91 Cal.App.4th 1344, 1354 ("*Berkeley Jets*"); *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.)

Second, CEQA requires public agencies to avoid or reduce environmental damage when "feasible" by requiring "environmentally superior" alternatives and all feasible mitigation measures. (CEQA Guidelines § 15002(a)(2) and (3); *See also*, *Berkeley Jets*, 91 Cal.App.4th 1344, 1354; *Citizens of Goleta Valley*, 52 Cal.3d at 564.) The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to "identify ways that environmental damage can be avoided or significantly reduced." (CEQA Guidelines §15002(a)(2).) If the project will have a significant effect on the environment, the agency may approve the project only if it finds 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." (Pub. Res. Code § 21081; CEQA Guidelines § 15092(b)(2)(A) & (B).)

While the courts review an EIR using an "abuse of discretion" standard, "the reviewing court is not to 'uncritically rely on every study or analysis presented by a project proponent in support of its position. "A clearly inadequate or unsupported study is entitled to no judicial deference." (*Berkeley Jets*, 91 Cal.App.4th at 1355, quoting, *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 391, 409, fn. 12.) As the court stated in Berkeley Jets:

> A prejudicial abuse of discretion occurs "if the failure to include relevant information precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process." (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 722]; *Galante Vineyards v. Monterey Peninsula Water Management Dist*. (1997) 60 Cal.App.4th 1109, 1117; *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 946).

(91 Cal.App.4th at 1355.)

Response to Comment No. 12-4

These citations regarding the purpose of CEQA are noted for the administrative record and will be forwarded to the decision-makers for review and consideration. Note that all of the analyses in the Draft EIR are supported by substantial evidence, and no "abuse of discretion" has occurred with regard to preparation and consideration of the Draft EIR.

Comment No. 12-5

IV. LEGAL ANALYSIS.

A. THE DEIR FAILS TO PROVIDE SUBSTANTIAL EVIDENCE TO SUPPORT A FINDING OF OVERRIDING CONSIDERATIONS.

As is discussed below, the Project will have significant, unmitigated environmental impacts, contrary to the conclusions of the DEIR. As a result, a statement of overriding considerations will be required. Under CEQA, when an agency approves a project with significant environmental impacts that will not be fully mitigated, it must adopt a "statement of overriding considerations" finding that, because of the project's overriding benefits, it is approving the project despite its environmental harm. (CEQA Guidelines §15043; Pub. Res. Code §21081(B); *Sierra Club v. Contra Costa County* (1992) 10 Cal.App.4th 1212, 1222.) A statement of overriding considerations expresses the "larger, more general reasons for approving the project, such as the need to create new jobs, provide housing, generate taxes and the like." (*Concerned Citizens of South Central LA v. Los Angeles Unif. Sch. Dist.* (1994) 24 Cal.App.4th 826, 847.)

A statement of overriding considerations must be supported by substantial evidence in the record. (CEQA Guidelines §15093(b); *Sierra Club v. Contra Costa Co.* (1992) 10 Cal.App.4th 1212, 1223).) The agency must make "a fully informed and publicly disclosed" decision that "specifically identified expected benefits from the project outweigh the policy of reducing or avoiding significant environmental impacts of the project." (CEQA Guidelines §15043(b).) As with all findings, the agency must present an explanation to supply the logical steps between the ultimate finding and the facts in the record. (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515.)

Key among the findings that the lead agency *must* make is that:

> "Specific economic, legal, social, technological, or other considerations, including ***the provision of employment opportunities for highly trained workers***, make infeasible the mitigation measures or alternatives identified in

> the environmental impact report… [and that those] benefits of the project outweigh the significant effects on the environment."

(Pub. Res. Code §21081(a)(3), (b).)

Thus, the City must make specific findings, supported by substantial evidence, concerning both the environmental impacts of the Project, and the economic benefits including "the provision of employment opportunities for highly trained workers." The DEIR fails to provide substantial evidence to support a statement of overriding considerations.

The DEIR makes no effort whatsoever to analyze the fiscal impacts related to jobs to be created by the proposed project, or the quality of the new jobs. While the DEIR states that a Project goal is to "promote fiscal benefits, economic development and job creation," (DEIR p. 2-6), the DEIR is devoid of any analysis of whether the new jobs to be created will be higher or lower wage than the jobs to be displaced in the existing buildings, or how the quality of the jobs to be created will compare to citywide averages. CEQA expressly requires an analysis of: "Specific economic, legal, social, technological, or other considerations, including ***the provision of employment opportunities for highly trained workers***." (Pub. Res. Code §21081(a)(3), (b).) The Fiscal Analysis makes no attempt to determine whether new jobs created by the Project, in either the construction phase or the operational phase, will be for "highly trained workers," and what the likely salary and wage ranges of these jobs will be. Without this information, the City lacks substantial evidence to make any statement of overriding considerations.

In short, the City cannot find that the economic benefits of the Project outweigh the environmental costs if it does not know what the economic benefits will be. A revised DEIR is required to provide this information.

Response to Comment No. 12-5

Fiscal impacts are not included in the list of environmental topics set forth under Appendix G of the CEQA Guidelines and thus, are not required to be addressed in an EIR. Fiscal impact analyses may be included as part of the findings required by Public Resources Code Section 21081 and Section 15091 of the CEQA Guidelines, which provide that no public agency shall approve or carry out a project for which an EIR has been certified that identifies one or more significant environmental effects of the project unless the public agency makes specific findings. In particular, Section 21081(a)(3) includes a finding where economic considerations make the implementation of mitigation measures or alternatives to reduce a significant impact infeasible. This finding is sometimes supported by a fiscal impact analysis. However, as demonstrated by the analyses included in the Draft EIR and the responses to comments included in this Final

EIR, the Project would not result in significant environmental impacts that would require this specific finding to be made. As such, a fiscal impact report is not necessary for the Project.

Comment No. 12-6

B. THE DEIR FAILS TO DESCRIBE ADEQUATELY THE ENVIRONMENTAL SETTING OF THE PROJECT.

To facilitate its informational goals, an EIR must contain an accurate description of the project's environmental setting. An EIR "must include a description of the physical environmental conditions in the vicinity of the project… 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." (CEQA Guidelines, §15125(a).) The "environmental setting" is defined as "the physical conditions which exist within the area which will be affected by a proposed project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance." (CEQA Guidelines, §15360; see §21060.5; *Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170, 1192.) As the court stated in *Friends of Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859:

> There is good reason for this requirement: "Knowledge of the regional setting is critical to the assessment of environmental impacts…. The EIR must demonstrate that the significant environmental impacts of the proposed project were adequately investigated and discussed and it must permit the significant effects of the project to be considered in the full environmental context." ([CEQA] Guidelines, § 15125, subd. (c).) We interpret this Guideline broadly in order to "afford the fullest possible protection to the environment." (*Kings County Farm Bureau, supra*, 221 Cal.App.3d 692, 720.) In so doing, we ensure that the EIR's analysis of significant effects, which is generated from this description of the environmental context, is as accurate as possible.

(108 Cal.App.4th at 874.)

Response to Comment No. 12-6

The Draft EIR adequately describes the environmental setting for the Project. Specifically, Section 3, Environmental Setting, of the Draft EIR provides an overview of the physical environmental conditions in the vicinity of the Project Site, from both a local and regional perspective. Furthermore, each of the impact analysis sections included in Chapter 4 of the Draft EIR provides a subsection that describes in detail the existing environmental setting relevant to the environmental topic evaluated in that EIR section.

Comment No. 12-7

1. The DEIR Fails to Disclose Known, Highly Significant Toxic Chemical Contamination at the Project Site.

The Project will have very significant impacts due to the presence of high levels of toxic and cancer-causing chemicals in the soil and groundwater at the Project site. Construction workers such as the members of SWRCC and LIUNA will be at the highest risk from such chemicals, as will be future residents of the Project, who may be exposed via soil vapor intrusion. Construction workers will be directly disturbing and excavating contaminated soil during Project construction.

Response to Comment No. 12-7

As discussed in Section 4.F. Hazards of the Draft EIR, while there are residual impacts to soil, groundwater, and vapor beneath the subject property, the presence of such compounds does not represent a significant threat to human health and the environment. Further, the development of the property which will include excavation for a two-level subterranean parking structure will result in a complete source removal of impacted media from the property. Construction worker safety will be of great importance during the future site development activities and all construction activities will occur in accordance with regulatory requirements. The two trades that will be subject to the highest potential for exposure to petroleum hydrocarbons and volatile organic compounds (VOCs) are those working on behalf of the shoring and grading contractors. Any displacement of potentially impacted soil will be conducted by appropriately licensed contractors whose personnel are properly trained to manage contaminated soil and in the use of personal protective equipment (PPE) (including respirators if air monitoring activities result in a requirement to don such PPE). Air monitoring and other provisions to be employed to ensure that proper handling and management of impacted soil is conducted will be described in detail in a forthcoming Soil Management Plan for the project. It should also be noted that while the drafting of a Soil Management Plan is called for as a mitigation measure, such plans are commonly fully developed closer to the time of beginning actual excavation work and not as part of an EIR process. This is standard procedure and compliant with regulatory guidance and the standard of care in the environmental industry for development driven projects. It should be noted that the Soil Management is not a worker health and safety plan. Workers associated with the project are subject to requirements set forth by the California Occupational Safety and Health Administration.

Comment No. 12-8

Despite the fact that these hazards were documented in a 2007 Phase II ESA and a 2012 Environmental Conditions Summary (2012 ECS), the DEIR fails to mention these risks at all. Despite repeated requests by SWRCC and LIUNA under CEQA and the Public

Records Act, the City did not make available copies of the 2007 and 2012 reports until April 5, 2017, toward the tail end of the public comment period. The City exacerbated this omission by then refusing to grant SWRCC's and LIUNA's reasonable request for an extension of the comment period in order to have a full 30-days to comment on the project in light of the prior site investigations. Not only does this violate CEQA's procedural requirement that all documents relied upon in the DEIR be made available to the public for the full comment period, but it shows that the DEIR fundamentally violates CEQA's requirement of full disclosure of all potentially significant impacts.

The 2007 and 2012 reports reveal very significant contamination that is not disclosed in the DEIR. From at least 1928 until at least 1950, a bulk oil storage facility operated by Union Oil Company was located on the south-central portion of the project site, containing oil storage above ground storage tanks (ASTs) and oil/water separator tanks. (2012 ECS, p. 5). The report also describes numerous more recent industrial uses of the property involving underground storage tanks (USTs) with unknown contents.

Response to Comment No. 12-8

Two environmental documents prepared by AEC were included as Appendices F-1 and F-2 to the Draft EIR. These documents are as follows:

- Phase I Environmental Site Assessment, 6911 Santa Monica Boulevard, Los Angeles, California 90038 dated December 4, 2014
- Phase II Environmental Site Assessment, 6911 Santa Monica Boulevard, Los Angeles, California 90038 dated December 2, 2014

AEC's Phase I ESA of the subject property from 2014 included detailed descriptions of the work completed during the 2007 and 2012 studies/documents referenced in the comment above. This includes reference to and discussion of the nine conditions that were deemed to be recognized environmental conditions by said consultants. It is then stated in the Phase I ESA that all of the recognized environmental conditions were evaluated during Phase II assessment work conducted in two phases in 2006 and 2007 by a prior environmental consultant. Further, additional Phase II work was completed by AEC that included the drilling of soil borings in former and newer areas of potential concern. The risks described in the 2014 AEC documents are the same as those that were previously described in the 2007 and 2012 reports prepared by others and on behalf of a prior owner of the property. Therefore, the commenter's assertion that the 2014 reports fail to mention previously identified risks is incorrect. In addition, Ms. Rettinghouse of Lozeau Drury requested the 2007 and 2012 documents via email on April 3, 2017 and copies of these documents were provided to Ms. Rettinghouse via email on April 5, 2017.

Comment No. 12-9

The 2012 ECS identified very high levels of benzene and perchloroethylene (PCE) in the soil and groundwater at the Project site. According to the United State Environmental Protection Agency (US EPA) benzene causes cancer in humans and has serious short and long-term health effects:

> Acute (short-term) inhalation exposure of humans to benzene may cause drowsiness, dizziness, headaches, as well as eye, skin, and respiratory tract irritation, and, at high levels, unconsciousness. Chronic (long-term) inhalation exposure has caused various disorders in the blood, including reduced numbers of red blood cells and aplastic anemia, in occupational settings. Reproductive effects have been reported for women exposed by inhalation to high levels, and adverse effects on the developing fetus have been observed in animal tests. Increased incidence of leukemia (cancer of the tissues that form white blood cells) have been observed in humans occupationally exposed to benzene. EPA has classified benzene as known human carcinogen for all routes of exposure.

(https://www.epa.gov/sites/production/files/2016-09/documents/benzene.pdf).

EPA has also determined that PCE has serious health effects:

> Exposure to very high concentrations of PCE (particularly in closed, poorly ventilated areas) can cause dizziness, headache, sleepiness, confusion, nausea, difficulty in speaking and walking, unconsciousness and even death. Skin irritation may result from repeated or extended contact with it as well.
>
> The Eleventh Report on Carcinogens (RoC) has determined that PCE may reasonably be anticipated to be a carcinogen.

(https://yosemite.epa.gov/r9/sfund/r9sfdocw.nsf/3dc283e6c5d6056f88257426007417a2/f17f784b5a1b6c3b8825794c006325b3/$FILE/Vapor%20Intrusion%20PCE%20Fact%20Sheet_EPA%203_13%20174kb.pdf)

The 2012 ECS determined that the contamination is migrating off-site and the extent of contamination is unknown. The document advises that further sampling and clean-up is required and that there is a risk of soil vapor intrusion— a situation where toxic gases can migrate out of the soil and into a building placed on the contaminated site.

Response to Comment No. 12-9

During the completion of the prior assessment work and as described in the 2012 report, only one (SB-12) of the 18 soil borings drilled contained concentrations of compounds in soil that exceeded regulatory standards for human health and protection of groundwater. SB-12 was located to the northwest of the 6901 Santa Monica Boulevard Site building, and soil from this boring contained elevated levels of hydrocarbon compounds including benzene, xylenes, naphthalene, and trimethylbenzene (not PCE) at 10, 15, and 20 feet below the surface. The impacted soil was referenced by Waterstone as being limited in lateral extent. Regarding groundwater sampling as described in the 2012 document, Waterstone found that five (TW-5, -6, -18, -22, -23) of the 18 sampling locations contained VOC concentrations above drinking water quality standards and appeared to be down gradient of the former on-site underground storage tanks (USTs). The lateral extent of the plume was referenced by Waterstone as being defined with potential migration off-site to the southwest. The consultant recommended that additional assessment be conducted at the Site to further evaluate existing soil, soil vapor and groundwater conditions. Waterstone also prepared an estimate of costs for such additional assessment and also for potential site remedial costs.

Since the 2012 document was published, AEC completed two Phase II studies at the project site. The first assessment was completed in 2013. Although the formal report generated in 2013 was not released to the current project owner/developer (due to contractual terms between AEC and a former prospective purchaser of the site), general references are made to said report in the documents prepared on behalf of the current owner/developer, and it is stated that data obtained during the 2013 assessment, in part, served as the basis for conclusions and recommendations stated in the most recent 2014 Phase II study. As discussed in Section 4.2 of the Phase I ESA included in Appendix F-1 of the Draft EIR, based on the wealth of analytical data available for the subject property and a prior closure for the property issued by the Los Angeles Regional Water Quality Control Board (LARWQCB) in 1997 (which acknowledges the presence of residual TPH and VOCs in the subsurface at the property, including in groundwater above drinking water quality standards), it was AEC's professional opinion that no further environmental study was necessary to see the project through to development which would include complete removal of any vadose zone residual impacts by way of mass excavation activities for the planned subterranean garage. Such an approach is consistent with the standard of care when assessing development project locations in the greater Los Angeles region and in other urban locales throughout the State of California. In addition, while drinking water quality standards do not apply to the subject property (as groundwater at the property is not used for such purposes and there are no drinking water supply wells or other related sensitive receptors in close proximity to the property), AEC also notes that groundwater quality will also be improved as a result of the proposed mass excavation

activities for the subterranean parking garage due to complete source removal of TPH and VOC impacted soils.

Comment No. 12-10

Despite these critical disclosures in the 2012 ECS, the DEIR fails to mention this document and the full extent of groundwater and soil vapor contamination. Instead, the DEIR relies on a 2014 Environmental Site Assessment (2014 ESA) and misleads the reader regarding the import of the prior Phase II investigations. Thus, the DEIR says in footnote that "[t]he conclusions of the 2014 Phase II ESA incorporated the findings of the 2007 Phase II ESA." (DEIR, p. 4.F-22, n. 8.) As SWAPE's review explains:

> This statement is inaccurate. In fact, conclusions made in the 2014 Phase I and Phase II ESAs summarily ignored key 2007 Phase II ESA findings and recommendations as well as findings and recommendations made in the 2012 report. Most notably and egregiously, the 2014 Phase II failed to heed 2007 Phase II and 2012 report's recommendations to: (1) evaluate, under regulatory oversight, offsite groundwater impacts from a source at the Project site; and (2) assess the potential for soil vapor intrusion of PCE, a human carcinogen. Additionally, the 2014 Phase I failed to incorporate recognized environmental conditions identified in the 2007 Phase II and in the 2012 report, despite the claim made in the DEIR on p. 4.F-22.

(SWAPE, p. 2.) Likewise, rather than incorporating the 2007 Phase II report's findings, the 2014 ESA misrepresents the earlier investigations. The 2014 Phase I ESA, states:

> Historical releases of petroleum hydrocarbons to the subsurface that have occurred at the Site are considered to be historical recognized environmental conditions in connection with the Site that were previously assessed to the satisfaction of local and State regulatory agencies. Such conditions do not represent a significant environmental concern given the current land use of the Site.

Response to Comment No. 12-10

The final conclusions and recommendations referenced in the 2007 and 2012 documents differ from those presented by AEC. However, the referenced comment asserts that all prior conclusions and recommendations made by the prior consultants should be carried out and that AEC's verbiage was intended to mislead the reader regarding the importance of the prior Phase II investigations. The prior environmental documents prepared by entities other than AEC do not represent law, statute, regulation, or

indicators of the standard of care for the completion of environmental assessment and derivation of mitigation measures for an urban development project in the City of Los Angeles. AEC's conclusions and recommendations are based on its own expertise and professional judgment, and are supported by the provisions of ASTM International Designation E1903-11 ASTM E1903-11, Standard Practice for Environmental Site Assessments: Phase II Environmental Site Assessment Process, which allows for a Phase II Assessor to develop a stated purpose, scope of work and objective for completing a Phase II study that is tailored for the specific needs the client. In the case of the current project, the Phase II studies completed by AEC were based on the assumption that a subterranean parking garage would be constructed across the entire property. ASTM also specifically states the following (Section 7.3.1 of the standard):

> *To the extent needed to achieve the particular objective of the Phase II ESA, the Phase II Assessor may designate recognized environmental conditions identified in prior Phase I ESAs for further investigation in accordance with this practice. Not all conditions identified as recognized environmental conditions in prior Phase I ESAs necessarily need be designated for Phase II investigation.*

The same statement can apply to conditions identified during a prior Phase II ESA, in that not all such conditions need be designated for further evaluation in a supplemental study and that not all recommendations referenced in a prior assessment report must be heeded. AEC has determined, in its expert professional opinion, that no further assessment at the subject property is required and that there is ample data in place to allow for the drafting of a Soil Management Plan and subsequent implementation of such a plan during site development.

Comment No. 12-11

(2014 Phase 1, p. 27). As SWAPE's review makes clear, this assertion is false:

> The petroleum releases have never been investigated by regulators and no records exist that would indicate that the releases have been assessed to the satisfaction of regulators, as claimed. The petroleum contamination, identified in 2007 and 2012 as a condition that required regulatory notification and further investigation, is likely to be ongoing and presents both potential harm to the environment and human health. The 2014 Phase II did not sample groundwater, stating that the water table had been lowered by the drought (p. 5). The 2014 Phase II did not provide an explanation for not drilling deeper in an attempt to intercept the water table so that groundwater samples could be obtained.

(SWAPE, p. 3.) The DEIR further contributes to the misleading statements about the site's groundwater pollution. With respect to offsite migration of contaminated groundwater from the Project site, the DEIR states:

> Regarding groundwater sampling, Blackstone [the 2007 Phase II consultant] found that five of the eighteen samples contained elevated VOC concentrations above the applicable MCLs and appeared to be down gradient of the former on-site USTs. The lateral extent of the plume was referenced as being defined with potential migration off-site to the southwest.

(DEIR, p. 4.F-14). Again, SWAPE's comments point out the inaccuracies of the DEIR's statement, noting that "[t]he DEIR's conclusion that the 'lateral extent of the plume was referenced as being defined' is misleading." What the 2007 Phase II in fact concludes is:

> that the groundwater contamination beneath the southern portion of the site likely originated from historical releases at or near the on-site source areas, and that it is reasonable to believe the groundwater plume has migrated off-site. The off-site extent of the groundwater plume is unknown and at this time, and is considered the less-defined risk.

(2007 Phase II, p. 23).

Response to Comment No. 12-11

It is stated in the comments that petroleum releases that have occurred at the subject property have "never" been investigated by regulators and that no records exist that would support an opinion that releases have been assessed to the satisfaction of regulators. Reference should be made to Page 14 of AEC's 2014 Phase I ESA, Appendix F-1 of the Draft EIR, that summarizes the content of a no further action letter for the subject property issued by the LARWQCB. A copy of the letter is appended to the Phase I ESA report (pages 318 and 319 of the PDF document). The property is referenced as being located at 6921 Santa Monica Boulevard (historical address of the property) in the LARWQCB letter. Petroleum hydrocarbon releases within the soil and groundwater at the property were previously assessed under LARWQCB oversight.

As stated in Appendix F-1 of the Draft EIR, Phase I ESA:

> *Subsurface assessment completed under LARWQCB oversight consisted of the drilling of several soil borings for soil and groundwater sampling in the vicinity of former USTs at the property. Soil samples were obtained from the borings at various depths ranging from 10 to 30 feet below existing grades.*

No contaminants were detected in soil samples obtained from 10-foot depths, and minor concentrations of petroleum constituents were detected in one of the six soil samples obtained from 15 feet below grade. Of the remaining soil samples obtained from depths of greater than 15 feet, only two contained petroleum constituents indicative of significant contamination. The maximum TPH concentration was 108 mg/kg milligrams per kilogram (mg/kg) and the maximum benzene concentration was 811 micrograms per kilogram (µg/kg).

These concentrations are considered to be negligible and are consistent with LARWQCB's closure of the release case for the property. It is noted that LARWQCB received a copy of the Notice of Availability for the Draft EIR and LARWQCB did not provide a response

Appendix F-1 of the Draft EIR, Phase I ESA further states:

Of the six groundwater samples obtained, two contained benzene at concentrations of 314 micrograms per liter (µg/l) and 452 µg/l, which exceed the drinking water standard of 1 µg/l. MTBE was the primary groundwater contaminant of potential concern. This compound was not detected at or above the laboratory reporting limit in the six groundwater samples. The case was subsequently closed by the LARWQCB on June 20, 1997, with no additional action required.

As stated previously, drinking water quality standards do not apply to the subject property (as groundwater at the property is not used for such purposes, and there are no drinking water supply wells or other related sensitive receptors in close proximity to the property).

The comment letter states that the 2007 Phase II documented detections of groundwater contaminants at the southern (hydraulically downgradient) boundary of the project site. Benzene and MTBE (components of fuel) were detected at concentrations in excess of drinking water standards in well TW-5 on the southern boundary. In 2006, benzene was detected at 2,800 µg/l (drinking water standard is 1 µg/l) and MTBE was detected at 20 µg/l (drinking water standard is 13 µg/l) in TW-5. While these concentrations are higher than what is referenced in the LARWQCB no further action letter for the property, regulatory notification to the LARWQCB of such data collected in 2006 or any other regulatory agency is not required. Petroleum release cases in the Los Angeles region and throughout the State of California are commonly evaluated under State of California Water Resources Control Board Low-Threat Underground Storage Tank Case Closure Policy (LTCP), and in the event the LARWQCB ever desired to re-evaluate the subject property, LTCP would be the guiding approach during such an evaluation. Of note

are the five groundwater-specific criteria referenced in the State LCTP, one of which states that dissolved phase benzene and MTBE concentrations in a groundwater contamination plume should be less than 3,000 µg/l and 1,000 µg/l, respectively (well above drinking water quality standards). The maximum detected benzene and MTBE concentrations referenced in the comment letter from 2006 are below such levels, and in the case of MTBE, two orders of magnitude below the referenced levels in the LCTP guidance. As stated previously, drinking water quality standards do not apply to the subject property, as groundwater at the property is not used for such purposes, and there are no drinking water supply wells or other related sensitive receptors in close proximity to the property. In addition, residual groundwater impacts beneath the subject property do not represent a significant risk to human health. As such, neither additional assessment, nor mitigation of groundwater conditions at the subject property under agency oversight is required.

Comment No. 12-12

Despite the confirmed presence of benzene and PCE contamination in ground water at the site, the 2014 ESA did not even bother to sample for benzene and PCE in ground water. Likewise, the 2014 ESA did not conduct any sampling of soil vapor for the presence of PCE. Of course, the report will not find contamination if it does not look for it. Thus, over and over again, instead of fairly disclosing the extensive groundwater and soil contamination by benzene and PCE, the DEIR and the project's consultants engage in an active effort to downplay the significance of dangerous levels of contamination at the site.

Response to Comment No. 12-12

The 2014 Phase I and II ESA prepared on behalf of the current property owner/developer states that the residual soil and groundwater impacts at the subject property are disclosed. The groundwater conditions do not represent a significant concern to human health or the environment and are common conditions in the greater Los Angeles area. This includes residual contaminants in groundwater that that were previously assessed to the satisfaction of the LARWQCB and do not represent a significant risk to human health. Any residual impacted soils will be managed in accordance with a Soil Management Plan. Residual groundwater contamination does not require any further assessment, evaluation, or regulatory involvement. The LARWQCB previously issued a no further action letter for the property, and such a closure stands on its own today. As discussed in detail in Response to Comment No. 12-14, below, there is no significant concern to potential off-site receptors resulting from on-site concentrations of PCE in soil vapor or existing occupants of the current buildings at the property.

Comment No. 12-13

Similarly, the 2014 reports and the DEIR do not bother to mention the numerous "recognized environmental conditions"[2] (RECs) identified at the Project site in the 2007 and 2012 reports. The earlier assessments found the following RECs: REC 1: A bulk oil storage facility (aboveground storage tanks [ASTs] storing crude oil); REC 2: An oil storage building; REC 3: A service station with underground storage tanks (Service Station USTs); Recs 4 through 7 (USTs, hydraulic lifts, maintenance bays and a paint booth associated with an automotive repair and maintenance building once on the site; REC 8: A low spot in paving where water collects during hand washing of vehicles; and, on an adjoining property to the north, REC 9 consisting of five USTs. (See SWAPE, p. 5.) Instead of disclosing those RECs, the 2014 ESA report instead states:

> This assessment has revealed no evidence of current recognized environmental conditions in connection with the Site. Historical releases of petroleum hydrocarbons to the subsurface that have occurred at the Site are considered to be historical recognized environmental conditions in connection with the Site that were previously assessed to the satisfaction of local and State regulatory agencies.

(2014 Phase 1, p. 27.) As SWAPE's review concludes:

> The documented presence of petroleum compounds and PCE in groundwater and soil vapor at the Project site, as detailed in the 2007 and 2012 Phase IIs, constitutes a REC under any reasonable professional estimation, including the estimation of the prior Phase II consultants (Blackstone and Waterstone). The explanation provided above by the 2014 Phase II is simply false: There are known and ongoing releases of hazardous substances and petroleum products and no regulatory oversight, much less any regulatory resolution, of most of the soil contamination and none of the ground water and vapor contamination has been undertaken at the Project site.

(SWAPE, p. 6.)

[2] *Defined as the presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances or petroleum products into structures on the property or into the ground, groundwater, or surface water of the property.*

Response to Comment No. 12-13

Please refer to Response to Comment Nos. 12-8 through 12-12 above.

Comment No. 12-14

Likewise, the DEIR makes no effort to disclose the soil vapor risks existing at the Project site. The 2007 Phase II investigation found tetrachloroethene ("PCE") in soil vapor samples collected at the Project site, including one sample along the Project's southern boundary detecting PCE from 10 feet in depth at a concentration of 351 µg/L. As SWAPE points out, the sample is "well in excess of the commercial exposure scenario California Human Health Screening Levels ("CHHSL") which is 0.6 µg/L." (SWAPE, p. 4.) Incredibly, the 2014 ESA did not sample soil vapor or groundwater and failed to heed any of the 2012 recommendations (they only sampled soil for VOCs, the least reliable of any media to indicate impacts).

Response to Comment No. 12-14

The comment letter states that the 2007 Phase II study revealed PCE at 351 µg/l [or 350,000 microgram per cubic meter (µg/m^3)] in a sample identified as V6 at the project's southern boundary and that this concentration exceeded its respective CHHSL. It should be noted that former sample location V6 was not located along the southern property boundary, but was located in what is nearly the central portion of the property within an automobile repair bay that is open to the ambient air. In addition, CHHSLs are no longer used as screening levels. The applicable standard of care for evaluating the risk resulting from potential vapor intrusion of PCE into interior building spaces is now conducted utilizing mathematical modeling applications (California EPA Office of Environmental Health Hazard Assessment and DTSC modified Johnson and Ettinger (J&E) screening-level model for soil gas contamination) and/or application of screening levels as published in DTSC Human and Ecological Risk Office (HERO) Human Health Risk Assessment Note 7.

While the referenced PCE concentration at former location V6 of 350,000 µg/m^3 is well in exceedence of the current screening level for PCE as published in HERO Note 7 for a "future commercial/industrial" scenario of 4,000 µg/m^3, this screening level does not take in to account lower exposure frequencies for a subterranean parking garage scenario or other attenuating factors. An analysis was conducted by AEC that assumed PCE is present in soil vapor throughout the entire subject property at a concentration of 350,000 µg/m^3, which is not consistent with the methodology of the J&E model. A conservative human exposure scenario for a subterranean parking garage of one hour per day for 25 years at 350 days per year was also assumed by AEC. Using the referenced elevated concentration of 350,000 µg/m^3 and a vadose zone soil designation of loamy sand (supported by site geotechnical data), the resultant excess carcinogenic risk resulting from potential PCE exposure within the future subterranean parking garage is eight in one million (8E-06). This value falls within the lower end of the one in one million (1E-06) and one in ten thousand (1E-04) risk management range where decisions regarding mitigation methods can be made on a site-specific basis.

However, it should be noted that the above-referenced PCE concentration of 350,000 µg/m^3 does not underlie the entire Project Site. During AEC's Phase II study completed in 2013, three soil borings (B4, B8 and B15) were drilled in a triangular pattern around the former V6 location. These three step-out soil borings are depicted on AEC's Site Plan included in the 2014 Phase II ESA. PCE concentrations detected in 2013 by AEC were as follows:

- B4: <34 µg/m^3
- B8: <340 µg/m^3
- B15: 550 µg/m^3

These concentrations are considered to be insignificant, indicating that the former sampling location V6 is anomalous in nature and does not require additional assessment/evaluation. In addition, PCE was not detected at or above the laboratory reporting limit of 34 µg/m^3 at sampling location B7, which represents the furthest downgradient sampling location at the subject property. Also, the highest PCE concentration detected in soil vapor at the property was 940 µg/m^3, which is well below the 4,000 µg/m^3 screening level for commercial exposure (i.e., including subterranean parking garages) and when modeled mathematically under residential exposure assumptions, does not exceed a one in one million excess carcinogenic risk resulting from PCE exposure in a vapor phase. As such, there is no significant concern to potential off-site receptors resulting from on-site concentrations of PCE in soil vapor nor existing occupants of the current buildings at the property. Further, the subject property will be subject to mass excavation for a subterranean parking garage, which will effectively remove any and all sources of PCE in soil vapor throughout the property and will also result in the improvement of conditions adjacent to the subject property, regardless of the lack of significant concern due to on-site impacts. However, the project owner/developer will be required to incorporate Mitigation Measure F-5 that requires a system to prevent the entry of vapors (i.e., vapor barrier and venting system) into the design and construction of the Project, including the subterranean parking garage, to ensure adequate mitigation of the potential vapor intrusion exposure pathway and continuous protection of human health after the site is redeveloped. The incorporation of Mitigation Measure F-5 will also assist in alleviating any future concerns of site occupants and other entities, should toxicity criteria (i.e., unit risk factors and reference concentrations) for the VOCs present at the site change in the future.

Comment No. 12-15

The 2014 ESA, and the DEIR which relies upon it, is false and misleading in that the public is lead to believe that the site is not heavily contaminated, when in fact the report simply did not test for the very chemicals that had already been found at the Project site.

Response to Comment No. 12-15

The 2014 Phase II study tested for total petroleum hydrocarbons and VOCs, the very same contaminants of concern that were tested for during prior environmental studies completed at the property, including those completed under the regulatory oversight of the LARWQCB. The public is not lead to believe that there is no contamination at the property. It is fully disclosed that residual impacts remain and that they will be mitigated to a less than significant level during the course of site development activities. Please also refer to Response to Comment No. 12-2 above.

Comment No. 12-16

SWAPE concludes that the benzene and PCE levels identified in the 2012 ECS are highly significant and exceed health-based significance thresholds. Since the DEIR fails entirely to disclose these impacts, a new draft EIR is required to analyze this contamination, and to devise a mitigation plan to delineate, and clean-up the contamination in a manner that will safeguard construction workers and future residents of the Project.

Response to Comment No. 12-16

SWAPE's conclusion is incorrect. There is no technical basis for additional investigation to be conducted at the subject property. Given the information provided in prior environmental assessment reports completed by AEC and others and with implementation of the mitigation measures pertaining to hazards and hazardous materials (Mitigation Measures F-1 through F-5), the Draft EIR adequately analyzed and disclosed all of the impacts with respect to hazards and hazardous materials. The forthcoming Soil Management Plan for the project (Mitigation Measure F-3) will include, but not be limited to, the following standard criteria:

- A discussion of all existing site data.
- The means and methods to be employed for contaminated soil management and off-site disposal, including provisions for worker and community health and safety related monitoring and protection (South Coast Air Quality Management District (SCAQMD) Rule 1166)).

- Discussion of the types and frequency of any additional analytical testing to be performed in order to profile impacted soil with designated landfill or treatment facilities.

- Methods to comply with receiving site conditions for the reuse of inert (clean) soils from the site.

- Provision of a Community Health and Safety Plan which will outline measures that will be taken to minimize public exposure to hazards which may arise during site construction activities.

- Contingency related protocols in the event that USTs or unexpected discoveries are encountered during site construction work.

- Discussion of proposed shoring, water-proofing and vapor intrusion related controls for the project.

- Format and schedule for post excavation deliverables.

These standard criteria have been added to Mitigation Measure F-3. Refer to Section II, Corrections and Additions of this Final EIR. It should also be noted that while the drafting of a Soil Management Plan is called for as a mitigation measure, such plans are commonly fully developed closer to the time of beginning actual excavation work. This is standard procedure and compliant with regulatory guidance and the standard of care in the environmental industry for development projects.

Implementation of the SMP (Mitigation Measure F-3) will ensure that the project is developed in compliance with applicable federal, state, and local regulations relating to the handling and treatment of petroleum hydrocarbons and VOCs. Site workers will be conducting construction operations in accordance with California Occupational Safety and Health Administration requirements. In addition, Mitigation Measure F-5 (vapor barrier) will be implemented to ensure adequate mitigation of the potential vapor intrusion exposure pathway and continuous protection of human health after the site is redeveloped. Implementation of mitigation measures will ensure a safe project environment for site workers and a safe development for future site occupants.

The management of contaminated soil and groundwater during construction is a very common part of the normal development process in the Los Angeles Region, and the proposed Project is no different than any other of the numerous projects in the City of Los Angeles that have had similar subsurface impacts that were managed concurrent with the development and construction process. Future soil management work to be conducted at the Project Site will be completed in accordance with a myriad of applicable environmental laws, regulations and guidance including, but not limited to, the California Health and

Safety Code, the California Water Code, California Code of Regulations, and SCAQMD Rule 1166. In addition, any groundwater discharges resulting from dewatering activities will be performed in compliance with LARWQCB Order No. R4-2013-0095.

The Soil Management Plan will ensure that the project does not create potentially significant hazardous impacts to workers or future occupants of the project. A supplemental DEIR is not required to convey information pertaining to environmental conditions at the project site and in the area. The project must follow all existing hazardous materials laws, as stated in the DEIR. With implementation of regulatory requirements and mitigation measures, impacts with respect to hazards or hazardous materials would be less than significant and there is no reasonable basis to require a new DEIR.

Comment No. 12-17

The DEIR is legally insufficient for failing to disclose the presence of cancer-causing and toxic chemicals on the Project site. As in the recent *Banning Ranch* case, the City has failed to disclose in the DEIR known environmental hazards on the project site. In so doing the City has failed to proceed in a manner required by law. (*Banning Ranch Conservancy v. City of Newport Beach*, 2017 Cal. LEXIS 2327 (Cal. S.Ct. Mar. 30, 2017).)

Response to Comment No. 12-17

As set forth in Response to Comment Nos. 12-1 through 12-16 above, all proper and necessary disclosure of known environmental hazards is provided in the Draft EIR, as well as supporting technical appendices, as further clarified herein.

Comment No. 12-18

C. THE DEIR FAILS TO ANALYZE AND MITIGATE ALL POTENTIALLY SIGNIFICANT IMPACTS.

An EIR must disclose all potentially significant adverse environmental impacts of a project. (Pub. Res. Code § 21100(b)(1); CEQA Guidelines § 15126(a); *Berkeley Jets*, 91 Cal.App.4th at 1354.) CEQA requires that an EIR must not only identify the impacts, but must also provide "information about how adverse the impacts will be." (*Santiago County Water Dist. v. County of Orange* (1981) 118 Cal.App.3d 818, 831.) The lead agency may deem a particular impact to be insignificant only if it produces rigorous analysis and concrete substantial evidence justifying the finding. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692.) The DEIR for this Project fails to do so.

Response to Comment No. 12-18

The Draft EIR provides a detailed analysis of the Project's potential environmental impacts in accordance with CEQA. The impact conclusions are based on substantial analysis and technical studies. In addition, feasible mitigation measures have been included to reduce the Project's significant impacts to less than significant levels. As demonstrated by the Draft EIR and the response to the comments provided in this Final EIR, with implementation of the proposed mitigation measures, the Project would not result in significant impacts to the environment. No further analysis or additional mitigation is required.

Comment No. 12-19

1. The DEIR Fails to Adequately Analyze and Mitigate the Project's Impacts Related to Toxic Chemicals.

Since the DEIR fails to disclose toxic groundwater and soil vapor contamination, it also fails to develop an adequate mitigation plan. The mitigation proposed by the DEIR is inadequate to reduce the Project's disturbance and release of ground water contamination and its routing of toxic vapors into the proposed building to a level of insignificance. A supplemental DEIR should be prepared to propose more stringent remediation.

Response to Comment No. 12-19

Please refer to Response to Comment Nos. 12-9 through 12-17 above.

Comment No. 12-20

Furthermore, the DEIR proposes to finalize a clean-up plan only after the DEIR is approved, thereby improperly deferring mitigation until after the completion of the CEQA process. The DEIR states,

> F-2. Prior to excavation, a technician shall perform boring tests of (1) soil near any USTs, clarifiers, drains or other potentially contaminated equipment discovered by pre-excavation survey; and (2) soil in portions of the Project Site where historical conditions indicate potential contamination, including the locations identified by the Phase II ESA. If soils impacted with hazardous chemicals and/or petroleum products are encountered or discovered by pre-excavation survey, a licensed Professional Geologist or Professional Engineer shall oversee proper characterization and remediation of identified impacted materials.

F-3. A Construction Soil Management Plan shall be required to guide the excavation of the below-grade portions of the Project Site. The Plan shall address the Site's known historic conditions related to subsurface petroleum at the Project Site in addition to any potential sources of contamination discovered during the pre-excavation survey, and present the appropriate methods and protocol for management of encountered conditions.

F-5. A system to prevent the entry of vapors into the building, (i.e. vapor barrier and venting system) shall be incorporated into the design and construction of Project building slabs to ensure adequate mitigation of the vapor intrusion exposure pathway and continuous protection of human health after the Project is constructed.

(DEIR, pp. 1-25, 1-26.)

Response to Comment No. 12-20

Please refer to Response to Comment Nos. 12-16 and 12-17 above. In addition, as stated previously, various standard criteria have been added to Mitigation Measure F-3. Refer to Section II, Corrections and Additions of this Final EIR. It should also be noted that there are various objective criteria that will be contemplated in measuring the effectiveness of the Soil Management Plan. The construction of the Project (including the subterranean parking garage) and associated successful implementation of the Soil Management Plan will effectively remove any and all sources of residual contaminants at the site, including petroleum hydrocarbon and volatile organic compound constituents. In addition to residual contaminant removal, the development activities and successful implementation of the plan will improve groundwater quality in the area (although groundwater is not used for potable purposes) and also improve vadose zone soil gas conditions in the area (although the site is not a significant threat to human health at nearby properties).

Comment No. 12-21

These vague, future mitigation measures do not address the impacts that will occur as a result of the Project disturbing the extensive groundwater contamination at the site. (See SWAPE, p. 6.) Thus, no mitigation measures are included to address the project's effect on contaminated groundwater, including any changes to the size or rate of migration of the contaminated groundwater plume traveling offsite and no measures are included to address contaminated groundwater that would be encountered during dewatering activities. (*Id.*) Project construction will restrict the ability to investigate the extent of contamination at the Project site and the ability to remediate the contamination because access to the subsurface (to drill groundwater monitoring and extraction wells) will be restricted by construction of buildings and other Project hardscape. (*Id.*) Nor do these vague measures

identify what mitigations might be expected to address vapor intrusion into the Project or any soil contamination mitigation. No measures are included to address how Project construction will exacerbate soil vapor intrusion potential, both for onsite and offsite receptors. (*Id.*)

Response to Comment No. 12-21

As stated in prior responses to comments:

- Groundwater impacts beneath the subject property and areas potentially migrating off of the property are not extensive and have been previously evaluated by the LARWQCB, with a no further action determination granted.

- The project will have no adverse effect on groundwater. Project construction will actually improve groundwater quality at the property and surrounding area by way of complete contaminant source removal as part of construction for the proposed subterranean parking garage. In addition, relative to future construction dewatering, the petroleum hydrocarbon and VOC concentrations noted in groundwater in the LARWQCB no further action letter for the project and in the prior environmental assessment reports are not ones that would require a significant modification to a conventional dewatering system to be used on a development project in the City of Los Angeles and to ensure compliance with LARWQCB Order No. R4-2013-0095 (waste discharge requirements for discharges of groundwater from construction and project dewatering to surface waters), which will apply to the project.

- Vapor intrusion is not of significant concern at the subject property and has not resulted in vapor intrusion concerns relative to off-site properties.

- The mitigation measures pertaining to hazards and hazardous materials (F-1 through F-5) are fully adequate to reduce potential impacts to less than significant levels.

Comment No. 12-22

CEQA does not permit deferral of the development of mitigation measures until after project approval. The overall effectiveness of the proposed mitigation must be evaluated in the Draft EIR and subjected to public comment. (CEQA Guidelines § 15126.4(a)(1)(B); *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308-309.) An agency may not rely on mitigation measures of uncertain efficacy or feasibility. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 727.) This approach helps to "insure the integrity of the process of decision-making by precluding stubborn problems or serious criticism from being swept under the rug." (*Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn*. (1986) 42 Cal.3d 929, 935.) By deferring either a reasonable

description of the mitigation measures that would be expected to address soil and vapor contamination as well as approval of the clean-up plan until after certification of the CEQA document, the EIR "sweeps under the rug" questions concerning the effectiveness, and potential adverse impacts of any proposed measures in violation of CEQA. Mitigation to address the Project's disturbance of groundwater contamination is swept completely out of the house.

"A study conducted after approval of a project will inevitably have a diminished influence on decisionmaking. Even if the study is subject to administrative approval, it is analogous to the sort of post hoc rationalization of agency actions that has been repeatedly condemned in decisions construing CEQA." (*Sundstrom*, 202 Cal.App.3d at 307.) "[R]eliance on tentative plans for future mitigation after completion of the CEQA process significantly undermines CEQA's goals of full disclosure and informed decisionmaking; and[,] consequently, these mitigation plans have been overturned on judicial review as constituting improper deferral of environmental assessment." (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 92.)

"Deferral of the specifics of mitigation is permissible where the local entity commits itself to mitigation and lists the alternatives to be considered, analyzed and possibly incorporated in the mitigation plan. [Citation.] [sic] On the other hand, an agency goes too far when it simply requires a project applicant to obtain a biological [or other] report and then comply with any recommendations that may be made in the report." (*Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261, 1275.)

The DEIR is inadequate because it simply states that if toxic chemicals are found in soil at the Project site, then a clean-up plan will be developed at that time. Likewise, a generic vapor mitigation measure does not provide any ability of a reader of the EIR to review the as yet unidentified mitigation. The absence of any mitigations of groundwater contamination speaks for itself. This is precisely the type of deferred mitigation that is prohibited by CEQA.

Response to Comment No. 12-22

The Draft EIR does not propose deferred mitigation. Please refer to Response to Comment Nos. 12-16 and 12-21 above.

Comment No. 12-23

2. The DEIR Fails to Adequately Analyze and Mitigate the Project's Impacts Related to Air Pollution.

The DEIR erroneously concludes that the Project will have less than significant emissions of nitrogen oxides (NO_X) from construction. The DEIR concludes that construction-phase NO_X will be 98 pounds per day (ppd), just slightly below the CEQA significance threshold of 100 ppd. (DEIR, p. 4.C-18.) SWAPE's review and inclusion of missing parameters in the air modeling demonstrates that the Project's construction NO_X emissions will exceed CEQA significance thresholds.

Response to Comment No. 12-23

The commenter refers to specific inputs regarding calculation of Project-related construction and operational emission. The calculations originally prepared in the DEIR used the California Emissions Estimator Model (CalEEMod) version 2013.2.2. The CalEEMod modeling run prepared for the Project was refined using CalEEMod version 2016.3.1, which is the latest version of the emission model. As shown in Appendix D-1 of this Final EIR, regional and localized construction emission would remain well below SCAQMD significance thresholds. In addition, this refined analysis was submitted to and reviewed by the SCAQMD in September 2017 and SCAQMD provided no subsequent comments. Please refer to Response to Comment No. 12-53 for additional details.

Comment No. 12-24

The DEIR relies upon the CalEEMod to model the Project's construction and operational emissions. After reviewing the Project's CalEEMod output files, SWAPE found the following issues:

- The Modeling Failed to Include Parking Land Use: According to the DEIR, the Project proposes to include a total of "390 vehicle parking spaces within two levels of subterranean parking" (DEIR, p. 2-1.) Review of the Project's CalEEMod output files, located in Appendix D, however, demonstrates that the model completely omitted the proposed parking land use (Appendix D, pp. 17, 41.) By failing to include all of the Project's proposed land uses, the Project's construction emissions are underestimated. (SWAPE, pp. 7–8.)

Response to Comment No. 12-24

With regard to operational emissions, based on modeling experience with CalEEMod and considering the size and the type of land use, parking lot operations would not be considered a substantial source of pollutant emissions, as parking spaces do not

generate vehicular trips. With regard to construction air quality impacts, the CalEEMod modeling run in the DEIR accounted for grading/excavation of the 390 parking spaces, which is the worst-case day of construction emissions associated with the parking spaces.

In response to comments, a refined CalEEMod run was prepared to account for the more recent version of CalEEMod, as well as minor adjustments to input parameters. The 390 parking spaces were included in the refined CalEEMod run, which shows that no changes to the significance conclusions provided in the Draft EIR would occur. The refined CalEEMod run is provided as Appendix D-1 of this Final EIR. In addition, this refined analysis was submitted to and reviewed by the SCAQMD in September 2017 and SCAQMD provided no subsequent comments.. Please refer to Response to Comment Nos. 12-48 and 12-49 for additional details.

Comment No. 12-25

- The Modeling Incorrectly Assumed the Use of Tier 4 Final Equipment: The DEIR estimates Project emissions assuming that all off-road construction equipment would be equipped with Tier 4 Final engines, yet fails to require the Project to use such equipment during Project construction (Appendix D, pp. 18, 42.) Not only does the DEIR fail to commit to using Tier 4 Final construction equipment, it also fails to include this as mitigation within the DEIR (Table 1-1, pp. 1-7–1-49), and, more importantly, fails to evaluate the feasibility of obtaining an entire construction fleet equipped with Tier 4 Final engines. By failing to discuss the reason for implementing Tier 4 Final equipment into the Project's design and by failing to include the use of Tier 4 engines in the Project's list of proposed mitigation, not only is the use of Tier 4 Final equipment entirely unenforceable, but it appears that the Project has no intention of using Tier 4 Final equipment during Project construction. Assuming the use and availability of Tier 4 Final equipment for Project use, without requiring that it actually will be used, failing to include it as mitigation, or verifying its availability, not only underestimates the Project's construction-related emissions, but it also significantly underestimates the health risk posed to nearby sensitive receptors. (SWAPE, pp. 8–10.)

Response to Comment No. 12-25

This comment is incorrect in assuming that EPA Tier 4 Final emissions complaint equipment was used to evaluate air quality impacts. As shown in Table 4.C-6 (Estimated Daily Construction Emissions) in Section 4.C, Air Quality, of the Draft EIR, both regional and localized unmitigated (Without Tier 4) construction emissions would be below the SCAQMD significance thresholds.

As discussed in Response to Comment No. 12-48, a refined CalEEMod run was prepared for the project and is provided in Appendix D-1 of this Final EIR. As shown in

Appendix D-1, Project-related construction emission would remain below SCAQMD significance thresholds, and no construction mitigation measures would be required. Please refer to Response to Comment Nos. 12-48 and 12-50 for additional details.

Comment No. 12-26

- The Modeling Uses an Incorrect Number of Daily Vehicle Trips: A comparison of the Project's CalEEMod output files and the DEIR's Traffic Report study (Appendix I-1) demonstrates that the model underestimated the number of vehicle trips expected to occur during operation of the proposed Project. Specifically, the CalEEMod model underestimates the number of trips by approximately 62 trips per day, or by approximately ***22,630 vehicle trips per year*** (Appendix D, pp. 35, pp. 67, Appendix I-1, pp. 24). By underestimating the total number of vehicle trips expected to occur during Project operation, the DEIR greatly underestimates the Project's operational emissions. As a result, the DEIR's air pollution model is unreliable and should not be used to determine the significance of the Project's air quality impacts. (SWAPE, pp. 10–12.)

Response to Comment No. 12-26

The comment correctly states that the CalEEMod output file (6901 Santa Monica Future) provided in Appendix D of the Draft EIR evaluated 1,827 Project-related daily trips versus the Draft EIR's Traffic Report (Appendix L-1), which evaluated 1,889 Project-related daily trips. This difference is attributable to the air quality analysis applying the same internal trip-reduction credit of 5 percent to the proposed apartments as was applied to the commercial uses. The refined CalEEMod modeling provided in Appendix D-1 of this Final EIR has been updated to be consistent with the Project-generated daily trip generation rates and internal trip-reduction provided in the Traffic Report. As shown in Appendix D-1 of this Final EIR, operational air quality impacts would remain less than significant. Please refer to Response to Comment No. 12-51 for additional details.

Comment No. 12-27

- The Modeling Uses an Incorrect Trip Purpose Percentage: The Project's CalEEMod model double counts the number of pass-by trips expected to occur throughout Project operation. CalEEMod separates the operational trip purposes into three categories: primary, diverted, and pass-by trips. According to Appendix A of the CalEEMod User's Guide, the primary trips utilize the complete trip lengths associated with each trip type category. Diverted trips are assumed to take a slightly different pass than a primary trip and are assumed to be 25% of the primary trip lengths. Pass-by trips are assumed to be 0.1 miles in length and are a result of no diversion from the primary route (http://www.aqmd.gov/docs/default-source/caleemod/caleemod-appendixa.pdf?sfvrsn=2, p. 20). Review of the Project's CalEEMod output files demonstrates that the trip purpose

percentage was divided amongst primary, diverted, and pass-by trip types for the Project's proposed retail and restaurant land uses (Appendix D, pp. 35, pp. 67). However, as demonstrated in the DEIR's Traffic Report, pass-by trips for both land uses were already accounted for in the Traffic Report's Project Traffic Generation calculations (Table 2, Appendix I-1, pp. 24). Therefore, the CalEEMod model should have divided the trip purpose between primary and diverted trips. Because the proposed Project's CalEEMod model incorrectly allocates the Project's operational trips to the various categories of trip purposes, the emissions associated with these trips are underestimated. (SWAPE, pp. 12–13.)

Response to Comment No. 12-27

A refined CalEEMod modeling provided in Appendix D-1 of this Final EIR has been updated to be consistent with the Project-generated daily trip-generation rates, less transit/walk and internal trip reductions, provided in Appendix I-1 (Traffic Report) of the Draft EIR. The refined modeling incorporates the CalEEMod default trip purpose percentages for primary, diverted, and pass-by trips. As shown, in Appendix D-1 of this Final EIR, operational air quality impacts would remain less than significant.

Comment No. 12-28

SWAPE corrected the above errors, re-ran CalEEMod, and determined that the Project will have significant air quality impacts, contrary to the conclusions of the DEIR. SWAPE concludes that the Project will have significant emissions of nitrogen oxides (NO_X). (SWAPE, pp. 14–15.) Based on the corrected inputs to CalEEMod, during construction the Project will emit 116.6 lbs/day of NO_X, almost 17 percent greater than the significance threshold established by the SCAQMD. (*Id.*, p. 14.) Although the NO_X emissions from the Project's operation do not exceed SCAQMD's threshold, the DEIR also must be corrected to accurately reflect the fact that, based on the proper inputs to CalEEMod, the Project's operational NO_X emissions increase by 64 percent to 24.6 lbs/day. (*Id.*, pp. 14–15.) Given the existing cumulative impacts to air quality in the Los Angeles air basin, the EIR should disclose this and consider additional operational mitigation measures.

Response to Comment No. 12-28

The commenter maintains that the CalEEMod modeling conducted by SWAPE shows that the Project construction will generate regional NO_X emissions in excess of the significance threshold. However, the provided construction analysis is flawed for the following primary reasons:

(1) The analysis assumes substantial overlap between phases of construction when, in fact, such overlap is infeasible. Specifically, the SWAPE CalEEMod

output file shows that the off-road equipment mix was assumed to include two motor graders, two rubber tire dozers, and two backhoes for the grading/excavation phase. This type of equipment would be appropriate for a project site that has some modest changes in topography, where soil would be moved around the site and leveled (e.g., finely graded by a motor grader) for a slab foundation. As the Project Site was previously graded and developed and does not have even modest topographic changes, such equipment is not appropriate and would not be used during Project construction. As discussed in the Project Description of the Draft EIR, approximately 78,000 cubic yards would be required to be excavated for 309 subterranean parking spaces at an approximate depth of 30 feet.

(2) The off-road equipment mix provided for grading phase is not realistic for excavation of a subterranean parking and building foundation on the Project site. Specifically, the SWAPE CalEEMod output file shows that building construction, paving operations, and application of architectural coatings would all occur within the same 304-day time period. Therefore, assuming the equipment for these three very distinct construction time periods would all operate at the same time greatly overestimates potential air quality impacts.

A Project-specific equipment mix was analyzed in the refined CalEEMod modeling provided in Appendix D-1 of this Final EIR. Excavation of this depth requires an excavator and shoring equipment to shore the sides of the hole. Equipment required would comprise an excavator, loader, bore/drill rig, and limited use of a forklift and welder. Based on these incorrect assumptions by the commenter, construction emissions calculated by SWAPE are overestimated and are not representative of real-world conditions.

As discussed in Response to Comment No. 12-48 below, refined CalEEMod modeling provided in Appendix D-1 of this Final EIR demonstrates that construction air quality impacts related to the Project are less than significant, and no mitigation measures are required.

From an operational emissions standpoint, the SWAPE provided CalEEMod modeling shows that regional operational emissions would remain below significance thresholds without mitigation. Therefore, mitigation measures are not necessary for operational air quality impacts.

Please refer to Response to Comment No. 12-53 for additional details.

Comment No. 12-29

NO_X reacts with other chemicals in the air to form both PM and ground level ozone. The Los Angeles air basin suffers from the worst ozone pollution in the nation. The Project's NO_X emissions will therefore be exacerbating an already unacceptable level of air pollution. As in the case of *Kings County Farm Bureau v. City of Hanford*, 221 Cal.App.3d at 718, the court concluded that an EIR inadequately considered an air pollution (ozone) cumulative impact. The court said: "The [ ] [sic] EIR concludes the project's contributions to ozone levels in the area would be immeasurable and, therefore, insignificant because the [cogeneration] plant would emit relatively minor amounts of [ozone] precursors compared to the total volume of [ozone] precursors emitted in Kings County. The EIR's analysis uses the magnitude of the current ozone problem in the air basin in order to trivialize the project's impact." The court concluded: "The relevant question to be addressed in the EIR is not the relative amount of precursors emitted by the project when compared with preexisting emissions, but whether any additional amount of precursor emissions should be considered significant in light of the serious nature of the ozone problems in this air basin." As in Kings County, the Project will be exacerbating an already unacceptable ozone air pollution problem in the region. The DEIR is inadequate for failing to disclose this impact and therefore for failing to consider feasible mitigation measures and alternatives.

Response to Comment No. 12-29

The project is located within the South Coast Air Basin, which is currently designated as nonattainment for Ozone. For areas which are in nonattainment, the EPA requires that local air districts develop plans containing control measures to meet attainment goals. The SCAQMD has developed the 2016 Air Quality Management Plan (AQMP) which identifies the measures necessary to achieve air quality attainment in the region. In addition to pollution control measures, the AQMP also takes into account growth in the region, such as construction of new housing and population growth. The SCAQMD CEQA thresholds are also based in part on assumptions contained in the AQMP which accounts for population and development growth.

Ground-level ozone formation is a complex process involving multiple pollutants, ultraviolet light and photo-chemical reactions. Ozone formation also takes place over long distances. Currently, there are no regulatory approved models for determining ozone impacts from single sources for receptors in close proximity, such as operation of the Project. As ozone formation is a complex process and simple modeling tools are not available, the SCAQMD has developed CEQA thresholds for ozone precursors such as NO_X and VOC, which can be used as an indicator for potential ozone air quality impacts.

As discussed in Response to Comment No. 12-48, potential regional construction impacts for ozone precursors would be 78 percent below the ROG threshold and 5 percent

below the NO_X threshold. In addition, potential localized construction impacts would be 28 percent below the NO_X threshold. Long-term project-related operational emissions would also be well below SCAQMD significance thresholds for ozone precursors. Potential regional operational impacts remain below the SCAQMD regional operational thresholds or 85 percent below the ROG threshold and 64 percent below the NO_X threshold. Localized impacts of NO_X are also well below SCAQMD significance thresholds.

In addition, as discussed on page 4.C-21 of Section 4.C, Air Quality, of the Draft EIR, construction and operation of the project would include control measures contained in the AQMP. The population growth due to the project would also be consistent with assumptions in the AQMP and would therefore not interfere with attainment goals.

As the project would not exceed significance thresholds for ozone precursors and not interfere with ozone attainment goals, ozone impacts to the region would be less than significant.

Comment No. 12-30

According to the U.S. Environmental Protection Agency (US EPA), even short-term exposure to ozone can have significant irreparable health impacts. US EPA states:

> Ozone can cause the muscles in the airways to constrict, trapping air in the alveoli. This leads to wheezing and shortness of breath. Ozone can:
>
> - Make it more difficult to breathe deeply and vigorously.
> - Cause shortness of breath, and pain when taking a deep breath.
> - Cause coughing and sore or scratchy throat.
> - Inflame and damage the airways.
> - Aggravate lung diseases such as asthma, emphysema, and chronic bronchitis.
> - Increase the frequency of asthma attacks.
> - Make the lungs more susceptible to infection.
> - Continue to damage the lungs even when the symptoms have disappeared.
> - Cause chronic obstructive pulmonary disease (COPD).

> These effects have been found even in healthy people, but can be more serious in people with lung diseases such as asthma. They may lead to increased school absences, medication use, visits to doctors and emergency rooms, and hospital admissions.
>
> Long-term exposure to ozone is linked to aggravation of asthma, and is likely to be one of many causes of asthma development. Long-term exposures to higher concentrations of ozone may also be linked to permanent lung damage, such as abnormal lung development in children.
>
> Recent studies consistently report associations between short-term ozone exposures and total non-accidental mortality, which includes deaths from respiratory causes. Studies suggest that long-term exposure to ozone also may increase the risk of death from respiratory causes, but the evidence is not as strong as the evidence for short-term exposure.[3]

People with asthma, children, older adults, and people who are active outdoors, especially ***outdoor workers*** are most susceptible to health effects caused by ground level ozone.[4] EPA has found "strong and convincing evidence that exposure to ozone is associated with exacerbation of asthma-related symptoms." (66 Fed. Reg. 5002, 5012 (Jan. 18, 2001).)

As EPA observes, the impacts of ozone on "asthmatics are of special concern particularly in light of the growing asthma problem in the United States and the increased rates of asthma-related mortality and hospitalizations, especially among children in general and black children in particular." (62 Fed. Reg. 38856, 38864 (July 18, 1997).) In fact:

> Asthma is one of the most common and costly diseases in the United States…. Today, more than 5 percent of the US population has asthma. On average, ***15 people died every day*** from asthma in 1995…. In 1998, the cost of asthma to the U.S. economy was estimated to be $11.3 billion, with hospitalizations accounting for the largest single portion of the cost. 66 Fed. Reg. at 5012 (emphasis added) (footnotes omitted).

The health and societal costs of asthma are wreaking havoc here in California. A 2000 study by the California Department of Health Services found that there were 2.2 million Californians suffering from asthma.[5] In one year alone, nearly 56,413 residents, including 16,705 children, required hospitalization because their asthma attacks were so severe. Shockingly, asthma is one of the leading causes of hospital admissions of young children in California. (*Id.* at 1.) With asthma health complications a leading cause of school absenteeism,[6] the same children struggling with a life-long health affliction are also being denied the educational opportunities enjoyed by healthy children.

In light of the above, it is necessary for a revised Draft EIR to be prepared and circulated to analyze the Project's significant NO_X and ozone impacts and to consider all feasible mitigation measures and alternatives to reduce NO_X emissions.

[3] *U.S. EPA, "Health Effects of Ozone Pollution," https://www.epa.gov/ozone-pollution/health-effects-ozone-pollution; 66 Fed. Reg. 5002, 5012 (Jan. 18, 2001).*

[4] *Id.*

[5] *Calif. Dep't of Health Servs., California County Asthma Hospitalization Chart Book 1 (2000) ("County Asthma Book") (Ex. E-1).*

[6] *President's Task Force on Envtl. Health Risks & Safety Risks to Children, Asthma and the Environment: A Strategy to Protect Children 5 (Jan. 28, 1999) (revised May 2000), available at http://www.epa.gov/children/whatwe/fin.pdf (Ex. E-2) (some 10 million school days are missed annually due to asthma).*

Response to Comment No. 12-30

Please see Response to Comment No. 12-29.

Comment No. 12-31

Feasible mitigation measures exist to reduce NO_X impacts during the construction phase, which have not been required for this project. (*See* SWAPE, pp. 23–28.) CEQA requires public agencies to avoid or reduce environmental damage when "feasible" by requiring "environmentally superior" alternatives and mitigation measures. (CEQA Guidelines § 15002(a)(2) and (3); See also, *Berkeley Jets*, 91 Cal.App.4th 1344, 1354; *Citizens of Goleta Valley*, 52 Cal.3d at 564.)

Response to Comment No. 12-31

The commenter incorrectly assumes that the Project will result in significant impacts during the construction phase. As discussed in Response to Comment No. 12-48, a refined CalEEMod run was prepared for the project and is provided in Appendix D-1 of this Final EIR. As shown in Appendix D-1, Project-related construction emissions would remain below SCAQMD significance thresholds, and no construction mitigation measures would be required. Please refer to Response to Comment Nos. 12-48 and 12-50 for additional details.

Comment No. 12-32

Feasible measures include switching to cleaner fuels such as alternative fuels (compressed natural gas, liquefied natural gas, propane, ethanol, and methanol) or alternative diesel fuels (emulsified diesel), and fuel borne-catalysts; replacing, repowering, or rebuilding old equipment; and retrofitting equipment with diesel particulate filters, diesel oxidation catalysts, selective catalytic reduction, lean NO_X catalyst technology, and exhaust gas

recirculation; all of which have been demonstrated on off-road equipment. (See SWAPE, pp. 23–28.) In addition, the following best management measures can help reduce exposure to diesel pollution and generation of ozone precursors:

- Require on-site electrical service for hand tools;
- Require preparation of a traffic control plan;
- Demonstrate proper inspection and maintenance of construction equipment;
- Limit idling to 5 minutes;
- Configure construction parking to minimize traffic interference;
- Consolidate truck deliveries when possible;
- Provide dedicated turn lanes for movement of construction trucks and equipment on and off site;
- Suspend use of all construction equipment operations during second stage smog alerts;
- Establish a staging zone for trucks that are waiting to load or unload material at the work zone in a location where diesel emissions from the trucks will have minimum impact on abutters and the general public;
- Locate construction equipment away from sensitive receptors such as fresh air intakes to buildings, air conditioners and operable windows;
- Provide on-site lunch, e.g., a lunch wagon;
- Implement a carpool program for construction workers.
- Require all deliveries to the construction site to be made with trucks that meet clean engine standards or are otherwise equipped with post-combustion controls that reduce emissions compared to uncontrolled equivalents by 50% for NO_X, 90% for ROG and CO, and 80% for PM10/PM2.5.
- Prohibit the use of conventional cut-back asphalt for paving and restrict the maximum VOC content of asphalt emulsion;
- Use low-ROG paints and other low-ROG construction materials;
- Employ a construction site manager to verify that engines are properly maintained and keep a maintenance log;

- Require all diesel trucks used by construction contractor(s) at the site, or for on-road hauling of construction material, to be post-1996 models; and

- Prohibit diesel portable generators less than 50 hp at the construction site.

A supplemental DEIR should be prepared to analyze these impacts and consider these mitigation measures.

Response to Comment No. 12-32

The commenter incorrectly assumes that the Project will result in significant impacts during the construction phase. As discussed in Response to Comment No. 12-48, a refined CalEEMod run was prepared for the project and is provided in Appendix D-1 of this Final EIR. As shown in Appendix D-1, Project-related construction emissions would remain below SCAQMD significance thresholds, and no construction mitigation measures would be required. Please refer to Response to Comment Nos. 12-48 and 12-50 for additional details.

Comment No. 12-33

3. The DEIR Fails to Properly Analyze Significant Cumulative Air Quality Impacts.

The DEIR states that, "individual projects that generate emissions not in excess of SCAQMD's significance thresholds would not contribute considerably to any potential cumulative impact." (DEIR, p. 4.C-20.) Therefore, the DEIR concludes that Project construction and long-term operational emissions would not result in a cumulatively considerable impact. (DEIR, p. 4.C-22.)

This reasoning, however, is incorrect. First, as discussed above, the Project's individual air quality impacts are, in fact, significant. Second, even if the Project's individual air impacts were slightly below significance thresholds (which they are not), the DEIR's legal analysis is incorrect. According to CEQA Guidelines Section 15355, "'Cumulative impacts'" refers to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts" (http://www.dot.ca.gov/ser/cumulative_guidance/ceqa_guidelines.htm). Furthermore, the Section 15064(h)(1) of the CEQA Guidelines state,

> "The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually

minor but collectively significant projects taking place over a period of time" (http://www.dot.ca.gov/ser/cumulative_guidance/ceqa_guidelines.htm).

Recognizing that several projects may together have a considerable impact, CEQA requires an agency to consider the "cumulative impacts" of a project along with other projects in the area. (Pub. Res. Code §21083(b); CEQA Guidelines §15355(b).) If a project may have cumulative impacts, the agency must prepare an EIR, since "a project may have a significant effect on the environment if '[t]he possible effects of a project are individually limited but cumulatively considerable.'" (*Communities for a Better Environment v. Calif. Resources Agency*, 103 Cal.App.4th at 114; *Kings County Farm Bur. v. City of Hanford* (1990) 221 Cal.App.3d 692, 721 ("Kings Co.").) It is vital that an agency assess "'the environmental damage [that] often occurs incrementally from a variety of small sources…'" (*Bakersfield Citizens For Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214.)

The DEIR identifies 118 projects relevant to the Project's cumulative impacts. (DEIR, Table 3-1, pp. 96–101.) SWAPE calculates that, of the 118 projects identified in the DEIR, 47 of them are located within a mile of the Project site and 22 are located within a half-mile. (SWAPE, pp. 16–17.) Despite the large number of projects identified in the EIR and their close proximity to the Project, the DEIR makes no effort to consider the actual amount of pollutants being emitted by all of those new projects and then compare the cumulative effect of those total emissions on the air quality standards. (*Id.*, pp. 15–17.) Taken together, even if one assumes all 118 projects do not emit air pollutants in excess of any SCAQMD threshold, they may, as a group, have significant impacts on air quality in the City. (*Id.*) The DEIR, however, does not confirm whether each of the 118 projects will emit air pollutants below SCAQMD thresholds. Given the City's authority to approve a project notwithstanding its air quality impacts, one cannot determine from the DEIR whether many of the listed projects are expected to emit air pollutants at levels that will have significant impacts.

Therefore, simply because the DEIR found the Project's individual emissions to not exceed SCAQMD thresholds does not mean that the Project, in combination with surrounding projects, is not cumulatively significant. As a result, the DEIR's cumulative air quality analysis is insufficient and should not be relied upon to determine Project significance.

Response to Comment No. 12-33

The Draft EIR includes the definition of cumulative impacts on pages 3-3 and 3-4 of Section 3, Environmental Setting, of the Draft EIR. The Draft EIR appropriately uses specific analyses for each cumulative analysis impact category. Air quality cumulative impact methodology is explained below. The SCAQMD shares responsibility with CARB

for ensuring that all federal and state ambient air quality standards are achieved and maintained throughout all of Orange County and the urban portions of Los Angeles, Riverside, and San Bernardino counties. SCAQMD has developed methodologies and thresholds of significance that are widely used by lead agencies throughout the air basin. As set forth in the *LA CEQA Thresholds Guide,* the City adopted the SCAQMD thresholds to assess the significance of a project's project-specific and cumulative air quality impacts.

As discussed on pages 4.C-20 through 4.C-22 in Section 4.C, Air Quality, of the DEIR, the cumulative analysis of air quality impacts within the Draft EIR appropriately follows SCAQMD's specified methodology. Furthermore, air quality impacts are basin-wide, and air quality is affected by all pollutant sources in the basin. Therefore, the ambient air quality measurements provide a summary of basin-wide cumulative air quality impacts. As the individual project thresholds are designed to help achieve attainment with cumulative basin-wide standards, they are also appropriate for assessing the Project's contribution to cumulative impacts. Please refer to Response to Comment No. 12-54 for additional details.

Comment No. 12-34

4. The DEIR Incorrectly Analyzes Health Risks Posed by the Project.

Sensitive receptors are estimated by the EIR to be within 1 meter of the Project site. Rather than evaluate any cancer risk to nearby residents and workers, the DEIR concludes that because the Project's criteria air pollutant emissions would not exceed SCAQMD significance thresholds, "the Project would not expose sensitive receptors to substantial pollutant emissions" and "therefore, Project impacts related to sensitive receptors during construction would be less than significant" (DEIR, p. 4.C-17). Additionally, in reference to the Project's operational emissions, the DEIR states:

> TAC emissions are not expected to be significant, as the Project does not include typical sources of acutely and chronically hazardous TACs such as industrial manufacturing processes and automotive repair facilities. In addition, SCAQMD recommends that health risk assessments be conducted for substantial sources of diesel particulate emissions (e.g., truck stops and warehouse distribution facilities) and has provided guidance for analyzing mobile source diesel emissions. The Project would not generate a substantial number of truck trips. Based on the limited activity of TAC sources, the Project would not warrant the need for a health risk assessment associated with on-site activities, and any minimal TAC impacts would be less than significant" (DEIR, p. 4.C-20).

This justification for failing to conduct a quantified construction and operational HRA, however, is incorrect and is inconsistent with the most recent guidance published by the Office of Environmental Health Hazard Assessment ("OEHHA"). First, as discussed above, the Project will, in fact, have significant criteria air pollutant emissions. Second, SCAQMD's guidance does not limit HRAs for industrial or automotive repair projects. Instead, SCAQMD suggests that "projects with diesel powered mobile sources use the following guidance document ('Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis') to quantify potential cancer risks from the diesel particulate emission." ("Mobile Source Toxics Analysis," SCAQMD, *available at*: http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook/mobile-source-toxics-analysis; SWAPE, pp. 18–19.)

Response to Comment No. 12-34

The comment correctly identifies that the Office of Environmental Health Hazard Assessment (OEHHA) adopted a new version of the Air Toxics Hot Spots Program Guidance Manual for the Preparation of Risk Assessments (Guidance Manual) in March of 2015.[1] The new Guidance Manual provides recommendations related to cancer risk evaluation of certain short term projects. As discussed in Section 8.2.10 of the Guidance Manual, "The local air pollution control districts sometimes use the risk assessment guidelines for the Hot Spots program in permitting decisions for short-term projects such as construction or waste site remediation." Short-term projects that would require a permitting decision by South Coast Air Quality Management District (SCAQMD) typically would be limited to site remediation (e.g., stationary soil vapor extractors) and would not be applicable to the proposed project. The new Guidance Manual does not provide specific recommendations for evaluation of short-term use of mobile sources (e.g., heavy-duty diesel construction equipment).

On behalf of the City of Los Angeles, Eyestone Environmental, LLC (Eyestone) coordinated with the SCAQMD to determine whether the SCAQMD had any available guidance on use of the new Guidance Manual. According to Jillian Wong, Ph.D., SCAQMD CEQA Program Supervisor, SCAQMD is currently evaluating the new Guidance Manual and they have not developed any recommendations on its use for CEQA analyses for potential construction impacts.[2] Moreover, the City of Los Angeles, as lead agency, has not adopted the Guidance Manual as part of its CEQA methodology. Therefore, use of the *L.A. City CEQA Thresholds Guide* for determining impacts related to potential construction

[1] *See www.oehha.ca.gov/air/hot_spots/hotspots2015.html.*

[2] *Jillian Wong, Ph.D., SCAQMD CEQA Program Supervisor, personal communication via email, June 17, 2015 and March 16, 2016 (included as Attachment 1).*

TAC impacts was appropriate. As discussed in Response to Comment No. 12-55, the SCAQMD published and adopted Guidance *Document for Addressing Air Quality Issues in General Plans and Local Planning* recommends that HRAs be conducted for substantial sources of DPM (e.g., truck stops and warehouse distribution facilities that generate more than 100 trucks per day or more than 40 trucks with operating transport refrigeration units). SCAQMD does not recommend analysis of TACs from short-term construction activities. Based on this guidance, there was no quantitative analysis required for future cancer risk within the Project Area as the Project is consistent with the recommendations regarding the siting of new sensitive land uses near potential sources of TAC emissions provided in the SCAQMD Guidance Document.

Although a construction HRA is not required by the AQMD or the L.A. City CEQA Thresholds Guide and no guidance for health risk assessments for construction has been adopted by AQMD or the City of Los Angeles, an HRA has been prepared in response to this comment to demonstrate that no significant health risk impacts would occur from construction of the Project. The HRA is provided in Appendix D-2 of this Final EIR. The HRA demonstrates that health risks from the Project would be a maximum of 3.0 in one million for adjacent residences north of the Project site, which is below the applicable significance threshold of 10 in one million. Please refer to Response to Comment Nos. 12-55 and 12-56 for additional details.

Comment No. 12-35

In addition, OEHHA recommends that all short-term projects lasting at least two months be evaluated for cancer risks to nearby sensitive receptors. (SWAPE, p. 14, citing "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: http://oehha.ca.gov/air/hot_spots/2015/2015 GuidanceManual.pdf, p. 8-18).) The OEHHA document recommends that exposure from projects lasting more than 6 months should be evaluated for the duration of the project, and recommends that an exposure duration of 30 years be used to estimate individual cancer risk for the maximally exposed individual resident (MEIR). (SWAPE, pp. 19–20.)

Response to Comment No. 12-35

The new OEHHA Guidance Manual provides recommendations related to cancer risk evaluation of certain short term projects. As discussed in Section 8.2.10 of the Guidance Manual, "The local air pollution control districts sometimes use the risk assessment guidelines for the Hot Spots program in permitting decisions for short-term projects such as construction or waste site remediation." Short-term projects that would require a permitting decision by South Coast Air Quality Management District (SCAQMD) typically would be limited to site remediation (e.g., stationary soil vapor extractors) and would not be applicable to the proposed project. The new Guidance Manual does not

provide specific recommendations for evaluation of short-term use of mobile sources (e.g., heavy-duty diesel construction equipment). Please refer to Response to Comment No. 12-56 for additional details.

Comment No. 12-36

SWAPE has prepared a screening level health risk assessment of the Project's emissions of diesel particulate matter. (SWAPE, pp. 20–23.) Because of the excessive cancer risks identified by that screening level assessment, a full HRA should be conducted for the Project and disclosed and evaluating in the EIR. SWAPE's review identifies cancer risks resulting from the Project's construction and operation of 23, 150, and 290 in one million for adults, children and infants, respectively. (*Id.*, p. 22.) SWAPE further calculates the excess cancer risk over the course of a residential lifetime (30 years) as approximately 470 in one million. (*Id.*) All of these cancer risks exceed the SCAQMD threshold of 10 in one million. (*Id.*) Based on this evidence, a refined health risk assessment should be prepared for the Project and the potentially significant impacts of exposures to toxic air contaminants fully addressed in the EIR. Until this potential impact and appropriate mitigations are addressed in the EIR, the EIR will be deficient pursuant to CEQA. (See SWAPE, pp. 23–28, 33–40 (identifying numerous additional mitigation measures that can be employed by the Project).)

Response to Comment No. 12-36

This comment summarizes the findings of a screening level analysis prepared by SWAPE. Specific comments regarding this screening level analysis are provided below. The SWAPE analysis and related technical appendices were carefully reviewed for purposes of considering the potential of the Project to result in health risk impacts. Based on this evaluation, multiple methodological flaws were identified that substantially undermine the accuracy of the SWAPE results, as compared with the much more refined, site-specific analysis that is included in Appendix D-2 of this Final EIR. As further discussed in Response to Comment No. 12-57, the SWAPE screening level analysis was not performed in accordance with requirements included in SCAQMD's LST methodology and OEHHA's guidance. The analysis also did not account for the following: (1) site-specific conditions; (2) use of a refined dispersion model; (3) use of SCAQMD mandated meteorological data from the closest/most representative meteorological monitoring site within the Project area; and (4) a correct source-to-receptor distance. If the SWAPE analysis accounted for the guidance and data discussed above, then the results would have been substantially less.

Accordingly, potential health risk impacts from the Project to nearby sensitive uses (e.g., adjacent and nearby residences) as the result of proposed construction activities are more accurately identified by the AERMOD evaluation included in Appendix B of this Final

EIR. As demonstrated by the analysis therein, the Project would not result in a significant health risk impact during construction. The HRA demonstrates that health risks from the Project would be a maximum of 3.0 in one million for adjacent residences north of the Project site, which is below the applicable significance threshold of 10 in one million. It is noted that this risk assumes an outdoor exposure for the entire length of construction and does not account for any reductions from the time spent indoors where air quality tends to be better. Thus, this analysis is overstated. Please refer to Response to Comment No. 12-57 for additional details.

Comment No. 12-37

5. The DEIR Improperly Analyzes Greenhouse Gas Impacts.

To address greenhouse gas ("GHGs") impacts, the DEIR compares the Project's construction and operational greenhouse gas (GHG) emissions to the emissions that would be generated by the Project in the absence of any GHG reduction measures, also known as a Business As Usual (BAU) scenario or as a No Action Taken (NAT) scenario (DEIR, p. 4.E-31.) Using this method, the DEIR concludes that because the Project would achieve a 31 percent reduction in GHGs between the BAU and As Proposed scenarios (DEIR, Table 4.E-7, p. 4.E-31)—which is greater than the AB 32 2014 Revised Scoping Plan's statewide reduction goal of 15.3 percent for 2020 (Table 4.E-4, p. 4.E-12—the Project would have a less than significant GHG impact. (DEIR, p. 4.E-38).

The DEIR's comparison of project-specific reductions to statewide reduction goals, however, is not appropriate. In the recent case of *Center for Biological Diversity et al. v. California Department of Fish and Wildlife and the Newhall Land and Farming Company* (2015) 62 Cal.4th 204 ("Newhall"), the Supreme Court held that the approach utilized in the DEIR to achieve compliance with AB 32, in which a straight-line comparison is made between the Project's emission reductions and the statewide target, is improper. The *Newhall* case concludes that lead agencies cannot use the statewide GHG emission reduction percentage as the CEQA threshold to determine whether a specific project-level proposed Project has significant GHG emissions. The *Newhall* case explicitly states that the BAU methodology can only be used if the lead agency provides an adjusted, project-specific GHG percent reduction that the Project must achieve in order to comply with statewide goals. Because the DEIR fails to provide this adjusted project-specific value, the use of a BAU comparison method to determine Project significance is incorrect. For this reason alone, the EIR's GHG discussion and analysis must be redrafted.

Response to Comment No. 12-37

The California Supreme Court's decision published on November 30, 2015, in the *Center for Biological Diversity v. California Department of Fish and Wildlife* (Case

No. 217763) (also known as the "Newhall Ranch Case") reviewed the methodology used to analyze GHG emissions in an EIR prepared for a project that proposed 20,885 dwelling units with 58,000 residents on 12,000 acres of undeveloped land in a rural area of the City of Santa Clara. The EIR used an approach to determine whether the project would impede the state's compliance with statutory emissions reduction mandate established by the AB 32 Scoping Plan. The Court did not invalidate the BAU approach entirely but did hold that "the Scoping Plan nowhere related that *statewide* level of reduction effort to the percentage of reduction that would or should be required from *individual projects a*nd nothing DFW or Newhall have cited in the administrative record indicates the required percentage reduction from business as usual is the same for an individual project as for the entire state population and economy."[3]

The California Supreme Court suggested regulatory consistency as a pathway to compliance, by stating that a lead agency might assess consistency with AB 32's goal in whole or in part by looking to compliance with regulatory programs designed to reduce GHG emissions from particular activities. The Court recognized that to the extent a project's design features comply with or exceed the regulations outlined in the *Climate Change Scoping Plan,* and adopted by CARB or other state agencies, a lead agency could appropriately rely on their use as showing compliance with performance-based standards adopted to fulfill a statewide plan for the reduction or mitigation of GHG emissions. This approach is consistent with CEQA Guidelines Section 15064, which provides that a determination that an impact is not cumulatively considerable may rest on compliance with previously adopted plans or regulations, including plans or regulations for the reduction of GHG emissions. Importantly, the Court also suggested "A lead agency may rely on existing numerical thresholds of significance for greenhouse gas emissions" (bright line threshold approach). Based on the above information and City direction, Section 4.E, Greenhouse Gas Emissions, of the Draft EIR appropriately used the following significance threshold:

> *In the absence of a quantitative threshold, the Project would not have a significant effect on the environment if it is found to be consistent with the applicable regulatory plans and policies to reduce GHG emissions, including Executive Orders S-3-05 and B 30-15, SB 375, AB 32 Scoping Plan, SCAG's 2016–2040 RTP/SCS, the 2035 Mobility Plan, and the City of Los Angeles Green Building Code.*

Contrary to the comment, the comparison of Project emissions to the NAT scenario was not used as a significance threshold. Instead, the reduction in GHG emissions in

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[3] *Center for Biological Diversity v. California Department of Fish and Wildlife (Case No. 217763), p. 20.*

comparison to the NAT scenario reflect the measures set forth in the applicable GHG reduction plans and policies and demonstrate the efficacy of these measures. Please refer to Response to Comment No. 12-63 for additional details.

Comment No. 12-38

In the absence of a legitimate GHG analysis, SWAPE has identified a significance threshold proposed by the SCAQMD and conducted a project-specific analysis of the Project's GHG emisisons [sic] and their potential environmental significance. (SWAPE, p. 31.) SWAPE identifies a proposed significance threshold identified by SCAQMD staff of 3,000 MT CO_2e/yr for all non-industrial projects. (*Id.*) SWAPE then calculates that, based either on the flawed air quality modelling [sic] used in the DEIR or SWAPE's corrected air modelling [sic] result discussed above, the Project's GHG emissions will exceed 3,000 MT CO_2e/yr. (*Id.*, pp. 32–33.) Because the Project exceeds that screening level, SWAPE then compares the Project's emissions to a 2020 efficiency target of 4.8 MT CO_2e/sp/yr and a 2035 efficiency target of 3.0 MT CO_2e/sp/yr, also proposed by SCAQMD's staff. (*Id.*, p. 33-35.) Applying guidance provided by the California Air Pollution Control Officers Association's (CAPCOA), SWAPE calculates that, employing the flawed DEIR air model, the Project's efficiency will be 4.6 MT CO_2e/sp/yr, exceeding the 2035 efficiency target. (*Id.*) Employing SWAPE's corrected air modeling, the Project's efficiency degrades to 6.4 MTCO_2e/sp/yr— will [sic] above the efficiency SCAQMD's proposed efficiency requirements for both 2020 and 2035. (*Id.*) SWAPE's analysis is substantial evidence of a fair argument that the Project will have adverse GHG impacts throughout its operative life. Because the DEIR's current GHG analysis is obviously improper, a new GHG analysis must be prepared and mitigations identified.

Response to Comment No. 12-38

As discussed in Response to Comment No. 12-63 below, the Draft EIR did not use a numeric threshold, as neither the City of Los Angeles or SCAQMD has adopted a numeric threshold applicable to the Project. Instead, a significance determination was made based on the consistency with applicable regulatory plans and policies to reduce GHG emissions, including Executive Orders S-3-05 and B 30-15, SB 375, AB 32 Scoping Plan, SCAG's 2016–2040 RTP/SCS, the 2035 Mobility Plan, and the City of Los Angeles Green Building Code.

This comment provides reference to the SCAQMD proposed, but not adopted, 3,000 MTCO_2e/yr screening threshold for residential, commercial, and mixed-use developments. Where a project would conduct a more detailed analysis using a per capita efficiency target if the project exceeded the 3,000 MTCO_2e/yr screening threshold.

Contrary to what is stated in this comment, GHG emissions estimated in the Draft EIR were not underestimated and instead demonstrated that the Project would be below 3,000 $MTCO_2e$/yr. Specifically, GHG emissions would result in 2,768 $MTCO_2e$/yr and remain below the unadopted 3,000 $MTCO_2e$/yr screening threshold proposed by the commenter. As discussed in Response to Comment No. 12-64, the SWAPE analysis did not account for the removal of existing uses (i.e., net project emissions). The SCAQMD as a Responsible Commenting Agency, provided the following comment on March 13, 2017, regarding the proposed Pier B On-Dock Rail Support Facility Project (www.aqmd.gov/docs/default-source/ceqa/comment-letters/2017/deir-pierbondockrailsupportfac-031317.pdf?sfvrsn=6):

> *The SCAQMD staff recommends that the Lead Agency revise the air quality and health risk analyses to include a comparison between the build-out year with the proposed project (using the emission rates from the build-out year) and the build-out year without the proposed project (also using the same emission rates from the build-out year) and use this analysis to determine the level of significance for the proposed project. By using a consistent emission rate for the analysis, the air quality and health risk impacts of the project will be accurately disclosed (i.e., impacts based on the change in activity due to the proposed project).*

The SCAQMD comment provided above refers to recommended guidance on evaluating a project's impact relative to the existing environmental baseline. The SCAQMD Interim GHG threshold specifically mentions that a Project's GHG emissions should be evaluated relative to the baseline.[4] Based on this guidance, netting out the existing uses based on emission factors from the buildout year would best represent potential GHG emissions related to the Project. Consistent with the SCAQMD comment, since the Project's GHG emissions do not exceed the 3,000 $MTCO_2e$/yr, the Project's emissions would not need to be compared to the proposed 2020 or 2035 SCAQMD efficiency targets, assuming, for argument's sake, that they were applicable to the Project.

The SWAPE analysis also erroneously provided a comparison of the Project Buildout emissions from Year 2019 and compared them to an efficiency target of 2035. As the Project would be built out in the near term, a comparison to a 2035 per capita threshold proposed nearly 10 years ago and not adopted is not warranted. In addition, SWAPE did not quantify the emissions from the Project in Year 2035. The main two sources of GHG emissions from land use type projects are related to energy and mobile sources.

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[4] *SCAQMD, Board Letter, Interim CEQA GHG Significance Threshold for Stationary Sources, Rules and Plans—Attachment D, December 2008.*

Substantial improvements to the vehicular fleet mix (e.g., more stringent emissions limits and improved technologies) and SB 350 requirement to increase from 33 percent to 50 percent the procurement of our electricity from renewable sources would further reduce Project-related emissions in the future.

A more detailed analysis using a per capita efficiency target is not warranted per this comment. Even so, the Project would result in a total of 4.28 $MTCO_2e$/yr per capita and would be less than the SWAPE-referenced 4.8 $MTCO_2e$/yr per capita unadopted SCAQMD Project Level Efficiency Threshold. The service population is based on 640 proposed residents and a net increase of six employees under the Project. No further analysis of GHG emissions related to the Project is warranted based on this comment. Please refer to Response to Comment No. 12-64 for additional details.

Comment No. 12-39

D. THE CITY SHOULD PREPARE AND RECIRCULATE A SUPPLEMENTAL DEIR

A supplemental draft EIR ("SDEIR") should be prepared and circulated for full public review to address the impacts identified above and to propose feasible mitigation measures. CEQA requires re-circulation of an EIR when significant new information is added to the EIR following public review but before certification. (Pub. Res. Code § 21092.1.) The Guidelines clarify that new information is significant if "the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project" including, for example, "a disclosure showing that… [a] new significant environmental impact would result from the project." (CEQA Guidelines § 15088.5.) The above significant environmental impacts have not been analyzed in the EIR and must be addressed in a supplemental DEIR that is re-circulated for public review.

Response to Comment No. 12-39

As demonstrated in this Final EIR, no new significant information (as defined by CEQA Guidelines Section 15088.5) that would require recirculation of the Draft EIR has been identified. Specifically, upon review of all of the comments received and analyzed, there are no new significant or substantially increased environmental impacts from the Project or from a mitigation measure that were identified subsequent to circulation of the Draft EIR. Neither the comments submitted on the Draft EIR nor the responses contained herein constitute new significant information warranting the recirculation of the Draft EIR as set forth in CEQA Guidelines Section 15088.5. Rather, the Draft EIR has been prepared in accordance with CEQA. Refer to the comments below with regard to the specific comments and responses regarding potential impacts associated with hazards, air quality and greenhouse gases.

Comment No. 12-40

We have reviewed the March 2017 Draft Environmental Impact Report (DEIR) for the proposed 6901 Santa Monica Mixed-Use Project ("Project") located in the City of Los Angeles ("City"). The Project proposes to demolish and remove the existing office and automobile storage buildings used for a towing business, and to develop the Project Site with a mixed-use building. The approximately 218,316 square foot mixed-use building would vary in height from 23 feet at the northern-most portion of the building to approximately 80 feet at the southern-most portion of the building and would include 7 stories of residential multi-family units (231 units total) above 15,000 square feet of ground-floor, neighborhood-serving commercial land uses (including up to a 5,000-square-foot, high-turnover restaurant and up to 10,000 square feet of general retail), and 390 vehicle parking spaces on 2 levels of subterranean parking. Approximately 8% of the base density, equal to 15 multi-family units, would be restricted for Very Low-Income households.

Our review concludes that the DEIR fails to adequately evaluate the Project's Hazards and Air Quality and Greenhouse Gas impacts. Contamination has been documented in soil, soil vapor and groundwater beneath the Project site that has been unaddressed and is inadequately mitigated. Air emissions and health impacts associated with construction and operation of the proposed Project are underestimated and inadequately addressed.

Response to Comment No. 12-40

The first paragraph in this comment provides a general description of the Project as set forth in the Draft EIR. As demonstrated in the Draft EIR and by the response to SWAPE's comments provided in this Final EIR, the potential impacts associated with air emissions and health have been adequately addressed.

Comment No. 12-41

Hazards and Hazardous Waste

The Project site has a history of heavy industrial uses which span nearly a century and which have resulted in significant contamination of soil, soil vapor and groundwater. Contamination remains in the subsurface at the Project site and likely extends offsite, despite recommendations a decade ago to address the contamination and to notify regulators. The mitigation in the DEIR is wholly insufficient to ensure Projects impacts will not result in health impacts to future residents. The DEIR process should be halted until the California Department of Toxic Substances Control (DTSC) has evaluated ongoing contamination at the Project site for the intended residential land use described in the DEIR.

Response to Comment No. 12-41

It is fully disclosed in the Draft EIR and the Phase I and II documents attached as Appendices F-1 and F-2 to the DEIR that the property sustained such uses in the past which have resulted in residual impacts to soil, soil vapor, and groundwater. The Draft EIR provides adequate mitigation measures that are protective of human health and the environment. Further, the DTSC has no jurisdiction over the subject property, as such there is no requirement for further evaluation by DTSC. In addition, it is noted that DTSC was provided the Notice of Availability of the Draft EIR and DTSC provided no response.

Comment No. 12-42

The DEIR states (p. 4.F-1):

> To evaluate impacts related to hazards and hazardous materials associated with construction and operation of the Project, a Phase I and Phase II ESA was completed for the Project Site.

The Phase I and Phase II documents, prepared by Advanced Environmental Consultants in 2014, are attached to the DEIR as Appendices F-1 and F-2. Two other evaluations, a 2007 "Additional Site Characterization" (referred to here as the 2007 Phase II ESA[1]) and a 2012 "Environmental Conditions Summary" (referred to here as the 2012 report[2]) were prepared for the Project site but were not included in the DEIR, and were obtained for the preparation of these comments only after a direct request to the City of Los Angeles.

The DEIR goes on to say (Footnote 8, p. 4.F-22)

> The conclusions of the 2014 Phase II ESA incorporated the findings of the 2007 Phase II ESA.

This statement is inaccurate. In fact, conclusions made in the 2014 Phase I and Phase II ESAs summarily ignored key 2007 Phase II ESA findings and recommendations as well as findings and recommendations made in the 2012 report. Most notably and egregiously, the 2014 Phase II failed to heed 2007 Phase II and 2012 report's recommendations to: (1) evaluate, under regulatory oversight, offsite groundwater impacts from a source at the Project site; and (2) assess the potential for soil vapor intrusion of PCE, a human carcinogen.[3] Additionally, the 2014 Phase I failed to incorporate recognized environmental conditions identified in the 2007 Phase II and in the 2012 report, despite the claim made in the DEIR on p. 4.F-22.

Because of the failure to act on the 2007 Phase II and 2012 report's recommendations, human health, both at the Project site and at adjacent properties from vapor intrusion, has been at potential risk for a decade. No regulatory agency has been notified of the contamination at the Project site and of the potential for offsite impacts, including impact to groundwater resources. The DEIR process should be halted until this case has been referred to the California Department of Toxics Substances Control for oversight of the evaluation of human health and environmental impacts of on-and offsite contamination of soil, soil vapor and groundwater.

[1] *Additional Site Characterization Investigation, Hollywood Redevelopment Properties, Hollywood, Los Angeles County, California, Blackstone Consulting LLC, May 14, 2007*

[2] *Environmental Conditions Summary for the Bachmann Family Agency Property Located at 6911 Santa Monica Blvd., Los Angeles, CA, Waterstone Environmental, Inc,. August 23, 2012*

[3] *https://www.atsdr.cdc.gov/toxfaqs/tf.asp?id=264&tid=48*

Response to Comment No. 12-42

AEC's Phase I ESA of the subject property from 2014 included summaries of the 2007 and 2012 documents previously prepared. This includes reference to and discussion of the nine conditions that were deemed to be recognized environmental conditions. It is then stated in the Phase I ESA that all of the recognized environmental conditions were evaluated during Phase II assessment work conducted in two phases in 2006 and 2007. The following is a summary of the 2007 and 2012 findings, which included the drilling of 18 soil borings, field screening of over 400 soil samples for volatile organic compounds (VOCs), and 43 soil samples that were analyzed for total petroleum hydrocarbons (TPH), VOCs, metals, and polychlorinated biphenyls. Soil vapor samples were collected at seven locations at depths of either 5 or 10 feet below the surface and were attempted in eight other locations but could not be performed due to the clayey nature of the soil. Groundwater samples were also collected at 13 locations. Only one (SB-12) of the 18 soil borings at the Site contained concentrations of compounds in soil that exceeded regulatory standards for human health and protection of groundwater. SB-12 was located to the northwest of the 6901 Santa Monica Boulevard Site building, and soil from this boring contained elevated levels of hydrocarbon compounds, including benzene, xylenes, naphthalene, and trimethylbenzene at 10, 15, and 20 feet below the surface. The impacted soil was referenced as being limited in lateral extent. Regarding soil vapor, two (V6-10' and V13-5') of the seven soil vapor samples exceeded a residential screening level for the VOC tetrachloroethene (PCE), possibly from degreasing activities. Regarding groundwater sampling, five (TW-5, -6, -18, -22, -23) of the 18 sampling locations contained VOC concentrations above drinking water quality standards and appeared to be down gradient of the former on-site underground storage tanks (USTs). The lateral extent of the plume was referenced as being defined with potential migration off-site to the southwest. It was recommended that additional assessment be conducted at the Site to further evaluate

existing soil, soil vapor and groundwater conditions. An estimate of costs for such additional assessment and also for potential site remedial costs was prepared.

Since the 2012 document was published, AEC completed two Phase II studies at the project site. The first assessment was completed in 2013. Although the formal report generated in 2013 was not released to the current project owner/developer (due to contractual terms between AEC and a former prospective purchaser of the site, general references are made to said report in the documents prepared on behalf of the current owner/developer, and it is stated that data obtained during the 2013 assessment, in part, served as the basis for conclusions and recommendations stated in the most recent 2014 Phase II study. As discussed in Section 4.2 of the Phase I ESA included in Appendix F-1 of the Draft EIR, based on the wealth of analytical data available for the subject property and a prior closure for the property issued by the Los Angeles Regional Water Quality Control Board (LARWQCB) in 1997 (which acknowledges the presence of residual TPH and VOCs in the subsurface at the property, including in groundwater above drinking water quality standards), it was AEC's expert professional opinion that no further environmental study was necessary to see the Project through to development which would include complete removal of any vadose zone residual impacts by way of mass excavation activities for the planned subterranean garage. Such an approach is consistent with the standard of care when assessing development project locations in the greater Los Angeles region and in other urban locales throughout the State of California. In addition, while drinking water quality standards do not apply to the subject property (as groundwater at the property is not used for such purposes, and there are no drinking water supply wells or other related sensitive receptors in close proximity to the property), AEC also notes that groundwater quality will also be improved as a result of the proposed mass excavation activities for the subterranean parking garage (complete source removal of TPH and VOC impacted soils).

The final conclusions and recommendations referenced in the Blackstone and Waterstone documents differ from those presented by AEC. However, the referenced comment letters assert that all prior conclusions and recommendations made by Blackstone and Waterstone should be carried out under DTSC oversight and that AEC's verbiage was intended to mislead the reader regarding the importance of the prior Phase II investigations. The prior environmental documents prepared by entities other than AEC do not represent law, statute, regulation, or indicators of the standard of care for the completion of environmental assessment and derivation of mitigation measures for an urban development project in the City of Los Angeles. AEC's conclusions and recommendations are based on its own expertise and professional judgment, and are supported by the provisions of ASTM International Designation E1903-11 ASTM E1903-11, Standard Practice for Environmental Site Assessments: Phase II Environmental Site Assessment Process, which allows for a Phase II Assessor to develop a stated purpose,

scope of work, and objective for completing a Phase II study that is tailored for focused evaluation of site-specific constraints, including at proposed development project locations. In the case of the current Project, the Phase II studies completed by AEC were based on the assumption that a subterranean parking garage would be constructed across the entire property. ASTM also specifically states the following (Section 7.3.1 of the standard):

> *To the extent needed to achieve the particular objective of the Phase II ESA, the Phase II Assessor may designate recognized environmental conditions identified in prior Phase I ESAs for further investigation in accordance with this practice. Not all conditions identified as recognized environmental conditions in prior Phase I ESAs necessarily need be designated for Phase II investigation.*

The same statement can apply to conditions identified during a prior Phase II ESA, in that not all such conditions need be designated for further evaluation in a supplemental study and that not all recommendations referenced in a prior assessment report must be heeded. Based on AEC's expert professional opinion, no further assessment at the subject property is required, and there is ample data in place to allow for the drafting of a Soil Management Plan and subsequent implementation of such a plan during site development.

Further, as stated previously, the DTSC has no jurisdiction over the subject property, as such there is no requirement for further evaluation by DTSC.

Comment No. 12-43

Failure to Evaluate and Report Offsite Groundwater Impacts

The 2007 Phase II documented detections of groundwater contaminants at the southern (hydraulically downgradient) boundary of the Project site. Benzene and MTBE (components of fuel) were detected at concentrations in excess of drinking water standards in well TW-5 on the southern boundary. In 2006 benzene was detected at 2,800 ppb (MCL is 1 ppb) and MTBE was detected at 20 ppb (MCL is 13 ppb) in TW-5.

On the basis of these detections, the 2007 Phase II concluded

> Blackstone concludes that the groundwater contamination beneath the southern portion of the site likely originated from historical releases at or near the on-site source areas, and that it is reasonable to believe the groundwater plume has migrated off-site. The off-site extent of the groundwater plume is unknown and at this time, and is considered the less-defined risk. Upon acquiring the site, Archstone will likely have the obligation to report the site

> contamination to the Regional Water Quality Control Board (RWQCB). Given the elevated groundwater contaminant concentrations along the southern site property boundary, the RWQCB would likely request additional investigation to delineate the off-site extent of the contamination.

This concern for the need to report to the regulators was echoed in the 2012 report that concluded regulators would likely require "full lateral extent definition of the groundwater plume," stating (p. 14):

> It will be necessary to drill in streets, sidewalks, and/or private property in a southwest direction from the Subject Property to define the groundwater plume. Five to eight locations may be required to complete plume definition.

The 2014 Phase I and Phase II did not heed these recommendations and provided no explanation. The 2014 Phase II did not sample groundwater and omitted any discussion about the recommendations to evaluate on-site and offsite groundwater impacts.

Instead, the 2014 Phase I ESA, stated (p. 27):

> Historical releases of petroleum hydrocarbons to the subsurface that have occurred at the Site are considered to be historical recognized environmental conditions in connection with the Site that were previously assessed to the satisfaction of local and State regulatory agencies. Such conditions do not represent a significant environmental concern given the current land use of the Site.

The petroleum releases have never been investigated by regulators and no records exist that would indicate that the releases have been assessed to the satisfaction of regulators, as claimed. The petroleum contamination, identified in 2007 and 2012 as a condition that required regulatory notification and further investigation, is likely to be ongoing and presents both potential harm to the environment and human health. The 2014 Phase II did not sample groundwater, stating that the water table had been lowered by the drought (p. 5). The 2014 Phase II did not provide an explanation for not drilling deeper in an attempt to intercept the water table so that groundwater samples could be obtained.

The DEIR states only this, with respect to offsite migration of contaminated groundwater from the Project site (p. 4.F-14):

> Regarding groundwater sampling, Blackstone [the 2007 Phase II consultant] found that five of the eighteen samples contained elevated VOC

> concentrations above the applicable MCLs and appeared to be down gradient of the former on-site USTs. The lateral extent of the plume was referenced as being defined with potential migration off-site to the southwest.

The DEIR's conclusion that the "lateral extent of the plume was referenced as being defined" is misleading. Instead, this is what the 2007 Blackstone Phase II concluded (p. 23):

> Blackstone concludes that the groundwater contamination beneath the southern portion of the site likely originated from historical releases at or near the on-site source areas, and that it is reasonable to believe the groundwater plume has migrated off-site. The off-site extent of the groundwater plume is unknown and at this time, and is considered the less-defined risk.

The DEIR has not evaluated the potential for groundwater impacts. Such impacts include an ongoing, unremediated source of petroleum contamination at the Project site that would require investigation under regulatory oversight, as recommended in the 2007 Phase II, to determine impacts to drinking water aquifers and the potential for the contaminated groundwater to serve as a source for vapor intrusion at the Project site and to adjacent properties.

Addressing these impacts may require the extraction of contaminated groundwater and the installation of soil vapor extraction wells. Project construction may hinder or prohibit actions that may be necessary to address groundwater and soil vapor impacts.

Response to Comment No. 12-43

It is stated in the comments that petroleum releases that have occurred at the subject property have "never" been investigated by regulators and that no records exist that would support an opinion that releases have been assessed to the satisfaction of regulators. Reference should be made to Page 14 of AEC's 2014 Phase I ESA, Appendix F-1 of the Draft EIR, that summarizes the content of a no further action letter for the subject property issued by the LARWQCB. A copy of the letter is appended to the Phase I ESA report (pages 318 and 319 of the PDF document). The property is referenced as being located at 6921 Santa Monica Boulevard (historical address of the property) in the LARWQCB letter. Petroleum hydrocarbon releases within the soil and groundwater at the property were previously assessed under LARWQCB oversight.

As stated in Appendix F-1 of the Draft EIR, Phase I ESA:

Subsurface assessment completed under LARWQCB oversight consisted of the drilling of several soil borings for soil and groundwater sampling in the vicinity of former USTs at the property. Soil samples were obtained from the borings at various depths ranging from 10 to 30 feet below existing grades. No contaminants were detected in soil samples obtained from 10-foot depths, and minor concentrations of petroleum constituents were detected in one of the six soil samples obtained from 15 feet below grade. Of the remaining soil samples obtained from depths of greater than 15 feet, only two contained petroleum constituents indicative of significant contamination. The maximum TPH concentration was 108 mg/kg milligrams per kilogram (mg/kg), and the maximum benzene concentration was 811 micrograms per kilogram (µg/kg).

These concentrations are considered to be negligible and are consistent with LARWQCB's closure of the release case for the property.

Of the six groundwater samples obtained, two contained benzene at concentrations of 314 micrograms per liter (µg/l) and 452 µg/l which exceed the drinking water standard of 1 µg/l. MTBE was the primary groundwater contaminant of potential concern. This compound was not detected at or above the laboratory reporting limit in the six groundwater samples. The case was subsequently closed by the LARWQCB on June 20, 1997 with no additional action required.

As stated previously, drinking water quality standards do not apply to the subject property (as groundwater at the property is not used for such purposes and there are no drinking water supply wells or other related sensitive receptors in close proximity to the property).

The comment letter states that the 2007 Phase II documented detections of groundwater contaminants at the southern (hydraulically downgradient) boundary of the project site. Benzene and MTBE (components of fuel) were detected at concentrations in excess of drinking water standards in well TW-5 on the southern boundary. In 2006, benzene was detected at 2,800 µg/l (drinking water standard is 1 µg/l), and MTBE was detected at 20 µg/l (drinking water standard is 13 µg/l) in TW-5. While these concentrations are higher than what is referenced in the LARWQCB no further action letter for the property, regulatory notification to the LARWQCB of such data collected in 2006 or any other regulatory agency is not required. Petroleum release cases in the Los Angeles region and throughout the State of California are commonly evaluated under State of California Water Resources Control Board Low-Threat Underground Storage Tank Case Closure Policy (LTCP), and in the event the LARWQCB ever desired to re-evaluate the subject property, LTCP would be the guiding approach during such an evaluation. Of note

are the five groundwater-specific criteria referenced in the State LCTP, one of which states that dissolved phase benzene and MTBE concentrations in a groundwater contamination plume should be less than 3,000 µg/l and 1,000 µg/l, respectively (well above drinking water quality standards). The maximum detected benzene and MTBE concentrations referenced in the comment letter from 2006 are below such levels, and, in the case of MTBE, two orders of magnitude below the referenced levels in the LCTP guidance. As stated previously, drinking water quality standards do not apply to the subject property, as groundwater at the property is not used for such purposes, and there are no drinking water supply wells or other related sensitive receptors in close proximity to the property. In addition, residual groundwater impacts beneath the subject property do not represent a significant risk to human health. As such, neither additional assessment, nor mitigation of groundwater conditions at the subject property under agency oversight is required.

Comment No. 12-44

Additionally, Project construction may require dewatering, during which contaminated groundwater will likely be encountered, an impact not foreseen by the DEIR. The DEIR estimates that excavation for subterranean parking will extend to a depth of 32 feet, a depth that would likely intercept the water table (estimated to be at a depth of 22 to 24 feet in the 2012 report (p.3)). A DEIR needs to be prepared to outline how dewatering during Project construction will meet RWQCB requirements, including Orders R4-2013-0095 and R4-2013-0043.

Response to Comment No. 12-44

Because current plans call for the construction of a two-level subterranean parking garage, it can be reasonably assumed that continuous dewatering will be required during certain phases of Site construction. However, the future dewatering activities are considered to be a normal part of the general construction process for the planned Site development and are not considered to be a mitigation measure. The petroleum hydrocarbon and VOC concentrations noted in groundwater in the LARWQCB no further action letter for the project and in the prior environmental assessment reports are not ones that would require a significant modification to a conventional dewatering system to be used on a development project in the City of Los Angeles and to ensure compliance with LARWQCB Order No. R4-2013-0095 (waste discharge requirements for discharges of groundwater from construction and project dewatering to surface waters). Further, while LARWQCB Order No. R4-2013-0043 (waste discharge requirements for discharges of treated groundwater from investigation and/or cleanup of volatile organic compounds-contaminated sites to surface waters) is referenced in the comment letter, such an order does not apply to the proposed development project, as no groundwater mitigation is required.

Comment No. 12-45

Potential for Soil Vapor Intrusion

The 2007 Phase II found tetrachloroethene (PCE) in soil vapor in two vapor samples collected at the Project site (Table 4). One soil vapor sample near the southern boundary of the Project site (V6) showed a detection for PCE from 10 feet in depth at a concentration of 351 ug/L, well in excess of the commercial exposure scenario California Human Health Screening Levels ("CHHSL") which is 0.6 ug/L.[4]

The 2012 Phase II concluded the PCE could have been released from automotive degreasing operations (p. 12). A definitive source of the PCE has not been identified.

No additional sampling has been conducted to determine if a vapor intrusion risk exists to current occupants of the Project site. Inexplicably, the 2012 Phase II did not sample soil vapor as part of its investigation. Only soils were sampled for VOCs.

Four buildings at the project site are currently occupied for commercial uses (DEIR, p. 3-1). No evaluation of the potential for vapor intrusion into these buildings has been conducted.

The potential for vapor intrusion to Project buildings was only evaluated as follows in the 2014 Phase II (and as repeated in the DEIR on p. 4.F-24):

> In addition, human health risk modeling conducted as part of the prior investigation in 2013 indicates that an engineering control (i.e. passive vapor barrier and venting system) should be incorporated in to the foundation design of the proposed subterranean parking structure to mitigate the vapor intrusion pathway that is considered to be of concern at the Site. (p. 6)

No actual citation to the 2013 "health risk modeling" was included in the 2014 Phase II or the DEIR to support the claim that a vapor barrier would suffice for mitigation to protect Project occupants. Therefore, mitigation in the DEIR is inadequate unless the health risk modeling can be produced to show that a full vapor intrusion investigation has been conducted conforming to agency guidelines and that includes an evaluation of the effectiveness of remedial alternatives. The investigation should be conducted under DTSC oversight to ensure regulatory guidance[5] is heeded and to provide for regulatory review of the findings. This soil vapor intrusion investigation is needed immediately because commercial buildings are occupied in the area of the PCE detections in shallow soil vapor which are well above health-protective screening levels.

[4] *https://oehha.ca.gov/media/downloads/risk-assessment/california-human-health-screening-levels-chhsls/chhslstableall_0.pdf Table 3 (for buildings without engineered fill, an appropriate assumption for buildings current on the Project site)*

[5] *http://www.dtsc.ca.gov/SiteCleanup/Vapor_Intrusion.cfm*

Response to Comment No. 12-45

The comment states that the 2007 Phase II study revealed PCE at 351 µg/l [or 350,000 microgram per cubic meter (µg/m^3)] in a sample identified as V6 at the Project's southern boundary and that this concentration exceeded its respective California Human Health Screening Level (CHHSL). It should be noted that former sample location V6 was not located along the southern property boundary, but was located in what is nearly the central portion of the property within an automobile repair bay that is open to the ambient air. In addition, CHHSLs are no longer used as screening levels. The applicable standard of care for evaluating the risk resulting from potential vapor intrusion of PCE into interior building spaces is now conducted utilizing mathematical modeling applications (California EPA Office of Environmental Health Hazard Assessment and DTSC modified Johnson and Ettinger (J&E) screening-level model for soil gas contamination) and/or application of screening levels as published in DTSC Human and Ecological Risk Office (HERO) Human Health Risk Assessment Note 7.

While the referenced PCE concentration at former location V6 of 350,000 µg/m^3 is well in exceedence of the current screening level for PCE, as published in HERO Note 7 for a "future commercial/industrial" scenario of 4,000 µg/m^3, this screening level does not take in to account lower exposure frequencies for a subterranean parking garage scenario or other attenuating factors. An analysis was conducted by AEC that assumed PCE is present in soil vapor throughout the entire subject property at a concentration of 350,000 µg/m^3 which is not the case in the J&E model. A conservative human exposure scenario for a subterranean parking garage of one hour per day for 25 years at 350 days per year was also assumed by AEC. Using the referenced elevated concentration of 350,000 µg/m^3 and a vadose zone soil designation of loamy sand (supported by site geotechnical data), the resultant excess carcinogenic risk resulting from potential PCE exposure within the future subterranean parking garage is eight in one million (8E-06). This value falls within the lower end of the one in one million (1E-06) and one in ten thousand (1E-04) risk management range where decisions regarding mitigation methods can be made on a site-specific basis.

However, it should be noted that the above-referenced PCE concentration of 350,000 µg/m^3 does not underlie the entire project site. During AEC's Phase II study completed in 2013, three soil borings (B4, B8 and B15) were drilled in a triangular pattern around the former V6 location. These three step-out soil borings are depicted on AEC's

Site Plan included in the 2014 Phase II ESA. PCE concentrations detected in 2013 by AEC were as follows:

- B4: <34 µg/m^3
- B8: <340 µg/m^3
- B15: 550 µg/m^3

These concentrations are considered to be insignificant, indicating that the former sampling location V6 is anomalous in nature and does not require additional assessment/evaluation. In addition, PCE was not detected at or above the laboratory reporting limit of 34 µg/m^3 at sampling location B7, which represents the furthest downgradient sampling location at the subject property. Also, the highest PCE concentration detected in soil vapor at the property was 940 µg/m^3, which is well below the 4,000 µg/m^3 screening level for commercial exposure (i.e., including subterranean parking garages), and when modeled mathematically under residential exposure assumptions, does not exceed a one in one million excess carcinogenic risk resulting from PCE exposure in a vapor phase. As such, there is no significant concern to potential off-site receptors resulting from on-site concentrations of PCE in soil vapor nor existing occupants of the current buildings at the property. Further, the subject property will be subject to mass excavation for a subterranean parking garage, which will effectively remove any and all sources of PCE in soil vapor throughout the property and will also result in the improvement of conditions adjacent to the subject property regardless of the lack of significant concern due to on-site impacts. However, the project owner/developer will be required to incorporate Mitigation Measure F-5 that requires a system to prevent the entry of vapors(i.e., vapor barrier and venting system) into the design and construction of the Project, including the subterranean parking garage, to ensure adequate mitigation of the potential vapor intrusion exposure pathway and continuous protection of human health after the site is redeveloped. The incorporation of Mitigation Measure F-5 will also assist in alleviating any future concerns of site occupants and other entities should toxicity criteria (i.e., unit risk factors and reference concentrations) for the VOCs present at the site change in the future.

Comment No. 12-46

Failure to Incorporate Recognized Environmental Conditions

Recognized environmental conditions[6] (RECs) identified in the 2007 and 2012 reports include:

- REC 1.: A bulk oil storage facility (aboveground storage tanks [ASTs] storing crude oil);
- REC 2.: An oil storage building;
- REC 3.: A service station with underground storage tanks (Service Station USTs).
- Automotive repair and maintenance including:
  - REC 4.: Three (3) USTs (Automotive USTs);
  - REC 5.: Areas of staining in maintenance bays;
  - REC 6.: Approximately 8-10 hydraulic lifts;
  - REC 7.: A paint booth;
- REC 8.: A low spot in paving where water collects during hand washing of vehicles;
- On an adjoining property to the north:
  - REC 9.: Five (5) USTs (Northern USTs).

As previously cited, the 2014 Phase I ESA, in addressing these RECs, made this inaccurate conclusory claim (p. 27):

> This assessment has revealed no evidence of current recognized environmental conditions in connection with the Site. Historical releases of petroleum hydrocarbons to the subsurface that have occurred at the Site are considered to be historical recognized environmental conditions in connection with the Site that were previously assessed to the satisfaction of local and State regulatory agencies.

A REC is "the presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances or petroleum products."[7] The documented presence of petroleum compounds and PCE in groundwater and soil vapor at the Project site, as detailed in the 2007 and 2012 Phase IIs, constitutes a REC under any reasonable professional estimation, including the estimation of the prior Phase II consultants (Blackstone and Waterstone). The explanation provided above by the 2014 Phase I is simply false: There are known and ongoing releases of hazardous substances and petroleum products and no regulatory oversight, much less any regulatory resolution,

of most of the soil contamination and none of the ground water and vapor contamination has been undertaken at the Project site.

The 2014 Phase I neglected to include the RECs identified in 2007 and 2012. The 2014 Phase II conducted sampling only for soil, while failing to collect soil vapor and groundwater samples and by failing to report and evaluate the prior results. The conclusion reached in the 2014 Phase II, on the basis of the data set limited to soil only, is unreliable for determining impacts from hazardous materials and mitigation necessary to address those impacts.

[6] *Defined as the presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances or petroleum products into structures on the property or into the ground, groundwater, or surface water of the property.*

[7] *https://www.astm.org/DATABASE.CART/HISTORICAL/E1527-05.htm*

Response to Comment No. 12-46

The EIR fully presents the potential hazards impacts associated with the Project. With implementation of the proposed mitigation measures, no significant impacts would result. Please refer to Response to Comment Nos. 12-41 through 12-44.

Comment No. 12-47

Mitigation is Inadequate

Mitigation in the DEIR to address hazards includes Mitigation Measures F-1 and F-2 that would require a pre-excavation survey, following demolition of the existing structures on the site, to ensure no unknown USTs are located on the Project Site and assess the condition of the soil. Mitigation Measures F-3 and F-4 would require that a Soil Management Plan be prepared and approved prior to and implemented during mass excavation activities at the Site. The mitigation measures are wholly inadequate because:

1. No measures are included to address contaminated groundwater that is traveling offsite. Project construction will restrict the ability to investigate the extent of contamination at the Project site and the ability to remediate the contamination because access to the subsurface (to drill groundwater monitoring and extraction wells) will be restricted by construction of buildings and other Project hardscape.

2. No measures are included to address how Project construction will exacerbate soil vapor intrusion potential, both for onsite and offsite receptors. Construction of buildings will prevent access to remove a potential subsurface source of PCE in soil and in groundwater (potentially beyond the depth of Project excavation),

thus allowing the source to remain in the subsurface where it would continue to generate contaminated soil vapor and in turn the potential for vapor intrusion.

3. No measures are included to address contaminated groundwater that would be encountered during dewatering activities.

The DEIR processes should be halted until these impacts can be addressed and adequately mitigated though an investigation under regulatory oversight.

Response to Comment No. 12-47

There is no technical basis for the recommendation in the comment letter for additional investigation to be conducted at the subject property. Given the information provided in prior environmental assessment reports completed by AEC and others and with the implementation of the mitigation measures pertaining to hazards and hazardous materials (Mitigation Measures F-1 through F-5), the Draft EIR adequately analyzed and disclosed all of the impacts with respect to hazards and hazardous materials.

The forthcoming Soil Management Plan for the project (Mitigation Measure F-3) will include, but not be limited to, the following standard criteria:

- A discussion of all existing site data.
- The means and methods to be employed for contaminated soil management and off-site disposal, including provisions for worker and community health and safety related monitoring and protection (South Coast Air Quality Management District (SCAQMD) Rule 1166)).
- Discussion of the types and frequency of any additional analytical testing to be performed in order to profile impacted soil with designated landfill or treatment facilities.
- Methods to comply with receiving site conditions for the reuse of inert (clean) soils from the site.
- Provision of a Community Health and Safety Plan which will outline measures that will be taken to minimize public exposure to hazards which may arise during site construction activities.
- Contingency related protocols in the event that USTs or unexpected discoveries are encountered during site construction work.
- Discussion of proposed shoring, water-proofing and vapor intrusion related controls for the project.

- Format and schedule for post excavation deliverables.

These standard criteria have been added to Mitigation Measure F-3. Refer to Section II, Corrections and Additions of this Final EIR. It should also be noted that while the drafting of a Soil Management Plan is called for as a mitigation measure, such plans are commonly fully developed closer to the time of beginning actual excavation work. This is standard procedure and compliant with regulatory guidance and the standard of care in the environmental industry for development projects.

Implementation of the SMP (Mitigation Measure F-4) will ensure that the project is developed in compliance with applicable federal, state, and local regulations relating to the handling and treatment of petroleum hydrocarbons and VOCs. In addition, Mitigation Measure F-5 (vapor barrier) will be implemented to ensure adequate mitigation of the potential vapor intrusion exposure pathway and continuous protection of human health after the site is redeveloped. Implementation of mitigation measures will ensure a safe development for future site occupants.

The management of contaminated soil and groundwater during construction is a very common part of the normal development process in the Los Angeles Region, and the proposed Project is no different than any other of the numerous projects in the City of Los Angeles that have had similar subsurface impacts that were managed concurrent with the development and construction process. Future soil management work to be conducted at the Project Site will be completed in accordance with a myriad of applicable environmental laws, regulations, and guidance, including, but not limited to, the California Health and Safety Code, the California Water Code, California Code of Regulations, and SCAQMD Rule 1166. In addition, any groundwater discharges resulting from dewatering activities will be performed in compliance with LARWQCB Order No. R4-2013-0095.

The Soil Management Plan will ensure that the project does not create potentially significant hazardous impacts to workers or future occupants of the Project. A supplemental Draft EIR is not required to convey information pertaining to environmental conditions at the project site and in the area. The project must follow all existing hazardous materials laws, as stated in Draft EIR. With implementation of regulatory requirements and mitigation measures, impacts with respect to hazards and hazardous materials would be less than significant and there is no reasonable basis to require a new Draft EIR.

Comment No. 12-48

Air Quality

Unsubstantiated Input Parameters Used to Estimate Project Emissions

The California Emissions Estimator Model Version CalEEMod.2013.2.2 ("CalEEMod")[8] was used to estimate criteria air pollutant emissions generated during Project construction and operation. CalEEMod provides recommended default values based on site specific information, such as land use type, meteorological data, total lot acreage, project type and typical equipment associated with project type. If more specific project information is known, the user can change the default values and input project-specific values, but the California Environmental Quality Act (CEQA) requires that such changes be justified by substantial evidence.[9] Once all the values are inputted into the model, the Project's construction and operational emissions are calculated, and "output files" are generated. These output files disclose to the reader what parameters were utilized in calculating the Project's air pollutant emissions, and make known which default values were changed as well as provide a justification for the values selected.[10]

When reviewing the Project's CalEEMod output files, which are located in Appendix D of the DEIR, we found that several of the values inputted into the model are inconsistent with information disclosed in the DEIR, as well as inconsistent with guidance set forth by the South Coast Air Quality Management District (SCAQMD). As a result, emissions associated with construction and operation of the Project are greatly underestimated. An updated DEIR should be prepared to adequately assess the potential impacts that construction and operation of the Project may have on regional and local air quality and global climate change.

[8] *CalEEMod website, available at: http://www.caleemod.com/*

[9] *CalEEMod User's Guide, pp. 7, 14, available at: http://www.caleemod.com/*

[10] *CalEEMod User's Guide, pp. 7, 12, available at: http://www.caleemod.com/ (A key feature of the CalEEMod program is the "remarks" feature, where the user explains why a default setting was replaced by a "user defined" value. These remarks are included in the report.)*

Response to Comment No. 12-48

This comment references specific comments regarding the calculation of potential Project-related construction and operational air quality impacts using the California Emissions Estimator Model (CalEEMod) Versions 2013.2.2. In response to the comments provided below (Response to Comment Nos. 12-49 through 12-65), the CalEEMod modeling provided in the Draft EIR was refined. Default CalEEMod values were replaced where Project-specific information was available. In addition, subsequent to preparation of the air quality analysis provided in Appendix D of the Draft EIR, an updated version of the

SCAQMD-recommended model was released. CalEEMOD Version 2016.3.1 incorporates CARB's most up-to-date emission factors from OFFROAD and EMFAC2014. These emission factors account for improvements (e.g., more stringent emission limits and improved technologies) to off-road and on-road vehicle fleet mixes. Therefore, the refined modeling was conducted using CalEEMod Version 2016.3.1. Please refer to Appendix D-1 of this Final EIR. As shown in Appendix D-1 of this Final EIR, no changes to the significance conclusions provided in the Draft EIR would occur based on the specific comments (Response to Comment Nos. 12-49 through 12-65). Potential regional construction impacts remain below the SCAQMD regional construction thresholds or 78 percent below the ROG threshold, 5 percent below the NO_X threshold, 92 percent below the CO threshold, 99 percent below the SO_X threshold, and 95 percent below the PM_{10} and $PM_{2.5}$ thresholds. Potential localized construction impacts also remain below the SCAQMD localized construction thresholds or 28 percent below the NO_X threshold, 97 percent below the CO threshold, 67 percent below the PM_{10} threshold, and 49 percent below the $PM_{2.5}$ threshold. Potential regional operational impacts remain below the SCAQMD regional operational thresholds or 85 percent below the ROG threshold, 64 percent below the NO_X threshold, 88 percent below the CO threshold, 99 percent below the SO_X threshold, and 94 percent below the PM_{10} and $PM_{2.5}$ thresholds. Potential localized operational impacts also remain below the SCAQMD localized operational thresholds or 92 percent below the NO_X threshold, 98 percent below the CO threshold, 98 percent below the PM_{10} threshold, and 97 percent below the $PM_{2.5}$ threshold.

Comment No. 12-49

Failure to Include Parking Land Use

As previously stated, the DEIR relies upon CalEEMod to estimate the Project's construction and operational emissions. Review of the DEIR's air quality model demonstrates that the model fails to account for the Project's proposed parking land uses. As a result, the Project's emissions are underestimated.

According to the DEIR, the Project proposes to include a total of "390 vehicle parking spaces within two levels of subterranean parking" (pp. 1). Review of the Project's CalEEMod output files, located in Appendix D, however, demonstrate that the model completely omitted the proposed parking land use from the air model (see excerpt below) (Appendix D, pp. 17, pp. 41).

6901 Santa Monica Future

Los Angeles-South Coast County, Annual

1.0 Project Characteristics

1.1 Land Usage

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
High Turnover (Sit Down Restaurant)	5.00	1000sqft	0.11	5,000.00	0
Apartments Mid Rise	231.00	Dwelling Unit	1.65	218,990.00	629
Strip Mall	10.00	1000sqft	0.08	10,000.00	0

This omission of the parking land uses within the model presents a significant issue. The land use type and size features are used throughout CalEEMod in determining default variables and emission factors that go into the model's calculations.[11] By omitting the parking land use from the model, the emissions that would be produced during construction of the proposed parking structure are greatly underestimated. Paving for the parking spaces involves laying concrete or asphalt, which will result in air pollutant emissions during construction.[12] Furthermore, operational emissions from architectural coating activities, electricity usage from outdoor lighting, ventilation, and elevators in the proposed parking structures are unaccounted for.[13] By failing to include the proposed parking land uses within the model, the Project's emissions are greatly underestimated. An updated CalEEMod model must be prepared in an updated DEIR in order to accurately estimate Project emissions.

[11] *CalEEMod User's Guide, p. 14, available at: http://www.caleemod.com/*

[12] *CalEEMod User's Guide, p. 2, available at: http://www.caleemod.com/*

[13] *CalEEMod User's Guide, p. 2, available at: http://www.caleemod.com/*

Response to Comment No. 12-49

The comment correctly identifies that the 390 parking spaces within a subterranean parking structure were not quantified within the CalEEMod modeling for the Project. However, based on modeling experience with CalEEMod and considering the size and the type of land use, parking spaces would not be considered a substantial source of pollutant emissions, as parking spaces do not generate vehicular trips. Furthermore, construction impacts related to the grading/excavation for the 390 parking spaces were considered in the Draft EIR analysis. As shown in Table 4.C-6 in Section 4.C, Air Quality, of the Draft EIR, grading/excavation activities resulted in the maximum daily construction impacts. Nonetheless, to provide a more conservative analysis, the 390 parking spaces have been included in the refined analysis included as Appendix D-1 of this Final EIR. As discussed in Response to Comment No. 12-48, no changes to the significance conclusions provided in the Draft EIR would occur based on the analysis in response to this comment.

Comment No. 12-50

Failure to Assess Feasibility of Obtaining Tier 4 Final Equipment

The DEIR estimates Project emissions assuming that all off-road construction equipment would be equipped with Tier 4 Final engines, yet fails to require the use of Tier 4 Final equipment during Project construction, and fails to include Tier 4 Final equipment as a mitigation measure (Appendix D, pp. 18, pp. 42; Table 1-1, p. 1-7 -1-49). Furthermore, not only does the DEIR fail to demonstrate a commitment to using Tier 4 Final technology, but it also fails to evaluate the feasibility of obtaining an entire construction fleet equipped with Tier 4 Final engines. By failing to mandate implementation of the Tier 4 Final equipment into the Project's design and by failing to include the use of Tier 4 engines in the Project's list of proposed mitigation measures, not only is the use of Tier 4 Final equipment entirely unenforceable, but it appears that the Project has no intention of using Tier 4 Final equipment during Project construction. As a result, not only are the Project's construction-related emissions greatly underestimated, but the Project's health risk impact to nearby sensitive receptors is also underestimated. For these reasons, we find the DEIR's air pollution model to be incorrect, and conclude that the model should not be relied upon to determine Project significance.

As stated above, the DEIR assumes the use of Tier 4 Final equipment when estimating the Project's construction emissions (see excerpt below) (Appendix D, pp. 18, pp. 42).

Table Name	Column Name	Default Value	New Value
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final

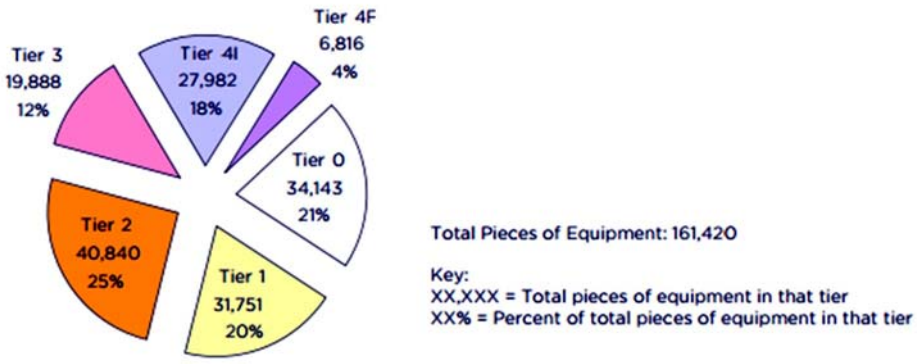
Even though the DEIR assumes the use of Tier 4 Final equipment when estimating emissions, the DEIR makes no actual commitment to the use of Tier 4 Final equipment anywhere else in the report or associated appendices. The DEIR does not provide any information to indicate that a construction fleet composed solely of off-road equipment equipped with Tier 4 Final engines will be used once the Project is approved and

construction begins, and does not include the use of Tier 4 Final equipment as a form of mitigation. By assuming that the Project would use off-road equipment equipped with Tier 4 Final engines, exclusively, without demonstrating an actual commitment to the use of this cleaner burning equipment, the DEIR artificially reduces the Project's construction emissions.

Additionally, not only does the DEIR fail to provide any sort of explanation to suggest an actual commitment to the use of an entirely Tier 4 Final off-road equipment fleet during construction, but it also fails to evaluate the feasibility of obtaining an entirely Tier 4 Final fleet. The United States Environmental Protection Agency's (USEPA) 1998 nonroad engine emission standards were structured as a three-tiered progression. Tier 1 standards were phased-in from 1996 to 2000 and Tier 2 emission standards were phased in from 2001 to 2006. Tier 3 standards, which applied to engines from 37-560 kilowatts (kW) only, were phased in from 2006 to 2008. The Tier 4 emission standards were introduced in 2004, and were phased in from 2008 to 2015.[14] These tiered emission standards, however, are only applicable to newly manufactured nonroad equipment. According to the USEPA, "if products were built before EPA emission standards started to apply, they are generally not affected by the standards or other regulatory requirements."[15] Therefore, pieces of equipment manufactured prior to 2000 are not required to adhere to Tier 2 emission standards, and pieces of equipment manufactured prior to 2006 are not required to adhere to Tier 3 emission standards. Construction equipment often lasts more than 30 years; as a result, Tier 1 equipment and non-certified equipment are currently still in use.[16] It is estimated that of the two million diesel engines currently used in construction, 31 percent were manufactured before the introduction of emissions regulations.[17]

Furthermore, based on information and data provided in the *San Francisco Clean Construction Ordinance Implementation Guide for San Francisco Public Projects*, the availability of Tier 4 Final equipment is extremely limited. In 2014, 25% of all off-road equipment in the state of California were equipped with Tier 2 engines, approximately 12% were equipped with Tier 3 engines, approximately 18% were equipped with Tier 4 Interim engines, and only 4% were equipped with Tier 4 Final engines (see excerpt below).[18]

Figure 4: 2014 Statewide All Fleet Sizes (Pieces of Equipment)



As demonstrated in the figure above, Tier 4 Final equipment only accounts for 4% of all off-road equipment currently available in the state of California. Thus, by stating that the Project proposes to use Tier 4 Final equipment during construction, the DEIR is relying on a fleet of construction equipment that only accounts for 4% of all off-road equipment currently available in the state of California. Therefore, by failing to evaluate the feasibility of implementing Tier 4 Final engines into the Project's construction phases, the Project's construction emissions are underestimated. For these reasons, we find the DEIR's air pollution model to be incorrect and should not be relied upon to determine Project significance.

[14] *Emission Standards, Nonroad Diesel Engines, available at: https://www.dieselnet.com/standards/us/nonroad.php#tier3*

[15] *"Frequently Asked Questions from Owners and Operators of Nonroad Engines, Vehicles, and Equipment Certified to EPA Standards." United States Environmental Protection Agency, August 2012. Available at: http://www.epa.gov/oms/highway-diesel/regs/420f12053.pdf*

[16] *"Best Practices for Clean Diesel Construction." Northeast Diesel Collaborative, August 2012. Available at: http://northeastdiesel.org/pdf/BestPractices4CleanDieselConstructionAug2012.pdf*

[17] *Northeast Diesel Collaborative Clean Construction Workgroup, available at: http://northeastdiesel.org/construction.html*

[18] *"San Francisco Clean Construction Ordinance Implementation Guide for San Francisco Public Projects." August 2015, available at: https://www.sfdph.org/dph/files/EHSdocs/AirQuality/San_Francisco_Clean_Construction_Ordinance_2015.pdf, p.6*

Response to Comment No. 12-50

The comment incorrectly maintains that the Draft EIR assumed that all off-road construction equipment would meet Tier 4 Final engine standards, and that a mitigation measure requiring use of such equipment must be included in the Draft EIR to account for this reduction in construction emissions. Table 4.C-6 (Estimated Daily Construction Emissions) in Section 4.C, Air Quality, of the Draft EIR clearly shows that both regional and localized unmitigated construction emissions would be below the SCAQMD significance

thresholds. The CalEEMod output file (6901 Santa Monica Future) provided in Appendix D of the Draft EIR provided unmitigated construction emissions consistent with data provided in Table 4.C-6 of the Draft EIR. While it is acknowledged that the modeling file also included a mitigated condition that assumed Tier 4 equipment, use of the mitigated condition was in no way used for determining impact significance.

As discussed in Response to Comment No. 12-48, a refined air quality analysis using CalEEMod Version 2016.3.1 was conducted for the Project and is provided in Appendix D-1 of this Final EIR. As shown in Appendix D-1 of this Final EIR, potential regional construction impacts remain below the SCAQMD regional construction thresholds or 78 percent below the ROG threshold, 5 percent below the NO_X threshold, 92 percent below the CO threshold, 99 percent below the SO_X threshold, and 95 percent below the PM_{10} and $PM_{2.5}$ thresholds. Potential localized construction impacts also remain below the SCAQMD localized construction thresholds or 28 percent below the NO_X threshold, 97 percent below the CO threshold, 67 percent below the PM_{10} threshold, and 49 percent below the $PM_{2.5}$ threshold. Therefore, consistent with the conclusion in the Draft EIR, mitigation measures would not be required.

Comment No. 12-51

Use of Incorrect Number of Daily Vehicle Trips

A comparison of the Project's CalEEMod output files and the DEIR's Traffic Report (Appendix I-1) demonstrates that the model underestimated the number of vehicle trips expected to occur during operation of the proposed Project. As a result, emissions from on-road mobile sources during operation are underestimated.

The DEIR's Traffic Report demonstrates that the Project is expected to generate 1,889 trips as a result of the Project's proposed land uses (see excerpt below) (Table 2, Appendix I-1, pp. 24).

Table 2
Estimated Project Traffic Generation

ITE Code	PROJECT TRIPS Description	Size		Daily Traffic	AM Peak Hour In	AM Peak Hour Out	AM Peak Hour Total	PM Peak Hour In	PM Peak Hour Out	PM Peak Hour Total
	Proposed Project									
	Residential									
220	Apartments	231	units	1,536	24	94	118	93	50	143
	Transit/Walk	15%		-230	-4	-14	-18	-14	-7	-21
	Subtotal Apartments			1,306	20	80	100	79	43	122
	Commercial									
932	High Turnover Restaurant	5,000	sf	636	30	24	54	30	19	49
	Transit/Walk	15%		-95	-4	-4	-8	-4	-3	-7
	Internal	5%		-27	-1	-1	-2	-1	-1	-2
	Pass-By	20%		-103	-5	-4	-9	-5	-3	-8
	Subtotal HTO Restraurant			411	19	16	35	20	12	32
820	Retail	10,000	sf	427	6	4	10	18	19	37
	Transit/Walk	15%		-64	-1	0	-1	-3	-3	-6
	Internal	5%		-18	0	0	0	-1	-1	-2
	Pass-By	50%		-172	-2	-2	-4	-7	-8	-15
	Subtotal Retail			172	2	2	4	7	8	15
	NEW PROJECT TOTAL			**1,889**	**41**	**98**	**139**	**106**	**63**	**169**

Therefore, to remain consistent with the daily trip values provided in the Traffic Report, the CalEEMod model should have assumed a daily vehicle trip rate of 1,889 trips per day. Review of the DEIR's CalEEMod model, however, demonstrates that the model assumes a daily vehicle trip rate of 1,827 trips, not 1,889 trips, thus underestimating the number of daily trips by approximately 62 trips per day, or by approximately 22,630 vehicle trips per year (see excerpt below) (Appendix D, pp. 35, pp. 67, Appendix I-1, pp. 24).

4.2 Trip Summary Information

Land Use	Average Daily Trip Rate Weekday	Saturday	Sunday	Unmitigated Annual VMT	Mitigated Annual VMT
Apartments Mid Rise	1,243.00	1,243.00	1243.00	4,247,520	4,247,520
High Turnover (Sit Down Restaurant)	411.95	411.95	411.95	561,418	561,418
Strip Mall	172.10	172.10	172.10	327,437	327,437
Total	1,827.05	1,827.05	1,827.05	5,136,375	5,136,375

By underestimating the total number of vehicle trips expected to occur during Project operation, the DEIR underestimates the Project's operational emissions. According to Appendix A of the CalEEMod User's Guide, CalEEMod uses the average daily trip rate when estimating a proposed project's annual air pollutant emissions.[19] Therefore, if the DEIR underestimates the number of daily vehicle trips expected to occur throughout operation, then the proposed Project's operational mobile-source emissions are also underestimated. As a result, we find the DEIR's air pollution model to be unreliable and should not be relied upon to determine Project significance.

[19] *"CalEEMod User's Guide Appendix A: Calculation Details for CalEEMod." CAPCOA, September 2016, available at: http://www.aqmd.gov/docs/default-source/caleemod/upgrades/2016.3/02_appendix-a2016-3-1.pdf?sfvrsn=2, p. 19*

Response to Comment No. 12-51

The comment correctly states that the CalEEMod output file (6901 Santa Monica Future) provided in Appendix D of the Draft EIR evaluated 1,827 Project-related daily trips versus the Draft EIR's Traffic Report (Appendix L-1), which evaluated 1,889 Project-related daily trips. This difference is attributable to the air quality analysis applying the same internal trip-reduction credit of 5 percent to the proposed apartments as applied to the commercial uses. The refined CalEEMod modeling provided in Appendix D-1 of this Final EIR has been updated to be consistent with the Project-generated daily trip generation rates provided in the Traffic Report. As shown in Appendix D-1 of this Final EIR, operation air quality impacts would remain less than significant. Potential regional operational impacts remain below the SCAQMD regional operational thresholds or 85 percent below the ROG threshold, 64 percent below the NO_X threshold, 88 percent below the CO threshold, 99 percent below the SO_X threshold, and 94 percent below the PM_{10} and $PM_{2.5}$ thresholds.

Comment No. 12-52

Use of Incorrect Trip Purpose Percentage

Review of the Project's CalEEMod output files demonstrates that the model also double counts the number of pass-by trips expected to occur throughout Project operation. As a result, the Project's operational emissions are underestimated even further.

CalEEMod separates the operational trip purposes into three categories: primary, diverted, and pass-by trips. According to Appendix A of the CalEEMod User's Guide, the primary trips utilize the complete trip lengths associated with each trip type category. Diverted trips are assumed to take a slightly different pass than a primary trip and are assumed to be 25% of the primary trip lengths. Pass-by trips are assumed to be 0.1 miles in length and are a result of no diversion from the primary route.[20] Review of the Project's CalEEMod output files demonstrates that the trip purpose percentage was divided amongst primary, diverted, and pass-by trip types for the Project's proposed retail and restaurant land uses (see excerpt below) (Appendix D, pp. 35, pp. 67).

4.3 Trip Type Information

	Miles			Trip %			Trip Purpose %		
Land Use	H-W or C-W	H-S or C-C	H-O or C-NW	H-W or C-W	H-S or C-C	H-O or C-NW	Primary	Diverted	Pass-by
Apartments Mid Rise	14.70	5.90	8.70	40.20	19.20	40.60	86	11	3
High Turnover (Sit Down Restaurant)	16.60	8.40	6.90	8.50	72.50	19.00	37	20	43
Strip Mall	16.60	8.40	6.90	16.60	64.40	19.00	45	40	15

However, as demonstrated in the DEIR's Traffic Report, pass-by trips for both land uses were already accounted for in the Traffic Report's Project Traffic Generation calculations (see excerpt below) (Table 2, Appendix I-1, pp. 24).

Table 2
Estimated Project Traffic Generation

ITE	PROJECT TRIPS			Daily	AM Peak Hour			PM Peak Hour		
Code	Description	Size		Traffic	In	Out	Total	In	Out	Total
	Proposed Project									
	Residential									
220	Apartments	231	units	1,536	24	94	118	93	50	143
	Transit/Walk	15%		-230	-4	-14	-18	-14	-7	-21
	Subtotal Apartments			1,306	20	80	100	79	43	122
	Commercial									
932	High Turnover Restaurant	5,000	sf	636	30	24	54	30	19	49
	Transit/Walk	15%		-95	-4	-4	-8	-4	-3	-7
	Internal	5%		-27	-1	-1	-2	-1	-1	-2
	Pass-By	20%		-103	-5	-4	-9	-5	-3	-8
	Subtotal HTO Restraurant			411	19	16	35	20	12	32
820	Retail	10,000	sf	427	6	4	10	18	19	37
	Transit/Walk	15%		-64	-1	0	-1	-3	-3	-6
	Internal	5%		-18	0	0	0	-1	-1	-2
	Pass-By	50%		-172	-2	-2	-4	-7	-8	-15
	Subtotal Retail			172	2	2	4	7	8	15
	NEW PROJECT TOTAL			**1,889**	**41**	**98**	**139**	**106**	**63**	**169**

Therefore, the CalEEMod model should have divided the trip purpose between primary and diverted trips for the retail and restaurant land uses, as pass-by trips are already accounted for in the 1,889-daily trip total. By spreading the trip purpose percentages amongst the three categories, the model is accounting for pass-by trips that have already been accounted for in the DEIR's Traffic Report. Because the proposed Project's CalEEMod model incorrectly allocates the Project's operational trips to the various categories of trip purposes, the emissions associated with these trips are underestimated, and as a result, the Project's operational emissions are underestimated. An updated CalEEMod model must be prepared in an updated DEIR in order to accurately estimate the Project's operational emissions.

[20] *"CalEEMod User's Guide, Appendix A: Calculation Details for CalEEMod." SCAQMD, available at: http://www.aqmd.gov/docs/default-source/caleemod/caleemod-appendixa.pdf?sfvrsn=2, p. 20*

Response to Comment No. 12-52

In response to this comment, the refined CalEEMod modeling provided in Appendix D-1 of this Final EIR has been updated to be consistent with the Project-generated daily trip-generation rates, less transit/walk and internal trip reductions provided in Appendix I-1 (Traffic Report) of the Draft EIR. The refined modeling incorporates the CalEEMod default trip purpose percentages for primary, diverted, and pass-by trips and avoids double counting of pass-by trips accounted for in the Traffic Report. As shown, in Appendix D-1 of this Final EIR, operational air quality impacts would remain less than significant.

Comment No. 12-53

Updated Analysis Indicates Significant Pollutant Emissions

In an effort to accurately determine the Project's construction and operational emissions, we prepared an updated CalEEMod model that includes more site-specific information and corrected input parameters. In the updated model, we inputted a total of 390 parking spaces to reflect the proposed parking land uses, and adjusted the number of daily vehicle trips to 1,889 trips per day, consistent with information disclosed in the DEIR and Traffic Report. Additionally, since the 1,889-daily trip value provided by the Traffic Report already accounts for pass-by trips for the retail and restaurant land uses, we set the pass-by percentages for these land uses within the model to zero, and added the percentage of pass-by trips to the primary trip category for the Project's proposed restaurant and retail land uses. Finally, we also assumed that Tier 4 Final equipment would not be used during Project construction, as nothing in the DEIR indicates that the use of these cleaner burning equipment will actually occur once the Project is approved.

When correct, site-specific input parameters are used to model emissions, we find that the Project's construction-related criteria air pollutant emissions increase significantly when compared to the DEIR's model. Furthermore, we find that the Project's construction-related NO_X emissions exceed the 100 pounds per day threshold set forth by the South Coast Air Quality Management District (SCAQMD) (see table below).

Maximum Daily Construction Emissions (lbs/day)				
Model	**VOC**	**NO_x**	**PM10**	**PM2.5**
DEIR	7.0	98.0	8.0	4.0
SWAPE	11.9	116.6	15.4	8.1
Percent Increase	**70%**	**19%**	**93%**	**103%**
SCAQMD Regional Threshold (lbs/day)	**75**	**100**	**150**	**55**
Threshold Exceeded?	*No*	***Yes***	*No*	*No*

When correct input parameters are used to model the Project's construction emissions, VOC emissions increase by approximately 70%, NO_X emissions increase by approximately 19% and exceed the SCAQMD's established threshold, PM_{10} emissions increase by approximately 93%, and PM2.5 emissions increase by approximately 103%.

Additionally, we find that, when modeled correctly, the Project's operational-related NO_X emissions increase significantly when compared to the DEIR's model. Our updated model demonstrates that operational-related NO_X emissions would significantly increase and result in a more severe impact than what was previously identified in the DEIR, which is something that needs to be considered (see table below).

Maximum Daily Operational Emissions (lbs/day)	
Model	**NO_x**
DEIR	15.0
SWAPE	24.6
Percent Increase	**64%**

As you can see in the table above, when the Project's operational emissions are estimated using correct input parameters, the Project's operational NO_X emissions increase by approximately 64% when compared to the DEIR's operational emissions estimate.

Our updated model demonstrates that when the Project's construction and operational emissions are estimated correctly, the Project would result in a significant and more severe impact than what was identified in the DEIR. As a result, an updated DEIR should be prepared that includes an updated model to adequately estimate the Project's construction and operational emissions, and additional mitigation measures should be identified and incorporated to reduce these emissions to a less-than-significant level.[21]

[21] *See mitigation measures listed in section titled "Additional Mitigation Measures Available to Reduce Construction Emissions" on p. 16 of this comment letter. These measures would effectively reduce construction-related NO_X emissions as well as emissions of DPM.*

Response to Comment No. 12-53

The commenter maintains that the CalEEMod modeling conducted by SWAPE shows that the Project construction will generate regional NO_X emissions in excess of the significance threshold. However, as detailed below, the provided construction analysis is flawed for the following reasons: (1) the analysis assumes substantial overlap between phases of construction when, in fact, such overlap is infeasible; and (2) the off-road equipment mix provided for grading phase is not realistic for excavation of a subterranean parking and building foundation on the Project Site.

The SWAPE CalEEMod output file shows that building construction, paving operations, and application of architectural coatings would all occur within the same 304-day time period. Therefore, assuming the equipment for these three very distinct construction time periods would all operate at the same time greatly overestimates potential air quality impacts. The SWAPE CalEEMod output file also shows that the off-road equipment mix was assumed to include two motor graders, two rubber tire dozers, and two backhoes for the grading/excavation phase. Use of this type of equipment would be more specific to a project site that has some modest changes in topography, where soil would be moved around the site and leveled (e.g., finely graded by a motor grader) for a slab foundation. As discussed in the Project Description of the Draft EIR, approximately 78,000 cubic yards would be required to be excavated for 309 subterranean parking spaces at an approximate depth of 30 feet. Therefore, a Project-specific equipment mix was analyzed in the refined CalEEMod modeling provided in Appendix D-1 of this Final EIR. Excavation of this depth requires an excavator and shoring equipment to shore the sides of the hole. Equipment required would comprise an excavator, loader, bore/drill rig, and limited use of a forklift and welder.

The comment also makes a misleading comparison between the purported increase in emissions under the SWAPE modeling (e.g., PM_{10} emissions increased by 93 percent) and the results in the Draft EIR. In addition, SWAPE reported "substantially increase[d]," PM_{10} emissions of 15.4 pounds per day, which, in fact, would only represent one-tenth of the SCAQMD regional significance threshold. As discussed in Response to Comment No. 12-48 above, refined CalEEMod modeling provided in Appendix D-1 of this Final EIR demonstrates that construction air quality impacts related to the Project are less than significant, and no mitigation measures are required.

From an operational standpoint, the SWAPE provided CalEEMod modeling shows that regional operational NO_X emissions would increase from 15.6 pounds per day (Draft EIR) to 24.6 pounds per day (SWAPE). Based on the refined CalEEMod modeling provided in Appendix D-1 of this Final EIR, regional NO_X emissions would only increase to 20 pounds per day and would still be well below (64 percent) the 55-pound-per-day

SCAQMD significance threshold. Once again, the comment is not accurate to state that "operational-related NO_X emissions would significantly increase and result in a more severe impact than what was previously identified in the DEIR," given that potential regional NO_X operational emissions would remain 64 percent below the SCAQMD regional significance threshold. Contrary to what is stated in this comment, mitigation measures are not warranted for less-than-significant air quality impacts.

Comment No. 12-54

Failure to Consider Impacts from Other Projects Within the Area

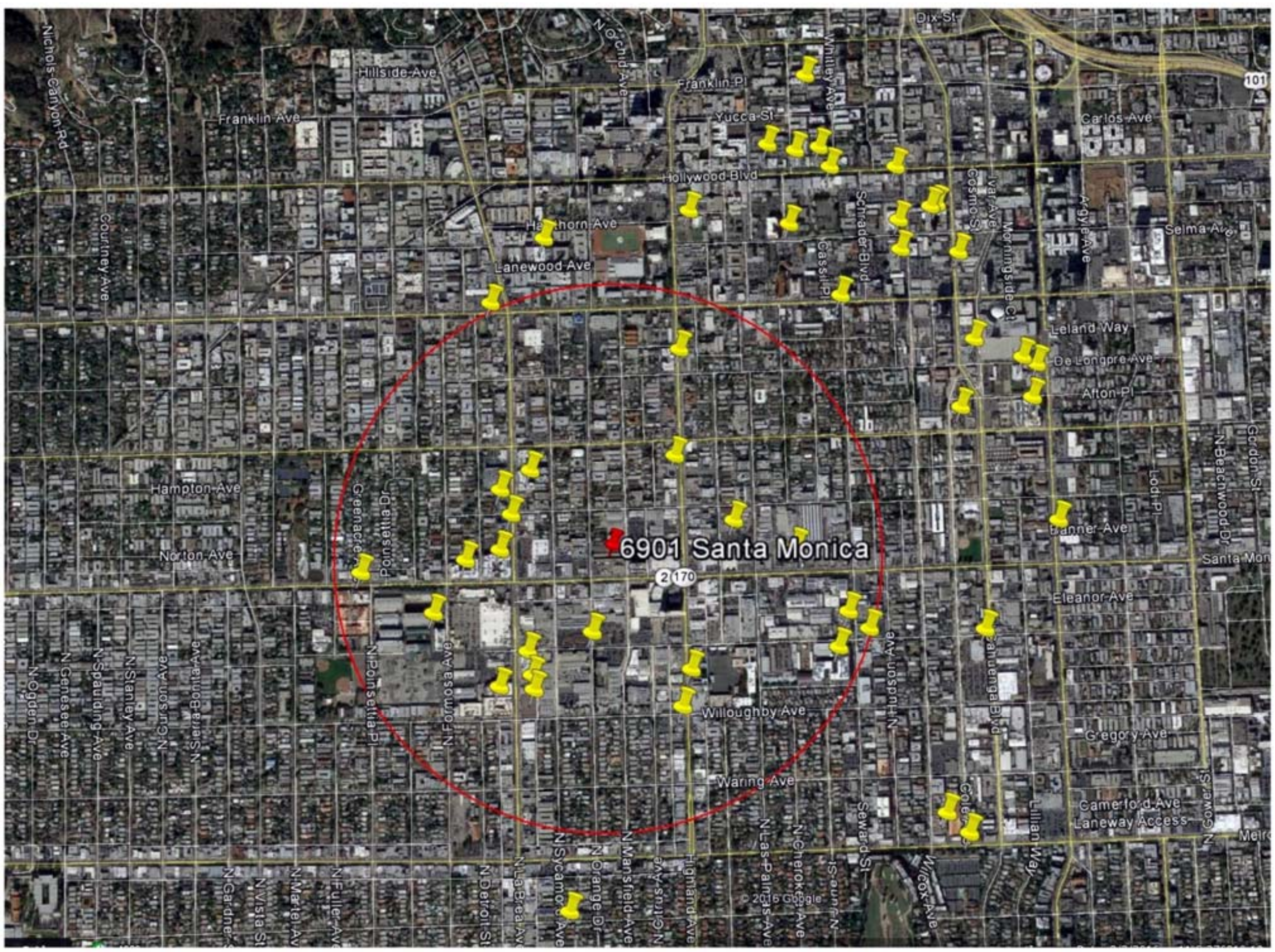
The DEIR fails to account for impacts from other development projects within the area. As a result, the Project's incremental increase in criteria air pollutant emissions within the area, as well as its cumulative air quality impact, are misrepresented.

The DEIR identifies a total of 118 related projects within the affected Project area that are or will become operational (and thus will produce pollutant emissions) around the same time as the proposed Project (Table 3-1, pp. 96–101). However, the DEIR fails to actually evaluate the cumulative air quality impacts that the Project, in combination with these 118 related projects, would result in. The DEIR attempts to justify this omission of a proper analysis by stating that "individual projects that generate emissions not in excess of SCAQMD's significance thresholds would not contribute considerably to any potential cumulative impact" (p. 4.C-20). Therefore, since the DEIR's air model found the Project's individual construction and operational emissions to be less than significant, the DEIR concludes that the Project's construction and long-term operational emissions would not result in a cumulatively considerable impact (p. 4.C-22). This conclusion, however, as well as the justification provided to support this conclusion, are inadequate, as they do not actually evaluate or quantify the Project's cumulative impacts. According to CEQA Guidelines Section 15355, "'Cumulative impacts'" refers to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts".[22] Therefore, the DEIR's assertion that the Project would not have a cumulatively significant impact on air quality is completely unsubstantiated, as the DEIR fails to consider the combined emissions resulting from the proposed Project and the other proposed Projects within the area. Furthermore, according to Section 15064(h)(1) of the CEQA Guidelines,

> "The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time".[23]

Thus, simply because a Project's individual emissions do not exceed thresholds does not mean that the Project will inherently have a less-than-significant cumulative air quality impact. Simply because the DEIR found the Project's individual emissions to not exceed SCAQMD thresholds does not mean that the Project, in combination with the 118 surrounding projects, will not have a cumulatively considerable impact on both local and regional air quality. As such, the cumulative impact from the 118 identified projects, in conjunction with the proposed Project, should have been evaluated in order to determine the cumulative air quality impact that operation of the Project may have on the surrounding environment.

In an effort to demonstrate the proximity of the 118 cumulative projects within the proposed Project's study area, we mapped all of the projects that are all located within a mile of the proposed Project site. Out of the 118 projects, 47 of them are located within a mile of the Project site, with 22 of them located within a half mile of the Project site (see excerpt below, area within red circle represents a 0.5-mile radius).



As you can see in the figure above, of the 118 projects identified in the DEIR, 47 of them are located within a mile of the Project site, 22 of which are located within a half-mile of the proposed Project site. Despite the large number of projects located within close proximity to the Project site, the DEIR still fails to properly evaluate the cumulative air quality impact that the combined emissions from these projects could have in relation to the Project. As a result, we find the DEIR's cumulative impact assessment and subsequent significance determination to be inadequate and entirely incorrect, as they are not supported by substantial evidence.

Our simple analysis demonstrates that the DEIR fails to adequately evaluate this potentially significant cumulative impact prior to making a significance determination, and as a result, the Project's air quality impacts are not sufficiently addressed. A correct cumulative air quality assessment should be conducted in a DEIR that properly assesses the potential cumulative impacts that the combination of all these projects poses to the surrounding communities.

[22] *"CEQA Guidelines for Cumulative and Indirect Impacts." California Department of Transportation, March, 2016, available at: http://www.dot.ca.gov/ser/cumulative_guidance/ceqa_guidelines.htm*

[23] *"CEQA Guidelines for Cumulative and Indirect Impacts." California Department of Transportation, March, 2014, available at: http://www.dot.ca.gov/ser/cumulative_guidance/ceqa_guidelines.htm*

Response to Comment No. 12-54

The definition of a cumulative impact is included on pages 3-3 and 3-4 of Section 3, Environmental Setting, of the Draft EIR. The Draft EIR appropriately uses specific analyses for each cumulative analysis impact category. The air quality cumulative impact methodology is explained below. The SCAQMD shares responsibility with CARB for ensuring that all federal and state ambient air quality standards are achieved and maintained throughout all of Orange County and the urban portions of Los Angeles, Riverside, and San Bernardino counties. SCAQMD has developed methodologies and thresholds of significance that are widely used by lead agencies throughout the air basin. As set forth in the *LA CEQA Thresholds Guide,* the City adopted the SCAQMD thresholds to assess the significance of a project's project-specific and cumulative air quality impacts. SCAQMD's White Paper on Potential Control Strategies to Address Cumulative Impacts From Air Pollution prepared in August 2003 specifically states:

> *As Lead Agency, the AQMD uses the same significance thresholds for project specific and cumulative impacts for all environmental topics analyzed in an Environmental Assessment or EIR…. Projects that exceed the project-specific significance thresholds are considered by the SCAQMD to be cumulatively considerable. This is the reason project-specific and cumulative significance thresholds are the same. Conversely, projects that do not exceed*

the project-specific thresholds are generally not considered to be cumulatively significant.[5]

The cumulative analysis of air quality impacts within the Draft EIR appropriately follows SCAQMD's specified methodology. Furthermore, air quality impacts are basin-wide, and air quality is affected by all pollutant sources in the basin. Therefore, the ambient air quality measurements provide a summary of basin-wide cumulative air quality impacts. As the individual project thresholds are designed to help achieve attainment with cumulative basin-wide standards, they are also appropriate for assessing the Project's contribution to cumulative impacts.

Comment No. 12-55

Diesel Particulate Matter Health Risk Emissions Inadequately Evaluated

The DEIR concludes that the proposed Project would not expose sensitive receptors to substantial pollutant concentrations during construction and operation, without ever conducting a quantified health risk assessment (HRA). The DEIR states that because the Project's construction criteria air pollutant emissions would not exceed SCAQMD significance thresholds, "the Project would not expose sensitive receptors to substantial pollutant emissions" and therefore, "Project impacts related to sensitive receptors during construction would be less than significant" (p. 4.C-17). Additionally, in reference to the Project's operational emissions, the DEIR states,

> "TAC emissions are not expected to be significant, as the Project does not include typical sources of acutely and chronically hazardous TACs such as industrial manufacturing processes and automotive repair facilities. In addition, SCAQMD recommends that health risk assessments be conducted for substantial sources of diesel particulate emissions (e.g., truck stops and warehouse distribution facilities) and has provided guidance for analyzing mobile source diesel emissions. The Project would not generate a substantial number of truck trips. Based on the limited activity of TAC sources, the Project would not warrant the need for a health risk assessment associated with on-site activities, and any minimal TAC impacts would be less than significant" (p. 4.C-20).

[5] *White Paper on Potential Control Strategies to Address Cumulative Impacts from Air Pollution. Appendix D, South Coast Air Quality Management District, August 2003.*

This justification for failing to conduct a quantified construction and operational HRA, however, is incorrect for several reasons.

First, just because the Project does not propose "industrial manufacturing" or "automotive repair" land uses does not mean that an HRA for the proposed Project is not needed. While the SCAQMD did recommend performing a mobile source health risk assessment from mobile sources at truck stop or warehouse distribution facilities, the SCAQMD did not restrict the preparation of an HRA to just industrial projects. According to the SCAQMD's Mobile Source Toxics Analysis page on AQMD's website (emphasis added),

> "In August 2002, the SCAQMD's Mobile Source Committee approved the 'Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Emissions.' This document provided guidance for analyzing cancer risks from diesel particulate matter from mobile sources at facilities such as truck stops and warehouse distribution centers. Subsequently, SCAQMD staff revised the aforementioned document to expand the analysis to provide technical guidance for analyzing cancer risks from potential diesel particulate emissions impacts from truck idling and movement (such as, but not limited to, truck stops, warehouse and distribution centers, or transit centers), ship hotelling at ports, and train idling. This revised guidance document titled, 'Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis' was presented to and approved by the SCAQMD's Mobile Source Committee at its March 28, 2003 committee meeting. <u>It is suggested that projects with diesel powered mobile sources use the following guidance document to quantify potential cancer risks from the diesel particulate emission</u>".[24]

As you can see in the excerpt above, the SCAQMD explicitly states that in the event that the proposed Project generates or attracts vehicular trips, a mobile source health risk assessment must be prepared. The SCAQMD does not state that the preparation of an HRA should be restricted to industrial projects or land uses, nor does it state that residential and commercial projects are exempt from this recommendation. Rather, all the SCAQMD states is that "it is suggested that projects with diesel powered mobile sources use the following guidance document ('Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis') to quantify potential cancer risks from the diesel particulate emission."[25] Seeing as Project construction is expected to occur over an 18-month period (p. 4.C-16), it is reasonable to assume that a significant amount of diesel particulate matter (DPM), a known human carcinogen, will be emitted from the exhaust stacks of construction equipment the Project proposes to use (Appendix D, pp. 21, pp. 46). Additionally, as stated in the DEIR, the

Project will generate approximately 1,889 vehicle trips a day during operation, all of which would emit substantial amounts of DPM during operation, potentially exposing nearby sensitive receptors to substantial air pollutants (Appendix I-1, pp. 24). As such, the DEIR should have conducted a construction and operational HRA, as long term exposure to DPM and other toxic air contaminants (TACs) may result in a significant health risk impact.

[24] *"Mobile Source Toxics Analysis." SCAQMD, available at: http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook/mobile-source-toxics-analysis*

[25] *"Mobile Source Toxics Analysis," SCAQMD, available at: http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook/mobile-source-toxics-analysis*

Response to Comment No. 12-55

The commenter's assertion that SCAQMD's "Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Emissions" and "Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis" recommend that projects that generate vehicular trips must conduct an HRA is incorrect. These two HRA guidance documents are primarily applicable to substantial operational sources of DPM emissions. The examples provided in this comment referenced from these two guidance documents include substantial sources of diesel emissions, such as truck stops, warehouse and distribution centers, or transit centers, ship hoteling at ports, and train idling. These examples are all long-term operational sources and not related to construction activities or typical residential and commercial activities. The commenter has misconstrued the recommend guidance from the SCAQMD. The commenter is referred to the following more recent SCAQMD guidance that provides clarification as to when an HRA may be warranted.

The SCAQMD published and adopted the *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*, which provides recommendations regarding the siting of new sensitive land uses near potential sources of air toxic emissions (e.g., freeways, distribution centers, rail yards, ports, refineries, chrome plating facilities, dry cleaners, and gasoline dispensing facilities).[6] The SCAQMD recommends that HRAs be conducted for substantial sources of DPM (e.g., truck stops and warehouse distribution facilities that generate more than 100 trucks per day or more than 40 trucks with operating transport refrigeration units). Based on this guidance, there was no quantitative analysis required for future cancer risk within the Project Area as the Project is consistent with the recommendations regarding the siting of new sensitive land uses near potential sources of TAC emissions provided in the SCAQMD Guidance Document. Specifically, the Project is

[6] *SCAQMD, Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning, May 6, 2005.*

not considered to be a substantial source of diesel particulate matter warranting a refined HRA since daily truck trips to the Project Site would not exceed 100 trucks per day or more than 40 trucks with operating transport refrigeration units.

The SCAQMD as a Responsible Commenting Agency, provided the following comment on January 4, 2017, regarding the proposed Green Line Mixed Use Specific Plan (www.aqmd.gov/docs/default-source/ceqa/comment-letters/2017/deirgreenline010417.pdf?sfvrsn=5), which further supports that only substantial operational diesel truck activity warrants further evaluation in an HRA:

> *If the proposed project will expose future sensitive receptors to potential adverse health impacts from carcinogenic emissions generated by the SCAQMD permitted stationary sources and from the nearby rail and truck operations, SCAQMD staff recommends that a health risk assessment (HRA) be conducted. The HRA should include the SCAQMD permitted sources (i.e., the gasoline storage and dispensing equipment, the auto-body shop spray booths) emitting toxic air contaminants (TACs) within one quarter mile of the project site. The HRA should also include all warehouse sites within 1,000 feet that include truck activity that exceeds 100 trucks per day, or where more than 40 trucks with operating transport refrigeration units (TRUs) per day, or where TRU units exceed 300 hours per week.*

No additional analysis of operational health risk impacts is warranted based on this comment.

In addition, the City of Los Angeles provides the following guidance pertaining to potential air quality impacts associated with toxic air contaminants. In the context of the questions from Appendix G of the CEQA Guidelines, the *L.A. City CEQA Thresholds Guide* sets forth the following factors for consideration on a case-by-case basis in making a determination of significance:

- The regulatory framework for the toxic material(s) and process(es) involved;
- The proximity of the toxic air contaminants to sensitive receptors;
- The quantity, volume, and toxicity of the contaminants expected to be emitted;
- The likelihood and potential level of exposure; and
- The degree to which project design will reduce the risk of exposure.

The SCAQMD Handbook also does not recommend analysis of TACs from short-term construction activities. The rationale for not requiring a health risk assessment for construction activities is the limited duration of exposure. According to SCAQMD methodology, health effects from carcinogenic air toxics are usually described in terms of individual cancer risk. Specifically, "Individual Cancer Risk" is the likelihood that a person continuously exposed to concentrations of TACs over a 70-year lifetime will contract cancer based on the use of standard risk assessment methodology. Given the short-term construction schedule of approximately 18 months, the Project would not result in a long-term (i.e., 70-year) source of TAC emissions. No residual emissions and corresponding individual cancer risk are anticipated after construction. Because there is such a short-term exposure period (18 out of 840 months of a 70-year lifetime), further evaluation of construction TAC emissions within the Draft EIR was not warranted. This supporting information is used consistent with *L.A. City CEQA Thresholds Guide* in determining on a case-by-case basis a conclusion of level of less than significance.

Although there is no requirement or guidance for preparing a construction HRA by the AQMD or the *L.A. City CEQA Thresholds Guide*, an HRA has been prepared in response to this comment to demonstrate that no significant health risk impacts would occur from construction of the Project. The HRA is provided in Appendix D-2 of this Final EIR. Please refer to Response to Comment No. 12-56 regarding the methodology (e.g., guidance and significance thresholds) used in the HRA The HRA demonstrates that health risks from the Project would be a maximum of 3.0 in one million for adjacent residences north of the Project site, which is below the applicable significance threshold of 10 in one million. It is noted that this risk assumes an outdoor exposure for the entire length of construction and does not account for any reductions from the time spent indoors where air quality tends to be better. Thus, the analysis is conservative. No additional analysis or mitigation measures are necessary based on this comment.

Comment No. 12-56

Second, the omission of a quantified health risk is inconsistent with the most recent guidance published by Office of Environmental Health Hazard Assessment (OEHHA), the organization responsible for providing recommendations and guidance on how to conduct health risk assessments in California. In February of 2015, OEHHA released its most recent Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments, which was formally adopted in March of 2015.[26] This guidance document describes the types of projects that warrant the preparation of a health risk assessment. As previously stated, grading and construction activities for the proposed Project will produce emissions of DPM through the exhaust stacks of construction equipment over an approximate 18-month period (DEIR, p. 4.C-16). The OEHHA document recommends that all short-term projects lasting at least two months be evaluated for cancer risks to nearby sensitive receptors.[27] Once construction is complete, Project operation will generate truck

trips, which will generate additional exhaust emissions, thus continuing to expose nearby sensitive receptors to DPM emissions. The OEHHA document recommends that exposure from projects lasting more than 6 months should be evaluated for the duration of the project, and recommends that an exposure duration of 30 years be used to estimate individual cancer risk for the maximally exposed individual resident (MEIR).[28] Even though we were not provided with the expected lifetime of the Project, we can reasonably assume that the Project will operate for at least 30 years, if not more. Therefore, per OEHHA guidelines, health risk impacts from Project construction and operation should have been evaluated by the DEIR. These recommendations reflect the most recent health risk assessment policy, and as such, an assessment of health risks to nearby sensitive receptors from construction and operation should be included in a revised CEQA evaluation for the Project.

[26] *"Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: http://oehha.ca.gov/air/hot_spots/hotspots2015.html*

[27] *"Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: http://oehha.ca.gov/air/hot_spots/2015/2015GuidanceManual.pdf, p. 8-18*

[28] *"Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: http://oehha.ca.gov/air/hot_spots/2015/2015GuidanceManual.pdf, p. 8-6, 8-15*

Response to Comment No. 12-56

The comment correctly identifies that the Office of Environmental Health Hazard Assessment (OEHHA) adopted a new version of the Air Toxics Hot Spots Program Guidance Manual for the Preparation of Risk Assessments (Guidance Manual) in March of 2015.[7] The Guidance Manual was developed by OEHHA, in conjunction with CARB, for use in implementing the Air Toxics "Hot Spots" Program (Health and Safety Code Section 44360 et. seq.). The Air Toxics "Hot Spots" Program requires stationary sources to report the types and quantities of certain substances routinely released into the air. The goals of the Air Toxics "Hot Spots" Act are to collect emission data, to identify facilities having localized impacts, to ascertain health risks, to notify nearby residents of significant risks, and to reduce those significant risks to acceptable levels.

The new Guidance Manual provides recommendations related to cancer risk evaluation of certain short-term projects. As discussed in Section 8.2.10 of the Guidance Manual, "The local air pollution control districts sometimes use the risk assessment guidelines for the Hot Spots program in permitting decisions for short-term projects such as construction or waste site remediation." Short-term projects that would require a permitting

[7] *See www.oehha.ca.gov/air/hot_spots/hotspots2015.html.*

decision by South Coast Air Quality Management District (SCAQMD) typically would be limited to site remediation (e.g., stationary soil vapor extractors) and would not be applicable to the proposed project. The new Guidance Manual does not provide specific recommendations for evaluation of short-term use of mobile sources (e.g., heavy-duty diesel construction equipment).

On behalf of the City, Eyestone Environmental, LLC (Eyestone) coordinated with the SCAQMD to determine whether the SCAQMD had any available guidance on use of the new Guidance Manual. According to Jillian Wong, Ph.D., SCAQMD CEQA Program Supervisor, SCAQMD is currently evaluating the new Guidance Manual, and they have not developed any recommendations on its use for CEQA analyses for potential construction impacts.[8] Therefore, use of the *L.A. City CEQA Thresholds Guide* for determining impacts related to potential construction TAC impacts was appropriate based on a case-by-case basis, considering the following factors: (1) the regulatory framework for the toxic material and process involved; (2) the proximity of the toxic air contaminants to sensitive receptors; (3) the quantity, volume and toxicity of the contaminants expected to be emitted; (4) the likelihood and potential level of exposure; and (5) the degree to which project design will reduce the risk of exposure. Based on a review of these factors, a detailed HRA was not warranted for the Project.

As discussed in Response to Comment No. 12-55, the SCAQMD published and adopted *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning* recommends that HRAs be conducted for substantial sources of DPM (e.g., truck stops and warehouse distribution facilities that generate more than 100 trucks per day or more than 40 trucks with operating transport refrigeration units). SCAQMD does not recommend analysis of TACs from short-term construction activities. Based on this guidance, there was no quantitative analysis required for future cancer risk within the Project Area as the Project is consistent with the recommendations regarding the siting of new sensitive land uses near potential sources of TAC emissions provided in the SCAQMD Guidance Document. Specifically, the Project is not considered to be a substantial source of diesel particulate matter warranting a refined HRA since daily truck trips to the Project Site would not exceed 100 trucks per day or more than 40 trucks with operating transport refrigeration units. No additional analysis of operational health risk impacts is warranted based on this comment.

[8] *Jillian Wong, Ph.D., SCAQMD CEQA Program Supervisor, Personal Communication via email, June 17, 2015 and March 16, 2016 (included in Appendix FEIR-D-1).*

Comment No. 12-57

In an effort to demonstrate the potential risk posed by Project construction and operation to nearby sensitive receptors, we prepared a simple screening-level health risk assessment. The results of our assessment, as described below, provide substantial evidence that the Project's construction and operational DPM emissions may result in a potentially significant health risk impact that was not previously identified.

As of 2011, the Environmental Protection Agency (EPA) recommends AERSCREEN as the leading air dispersion model, due to improvements in simulating local meteorological conditions based on simple input parameters.[29] The model replaced SCREEN3, and AERSCREEN is included in the OEHHA[30] and the California Air Pollution Control Officers Associated (CAPCOA)[31] guidance as the appropriate air dispersion model for Level 2 health risk screening assessments ("HRSAs"). A Level 2 HRSA utilizes a limited amount of site-specific information to generate maximum reasonable downwind concentrations of air contaminants to which nearby sensitive receptors may be exposed. If an unacceptable air quality hazard is determined to be possible using AERSCREEN, a more refined modeling approach is required prior to approval of the Project.

[29] *"AERSCREEN Released as the EPA Recommended Screening Model," USEPA, April 11, 2011, available at: http://www.epa.gov/ttn/scram/guidance/clarification/20110411_AERSCREEN_Release_Memo.pdf*

[30] *"Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: http://oehha.ca.gov/air/hot_spots/2015/2015GuidanceManual.pdf*

[31] *"Health Risk Assessments for Proposed Land Use Projects," CAPCOA, July 2009, available at: http:// www.capcoa.org/wp-content/uploads/2012/03/CAPCOA_HRA_LU_Guidelines_8-6-09.pdf*

Response to Comment No. 12-57

This comment summarizes the findings of a screening level analysis prepared by SWAPE. Specific comments regarding this screening level analysis are provided below. The SWAPE analysis and related technical appendices were carefully reviewed for purposes of considering the potential of the Project to result in health risk impacts. Based on this evaluation, multiple methodological flaws were identified that substantially undermine the accuracy of the SWAPE results as compared with the much more refined, site-specific analysis that is included in Appendix D-2 of this Final EIR. The most important of these issues are detailed here and then discussed as needed in other specific responses to comments.

A key limitation with the SWAPE analysis is that it relied on a "screening level" model to evaluate health risks. A screening level analysis can be appropriate to assess whether more detailed, refined modeling assessment is needed. Screening models typically rely on rough, very conservative assumptions to check if a project *could* cause a

significant health impact. If, based on the screening, there is no potential for a significant impact, then no additional analysis is required. In this way, screening models can help save time and money by eliminating the need for some projects to complete more expensive, time-consuming dispersion modeling.

This use of screening models is consistent with industry standard and agency guidance. As recommended by the Office of Environmental Health Hazard Assessment (OEHHA), page 4-25 of *The Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments* states "Screening models are normally used when no representative meteorological data are available and may be used as a preliminary estimate to determine if a more detailed assessment is warranted."[9]

As noted above, screening level results that show a potential significant impact are only relevant to the extent that to demonstrate that SWAPE should have then conducted additional analysis using a refined model, which, notably, is exactly what is provided in Appendix D-2 of this Final EIR. As discussed therein, health risks were analyzed consistent with SCAQMD methodology and used AERMOD to complete refined dispersion modeling. AERMOD accounts for a variety of refined, site-specific conditions that facilitate a more accurate assessment of Project impacts compared to the less refined AERSCREEN screening model used in the SWAPE analysis. The most important differences between AERSCREEN and AERMOD are the following:

- Meteorological Data—The AERSCREEN model uses user-defined conditions, which assume worst-case meteorological conditions occurring 24 hours per day, 365 days per for the entire construction duration along with the maximum daily emissions occurring each of those days. The HRA provided Appendix A instead used AERMOD which allows for SCAQMD representative meteorological data (Downtown Los Angeles) to be used in calculation of annual concentrations. This SCAQMD meteorological data provides hourly conditions (e.g., wind speed, wind direction, and stability class) over a five-year period (43,800 hours). With these conditions, the AERMOD model is more representative of likely Project impacts compared to the AERSCREEN model.

- Site-Specific Conditions—AERMOD allows for analysis of multiple volume sources and to account for complex terrain in the area (elevation) which is required to adequately represent Project construction. The use of a single rectangular source with a release height of 3 meters to represent construction and operational activities provided in the SWAPE analysis does not adequately

[9] *California Environmental Protection Agency. Air Toxics Hot Spots Program Risk Assessment Guidelines, The Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments. Available at www.oehha.ca.gov/air/hot_spots/pdf/HRAfinalnoapp.pdf, accessed August 2014.*

represent the Project site, does not account for complex terrain conditions, and likely overstates emissions because of the plume interaction with terrain. In addition, a volume source and not an area source is the type of source recommended by the SCAQMD for modeling construction equipment and diesel truck exhaust emissions (SCAQMD LST Guidelines). In addition, the SCAQMD LST Guidelines recommend a 5-meter release height instead of 3 meters, which would also overestimate potential concentrations. By accounting for the complex terrain around the Project site, the AERMOD model is more representative of likely Project impacts compared to the AERSCREEN model.

- Source-to-Receptor Distance—The SWAPE analysis used a 1-meter source-to-receptor distance, which is well outside of requirements under the SCAQMD Localized Significance Thresholds (LST) Guidelines. As stated on page 3-3 of the SCAQMD LST Guidelines, "[T]he closest receptor distance on the mass rate LST lookup tables is 25 meters. It is possible that a project may have receptors closer than 25 meters. Projects with boundaries located closer than 25 meters to the nearest receptor should use the LSTs for receptors located at 25 meters." Use of very short distances similar to what was done in the SWAPE analysis are beyond the capabilities of AERMOD and result in extremely inaccurate results. Furthermore, it should be recognized that use of 25 meters still would not be correct if an operational HRA were to be conducted. Delivery trucks accessing the site would enter and exit from Orange Drive and Mansfield Avenue, and loading/unloading activities would occur within the retail parking area. The closest point to residential uses from this area would be 55 meters. As a result, any findings from the SWAPE analyses based on a 1-meter source-to-receptor distance are substantially overstated.

Consequently, the coarser AERSCREEN evaluation provides a much less accurate assessment of Project health risks compared to the refined AERMOD evaluation. Moreover, as discussed in the specific comments below, the SWAPE screening level analysis was not performed in accordance with requirements included in SCAQMD's LST methodology and OEHHA's guidance. The analysis also did not account for the following: (1) site-specific conditions; (2) use of a refined dispersion model; (3) use of SCAQMD mandated meteorological data from the closest/most representative meteorological monitoring site within the Project area; and (4) incorrect source-to-receptor distance. If the SWAPE analysis accounted for the guidance and data discussed above, then the results would have been substantially less.

Accordingly, potential health risk impacts from the Project to nearby sensitive uses (e.g., adjacent and nearby residences) as the result of proposed construction activities are more accurately identified by the AERMOD evaluation included in Appendix D-2 of this Final EIR. As demonstrated by the analysis therein, the Project would not result in a significant health risk impact during construction. The HRA included in Appendix D-2 of this Final EIR demonstrates that health risks from the Project would be a maximum of

3.0 in one million for adjacent residences north of the Project Site, which is below the applicable significance threshold of 10 in one million. It is noted that this risk assumes an outdoor exposure for the entire length of construction and does not account for any reductions from the time spent indoors, where air quality tends to be better. Thus, this analysis is conservative.

Comment No. 12-58

We prepared a preliminary health risk screening assessment of the Project's construction and operational impact to sensitive receptors using the annual PM_{10} exhaust estimates from our updated SWAPE CalEEMod model. The DEIR states that the closest sensitive receptors to the Project site are located within 7 feet, or approximately 2 meters away (p. 3-2). Consistent with recommendations set forth by OEHHA, we used a residential exposure duration of 30 years, starting from the infantile stage of life. We also assumed that construction and operation of the Project would occur in quick succession, with no gaps between each Project phase. The CalEEMod model's annual emissions indicate that construction activities will generate approximately 494 pounds of DPM over the 549-day construction period. The AERSCREEN model relies on a continuous average emission rate to simulate maximum downward concentrations from point, area, and volume emission sources. To account for the variability in equipment usage and truck trips over Project construction, we calculated an average DPM emission rate by the following equation.

$$Emission\ Rate\ \left(\frac{grams}{second}\right) = \frac{494\ lbs}{549\ days} \times \frac{453.6\ grams}{lb} \times \frac{1\ day}{24\ hours} \times \frac{1\ hour}{3{,}600\ seconds} = \mathbf{0.00473\ g/s}$$

Using this equation, we estimated a construction emission rate of 0.00473 grams per second (g/s). Subtracting the approximately 549-day construction duration from the total residential exposure duration of 30 years, we can reasonably assume that after Project construction, the MEIR would be exposed to the Project's operational DPM emissions for an additional 28.50 years.

The CalEEMod model's annual emissions indicate that operational activities will generate approximately 131 pounds of DPM per year over a 28.50-year operational period. Applying the same equation used to estimate the construction DPM emission rate, we estimated the following emission rate for Project operation.

$$Emission\ Rate\ \left(\frac{grams}{second}\right) = \frac{131\ lbs}{365\ days} \times \frac{453.6\ grams}{lb} \times \frac{1\ day}{24\ hours} \times \frac{1\ hour}{3{,}600\ seconds} = \mathbf{0.00189\ g/s}$$

Using this equation, we estimated an operational emission rate of 0.00189 g/s.

Response to Comment No. 12-58

The SWAPE assessment substantially overestimated potential diesel exhaust emissions from construction of the proposed Project. The analysis states that the CalEEMod model output file provided by SWAPE was used to calculate total PM_{10} exhaust emissions (DPM). However, SWAPE incorrectly used the combination of both on-site and off-site emissions (regional emissions) to represent on-site emissions (localized emissions). This assumption is the equivalent of having all diesel delivery and haul trucks that would actually travel regionally to and from the Project site (up to 20 miles) exclusively on the Project site. In addition, SWAPE assumed that the maximum peak daily emissions from each construction year would occur for the entire construction phase. This assumption grossly overestimates the annual average construction emissions that would occur over the duration of construction. This is the equivalent of assuming a concrete pour day would occur over every day of the building construction or foundation phase instead of the 35 days anticipated. As another example, and discussed in Response to Comment No. 12-53 above, the SWAPE CalEEMod output file shows that building construction, paving operations, and application of architectural coatings would all occur for entire same 304-day time period. Obviously, this overstates the construction emissions, since it is not possible to lay the foundation, build the parking structure, build the superstructure in midair, and somehow also simultaneously paint the building before it has even been constructed. Finally, SWAPE erroneously assumes that peak daily emissions would occur for 549 days, even though the CalEEMod output file provided by SWAPE shows 393 days. These factors contribute to the gross overestimation of predicted heath risk provided by SWAPE's screening-level health risk assessment.

As discussed in Response to Comment No. 12-55 above, an operational health risk assessment was not warranted for the Project. The SWAPE operational HRA is flawed for the following reasons. SWAPE improperly used the combination of both on-site and off-site emissions (regional emissions) to represent on-site emissions (localized emissions). This assumption misrepresents potential impacts as a result of the Project. In addition, the analysis assumed 28.5 years of operation, but held the emission factors constant to the buildout year. Thus, potential impacts would be overstated because it does not represent an average of emissions over the 28.5 years by excluding improvements in the vehicle fleet mix as a result of state mandates over time. As an example, the On-Road Heavy-Duty Diesel Vehicles (In-Use) Regulation requires diesel trucks and buses that operate in California to be upgraded to reduce emissions. Newer heavier trucks and buses must meet PM filter requirements beginning January 1, 2012. Lighter and older heavier trucks must be replaced starting January 1, 2015. By January 1, 2023, nearly all trucks and buses will need to have 2010 model year engines or equivalent. The SWAPE analysis also assumes that diesel delivery truck emissions are proportional to the percentage of fleet mix

multiplied by the total PM_{10} exhaust emissions. This assumption is flawed, as different types of trips have different trip lengths (e.g., home to work versus commercial to commercial) and, as discussed in Response to Comment No. 12-52 above, different trip purposes (i.e., pass-by, diverted, and primary). Finally, as discussed above in Response to Comment No. 12-57 above, use of a 1-meter source receptor distance versus the distance shown in Figure 2-1, Level 1 Floor Plan, of the Draft EIR (approximately 55 meters) makes SWAPE's HRA conclusions inaccurate.

Comment No. 12-59

Construction and operational activity was simulated as a 1.67-acre rectangular area source in AERSCREEN, with dimensions of 89.7 meters by 75.4 meters. A release height of three meters was selected to represent the height of exhaust stacks on operational equipment and other heavy duty vehicles, and an initial vertical dimension of one and a half meters was used to simulate instantaneous plume dispersion upon release. An urban meteorological setting was selected with model-default inputs for wind speed and direction distribution.

The AERSCREEN model generated maximum reasonable estimates of single hour DPM concentrations from the Project site. EPA guidance suggests that in screening procedures, the annualized average concentration of an air pollutant be estimated by multiplying the single-hour concentration by 10%.[32] There are residences located approximately 2 meters away from the Project boundary. The single-hour concentration estimated by AERSCREEN for Project construction is approximately 10.53 $\mu g/m^3$ DPM at approximately 1 meter downwind.[33] Multiplying this single-hour concentration by 10%, we get an annualized average concentration of 1.053 $\mu g/m^3$ for construction. For Project operation, the single-hour concentration in AERSCREEN is approximately 4.21 $\mu g/m^3$ DPM at approximately 1 meter downwind.[34] Again, multiplying this single-hour concentration by 10%, we get an annualized average concentration of 0.421 $\mu g/m^3$ for operation.

[32] *http://www.epa.gov/ttn/scram/guidance/guide/EPA-454R-92-019_OCR.pdf*

[33] *See Concord Village AERSCREEN Output Files Combined, pp. 10*

[34] *See Concord Village AERSCREEN Output Files Combined, pp. 27*

Response to Comment No. 12-59

As discussed above, the SWAPE analysis use of AERSCREEN provides a much less accurate assessment of Project health risks compared to the refined AERMOD evaluation included in Appendix D-2 of this Final EIR. The SWAPE analysis assumes worst-case conditions occur 24 hours per day, 365 days per for 1.5 years (worst-case hourly wind speed, same direction, and stability condition) along with the maximum daily

emissions occurring each of those days, assumptions that substantially overestimate actual Project emissions. SWAPE applied a correction factor in the SWAPE analysis to convert the maximum 1-hour concentration average to an annual concentration. However, even then the SWAPE screening analysis applied the maximum factor of 0.1 instead of an average of 0.08 recommended in OEHHA guidance (Table 4.3, Recommended Factors to Convert Maximum 1-Hour Concentration to Other Averaging Periods, *The Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments*). Consequently, the already conservative screening analysis was made inaccurate (higher concentration) because SWAPE did not follow the OEHHA guidance. The annualized average concentration predicted by SWAPE was 1.05 µg/m^3.

The HRA provided in Appendix D-2 of this Final EIR instead used AERMOD, which allows representative meteorological data to be used in calculation of annual concentrations. The meteorological monitoring station most representative of the Project Site is the Downtown Los Angeles Station. This SCAQMD meteorological data provides hourly conditions (e.g., wind speed, wind direction, and stability class) over a five-year period (43,800 hours). The use of AERMOD, which is consistent with SCAQMD recommended methodology for a detailed analysis, provides a concentration of 0.38 µg/m^3 or a 64-percent reduction in comparison to AERSCREEN, which was used in the SWAPE analysis. In summary, use of AERSCREEN in the SWAPE analysis does not adequately characterize potential impacts from the Project, and any conclusions made based on these screening results are flawed and inferior to the more refined dispersion modeling completed for this Final EIR.

Comment No. 12-60

We calculated the excess cancer risk for each sensitive receptor for infant receptors using applicable HRA methodologies prescribed by OEHHA and the SCAQMD. Consistent with the construction schedule proposed by the DEIR, the annualized average concentration for construction was used for 1.50 years of the infantile stage of life (0–2 years). The annualized average concentration for operation was used for the remainder of the 30-year exposure period, which makes up the rest of the infantile stage of life (0–2 years), as well as the child (2 to 16 years) and adult stages of life (16 to 30 years). Consistent with OEHHA guidance, we used Age Sensitivity Factors (ASFs) to account for the heightened susceptibility of young children to the carcinogenic toxicity of air pollution.[35] According to the updated guidance, quantified cancer risk should be multiplied by a factor of ten during the first two years of life (infant) and should be multiplied by a factor of three during the child stage of life (2 to 16 years). Furthermore, in accordance with guidance set forth by OEHHA, we used 95th percentile breathing rates for infants.[36] We used a cancer potency factor of 1.1 $(mg/kg\text{-}day)^{-1}$ and an averaging time of 25,550 days. The results of our calculations are shown below.

The Maximum Exposed Individual at an Existing Residential Receptor (MEIR)					
Activity	**Duration (years)**	**Concentration ($\mu g/m^3$)**	**Breathing Rate (L/kg-day)**	**ASF**	**Cancer Risk**
Construction	1.50	1.05	1090	10	2.6E-04
Operation	0.50	0.42	1090	10	3.5E-05
Infant Exposure Duration	***2.00***			***Infant Exposure***	***2.9E-04***
Operation	14.00	0.42	572	3	1.5E-04
Child Exposure Duration	***14.00***			***Child Exposure***	***1.5E-04***
Operation	14.00	0.42	261	1	2.3E-05
Adult Exposure Duration	***14.00***			***Adult Exposure***	***2.3E-05***
Lifetime Exposure Duration	**30.00**			**Lifetime Exposure**	**4.7E-04**

The excess cancer risk to adults, children, and infants at a sensitive receptor located approximately 1 meter away, over the course of Project construction and operation are 23, 150, and 290 in one million, respectively. Furthermore, the excess cancer risk over the course of a residential lifetime (30 years) is approximately 470 in one million. Consistent with OEHHA guidance, exposure was assumed to begin in the infantile stage of life to provide the most conservative estimates of air quality hazards. The infantile, child, adult, and lifetime cancer risks all exceed the SCAQMD threshold of 10 in one million, thus resulting in a potentially significant impact not previously addressed or identified by the DEIR.

[35] *"Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: http://oehha.ca.gov/air/hot_spots/2015/2015GuidanceManual.pdf*

[36] *"Supplemental Guidelines for Preparing Risk Assessments for the Air Toxics 'Hot Spots' Information and Assessment Act," June 5, 2015, available at: http://www.aqmd.gov/docs/default-source/planning/risk-assessment/ab2588-risk-assessment-guidelines.pdf?sfvrsn=6, p. 19 "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: http://oehha.ca.gov/air/hot_spots/2015/2015GuidanceManual.pdf*

Response to Comment No. 12-60

As discussed in the specific comments above, the screening level analysis was not performed in accordance with requirements included in SCAQMD's LST methodology, which makes it substantially less accurate than the refined dispersion modeling completed in Appendix D-2 of this Final EIR. The analysis also did not account for the following: (1) site-specific conditions; (2) use of a refined dispersion model; (3) use of SCAQMD-mandated meteorological data from the closest/most representative meteorological monitoring site within the Project area; and (4) source-to-receptor distance consistent with SCAQMD LST Guidelines. If the SWAPE analysis accounted for the guidance and data discussed above, then the results would have been much less and below the significance threshold.

The excess cancer risk calculated in the SWAPE assessment factored in the use of Age Sensitivity Factors (ASFs) from OEHHA's new Guidance Manual. Use of these factors would not be applicable to this Project, as neither the Lead Agency nor SCAQMD has developed recommendations on whether these factors should be used for CEQA analyses of potential construction impacts. Furthermore, a review of relevant guidance was conducted to determine applicability of the use of early life exposure adjustments to identified carcinogens. The U.S. Environmental Protection Agency provides guidance relating to the use of early life exposure adjustment factors (Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens, EPA/630/R-003F) whereby adjustment factors are only considered when carcinogens act "through the mutagenic mode of action." The U.S. Environmental Protection Agency has identified 19 compounds that elicit a mutagenic mode of action for carcinogenesis. For diesel particulates, polycyclic aromatic hydrocarbons (PAHs) and their derivatives, which are known to exhibit a mutagenic mode of action, comprise less than 1 percent of the exhaust particulate mass. To date, the U.S. Environmental Agency reports that whole diesel engine exhaust has not been shown to elicit a mutagenic mode of action. Therefore, early life exposure adjustments are neither required nor appropriate and were, therefore, not considered in the HRA provided in Appendix D-2 of this Final EIR.

The HRA provided in Appendix D-2 of this Final EIR appropriately does not include ASFs included in OEHHA's new Guidance Manual. The HRA demonstrates that health risks from the Project would be a maximum of 3.0 in one million for adjacent residences south of the Project site, which is below the applicable significance threshold of 10 in one million. It is noted that this risk assumes an outdoor exposure for the entire length of construction and does not account for any reductions from the time spent indoors, where air quality tends to be better.

Comment No. 12-61

It should be noted that our analysis represents a screening-level health risk assessment, which is known to be more conservative, and tends to err on the side of health protection.[37] The purpose of a screening-level health risk assessment, however, is to determine if a more refined health risk assessment needs to be conducted. If the results of a screening-level health risk are above applicable thresholds, then the Project needs to conduct a more refined health risk assessment that is more representative of site specific concentrations. Our screening-level health risk assessment demonstrates that construction and operation of the Project could result in a potentially significant health risk impact. As a result, a refined health risk assessment must be prepared to examine the air quality impacts generated by Project construction and operation using site-specific meteorology and specific equipment usage schedules. An updated DEIR must be prepared to adequately evaluate the Project's health risk impact, and should include additional mitigation measures to reduce these impacts to a less-than-significant level. Without a refined health risk

assessment and mitigation addressing the findings of such an assessment, substantial evidence supports a fair argument that the Project may lead to significant public health impacts due to DPM emissions.

[37] *http://oehha.ca.gov/air/hot_spots/2015/2015GuidanceManual.pdf p. 1-5*

Response to Comment No. 12-61

This comment acknowledges that the SWAPE analysis is only a screening-level health risk assessment, which is often a rough, preliminary analysis to determine if a more refined health risk assessment needs to be conducted. As discussed in the specific comments above, the screening-level analysis was not performed in accordance with requirements included in SCAQMD's LST methodology and OEHHA's guidance. The SWAPE analysis also did not account for the following: (1) site-specific conditions; (2) use of a refined dispersion model; (3) use of SCAQMD-mandated meteorological data from the closest/most representative meteorological monitoring site within the Project area; and (4) source-to-receptor distance consistent with SCAQMD LST Guidelines.

As demonstrated by the HRA included in Appendix D-2 of this Final EIR, the Project would not result in a significant health risk impact during construction. The HRA demonstrates that health risks from the Project would be a maximum of 3.0 in one million for adjacent residences north of the Project Site, which is below the applicable significance threshold of 10 in one million. It is noted that this risk assumes an outdoor exposure for the entire length of construction and does not account for any reductions from the time spent indoors, where air quality tends to be better. No additional analysis or mitigation measures are necessary based on this comment.

Comment No. 12-62

Additional Mitigation Measures Available to Reduce Construction Emissions

Our updated air quality analysis and health risk assessment demonstrates that, when Project activities are modeled correctly, construction-related NO_X and DPM emissions would result in significant air quality and health risk impacts. Therefore, additional mitigation measures must be identified and incorporated in an updated DEIR to reduce these emissions to a less than significant level.

Additional mitigation measures can be found in CAPCOA's *Quantifying Greenhouse Gas Mitigation Measures*, which attempt to reduce Greenhouse Gas (GHG) levels, as well as reduce Criteria Air Pollutants such as particulate matter and NO_X.[38] Diesel particulate matter ("DPM") and NO_X are a byproduct of diesel fuel combustion, and are emitted by on-road vehicles and by off-road construction equipment. Mitigation for criteria pollutant

emissions should include consideration of the following measures in an effort to reduce construction emissions.

Limit Construction Equipment Idling Beyond Regulation Requirements

Heavy duty vehicles will idle during loading/unloading and during layovers or rest periods with the engine still on, which requires fuel use and results in emissions. The California Air Resources Board (CARB) Heavy-Duty Vehicle Idling Emissions Reduction Program limits idling of diesel-fueled commercial motor vehicles to five minutes. Reduction in idling time beyond the five minutes required under the regulation would further reduce fuel consumption and thus emissions. The Project applicant must develop an enforceable mechanism that monitors the idling time to ensure compliance with this mitigation measure.

Require Implementation of Diesel Control Measures

The Northeast Diesel Collaborative (NEDC) is a regionally coordinated initiative to reduce diesel emissions, improve public health, and promote clean diesel technology. The NEDC recommends that contracts for all construction projects require the following diesel control measures:[39]

- All diesel onroad vehicles on site for more than 10 total days must have either (1) engines that meet EPA 2007 onroad emissions standards or (2) emission control technology verified by EPA[40] or the California Air Resources Board (CARB)[41] to reduce PM emissions by a minimum of 85 percent.

- All diesel generators on site for more than 10 total days must be equipped with emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85 percent.

- All diesel nonroad construction equipment on site for more than 10 total days must have either (1) engines meeting EPA Tier 4 nonroad emission standards or (2) emission control technology verified by EPA or CARB for use with nonroad engines to reduce PM emissions by a minimum of 85 percent for engines 50 horse power (hp) and greater and by a minimum of 20 percent for engines less than 50 hp.

- All diesel vehicles, construction equipment, and generators on site shall be fueled with ultra-low sulfur diesel fuel (ULSD) or a biodiesel blend[42] approved by the original engine manufacturer with sulfur content of 15 parts per million (ppm) or less.

Repower or Replace Older Construction Equipment Engines

The NEDC recognizes that availability of equipment that meets the EPA's newer standards is limited.[43] Due to this limitation, the NEDC proposes actions that can be taken to reduce emissions from existing equipment in the Best Practices for Clean Diesel Construction report.[44] These actions include but are not limited to:

- Repowering equipment (i.e. replacing older engines with newer, cleaner engines and leaving the body of the equipment intact).

Engine repower may be a cost-effective emissions reduction strategy when a vehicle or machine has a long useful life and the cost of the engine does not approach the cost of the entire vehicle or machine. Examples of good potential replacement candidates include marine vessels, locomotives, and large construction machines.[45] Older diesel vehicles or machines can be repowered with newer diesel engines or in some cases with engines that operate on alternative fuels (see section "Use Alternative Fuels for Construction Equipment" for details). The original engine is taken out of service and a new engine with reduced emission characteristics is installed. Significant emission reductions can be achieved, depending on the newer engine and the vehicle or machine's ability to accept a more modern engine and emission control system. It should be noted, however, that newer engines or higher tier engines are not necessarily cleaner engines, so it is important that the Project Applicant check the actual emission standard level of the current (existing) and new engines to ensure the repower product is reducing emissions for DPM.[46]

- Replacement of older equipment with equipment meeting the latest emission standards.

Engine replacement can include substituting a cleaner highway engine for a nonroad engine. Diesel equipment may also be replaced with other technologies or fuels. Examples include hybrid switcher locomotives, electric cranes, LNG, CNG, LPG or propane yard tractors, forklifts or loaders. Replacements using natural gas may require changes to fueling infrastructure.[47] Replacements often require some re-engineering work due to differences in size and configuration. Typically, there are benefits in fuel efficiency, reliability, warranty, and maintenance costs.[48]

Install Retrofit Devices on Existing Construction Equipment

PM emissions from alternatively-fueled construction equipment can be further reduced by installing retrofit devices on existing and/or new equipment. The most common retrofit technologies are retrofit devices for engine exhaust after-treatment. These devices are installed in the exhaust system to reduce emissions and should not impact engine or vehicle operation.[49] Below is a table, prepared by the EPA, that summarizes the commonly

used retrofit technologies and the typical cost and emission reductions associated with each technology.[50] It should be noted that actual emissions reductions and costs will depend on specific manufacturers, technologies and applications.

Technology	Typical Emissions Reductions (percent)				Typical Costs ($)
	PM	NO_x	HC	CO	
Diesel Oxidation Catalyst (DOC)	20-40	-	40-70	40-60	Material: $600-$4,000 Installation: 1-3 hours
Diesel Particulate Filter (DPF)	85-95	-	85-95	50-90	Material: $8,000-$50,000 Installation: 6-8 hours
Partial Diesel Particulate Filter (pDPF)	up to 60	-	40-75	10-60	Material: $4,000-$6,000 Installation: 6-8 hours
Selective Catalyst Reduction (SCR)	-	up to 75	-	-	$10,000-$20,000; Urea $0.80/gal
Closed Crankcase Ventilation (CCV)	varies	-	-	-	-
Exhaust Gas Recirculation (EGR)	-	25-40	-	-	-
Lean NO_x Catalyst (LNC)	-	5-40	-	-	$6,500-$10,000

Use Electric and Hybrid Construction Equipment

CAPCOA's *Quantifying Greenhouse Gas Mitigation Measures*[51] report also proposes the use of electric and/or hybrid construction equipment as a way to mitigate DPM emissions. When construction equipment is powered by grid electricity rather than fossil fuel, direct emissions from fuel combustion are replaced with indirect emissions associated with the electricity used to power the equipment. Furthermore, when construction equipment is powered by hybrid-electric drives, emissions from fuel combustion are also greatly reduced. Electric construction equipment is available commercially from companies such as Peterson Pacific Corporation,[52] which specialize in the mechanical processing equipment like grinders and shredders. Construction equipment powered by hybrid-electric drives is also commercially available from companies such as Caterpillar[53]. For example, Caterpillar reports that during an 8-hour shift, its D7E hybrid dozer burns 19.5 percent fewer gallons of fuel than a conventional dozer while achieving a 10.3 percent increase in productivity. The D7E model burns 6.2 gallons per hour compared to a conventional dozer which burns 7.7 gallons per hour.[54] Fuel usage and savings are dependent on the make and model of the construction equipment used. The Project Applicant should calculate project-specific savings and provide manufacturer specifications indicating fuel burned per hour.

Implement a Construction Vehicle Inventory Tracking System

CAPCOA's Quantifying Greenhouse Gas Mitigation Measures[55] report recommends that the Project Applicant provide a detailed plan that discusses a construction vehicle inventory tracking system to ensure compliances with construction mitigation measures. The system should include strategies such as requiring engine run time meters on equipment, documenting the serial number, horsepower, manufacture age, fuel, etc. of all onsite equipment and daily logging of the operating hours of the equipment. Specifically, for each onroad construction vehicle, nonroad construction equipment, or generator, the contractor should submit to the developer's representative a report prior to bringing said equipment on site that includes:[56]

- Equipment type, equipment manufacturer, equipment serial number, engine manufacturer, engine model year, engine certification (Tier rating), horsepower, and engine serial number.
- The type of emission control technology installed, serial number, make, model, manufacturer, and EPA/CARB verification number/level.
- The Certification Statement[57] signed and printed on the contractor's letterhead.

Furthermore, the contractor should submit to the developer's representative a monthly report that, for each onroad construction vehicle, nonroad construction equipment, or generator onsite, includes:[58]

- Hour-meter readings on arrival on-site, the first and last day of every month, and on off-site date.
- Any problems with the equipment or emission controls.
- Certified copies of fuel deliveries for the time period that identify:
  - Source of supply
  - Quantity of fuel
  - Quality of fuel, including sulfur content (percent by weight)

In addition to these measures, we also recommend that the Applicant implement the following mitigation measures, called "Enhanced Exhaust Control Practices,"[59] that are recommended by the Sacramento Metropolitan Air Quality Management District (SMAQMD):

1. The project representative shall submit to the lead agency a comprehensive inventory of all off-road construction equipment, equal to or greater than 50 horsepower, that will be used an aggregate of 40 or more hours during any portion of the construction project.

    - The inventory shall include the horsepower rating, engine model year, and projected hours of use for each piece of equipment.

    - The project representative shall provide the anticipated construction timeline including start date, and name and phone number of the project manager and on-site foreman.

    - This information shall be submitted at least 4 business days prior to the use of subject heavy-duty off-road equipment.

    - The inventory shall be updated and submitted monthly throughout the duration of the project, except that an inventory shall not be required for any 30-day period in which no construction activity occurs.

2. The project representative shall provide a plan for approval by the lead agency demonstrating that the heavy-duty off-road vehicles (50 horsepower or more) to be used in the construction project, including owned, leased, and subcontractor vehicles, will achieve a project wide fleet-average 20% NO_X reduction and 45% particulate reduction compared to the most recent California Air Resources Board (ARB) fleet average.

    - This plan shall be submitted in conjunction with the equipment inventory.

    - Acceptable options for reducing emissions may include use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, and/or other options as they become available.

    - The District's Construction Mitigation Calculator can be used to identify an equipment fleet that achieves this reduction.

3. The project representative shall ensure that emissions from all off-road diesel powered equipment used on the project site do not exceed 40% opacity for more than three minutes in any one hour.

    - Any equipment found to exceed 40 percent opacity (or Ringelmann 2.0) shall be repaired immediately. Non-compliant equipment will be documented and a summary provided to the lead agency monthly.

    - A visual survey of all in-operation equipment shall be made at least weekly.

- A monthly summary of the visual survey results shall be submitted throughout the duration of the project, except that the monthly summary shall not be required for any 30-day period in which no construction activity occurs. The monthly summary shall include the quantity and type of vehicles surveyed as well as the dates of each survey.

4. The District and/or other officials may conduct periodic site inspections to determine compliance. Nothing in this mitigation shall supersede other District, state or federal rules or regulations.

These measures are more stringent and prescriptive than those measures identified in the DEIR. When combined, the measures that we recommend in these comments offer a cost-effective, feasible way to incorporate lower-emitting equipment into the Project's construction fleet, which subsequently reduces NO_X and DPM emissions released during Project construction. An updated DEIR must be prepared to include additional mitigation measures, as well as include an updated air quality assessment to ensure that the necessary mitigation measures are implemented to reduce construction emissions. Furthermore, the Project Applicant needs to demonstrate commitment to the implementation of these measures prior to Project approval to ensure that the Project's construction-related emissions are reduced to the maximum extent possible.

[38] *http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf*

[39] *Diesel Emission Controls in Construction Projects, available at: http://www2.epa.gov/sites/production/files/2015-09/documents/nedc-model-contract-sepcification.pdf*

[40] *For EPA's list of verified technology: http://www3.epa.gov/otaq/diesel/verification/verif-list.htm*

[41] *For CARB's list of verified technology: http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm*

[42] *Biodiesel lends are only to be used in conjunction with the technologies which have been verified for use with biodiesel blends and are subject to the following requirements: http://www.arb.ca.gov/diesel/verdev/reg/biodieselcompliance.pdf*

[43] *http://northeastdiesel.org/pdf/BestPractices4CleanDieselConstructionAug2012.pdf*

[44] *http://northeastdiesel.org/pdf/BestPractices4CleanDieselConstructionAug2012.pdf*

[45] *Repair, Rebuild, and Repower, EPA, available at:https://www.epa.gov/verified-diesel-tech/learn-about-verified-technologies-clean-diesel#repair*

[46] *Diesel Emissions Reduction Program (DERA): Technologies, Fleets and Projects Information, available at:http://www2.epa.gov/sites/production/files/2015-09/documents/420p11001.pdf*

[47] *Alternative Fuel Conversion, EPA, available at: https://www3.epa.gov/otaq/consumer/fuels/altfuels/altfuels.htm#fact*

[48] *Cleaner Fuels, EPA, available at: https://www.epa.gov/verified-diesel-tech/learn-about-verified-technologies-clean-diesel#cleaner*

[49] *Retrofit Technologies, EPA, available at: https://www.epa.gov/verified-diesel-tech/learn-about-verified-technologies-clean-diesel#retrofit*

[50] *Cleaner Diesels: Low Cost Ways to Reduce Emissions from Construction Equipment, March 2007, available at: https://www.epa.gov/sites/production/files/2015-09/documents/cleaner-diesels-low-cost-ways-to-reduce-emissions-from-construction-equipment.pdf, p. 26*

[51] *http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf*

[52] *Peterson Electric Grinders Brochure, available at: http://www.petersoncorp.com/wp-content/uploads/peterson_electric_grinders1.pdf*

[53] *Electric Power Products, available at: http://www.cat.com/en_US/products/new/power-systems/electric-power-generation.html*

[54] *http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf*

[55] *http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf*

[56] *Diesel Emission Controls in Construction Projects, available at: http://www2.epa.gov/sites/production/files/2015-09/documents/nedc-model-contract-sepcification.pdf*

[57] *Diesel Emission Controls in Construction Projects, available at: http://www2.epa.gov/sites/production/files/2015-09/documents/nedc-model-contract-sepcification.pdf The NEDC Model Certification Statement can be found in Appendix A.*

[58] *Diesel Emission Controls in Construction Projects, available at: http://www2.epa.gov/sites/production/files/2015-09/documents/nedc-model-contract-sepcification.pdf*

[59] *http://www.airquality.org/ceqa/Ch3EnhancedExhaustControl_10-2013.pdf*

Response to Comment No. 12-62

As discussed in Response to Comment No. 12-50 above, Table 4.C-6 (Estimated Daily Construction Emissions) in Section 4.C, Air Quality, of the Draft EIR clearly shows that both regional and localized unmitigated construction emissions would be below the SCAQMD significance thresholds. The CalEEMod output file (6901 Santa Monica Future) provided in Appendix D of the Draft EIR provided unmitigated construction emissions consistent with data provided in Table 4.C-6 of the Draft EIR. While it is acknowledged that the modeling file also included a mitigated condition that assumed Tier 4 equipment, use of the mitigated condition was in no way used for determining impact significance. In addition, as discussed in Response to Comment No. 12-48 above, a refined air quality analysis using CalEEMod Version 2016.3.1 was conducted for the Project and is provided in Appendix D-1 of this Final EIR. As shown in Appendix D-1 of this Final EIR, potential regional construction impacts remain below the SCAQMD regional construction thresholds or 78 percent below the ROG threshold, 5 percent below the NO_X threshold, 92 percent below the CO threshold, 99 percent below the SO_X threshold, and 95 percent below the PM_{10} and $PM_{2.5}$ thresholds. Potential localized construction impacts also remain below the SCAQMD localized construction thresholds or 28 percent below the NO_X threshold, 97 percent below the CO threshold, 67 percent below the PM_{10} threshold, and 49 percent below the $PM_{2.5}$ threshold. Therefore, consistent with the conclusion in the Draft EIR, mitigation measures would not be required.

Comment No. 12-63

Greenhouse Gas

Use of Incorrect Methodology to Determine Project Significance

In an effort to comply with CEQA and the California Global Warming Solution Act, Assembly Bill (AB) 32, the DEIR compares the Project's construction and operational greenhouse gas (GHG) emissions to the emissions that would be generated by the Project in the absence of any GHG reduction measures, also known as a Business As Usual (BAU) scenario or as a No Action Taken (NAT) scenario (p. 4.E-31). Using this method, the DEIR concludes that because the Project would achieve a 31 percent reduction in GHGs between the BAU and As Proposed scenarios (Table 4.E-7, p. 4.E-31)—which is greater than the AB 32 2014 Revised Scoping Plan's statewide reduction goal of 15.3 percent for 2020 (Table 4.E-4, p. 4.E-12)—that the Project would have a less than significant GHG impact (p. 4.E-38). The use of this threshold to determine whether or not the Project would result in a significant GHG impact, however, is flawed and should not be relied upon to determine impact significance. A recent decision by the California Supreme Court in *Center for Biological Diversity et al. v. California Department of Fish and Wildlife and the Newhall Land and Farming Company* 2015 Cal. LEXIS 9478 (*Newhall* Case)[60] rejects this approach as it is inconsistent with CEQA. The *Newhall* Case concludes that lead agencies cannot use the ***statewide*** GHG emission reduction percentage as the CEQA threshold to determine whether a ***specific project-level*** proposed Project has significant GHG emissions.[61] As a result, this method of determining Project significance is incorrect and should not be relied upon.

As stated above, the DEIR incorrectly relies on the BAU method to determine the Project's GHG impacts. According to the DEIR, the Project would have to achieve a 15.3 percent reduction from BAU that is consistent with the CARB Scoping Plan to result in a less than significant GHG impact (Table 4.E-4, p. 4.E-12). Using a straight-line comparison between Project-specific and statewide GHG emission reductions, the 6901 Santa Monica Mixed-Use Project would reduce its GHG emissions by 31 percent, which, according to the DEIR, exceeds the statewide reduction goal (p. 4.E-31). As a result, the DEIR concludes that the Project would have a less than significant GHG impact (p. 4.E-38). The use of a "straight-line" comparison between Project-specific and statewide GHG emissions, both by the Newhall Ranch EIR and the 6901 Santa Monica Mixed-Use Project DEIR, however, is flawed, because the percent reduction required by the proposed Project at the project-level is not directly comparable to the percent reduction required to meet the statewide goal. Reducing the Project's emissions to below statewide business as usual levels would not be sufficient to reduce the entire state's GHG impacts to below a level of significance unless all developments currently in operation, and all future projects in California, of any size, were also required to reduce their emissions to below business as usual by the same

percentage. The Newhall Case makes clear that this approach utilized in the DEIR to achieve compliance with AB 32 is improper. The Newhall Case concludes that agencies cannot use the statewide GHG emission reduction percentage as the CEQA threshold to determine whether a specific project has significant GHG emissions.[62]

As explained in the *Newhall* Case, there is currently "no substantial evidence that Newhall Ranch's project-level reduction of 31 percent in comparison to business as usual is consistent with achieving AB 32's statewide goal of a 29 percent reduction from business as usual..."[63] As the *Newhall* Case explained in striking down the California Fish and Wildlife GHG analysis (emphasis added):

> "The Scoping Plan set out a statewide reduction goal and a framework for reaching it—a set of broadly drawn regulatory approaches covering all sectors of the California economy and projected, if implemented and followed, to result in a reduction to 1990-level greenhouse gas emissions by the year 2020. The plan expressed the overall level of conservation and efficiency improvements required as, among other measures, a percentage reduction from a hypothetical scenario in which no additional regulatory actions were taken. *But the Scoping Plan nowhere related that statewide level of reduction effort to the percentage of reduction that would or should be required from individual projects, and nothing DFW or Newhall have cited in the administrative record indicates the required percentage reduction from business as usual is the same for an individual project as for the entire state population and economy*. Plaintiffs put forward one ready reason to suspect that the percent reduction is not the same, and that in fact a greater degree of reduction may be needed from new land use projects than from the economy as a whole… The administrative record does not establish a firm ground for the efficiency comparison the EIR makes and thus, for this reason as well, does not substantially support the EIR's conclusion that Newhall Ranch's 31 percent emissions savings over business as usual satisfies the report's significance criterion of consistency with the Scoping Plan's 29 percent statewide savings by 2020… The EIR simply assumes that the level of effort required in one context, a 29 percent reduction from business as usual statewide, will suffice in the other, a specific land use development."[64]

As stated above, the Scoping Plan in no way related the statewide level of reduction to the percentage of reduction that would or should be required from individual projects, and nothing in the Newhall EIR or in the DEIR for the proposed Project, indicates that the required percent reduction from business as usual is the same for an individual project as for the entire state population and economy. The lead agencies for the *Newhall* Case and the DEIR for the 6901 Santa Monica Mixed-Use Project improperly used the statewide

percentage goal as a significance threshold for GHG emissions. The *Newhall* Case makes clear that the Project may in fact have to do far better. As such, the Project Applicant must identify an acceptable method of compliance with CEQA and AB 32 for the Project's GHG emissions, and must determine a Newhall-compliant alternative threshold for the Project-specific GHG emissions.

[60] *http://www.courts.ca.gov/opinions/documents/S217763.PDF*

[61] *http://www.arb.ca.gov/cc/ab32/ab32.htm*

[62] *http://www.arb.ca.gov/cc/ab32/ab32.htm*

[63] *http://www.courts.ca.gov/opinions/documents/S217763.PDF, p. 19*

[64] *http://www.courts.ca.gov/opinions/documents/S217763.PDF, p. 20*

Response to Comment No. 12-63

The California Supreme Court's decision published on November 30, 2015, in the *Center for Biological Diversity v. California Department of Fish and Wildlife* (Case No. 217763) (also known as the "Newhall Ranch Case") reviewed the methodology used to analyze GHG emissions in an EIR prepared for a project that proposed 20,885 dwelling units with 58,000 residents on 12,000 acres of undeveloped land in a rural area of the City of Santa Clara. The EIR used an approach to determine whether the project would impede the state's compliance with statutory emissions reduction mandate established by the AB 32 Scoping Plan. The Court did not invalidate the BAU approach entirely, but did hold that "the Scoping Plan nowhere related that *statewide* level of reduction effort to the percentage of reduction that would or should be required from *individual projects a*nd nothing DFW or Newhall have cited in the administrative record indicates the required percentage reduction from business as usual is the same for an individual project as for the entire state population and economy."[10]

The California Supreme Court suggested regulatory consistency as a pathway to compliance, by stating that a lead agency might assess consistency with AB 32's goal in whole or in part by looking to compliance with regulatory programs designed to reduce GHG emissions from particular activities. The Court recognized that to the extent a project's design features comply with or exceed the regulations outlined in the *Climate Change Scoping Plan* and adopted by CARB or other state agencies, a lead agency could appropriately rely on their use as showing compliance with performance-based standards adopted to fulfill a statewide plan for the reduction or mitigation of GHG emissions. This approach is consistent with CEQA Guidelines Section 15064, which provides that a determination that an impact is not cumulatively considerable may rest on compliance with

[10] *Center for Biological Diversity v. California Department of Fish and Wildlife (Case No. 217763), p. 20.*

previously adopted plans or regulations, including plans or regulations for the reduction of GHG emissions. Importantly, the Court also suggested "A lead agency may rely on existing numerical thresholds of significance for greenhouse gas emissions" (bright line threshold approach).

Based on the above information and City direction, Section 4.E, Greenhouse Gas Emissions, of the Draft EIR appropriately used the following significance threshold:

> *In the absence of a quantitative threshold, the Project would not have a significant effect on the environment if it is found to be consistent with the applicable regulatory plans and policies to reduce GHG emissions, including Executive Orders S-3-05 and B 30-15, SB 375, AB 32 Scoping Plan, SCAG's 2016–2040 RTP/SCS, the 2035 Mobility Plan, and the City of Los Angeles Green Building Code.*

Contrary to the comment, the comparison of Project emissions to the NAT scenario was not used as a significance threshold. Instead, the reduction in GHG emissions in comparison to the NAT scenario reflect the measures set forth in the applicable GHG reduction plans and policies and demonstrate the efficacy of these measures.

As concluded in the Draft EIR, the Project would be consistent with applicable regulatory plans and policies to reduce GHG Emissions in the City of Los Angeles. These include Executive Orders S-3-05 and B-30-15; SB 375, the AB 32 Scoping Plan, the 2016–2040 RTP/SCS, the Mobility Plan 2035, and the City of Los Angeles Green Building Code. The Project would meet all requirements associated with this set of regulatory requirements and would not conflict with any applicable plan, policy, or regulation of an agency adopted for the purpose of reducing the emissions of GHGs. In the absence of adopted standards and established significance thresholds, and given this consistency with applicable plans, the Project's impacts are considered less than significant.

Comment No. 12-64

Updated Greenhouse Gas Analysis Demonstrates Significant Impact

Because the method used in the DEIR to determine whether or not the Project would have a significant GHG impact is flawed, alternative thresholds and methods should be relied upon to adequately determine the Project's GHG impact. Utilizing quantitative thresholds from other agencies, we found substantial evidence supporting a fair argument that the proposed Project may have a significant GHG impact, something that the DEIR failed to disclose or address. As such, an updated DEIR should be prepared to adequately evaluate the Project's GHG impact, and additional, feasible mitigation should be applied to

the Project in an effort to mitigate the Project's GHG emissions to the maximum extent possible.

Many regulatory agencies and Air Districts within California have recommended or established quantitative thresholds to determine a project's GHG impact significance under CEQA. On October 24, 2008, CARB released its *Preliminary Draft Staff Proposal, Recommended Approaches for Setting Interim Significance Thresholds for Greenhouse Gases under the California Environmental Quality Act*.[65] The threshold, recommended by CARB was a quantitative threshold of 7,000 MT CO_2e/yr for operational emissions.[66] The Bay Area Air Quality Management District (BAAQMD), the Sacramento Metropolitan AQMD, and Mendocino County AQMD have all adopted a significance threshold of 1,100 MT CO_2e/yr for land use projects and 10,000 MT CO_2e/yr for stationary sources during the operational phase of the Project.[67]

The ton per year threshold approach is also the approach recommended by the South Coast Air Quality Management District (SCAQMD) in its *Interim CEQA GHG Significance Threshold for Stationary Sources, Rules, and Plans* report.[68] In December 2008, SCAQMD formally adopted a threshold of 10,000 metric tons of CO_2 equivalents (MT CO_2e/yr) for industrial facilities, but only with respect to projects where SCAQMD is the lead agency.[69] Additionally, SCAQMD has proposed, but not adopted, a 3,000 MT CO_2e/yr threshold for mixed use developments, a 3,500 MT CO_2e/yr threshold for residential developments, and a 1,400 MT CO_2e/yr threshold for commercial developments. As an alternative to the aforementioned proposed thresholds for residential, commercial, and mixed-use developments, SCAQMD has also recommended the use of a single numerical threshold of 3,000 MT CO_2e/yr for all non-industrial projects.[70]

Although the City of Los Angeles has not formally adopted these thresholds, these thresholds are designed for application at the project level and thus provide a more relevant way of determining the significance of the Project's GHG emissions than the DEIR's illogical comparison of statewide reduction percentage goals to project-level reduction percentages. Because the proposed Project is a mixed-use project, the most appropriate threshold to apply to the Project would be the 3,000 MT CO_2e/yr threshold recommended by the SCAQMD for mixed-use developments.

It should be noted that we compared both the emissions estimated in the DEIR, as well as the emissions estimated by SWAPE, to applicable thresholds, as the emissions estimated in the DEIR are not Project-specific and are greatly underestimated.[71] When the emissions estimated in the DEIR and by SWAPE are compared to the 3,000 MT CO_2e/yr threshold recommended by the SCAQMD for mixed-use developments, we find that they both exceed this threshold, as described in further detail below.

Therefore, regardless of the air model used, our analysis clearly demonstrates that the Project would result in a potentially significant GHG impact that was not previously addressed or mitigated in the DEIR.

It is also worth noting that our analysis relies on the proposed Project's total GHG emissions, rather than net GHG emissions. This is because relying on the proposed Project's *net* GHG emissions, rather than the Project's total GHG emissions, is incorrect and inconsistent with recent guidance set forth by the Office of Planning and Research (OPR). In the Final Statement of Reasons for the GHG-specific Guidelines,[72] OPR concluded that lead agencies cannot simply consider whether a project increases or decreases GHG emissions at the project site, but must consider the effect that the project will have on the larger environment. Accordingly, if a lead agency wants to use a net approach by subtracting existing on-site emissions from the project emissions, it must support that decision with substantial evidence showing that those existing emissions sources will be extinguished and not simply displaced.[73] Nothing in the DEIR or associated appendices indicate that the existing GHG emissions sources on the Project site would be extinguished by the proposed Project, and not simply moved elsewhere. Thus, consistent with CEQA requirements and OPR guidance, our analysis relies on the proposed Project's total GHG emissions, rather than net GHG emissions.

The DEIR's annual emissions demonstrate that construction of the Project would generate 45 MT CO_2e per year (when amortized over Project lifetime) and operation of the Project would generate 3,311 MT CO_2e per year (Table 4.E-7, p. 4.E-31). When the Project's construction emissions and operational emissions are combined, we find that the Project's GHG emissions would exceed the SCAQMD's screening threshold of 3,000 MTCO_2e per year (see table below).

DEIR Model
Annual Greenhouse Gas Emissions

Phase	MT CO2e/year
Construction	45
Operational	3,311
Total	**3,356**
SCAQMD Screening Level	**3,000**
Threshold Exceeded?	***Yes***

Similarly, the SWAPE model's annual emissions demonstrate that construction of the Project would generate 57 MT CO_2e per year (when amortized over 30 years) and operation of the Project would generate a total of 4,699 MT CO_2e per year. When the Project's amortized construction emissions and operational emissions from the SWAPE

model are combined, we find that the Project's GHG emissions would also exceed the SCAQMD's screening threshold of 3,000 MT CO_2e per year (see table below).

SWAPE Model Annual Greenhouse Gas Emissions	
Emission Source	**Proposed Project (MT CO_2E)**
Construction (Amortized)	57
On-Road Mobile	2,752
Area	57
Electricity	1,332
Natural Gas	201
Water and Wastewater	212
Solid Waste	89
Total	**4,699**
SCAQMD Significance Threshold	**3,000**
Exceed?	***Yes***

As you can see in the tables above, when we compare the emissions estimated in the DEIR and by SWAPE to the SCAQMD recommended threshold of 3,000 MT CO_2e/yr, we find that, regardless of the air model used, the Project's emissions would greatly exceed this threshold, thus resulting in a potentially significant impact.

According to the SCAQMD, if the Project's emissions exceed the 3,000 MT CO_2e/yr screening-level threshold, a more detailed review of the Project's GHG emissions is warranted.[74] SCAQMD proposed per capita efficiency targets to conduct the detailed review. SCAQMD proposed a 2020 efficiency target of 4.8 MT CO_2e per year per service population (MT CO_2e/sp/yr) for project-level analyses and 6.6 MT CO_2e/sp/yr for plan level projects (e.g., program-level projects such as general plans). Those per capita efficiency targets are based on the AB 32 GHG reduction target and the 2020 GHG emissions inventory prepared for ARB's 2008 Scoping Plan. SCAQMD also created a 2035 efficiency thresholds by reducing the 2020 thresholds by 40 percent, resulting in an efficiency threshold for plans of 4.1 MT CO_2e/sp/yr and an efficiency threshold at the project level of 3.0 MT CO_2e/sp/yr.[75] Therefore, per SCAQMD guidance, because the Project's GHG emissions exceed the SCAQMD's 3,000 MT CO_2e/yr screening-level threshold, the Project's emissions should be compared to the proposed 2020 efficiency target of 4.8 MT CO_2e/sp/yr and the 2035 efficiency target of 3.0 MT CO_2e/sp/yr, as the Project is not anticipated to be redeveloped prior to 2035.

According to the California Air Pollution Control Officers Association's (CAPCOA) CEQA & Climate Change report, service population is defined as "the sum of the number of

residents and the number of jobs supported by the project".[76] Therefore, consistent with the DEIR, we estimated a service population of approximately 734 people (Table 4.I-5, Table 4.I-6, p. 4.I-12). Dividing the GHG emissions estimated in the DEIR of 3,356 MT CO_2e/yr by a service population value of 734 people, we find that the Project would emit 4.6 MT CO_2e/sp/yr. When we compare the per capita GHG emissions estimated in the DEIR to the SCAQMD 2020 efficiency threshold of 4.8 MT CO_2e/sp/yr and the 2035 efficiency target of 3.0 MT CO_2e/sp/yr, we find that the Project would exceed the 3.0 MT CO_2e/sp/yr efficiency target for 2035, resulting in a significant GHG impact (see table below).

DEIR Model
Annual Per Capita Greenhouse Gas Emissions

Source	Emissions	Unit
Total Annual Emissions	3,356	$MTCO_2e$/year
Maximum Service Population	734	Residents
Per Capita Annual Emissions	**4.6**	**$MTCO_2e$/sp/year**
2020 SCAQMD Project Level Efficiency Threshold	4.8	$MTCO_2e$/sp/year
Exceed?	*No*	-
Per Capita Annual Emissions	**4.6**	**$MTCO_2e$/sp/year**
2035 SCAQMD Project Level Efficiency Threshold	3.0	$MTCO_2e$/sp/year
Exceed?	***Yes***	-

However, as previously stated, the emissions estimated in the DEIR are underestimated and do not accurately reflect Project-specific information. Therefore, to provide a comprehensive analysis, we also compared the emissions estimated by SWAPE to these thresholds. Dividing the GHG emissions estimated by SWAPE of 4,699 MT CO_2e/yr by a service population value of 734 people, we find that the Project would emit 6.4 $MTCO_2e$/sp/yr. When we compare the per capita GHG emissions estimated by SWAPE to the SCAQMD 2020 efficiency threshold of 4.8 MT CO_2e/sp/yr and the 2035 efficiency target of 3.0 MT CO_2e/sp/yr, we find that the Project would exceed both thresholds, resulting in a significant GHG impact (see table below).

Annual Greenhouse Gas Emissions

Source	Emissions	Unit
Total Annual Emissions	4,699	$MTCO_2e$/year
Maximum Service Population	734	Residents
Per Capita Annual Emissions	**6.4**	**$MTCO_2e$/sp/year**
2020 SCAQMD Project Level Efficiency Threshold	4.8	$MTCO_2e$/sp/year
Exceed?	***Yes***	-
Per Capita Annual Emissions	**6.4**	**$MTCO_2e$/sp/year**
2035 SCAQMD Project Level Efficiency Threshold	3.0	$MTCO_2e$/sp/year
Exceed?	***Yes***	-

As you can see in the tables above, when we compare the per capita emissions estimated in the DEIR and by SWAPE to the SCAQMD recommended efficiency thresholds of 4.8 MT CO_2e/sp/yr for 2020 and 3.0 MT CO_2e/sp/yr for 2035, we find that, regardless of the air model used, the Project's emissions would greatly exceed one or both of these thresholds, thus resulting in a potentially significant impact. The results of this analysis provide substantial evidence that the possible effects of the proposed Project are still cumulatively considerable notwithstanding compliance with the adopted regulations or requirements. Therefore, an updated DEIR must be prepared to adequately evaluate the Project's GHG impact, and additional mitigation should be implemented where necessary, as is required by CEQA.

[65] *http://www.arb.ca.gov/cc/localgov/ceqa/meetings/102708/prelimdraftproposal102408.pdf*

[66] *http://www.arb.ca.gov/cc/localgov/ceqa/meetings/102708/prelimdraftproposal102408.pdf, pp. 13.*

[67] *http://www.baaqmd.gov/~/media/Files/Planning%20and%20Research/CEQA/Proposed%20Thresholds%20of%20 Significance%20Dec%207%2009.ashx?la=en; http://www.airquality.org/bod/2014/Oct-Item11-JustificationGHGEmissionThresholdsSignficanceAttachment4.pdf; http://www.co.mendocino.ca.us/aqmd/pdf_files/MCAQMDCEQARecomendations.pdf.*

[68] *http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-(ghg)-ceqa-significance-thresholds/ghgboardsynopsis.pdf?sfvrsn=2*

[69] *http://www.aqmd.gov/docs/default-source/ceqa/handbook/scaqmd-air-quality-significance-thresholds.pdf?sfvrsn=2*

[70] *http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-%28ghg%29-ceqa-significance-thresholds/year-2008-2009/ghg-meeting-15/ghg-meeting-15-minutes.pdf?sfvrsn=2*

[71] *See section "Unsubstantiated Input Parameters Used to Estimate Project Emissions." SWAPE found that several of the values inputted into the DEIR's CalEEMod model were inconsistent with information disclosed in the DEIR, as well as inconsistent with guidance set forth by the SCAQMD, resulting in an underestimation of emissions. In an effort to correct for this error, SWAPE prepared an updated CalEEMod model that included more site-specific information and corrected input parameters, the emissions of which more accurately reflect what the proposed Project will emit at Project buildout.*

[72] *Final Statement of Reasons, pp. 83–84, available at, http://resources.ca.gov/ceqa/docs/Final_Statement_of_Reasons.pdf*

[73] *See CEQA Guidelines, § 15064.4, subd. (a) ("The determination of the significance of greenhouse gas emissions calls for a careful judgment by the lead agency consistent with the provisions in section 15064. A lead agency should make a good-faith effort, based on available information, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project.")*

[74] *SCAQMD, CEQA Significance Thresholds, available at: http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-(ghg)-ceqa-significance-thresholds/ghgboardsynopsis.pdf?sfvrsn=2*

[75] *Working Group Meeting 15 Minutes, available at: http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-(ghg)-ceqa-significance-thresholds/year-2008-2009/ghg-meeting-15/ghg-meeting-15-minutes.pdf?sfvrsn=2*

[76] *"CEQA & Climate Change." & Climate Change." CAPCOA, January 2008, available at: http://www.capcoa.org/wp-content/uploads/2012/03/CAPCOA-White-Paper.pdf, p. 71-72.*

Response to Comment No. 12-64

The commenter maintains that the DEIR should have used draft, unadopted screening threshold as the significance threshold for the Project's impact on global climate change. As discussed in Response to Comment No. 12-63 above, the Draft EIR did not use a numeric threshold, as neither the City of Los Angeles or SCAQMD has adopted a numeric threshold applicable to the Project. Instead, a significance determination was made based on the consistency with applicable regulatory plans and policies to reduce GHG emissions, including Executive Orders S-3-05 and B 30-15, SB 375, AB 32 Scoping Plan, SCAG's 2016–2040 RTP/SCS, the 2035 Mobility Plan, and the City of Los Angeles Green Building Code."

This comment provides reference to the SCAQMD proposed, but not adopted, 3,000 $MTCO_2e$/yr screening threshold for residential, commercial, and mixed-use developments. Where a project would conduct a more detailed analysis using a per capita efficiency target if the project exceeded the 3,000-$MTCO_2e$/yr screening threshold. It should be noted that this threshold was proposed nearly 10 years ago, and no further substantial action by SCAQMD has occurred during this time to seek approval of it as a GHG significance threshold. The Draft EIR provided reference to 3,000 $MTCO_2e$/yr as an indicator of the magnitude of potential GHG emissions, but correctly did not use it as a significance threshold.

Contrary to what is stated in this comment, GHG emissions estimated in the Draft EIR were not underestimated and instead demonstrated that the Project would be below 3,000 $MTCO_2e$/yr. However, in Response to Comment Nos. 12-49 through 12-52, the analysis has been updated to reflect corrected trip rates and operation of 309 subterranean parking spaces. Specifically, GHG emissions would result in 2,768 $MTCO_2e$/yr and remain below the draft, unadopted screening threshold of 3,000 $MTCO_2e$/yr proposed by commenter. A more detailed analysis using a per capita efficiency target is not warranted per this comment. Even so, the Project would result in a total of 4.28 $MTCO_2e$/yr per capita and would be less than the SWAPE-referenced 4.8 $MTCO_2e$/yr per capita SCAQMD

Project Level Efficiency Threshold. The service population is based on 640 proposed residents and a net of six employees under the Project.

The SWAPE analysis also erroneously provided a comparison of the Project Buildout emissions from Year 2019 and compared them to an efficiency target of 2035. As the Project would be built out in the near term, a comparison to a 2035 per capita threshold proposed nearly 10 years ago and not adopted is not warranted. In addition, SWAPE did not quantify the emissions from the Project in Year 2035. The main two sources of GHG emissions from land use type projects are related to energy and mobile sources. Substantial improvements to the vehicular fleet mix (e.g., more stringent emissions limits and improved technologies) and SB 350 requirement to increase from 33 percent to 50 percent the procurement of our electricity from renewable sources would further reduce Project-related emissions in the future. No additional analysis is warranted.

The SWAPE analysis did not account for the removal of existing uses (i.e., net project emissions). This comment provides reference to the OPR in the Final Statement of Reasons for the GHG-specific Guidelines and CEQA Guidelines, § 15064.4, subd. (a) for support of not accounting for the removal of existing uses when calculating project-related emissions. Specifically, the comment reads "…If a lead agency wants to use a *net* approach by subtracting existing on-site emissions from the project emissions, it must support that decision with substantial evidence showing that those existing emissions sources will be extinguished and not simply replaced." The referenced pages from these sources do not provide support for SWAPE's methodology. Since this comment cites the SCAQMD for use of 3,000 $MTCO_2e$/yr, it suggests that available guidance from the SCAQMD be used. The SCAQMD as a Responsible Commenting Agency, provided the following comment on March 13, 2017, regarding the proposed Pier B On-Dock Rail Support Facility Project (www.aqmd.gov/docs/default-source/ceqa/comment-letters/2017/deir-pierbondockrailsupportfac-031317.pdf?sfvrsn=6):

> *The SCAQMD staff recommends that the Lead Agency revise the air quality and health risk analyses to include a comparison between the build-out year with the proposed project (using the emission rates from the build-out year) and the build-out year without the proposed project (also using the same emission rates from the build-out year) and use this analysis to determine the level of significance for the proposed project. By using a consistent emission rate for the analysis, the air quality and health risk impacts of the project will be accurately disclosed (i.e., impacts based on the change in activity due to the proposed project).*

Based on this guidance, netting out the existing uses based on emission factors from the buildout year would best represent potential GHG emissions related to the Project.

Consistent with this comment, since the Project's GHG emissions do not exceed the 3,000 $MTCO_2e$/yr, the Project's emissions would not need to be compared to the proposed 2020 or 2035 SCAQMD efficiency targets, assuming, for argument's sake, that they were applicable to the Project. The DEIR also evaluated Project-related GHG impacts based on consistency with plans including the SCAG 2016–2040 RTP/SCS. While the RTP/SCS provides a blueprint for meeting statewide emissions reduction targets, it also acknowledges that population and employment growth will occur in the region. As the project is consistent with the goals of the RTP/SCS, demonstrating proof of extinguishing sources of exiting GHG emissions is not necessary. No further analysis of GHG emissions related to the Project is warranted based on this comment.

Comment No. 12-65

Additional Feasible Mitigation Measures Available

Our analysis demonstrates that the Project's GHG emissions may present a potentially significant GHG impact. In an effort to reduce the Project's GHG emissions, we identified several additional mitigation measures that are applicable to the Project. Additional mitigation measures that could be implemented to reduce operational GHG emissions include, but are not limited to, the following:[77]

- Use passive solar design, such as:[78,79]
  - Orient buildings and incorporate landscaping to maximize passive solar; heating during cool seasons, and minimize solar heat gain during hot seasons; and
  - Enhance natural ventilation by taking advantage of prevailing winds.
- Reduce unnecessary outdoor lighting by utilizing design features such as limiting the hours of operation of outdoor lighting.
- Develop and follow a "green streets guide" that requires:
  - Use of minimal amounts of concrete and asphalt;
  - Installation of permeable pavement to allow for storm water infiltration; and
  - Use of groundcovers rather than pavement to reduce heat reflection.[80]
- Implement Project design features such as:
  - Shade HVAC equipment from direct sunlight;
  - Install high-albedo white thermoplastic polyolefin roof membrane;

  - Install high-efficiency HVAC with hot-gas reheat;
  - Install formaldehyde-free insulation; and
  - Use recycled-content gypsum board.

- Provide education on energy efficiency to residents, customers, and/or tenants. Provide information on energy management services for large energy users.
- Meet "reach" goals for building energy efficiency and renewable energy use.
- Limit the use of outdoor lighting to only that needed for safety and security purposes.
- Require use of electric or alternatively fueled sweepers with HEPA filters.
- Include energy storage where appropriate to optimize renewable energy generation systems and avoid peak energy use.
- Plant low-VOC emitting shade trees, e.g., in parking lots to reduce evaporative emissions from parked vehicles.
- Use CARB-certified or electric landscaping equipment in project and tenant operations; and introduce electric lawn, and garden equipment exchange program.
- Install an infiltration basin to provide an opportunity for 100% of the storm water to infiltrate on-site.

In addition to the measures discussed above, the SCAQMD has previously recommended additional mitigation measures for operational NO_X emissions that result primarily from truck activity emissions, which would also reduce the Project's operational GHG emissions. Since the Project proposes some commercial land uses, these measures would apply and should be considered. Measures recommended for the Waterman Logistic Center that are also applicable for this Project's commercial uses include:[81]

- Provide electric vehicle charging stations that are accessible for trucks. Provide electrical hookups at the onsite loading docks and at the truck stops for truckers to plug in any onboard auxiliary equipment.
- Provide minimum buffer zone of 300 meters (approximately 1,000 feet) between truck traffic and sensitive receptors.
- Limit the daily number of trucks allowed at the facility.

- Design the site such that any check-in point for trucks is well inside the facility to ensure that there are no trucks queuing outside of the facility.

- On-site equipment should be alternative fueled.

- Improve traffic flow by signal synchronization.

- Have truck routes clearly marked with trailblazer signs, so that trucks will not enter residential areas.

- Should the proposed Project generate significant emissions, the Lead Agency should require mitigation that requires accelerated phase-in for non-diesel powered trucks. For example, natural gas trucks, including Class 8 HHD trucks, are commercially available today. Natural gas trucks can provide a substantial reduction in emissions, and may be more financially feasible today due to reduced fuel costs compared to diesel. In the Final CEQA document, the Lead Agency should require a phase-in schedule for these cleaner operating trucks to reduce project impacts.

Furthermore, the Kimball Business Park Project Final Environmental Impact Report includes various feasible mitigation measures that would reduce on-site area emissions that are applicable to the proposed Project's commercial and retail land uses, and include, but are not limited to:[82]

- Increase in insulation such that heat transfer and thermal bridging is minimized.

- Limit air leakage through the structure and/or within the heating and cooling distribution system.

- Use of energy-efficient space heating and cooling equipment.

- Installation of electrical hook-ups at loading dock areas.

- Installation of dual-paned or other energy efficient windows.

- Installation of automatic devices to turn off lights where they are not needed.

- Application of a paint and surface color palette that emphasizes light and off-white colors that reflect heat away from buildings.

Finally, additional, feasible mitigation measures can be found in CAPCOA's *Quantifying Greenhouse Gas Mitigation Measures*, which attempt to reduce GHG levels.[83] GHG emissions are produced during fuel combustion, and are emitted by on-road vehicles and by off-road equipment. Therefore, to reduce the Project's mobile-source GHG emissions, consideration of the following measures should be made.

- Neighborhood/Site Enhancements

  - Providing a pedestrian access network to link areas of the Project site encourages people to walk instead of drive. This mode shift results in people driving less and thus a reduction in VMT. The project should provide a pedestrian access network that internally links all uses and connects to all existing or planned external streets and pedestrian facilities contiguous with the project site. The project should minimize barriers to pedestrian access and interconnectivity. Physical barriers such as walls, landscaping, and slopes that impede pedestrian circulation should be eliminated.

- Incorporate Bike Lane Street Design (On-Site)

  - Incorporating bicycle lanes, routes, and shared-use paths into street systems, new subdivisions, and large developments can reduce VMTs. These improvements can help reduce peak-hour vehicle trips by making commuting by bike easier and more convenient for more people. In addition, improved bicycle facilities can increase access to and from transit hubs, thereby expanding the "catchment area" of the transit stop or station and increasing ridership. Bicycle access can also reduce parking pressure on heavily-used and/or heavily-subsidized feeder bus lines and auto-oriented park-and-ride facilities.

- Limit Parking Supply

  - This mitigation measure will change parking requirements and types of supply within the Project site to encourage "smart growth" development and alternative transportation choices by project residents and employees. This can be accomplished in a multi-faceted strategy:

    - Elimination (or reduction) of minimum parking requirements

    - Creation of maximum parking requirements

    - Provision of shared parking

- Unbundle Parking Costs from Property Cost

  - Unbundling separates parking from property costs, requiring those who wish to purchase parking spaces to do so at an additional cost from the property cost. This removes the burden from those who do not wish to utilize a parking space. Parking should be priced separately from home rents/ purchase prices or office leases.

- Implement Commute Trip Reduction Program—Voluntary or Required

- Implementation of a Commute Trip Reduction (CTR) program with employers will discourage single-occupancy vehicle trips and encourage alternative modes of transportation such as carpooling, taking transit, walking, and biking. The main difference between a voluntary and a required program is:
  - Monitoring and reporting is not required
  - No established performance standards (i.e. no trip reduction requirements)
- The CTR program should provide employees with assistance in using alternative modes of travel, and provide both "carrots" and "sticks" to encourage employees. The CTR program should include all of the following to apply the effectiveness reported by the literature:
  - Carpooling encouragement
  - Ride-matching assistance
  - Preferential carpool parking
  - Flexible work schedules for carpools
  - Half time transportation coordinator
  - Vanpool assistance
  - Bicycle end-trip facilities (parking, showers and lockers)

- Provide Ride-Sharing Programs
  - Increasing the vehicle occupancy by ride sharing will result in fewer cars driving the same trip, and thus a decrease in VMT. The project should include a ride-sharing program as well as a permanent transportation management association membership and funding requirement. The project can promote ride-sharing programs through a multi-faceted approach such as:
    - Designating a certain percentage of parking spaces for ride sharing vehicles
    - Designating adequate passenger loading and unloading and waiting areas for ride-sharing vehicles
    - Providing a web site or message board for coordinating rides

- Implement Subsidized or Discounted Transit Program

  - This project can provide subsidized/discounted daily or monthly public transit passes to incentivize the use of public transport. The project may also provide free transfers between all shuttles and transit to participants. These passes can be partially or wholly subsidized by the employer, school, or development. Many entities use revenue from parking to offset the cost of such a project.

- Provide End of Trip Facilities

  - Non-residential projects can provide "end-of-trip" facilities for bicycle riders including showers, secure bicycle lockers, and changing spaces. End-of-trip facilities encourage the use of bicycling as a viable form of travel to destinations, especially to work. End-of-trip facilities provide the added convenience and security needed to encourage bicycle commuting.

- Encourage Telecommuting and Alternative Work Schedules

  - Encouraging telecommuting and alternative work schedules reduces the number of commute trips and therefore VMT traveled by employees. Alternative work schedules could take the form of staggered starting times, flexible schedules, or compressed work weeks.

- Implement Commute Trip Reduction Marketing

  - The project can implement marketing strategies to reduce commute trips. Information sharing and marketing are important components to successful commute trip reduction strategies. Implementing commute trip reduction strategies without a complementary marketing strategy will result in lower VMT reductions. Marketing strategies may include:

    - New employee orientation of trip reduction and alternative mode options

    - Event promotions

    - Publications

- Implement Preferential Parking Permit Program

  - The project can provide preferential parking in convenient locations (such as near public transportation or building front doors) in terms of free or reduced parking fees, priority parking, or reserved parking for commuters who carpool, vanpool, ride-share or use alternatively fueled vehicles. The project should provide wide parking spaces to accommodate vanpool vehicles.

- Implement Car-Sharing Program

  - This project should implement a car-sharing project to allow people to have on-demand access to a shared fleet of vehicles on an as-needed basis. User costs are typically determined through mileage or hourly rates, with deposits and/or annual membership fees. The car-sharing program could be created through a local partnership or through one of many existing car-share companies. Car-sharing programs may be grouped into three general categories: residential-or citywide-based, employer-based, and transit station-based. Transit station-based programs focus on providing the "last-mile" solution and link transit with commuters' final destinations. Residential-based programs work to substitute entire household based trips. Employer-based programs provide a means for business/day trips for alternative mode commuters and provide a guaranteed ride home option.

- Provide Employer-Sponsored Vanpool/Shuttle

  - This project can implement an employer-sponsored vanpool or shuttle. A vanpool will usually service employees' commute to work while a shuttle will service nearby transit stations and surrounding commercial centers. Employer-sponsored vanpool programs entail an employer purchasing or leasing vans for employee use, and often subsidizing the cost of at least program administration, if not more. The driver usually receives personal use of the van, often for a mileage fee. Scheduling is within the employer's purview, and rider charges are normally set on the basis of vehicle and operating cost.

- Implement Bike-Sharing Program

  - This project can establish a bike-sharing program to reduce VMTs. Stations should be at regular intervals throughout the project site.

    - For example, Paris' bike-share program places a station every few blocks throughout the city (approximately 28 bike stations/square mile).

- Price Workplace Parking

  - The project should implement workplace parking pricing at its employment centers. This may include: explicitly charging for parking for its employees, implementing above market rate pricing, validating parking only for invited guests, not providing employee parking and transportation allowances, and educating employees about available alternatives.

  - Though similar to the Employee Parking "Cash-Out" strategy, this strategy focuses on implementing market rate and above market rate pricing to provide a price signal for employees to consider alternative modes for their work commute.

- Implement Employee Parking "Cash-Out"

- The project can require employers to offer employee parking "cash-out." The term "cash-out" is used to describe the employer providing employees with a choice of forgoing their current subsidized/free parking for a cash payment equivalent to the cost of the parking space to the employer.

When combined together, these measures offer a cost-effective, feasible way to incorporate lower-emitting design features into the proposed Project, which subsequently, reduces GHG emissions released during Project operation. An updated DEIR must be prepared to include additional mitigation measures, as well as include an updated GHG analysis to ensure that the necessary mitigation measures are implemented to reduce operational GHG emissions to below thresholds. The Project Applicant also needs to demonstrate commitment to the implementation of these measures prior to Project approval, to ensure that the Project's operational GHG emissions are reduced to the maximum extent possible.

[77] *http://ag.ca.gov/globalwarming/pdf/GW_mitigation_measures.pdf*

[78] *Santa Barbara Air Pollution Control District, Scope and Content of Air Quality Sections in Environmental Documents, September 1997.*

[79] *Butte County Air Quality Management District, Indirect Source Review Guidelines, March 1997.*

[80] *See Irvine Sustainable Travelways "Green Street" Guidelines; www.ci.irvine.ca.us/civica/filebank/blobdload.asp?BlobID=8934; and Cool Houston Plan; www.harc.edu/Projects/CoolHouston.*

[81] *SCAQMD Comment Letter in Response to MND for the Waterman Logistic Center, January 2018, available at: http://www.aqmd.gov/docs/default-source/ceqa/comment-letters/2015/january/mndwaterman.pdf*

[82] *Mitigation Monitoring Plan for the Kimball Business Park Project Final Environmental Impact Report, July 2016, available at: http://www.cityofchino.org/home/showdocument?id=13244*

[83] *http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf*

Response to Comment No. 12-65

As discussed in Response to Comment Nos. 12-64 and 12-63 above, the Draft EIR correctly concluded that the Project would result in less-than-significant GHG impacts. Therefore, consideration for the mitigation measures provided in this comment is not warranted.

Comment No. 12-66

Attachments: CalEEMod worksheets, AERSCREEN worksheets, SWAPE résumés (176 pages)

Response to Comment No. 12-66

The attachments noted in this comment are included in the copies of the comment letters included in Appendix FEIR-1 of this Final EIR. These attachments are referenced in several of the response to comments above. No specific response to these attachments is necessary.

Comment Letter No. 13

William Brodersen
bbrodersen@fotokem.com

Comment No. 13-1

We own the property across the street (6855 Santa Monica Blvd,) [sic] from this project. I am wondering if there are any plans to repair and re-pave Mansfield Ave. upon competition [sic] of this project. The street in [sic] in bad shape with many pot holes, [sic] cracks, etc.

[Reply from Kathleen King, Department of City Planning, to comment submitted by email]

Mansfield Avenue will not be repaved as part of the 6901 Santa Monica Project.

The Road Surface Condition Map (accessible on the Bureau of Street Services website: http://bss.lacity.org/) shows which streets are scheduled to be repaired in 2016–2017. (Please note you have to click on the box in the upper right hand comer of the map that says 2016–17 Road Repair). Based on the information displayed on this map, Mansfield Ave. is not scheduled to be repaired in 2017.

Using 311 you can request street repair services: (https://myla311.lacity.org/portal/faces/home/service/service-request?_adf.ctrl-state=7uw7womh0_171&_afrLoop=15779600750503678#!).

Please feel free to call me if you have additional questions.

Response to Comment No. 13-1

As noted in the City's response to Mr. Brodersen included above, Mansfield Avenue is not proposed to be paved by the Project.

Comment Letter No. 14

Brad Karrfalt
1130 N. Orange Dr.
Los Angeles, CA 90038-1008

Comment No. 14-1

My name is Brad Karrfalt and I have been the owner and resident of the property at 1130 N Orange Dr since September of 2003. I'm am writing the Department of City Planning now a second time to voice my continued apprehensions to the above referenced mega project. After initially reviewing the plans shared last year at this time and now again after reviewing the draft EIR, I wish to state in the clearest possible terms how I anticipate this project will greatly impact my property, its use, and its value.

Of possible note, while the EIR consistently refers to my property as a single-family dwelling it is in actuality a legal duplex. I occupy the front (west) end of the property while a tenant occupies the rear (east) unit. Both of us work out of the home.

I would also like to restate that I am not opposed to any development, nor do I consider myself to be anti-development in nature. My wish is for improvement which both benefits and synergizes with the neighborhood rather than towers over it.

Further, any project which liberates the block from the scourge of Avon Rentals is encouraging. Besides occupying the southernmost parcels of the project site, Avon also utilized the two empty R3 lots adjacent to mine as a 24x7 commercial truck repair facility for many years. While completely illegal it still involved a seven year battle with CD4 and both the LADBS Code Enforcement Bureau (CEB) and Office of Zoning Administration (*ref: ZA Case 2012-2464(CU)*) to obtain compliance.

Zoning/CUP

The two parcels directly adjacent to my property are also zoned R3-1XL with both carrying a CUP of *Parking Lot—Patron or Employee—One Story (2700)*. The remaining parcels incorporated into the project are zoned C2-1D as *Auto Body Repair Shop—One Story (2600)*. The project seeks to change the zoning while also increasing the height allotments of these parcels.

Response to Comment No. 14-1

The Draft EIR accurately characterizes the property at 1130 N. Orange Drive as a residence. The FEIR has been revised to clarify that this property is a duplex and not a single-family residence. Refer to Section II, Corrections and Additions, of this Final EIR. This clarification does not change any of the conclusions reached in the Draft EIR. The comments regarding the Project, building heights, Avon Rentals and existing zoning are noted for the administrative record and will be forwarded to the decision-makers for review and consideration. As discussed in Section 4.B, Aesthetics, of the Draft EIR, the Project would result in a less than significant impact with respect to architectural design and visual character compatibility. Furthermore, the Project Site is located within a Transit Priority Area as defined by Public Resources Code Section 21099. As such, in accordance with Senate Bill SB 743, aesthetic impacts of the proposed mixed-use Project shall not be considered significant impacts on the environment.

Comment No. 14-2

Interior Shading

Far and away the most significant impact upon my property would be shadows cast much of the year by the project.

With the long axis of my structure facing south both units now bask in abundant winter sun through large windows, even on the shortest days surrounding the Holidays. Sunlight is beneficial to humans, pets, and plants alike, and can have a significant impact on heating requirements on those cold winter mornings. There is a reason why real estate is often characterized as “bright and sunny” as this is an important selling feature, one that goes beyond the dismissive term “aesthetics” used in the EIR.

Should the project be built according to plan both of my units will receive no significant direct sunshine in the winter. At the sun’s lowest zenith it would barely graze the northernmost rooftops. At best I would anticipate three or four months of sunshine hitting the south exterior of my home—in the middle of summer when you least want it.

The shading diagrams contained in the EIR (*ref. Figure 4.B-5—Project Shading Impacts: Winter Solstice 12:00–2:00 PM and Figure 4.B-6–Project Shading Impacts: Winter Solstice 3:00 PM*) imply some degree of direct sunlight in winter striking the southwest corner of my property in early to mid-afternoon. This is not an accurate scenario in that it does not take into account the existing four story apartment structure on the west side of Orange Dr immediately to the southwest of my property, which already casts significant shadow. These diagrams in fact completely omit the shading impact of all structures other than

those of the project and, as such, I feel are of very limited use in determining its overall impact.

As it stands now there is a four story structure directly abutting the east of my property along with the two 4-story apartment buildings to the west and southwest, leaving the only access to winter sun coming in from the direct south. The project as proposed would serve to effectively close off my house and surrounding land to such a degree as to alter its characterization from bright and sunny to something more akin to “dark and dingy”. You won’t find that depictive in any real estate copy.

Exterior Shading

Beyond the interior impacts of the “cave shading” which the project would impose upon my property there would be a parallel impact to the exterior grounds. When I had purchased in 2003 most of the lot was a combination of crab grass, overgrown fichus, [sic] and just plain dirt. Since that time there has been significant investment (along with much sweat equity) put into landscaping improvements. The back yard has been described as an urban oasis, a term proffered by both of the tenants who have lived here. Besides abundant sunshine the large rear yard is very private and relatively quiet, LAPD helicopter traffic notwithstanding. There are mature fruit trees and a vegetable garden which is utilized year-round, with flowers and herbs growing anywhere they will fit along the east and southern grounds. With the exception of the desert landscaped front yard, which was recently converted to help endure the drought, much of this current setting would be greatly diminished if not effectively wiped out should the project move forward.

I had also mentioned in my initial response last year how I was considering installing solar panels atop the (new) roof to help alleviate escalating DWP electricity rates. I have not pursued this initiative however, given the potential impact of the project on the yearly amount of sunshine my roof would receive.

Section 4.B. Aesthetics, Page 4.B.2-5 of the EIR attempts to write off these impacts as purely “aesthetic” and states “…*implementation of the Project would not create significant shade or shadow impacts*”. As the party who would be absolutely—and negatively—impacted by the project, I steadfastly disagree with this statement. The degree of shading and its effects on the enjoyment and utilization of my property go far beyond what this term implies. In the example I shared with the representative of the developer, it’s not like the project was going to, say, block a view of the Hollywood sign. Utility is not an aesthetic.

The EIR then goes on to suggest “*…since the Project falls within the applicable definitions in SB 743, the Project would not constitute a CEQA significant shade impact and no mitigation is required*.” which attempts to simultaneously diminish the shadow impacts as

"not significant" while also seeking an end run around local land use restrictions by cloaking its obligations under a state law. The text of SB 743 uses the term aesthetics as well though does not specify what exactly is meant by it, which again I would not define as synonymous with practical use and enjoyment.

Response to Comment No. 14-2

As set forth in Section 4.B of the Draft EIR, the Project is a mixed-use project on an infill site within a transit priority area. As such, in accordance with SB 743, aesthetic and parking impacts associated with the Project shall not be considered significant impacts on the environment. SB 743 supersedes the aesthetic impact thresholds in the 2006 L.A. CEQA Thresholds Guide, including those established for aesthetics, obstruction of views, shading, and nighttime illumination. In addition, consistent with SB 743, the City issued Zoning Information File 2452 (ZI 2452) regarding aesthetic and parking impacts for specified projects located in a transit priority area. ZI 2452 summarizes the provisions of SB 743 and specifies that visual resources, aesthetic character, shade and shadow, light and glare, and scenic vistas or any other aesthetic impacts as defined in the City's CEQA Thresholds Guide shall not be considered an impact for infill projects within transit priority areas.

For informational purposes, Section 4.B.2 of the Draft EIR includes a shading analysis that concludes that the outdoor spaces at the residence bordering the Project Site on the north would be shaded for more than three hours between the hours of 9 A.M. and 3:00 P.M. on the winter solstice, which would exceed the City's impact thresholds. However, in accordance with SB 743 and the City's ZI 2452, aesthetics impacts of the Project, including shading impacts, are considered less than significant. In addition, shading diagrams that show the shadows associated with the Project and with existing development are included in Appendix P to this Final EIR for informational purposes. As shown therein, the existing properties to the west do not shade any portion of the property at 1130 N. Orange Avenue until late afternoon.

Comment No. 14-3

Property Valuation

The whole of the impact of the proposed project can only serve to significantly reduce the value of my property, both as an attractive rental and in resale value. This is not just supposition or worst case scenario. My neighbor in the southernmost bungalow on the west side of Orange Dr has tried twice now in the past few years to sell his property, also a duplex and very well maintained. Yet even in this superheated market he received zero offers. Why? Because of the shading and general lack of privacy imposed on his property by the four story apartment structure immediately to his south. I have every reason to

believe my property would decline profoundly in both rental and resale value due to similar impacts from an even larger structure to my immediate south.

See attached images included with this document for an actual aerial view of winter shading on the block. While it's not possible to say which month of the year this was taken, the shadows cast due north clearly indicate very near noon on the day it was taken. Notice how sunny the properties become beginning to the immediate left (north) of the bottom, fully shaded property. This is why no one is interested in buying it—would you? This is exactly what would become of my property and the reason why municipalities have zoning and height restrictions in the first place.

Response to Comment No. 14-3

The existing shading in the Project vicinity is not caused by the Project. As discussed in Response to Comment No. 14-2 above, in accordance with State law and ZI 2452, shading impacts of the Project are considered to be less than significant. The comments regarding property values do not raise any environmental issues addressed under CEQA. Nonetheless, this comment is noted for the administrative record and will be forwarded to the decision-makers for review and consideration.

Comment No. 14-4

Surrounding Blocks

The architect renderings of the project are of course impressive and aesthetically pleasing, though none of the images I have seen to date attempt to incorporate any of the existing nearby structures in any way. It is tempting to behold a beautiful picture of a big, shiny, new building. It is quite another to see it in contrast to its neighbors. The completed project would be much larger and more imposing than any other structures on this segment of Santa Monica Blvd., let alone the dramatic changes to Orange Dr.

The EIR makes great example of the taller structures along Santa Monica Blvd, yet the project would still be nearly twice the number of stories as the structures to the east towards Highland and four to seven times that of those to the immediate west towards La Brea. It neglects also to consider the lands directly to the north of these blocks. To the east towards Highland, the remainder of these blocks (beginning with the west side of Mansfield) are zoned industrial. No residential impact whatsoever. The structures to the west are single story with no residential impact as well. The only tall structures to the north of any of these are the two four-story apartment buildings on Orange, one of which extends west to Sycamore. The project would drastically alter this.

In short the new structure, as proposed, would be a high castle looking down upon its surroundings with its northwest neighbor—me—being the lowest.

Response to Comment No. 14-4

As discussed in Response to Comment No. 14-2 above, in accordance with State law and ZI 2452, aesthetic impacts of the Project are considered to be less than significant. Nonetheless, Section 4.B. Aesthetics of the Draft EIR provides a discussion of the aesthetic implications of the Project for informational purposes only. As discussed therein, the maximum height of the Project would be 80 feet 4 inches on the southern portion of the site, generally along the Santa Monica Boulevard frontage. The building would step down twice as it approaches the existing residential uses to the north, first to a height of approximately 54 feet and then further to a height of approximately 23 feet to the top of parapet. While the Project would increase building heights on the Project Site by approximately 60 feet when compared to the tallest existing building on the Project Site, it would not be out of proportion with respect to some of the other structures in the general vicinity, including the approximately 60-foot-tall office building located adjacent to the site on the east that does not abut the 1130 N. Orange Drive property. Furthermore, the massing of the Project would feature varying façade relief, articulation, and windows as compared to the solid concrete exterior of the existing structures on the Project Site. In addition, the perimeter would include the planting of vegetation and landscaping. Also note that the existing zoning for the majority of the Project Site does not include a height limit and if commercial or industrial uses were to be developed, the building heights would continue to be unlimited and would allow building heights that have a similar or greater shading pattern when compared with the Project. Overall, development of the Project would result in a less-than-significant impact with respect to height and massing and visual character compatibility.

Comment No. 14-5

Alternatives

Section 6 of the EIR proposes four alternatives to the project, with the first being no project at all. Of the remaining three alternatives with projects, two would have far less impact and offer more cohesion with the surroundings: *2. Reduced Project/Existing Zoning*, and *4. Office Reconfiguration*. Both of these claim to be possible with the existing zoning designations and both propose a maximum of 30 feet (2 stories) in height throughout. The two R3-1XL parcels immediately abutting my property however would either require a new CUP overriding the current single-story restriction or be differently designed within the project to comply with the current CUP.

If the single-story restriction were maintained on the two residential parcels and the rest of the project on the commercial parcels were kept to a 30 foot maximum height as currently designated, the overall impacts upon my property as well as the surrounding neighborhood would be significantly reduced.

Response to Comment No. 14-5

Section 6, Alternatives, of the Draft EIR acknowledges that under Alternatives 2 and 4, aesthetic impacts would be less than the Project's less-than-significant impacts per SB 743 and ZI 2452. However, these alternatives would not meet the Project Objectives to the same extent as the Project. This comment is noted for the administrative record and will be forwarded to the decision-makers for review and consideration.

The commenter is incorrect, there is no single-story height restriction on the two R3-1XL parcels immediately abutting the commenter's property. Under LAMC Section 12.21, the maximum allowable height in the 1XL height district shall not exceed two stories or 30 feet. Also contrary to what is specified in this comment, the existing C2-1D zoning that applies to the southern majority of the Project Site does not have a height limit.

Nonetheless, the commenter suggests an alternative would restrict the height on the two parcels zoned R3-1XL to one story and the height on the parcels zoned C2-1D to 30 feet. This height reduction would result in an approximate 75 percent reduction in residential units as compared to the Project. Moreover, to partially offset the decrease in height, the Project would cover a greater percentage of the site, resulting in a decrease in the size of the plaza, walkways, and open space. While such an alternative would reduce some of the Project's less-than-significant impacts, it would not meet the following Project objectives to the same extent as the Project:

- Capitalize on a smart growth opportunity by intensifying a currently underutilized site with a mix of residential and commercial uses near public transit opportunities.
- Provide residential uses to act as a transition between the existing industrial and residential zones.
- Redevelop a currently underutilized site into a mixed-use, transit-oriented development that combines complementary uses, such as community-serving retail, restaurant, and residential uses.
- Improve public safety by creating a development that provides the level of density and mix of uses necessary to activate the area both day and night, which provides natural surveillance.

- Activate the Santa Monica Boulevard corridor by attracting residents and visitors, both day and night by providing publicly accessible walkways, plazas, and other gathering spaces.

- Improve the job-housing balance by providing new housing near a major employment center, the "Hollywood Media District."

- Support infill development and redevelopment in existing urban areas to reduce "greenfield" development and urban sprawl, in furtherance of City goals and policies to reduce vehicle miles traveled (VMT) and to reduce pollutant emissions and greenhouse gas emissions.

- Create a sustainable balance of commercial and housing uses to encourage mixed-use living near transit.

Note that the decision-makers will consider the EIR, including these responses to comments prior to making a decision on the Project.

Comment No. 14-6

The following two topics have been copied verbatim from my response letter last year. My concerns are the same and nothing in the draft EIR in any way alleviates these. Traffic along Orange Dr will be increased significantly, with the Orange Dr entrance to the project always being preferable than Mansfield Dr due to the existing signaling.

Traffic

A second major concern is the impact of new traffic which will be created on the residential span of Orange Dr. As it stands now the street (a "collector" road) serves as an alternative north-south route for traffic wishing to avoid La Brea or Highland Avenues. This includes not just automobiles but semi-trucks, cement trucks from the nearby Cemex cement factory, tow trucks from Hollywood Tow, etc. The additional traffic created by the development would only serve to increase the volume and duration of the current load. With the only other automobile access being on Mansfield—which unlike Orange has no traffic signals on Santa Monica Blvd. or Fountain Ave.—both the residents and commercial visitors will no doubt prefer to use the Orange Dr. access. Traffic often backs up at the Santa Monica signal (much having to do with woefully illegal operations conducted by Avon Rentals, operating out of the current lot) and causes traffic to back up much of the street. At some point it inevitably turns into a festival of honking horns, especially at rush hour. I would expect this to only worsen.

Response to Comment No. 14-6

The site currently has six driveways along Orange Drive and Mansfield Avenue. The Project would remove four of the driveways and would retain one driveway along Orange Drive and one driveway along Mansfield Avenue. As part of its review and approval of the traffic study for the Project, LADOT reviewed the conceptual site plan and indicated that vehicular access for the Project was acceptable.

When accounting for the existing uses to be removed, the Project would generate 78 A.M. peak-hour trips and 84 P.M. peak-hour trips. Therefore, traffic volumes would increase. The intersection of Orange Drive at Fountain Avenue and Orange Drive at Santa Monica Boulevard were evaluated for potential traffic impacts. The analysis indicates that the intersections were found to have a less than 1-percent increase in traffic in the critical moves at Orange Drive and Fountain Avenue and a less than 2-percent increase in traffic in the critical moves at Orange Drive and Santa Monica Boulevard with the completion and occupancy of the Proposed Project. This level of traffic increase does not exceed the traffic impact thresholds established by LADOT. While the Project would increase traffic in the immediate area and around the Project driveways, this increase would not result in any significant impacts. Avon Truck Rental, Melrose Tow, and Premier Collision Care will be removed from the site, and traffic-related issues with these uses will cease with demolition and subsequent construction of the Proposed Project.

Comment No. 14-7

The developer had stated that the city would not permit direct access on Santa Monica Blvd. but I am wondering if the two proposed exits along the side streets could be designated separately to align with the dual use of the development. The Mansfield entrance, which is currently zoned M1, could be used exclusively for the commercial tenants and their customers while the Orange entrance would be dedicated for exclusive use by the residential tenants. The rationale being that residents are much more likely to show respect for the surrounding neighborhood than commercial visitors and employees.

Response to Comment No. 14-7

Providing both driveways available to Project traffic reduces the traffic circulation on the roadways surrounding the site. Left turns to and from Santa Monica are safer and more efficient at a signalized location as is available at Santa Monica Boulevard and Orange Drive. If drivers choose to use the signal, but are required to circulate to the Mansfield Driveway only, they will need to use Orange Drive, Lexington Avenue and Mansfield Avenue rather than turning directly to/from the driveway on Orange Drive. Right turning traffic to and from westbound Santa Monica Boulevard may find it more efficient to use Mansfield Avenue rather than go to the traffic signal on Orange Drive. Overall, having

both the Orange Drive and Mansfield Avenue driveways open for all traffic provides for optimal circulation to and from the site and will keep more Project traffic concentrated closer to Santa Monica Boulevard and reduce traffic impacts to the local roadway segments.

Without accounting for reduction for pass-by trips or existing uses, the proposed residential uses would generate 1,306 daily trips, 100 A.M. peak-hour trips and 122 P.M. peak-hour trips. The commercial uses would generate 859 daily trips, 53 A.M. peak-hour trips, and 69 P.M. peak-hour trips. The traffic analysis assumed that Project trips would be distributed equally in the north, south, east and west directions. Based on use of both driveways, it was determined that the increase in traffic associated with the Project would not exceed the traffic impact significance thresholds established by LADOT. However, it is expected that if both driveways were not used, significant traffic impacts would occur.

Comment No. 14-8

Alcohol

My tenant and my neighbors also have concerns about the potential commercial uses of the property. Hollywood is a "party town" and businesses which attract such party goers can have a severe detrimental effect upon residential areas. While the developer has expressed a desire for up to three sit down restaurants, there is no guarantee that the property could not at some point host a nightclub or bar, resulting in loud, intoxicated patrons roaming the streets at the wee hours. Shakey's Pizza Parlor across the street has had its share of this activity over the years.

Thank you for your consideration and attention in this matter.

Response to Comment No. 14-8

The applicant is seeking a Master Conditional Use Permit (CUP) in connection with up to three restaurant or retail tenant spaces. The Master CUP would require subsequent plan approvals and public notice for individual outlets. If approved, the CUP will be conditioned such that only three restaurant or retail tenants would be permitted to sell alcohol. A new CUP for live entertainment would be required to operate a bar or nightclub with live performances and none is being requested as part of the Project.. Any such CUP would be subject to the notice and public hearing requirements of LAMC Section 12.24.

Comment No. 14-9

Attachments: photos and figure (3 pages)

Response to Comment No. 14-9

These attached photographs are associated with the comments provided above. No separate response is required. These materials are noted for the administrative record and will be forwarded to the decision-makers for review and consideration.

Comment Letter No. 15

John D. Nicely II
johnnynicelyii@gmail.com

Comment No. 15-1

My name is John Nicely and I have just recently received a letter in the mail regarding a mixed-use building project located at 6901 Santa Monica Boulevard.

First I am writing to say I totally approve of such a building project in that location and find its [sic] the right step for this eras [sic] rendition of Hollywood; Santa Monica blvd is no longer the type of highway it used to be and this is one of many steps that's moving this city forward.

Second and my main reason for writing this letter is, I was curious to know how my family can get on the low-income housing list for this project or a future one. I'm pretty sure my wife and I are qualified for the program, we just do not know how you go about applying.

If you could give me any information to get us started in the right direction it would be greatly appreciated.

thank you for your time and hard work.

Response to Comment No. 15-1

This comment in support of the Project is noted for the administrative record and will be forwarded to the decision-makers for review and consideration. With regard to opportunities for affordable housing, the Commenter is referred to the Los Angeles Housing and Community Investment Department.

Comment Letter No. 16

Ralph M. Terrazas
Fire Chief
Fire Department

Comment No. 16-1

PROJECT DESCRIPTION:

The Project proposes the development of an approximately 281,316 square-foot mixed-use building on a 72,772 square-foot site composed of 12 contiguous parcels of land within the Hollywood Community Plan Area. The Project would include 231 multi-family residential units, including 15 units for Very Low Income households, within 7 stories, above 15,000 square feet of ground-floor neighborhood-serving commercial uses (up to 5,000 square feet of high-turn-over restaurants and up to 10,000 square feet of general retail) and 2 levels of subterranean parking, provided 390 vehicle parking spaces. The Project would vary in height from 23 feet to 80.4 feet and have an FAR of 3.0:1. Development of the Project Site would include the demolition and removal of the two existing single-story office buildings and two automobile storage ranging from one-to-two stories in height, totaling 54,661-square feet. The Project will also utilize a Density Bonus by-right to permit 27.5 percent increase in density, equal to 50 additional units, with 8 percent, equal to 15 units, set aside for Very Low Income households. The project is not requesting any on or off-menu incentives. The Project Site is located on approximately 1.67 acres.

Response to Comment No. 16-1

This comment provides a general description of the Project based on information contained in the Draft EIR. No response is required.

Comment No. 16-2

The following comments are furnished in response to your request for this Department to review the proposed development:

FIRE FLOW:

The adequacy of fire protection for a given area is based on required fire-flow, response distance from existing fire stations, and this Department's judgment for needs in the area. In general, the required fire-flow is closely related to land use. The quantity of water

necessary for fire protection varies with the type of development, life hazard, occupancy, and the degree of fire hazard.

Fire-flow requirements vary from 2,000 gallons per minute (G.P.M.) in low density residential areas to 12,000 G.P.M. in high-density commercial or industrial areas. A minimum residual water pressure of 20 pounds per square inch (P.S.I.) is to remain in the water system, with the required gallons per minute flowing. The required fire-flow for this project has been set at 6,000 to 9,000 G.P.M. from four to six fire hydrants flowing simultaneously.

Improvements to the water system in this area may be required to provide 6,000 to 9,000 G.P.M. fire-flow. The cost of improving the water system may be charged to the developer. For more detailed information regarding water main improvements, the developer shall contact the Water Services Section of the Department of Water and Power.

RESPONSE DISTANCE:

Based on a required fire-flow of 6,000 to 9,000 G.P.M., the first-due Engine Company should be within 1 mile(s), the first-due Truck Company within 1 ½ mile(s).

Response to Comment No. 16-2

This comment provides an overview of LAFD's fire flow requirements and is consistent with the information provided in Section4.J.1 Fire Protection of the Draft EIR.

Comment No. 16-3

FIRE STATIONS:

The Fire Department has existing fire stations at the following locations for initial response into the area of the proposed development:

DISTANCE		SERVIES AND EQUIPMENT	STAFF
0.9	**Fire Station No. 27** 1327 N. Cole Avenue Los Angeles, CA 90028	Headquarters Battalion 5 Task Force Truck and Engine Company Paramedic Rescue Ambulance EMT Rescue Ambulance	15
1.1	**Fire Station No. 41** 1439 N. Gardner Street Los Angeles, CA 90046	Single Engine Company	4
2.2	**Fire Station No. 82** 5769 W. Hollywood Blvd. Los Angeles, CA 90028	Single Engine Company Paramedic Rescue Ambulance	6
2.4	**Fire Station No. 52** 4957 Melrose Avenue Los Angeles, CA 90029	Single Engine Company Paramedic Rescue Ambulance Paramedic Supervisor	12
3.8	**Fire Station No. 35** 1601 N. Hillhurst Avenue Los Angeles, CA 90027	Task Force Truck and Engine Company Paramedic Rescue Ambulance	12

Based on these criteria (response distance from existing fire stations), fire protection would be considered **adequate**.

Response to Comment No. 16-3

This comment provides an overview of the LAFD fire stations within the Project Vicinity. This information is generally consistent with the information provided in Section 4.J.1 Public Services—Fire Protection of the Draft EIR. Note that the table in this comment does provide information regarding Fire Station No. 35, which is not included in the Draft EIR and excludes data for Fire Station No. 61, which is located 2.1 miles from the Project Site and included in the Draft EIR. These differences in data do not change any of the impact conclusions reached in the Draft EIR. Consistent with the Draft EIR, this comment concludes that fire protection services for the Project would be adequate.

With regard to cumulative impacts, Section 4.J.1 Public Services—Fire Protection of the Draft EIR states that "although a cumulative demand on the LAFD and County of Los Angeles Fire Department services would occur, cumulative project impacts on fire protection and medical service would be reduced through compliance with existing regulations, including compliance with applicable fire code and building code regulations related to emergency response, emergency access, fire flow, and fire safety requirements. Further, similar to the Project, each related project would be evaluated by the LAFD or County of Los Angeles Fire Department on a project-by project basis. In addition, similar to the Project, the related projects located in the City of Los Angeles and City of West

Hollywood would contribute to funding fire protection services in each City by generating annual revenue from property taxes that would be deposited into the Cities' general fund. A percentage of the general fund monies could be used to fund the construction of future fire stations and the hiring of more firefighters." Therefore, the Project's impacts on fire protection services would not be cumulatively considerable.

Comment No. 16-4

FIREFIGHTING PERSONNEL & APPARATUS ACCESS:

During demolition, the Fire Department access will remain clear and unobstructed.

Access for Fire Department apparatus and personnel to and into all structures shall be required.

The entrance to a Residence lobby must be within 50 feet of the desired street address curb face.

Where above ground floors are used for residential purposes, the access requirement shall be interpreted as being the horizontal travel distance from the street, driveway, alley, or designated fire lane to the main entrance of individual units.

The entrance or exit of all ground dwelling units shall not be more than 150 feet from the edge of a roadway of an improved street, access road, or designated fire lane.

No building or portion of a building shall be constructed more than 150 feet from the edge of a roadway of an improved street, access road, or designated fire lane.

The Fire Department may require additional vehicular access where buildings exceed 28 feet in height.

Policy Exception: L.A.M.C. 57.09.03.B Exception:

- When this exception is applied to a fully fire sprinklered residential building equipped with a wet standpipe outlet inside an exit stairway with at least a 2 hour rating the distance from the wet standpipe outlet in the stairway to the entry door of any dwelling unit or guest room shall not exceed 150 feet of horizontal travel AND the distance from the edge of the roadway of an improved street or approved fire lane to the door into the same exit stairway directly from outside the building shall not exceed 150 feet of horizontal travel.

- It is the intent of this policy that in no case will the maximum travel distance exceed 150 feet inside the structure and 150 feet outside the structure. The term "horizontal travel" refers to the actual path of travel to be taken by a person responding to an emergency in the building.

- This policy does not apply to single-family dwellings or to non-residential buildings.

Building designs for multi-storied residential buildings shall incorporate at least one access stairwell off the main lobby of the building; But, in no case greater than 150ft horizontal travel distance from the edge of the public street, private street or Fire Lane. This stairwell shall extend onto the roof.

Entrance to the main lobby shall be located off the address side of the building.

Any required Fire Annunciator panel or Fire Control Room shall be located within 50ft visual line of site of the main entrance stairwell or to the satisfaction of the Fire Department.

Where rescue window access is required, provide conditions and improvements necessary to meet accessibility standards as determined by the Los Angeles Fire Department.

Fire lane width shall not be less than 20 feet. When a fire lane must accommodate the operation of Fire Department aerial ladder apparatus or where fire hydrants are installed, those portions shall not be less than 28 feet in width.

The width of private roadways for general access use and fire lanes shall not be less than 20 feet, and the fire lane must be clear to the sky.

Fire lanes, where required and dead ending streets shall terminate in a cul-de-sac or other approved turning area. No dead ending street or fire lane shall be greater than 700 feet in length or secondary access shall be required.

Submit plot plans indicating access road and turning area for Fire Department approval.

Adequate public and private fire hydrants shall be required.

Standard cut-corners will be used on all turns.

Site plans shall include all overhead utility lines adjacent to the site.

Any roof elevation changes in excess of 3 feet may require the installation of ships ladders.

The Fire Department may require additional roof access via parapet access roof ladders where buildings exceed 28 feet in height, and when overhead wires or other obstructions block aerial ladder access.

All parking restrictions for fire lanes shall be posted and/or painted prior to any Temporary Certificate of Occupancy being issued.

Plans showing areas to be posted and/or painted, “FIRE LANE NO PARKING” shall be submitted and approved by the Fire Department prior to building permit application sign-off.

Electric Gates approved by the Fire Department shall be tested by the Fire Department prior to Building and Safety granting a Certificate of Occupancy.

SECTION 510—EMERGENCY RESPONDER RADIO COVERAGE

5101.1 Emergency responder radio coverage in new buildings. All new buildings shall have approved radio coverage for emergency responders within the building based upon the existing coverage levels of the public safety communication systems of the jurisdiction at the exterior of the building. This section shall not require improvement of the existing public safety communication systems.

The inclusion of the above recommendations, along with any additional recommendations made during later reviews of the proposed project. Will reduce the impacts to an acceptable level.

Definitive plans and specifications shall be submitted to this Department and requirements for necessary permits satisfied prior to commencement of any portion of this project.

The Los Angeles Fire Department continually evaluates fire station placement and overall Department services for the entire City, as well as specific areas. The development of this proposed project, along with other approved and planned projects in the immediate area, may result in the need for the following:

1. Increased staffing for existing facilities. (I.E., Paramedic Rescue Ambulance and EMT Rescue Ambulance resources.)

2. Additional fire protection facilities.

3. Relocation of present fire protection facilities.

For additional information, please contact Inspector Duff of the Fire Development Services Section, Hydrants & Access Unit at **(213) 482-6543**.

Response to Comment No. 16-4

The Project will comply with all applicable LAFD requirements including those summarized herein. In addition, as part of the permitting process, definitive plans and specifications will be submitted to LAFD for review and approval. Consistent with this comment, the Draft EIR concludes that with compliance with regulatory requirements, impacts to fire protection services would be less than significant.

With regard to the need for additional staffing and facilities as a result of development of the Project and other approved projects, LAFD does not yet have a specific program in place to address the specific types of staffing and facilities that may be needed. Thus, determining the precise need for additional staffing and facilities associated with the Project and other future projects would be speculative. As set forth in Section 4.J.1. Public Services – Fire Protection, of the Draft EIR, cumulative impacts would be reduced through compliance with existing regulations, including compliance with applicable fire code and building code regulations related to emergency response, emergency access, fire flow, and fire safety requirements. In particular, each project would be reviewed for compliance with building and site design standards related to fire/life safety, as well as coordinating with LADWP to ensure that local fire flow infrastructure meets current standards for the type and intensity of land uses involved. Furthermore, the Project represents and infill Project that is within an acceptable distance of fire stations and is consistent with SCAG projections. Each of the related projects identified in the area would likewise be developed within urbanized locations that would be expected to fall within an acceptable distance from one or more existing fire stations. The Project and related projects also would generate revenues to the City's General Fund (in the form of property taxes, sales revenue, etc.) that could be applied toward the provision of new fire station facilities and related staffing, as deemed appropriate. Furthermore, over time, LAFD would continue to monitor population growth and land development throughout the City and identify additional resource needs, including staffing, equipment, trucks and engines, ambulances, other special apparatuses, and possibly station expansions or new station construction, which may become necessary to achieve the required level of service. Through the City's regular budgeting efforts, LAFD's resource needs would be identified and monies allocated according to the priorities at the time, as appropriate.

Furthermore, in City of Hayward v. Trustees of California State University (2015) 242 Cal.App.4th 833, the Court of Appeal held that significant impacts under CEQA consist of adverse changes in any of the physical conditions within the area of a project, and potential impacts on public safety services are not an environmental impact that CEQA requires a

project applicant to mitigate: "[T]he obligation to provide adequate fire and emergency medical services is the responsibility of the city. (Cal. Const., art. XIII, § 35, subd. (a)(2) ["The protection of the public safety is the first responsibility of local government and local officials have an obligation to give priority to the provision of adequate public safety services."].) The need for additional fire protection services is not an environmental impact that CEQA requires a project proponent to mitigate." Therefore, the cumulative impacts on fire protection services would be less than significant.