

Nov 30 2020

## STATE CLEARINGHOUSE

## Chapter 6

## Comments Received and District Responses

## 6.1 Introduction

The Draft Environmental Impact Report (EIR) was available for public review for 49 days beginning on December 13, 2017 and ending on January 30, 2018. The San Diego Unified Port District (District) posted an electronic version of the Draft EIR on the District's website, hard copies were sent to the City of San Diego Central Library, and a hard copy was available for review at the District's Administration Building at 3165 Pacific Hwy, San Diego, CA 92101. A Notice of Availability was posted with the County Clerk on December 13, 2017, posted on the District's website, and mailed to various agencies, organizations, individuals, and known interested parties. All requisite documents, including the Notice of Completion form, were sent to the State Clearinghouse on December 13, 2017.

## 6.2 Comments Received on the Draft EIR

The District received comment letters from 13 commenters on the Draft EIR during the public review period. Topics included aesthetics and visual resources, air quality and health risks, biological resources, cultural resources, geology and soils, greenhouse gas (GHG) emissions and climate change, hazards and hazardous materials, hydrology and water quality, land use and planning, public services and recreation, transportation, circulation and parking, and utilities and energy use. Table 5-1 lists the agencies, organizations, and interested parties that provided comment letters. Each comment letter is assigned a letter (e.g., Comment Letter A) and each issue that was raised within each comment letter has been assigned a consecutive number that corresponds to a response number (e.g., Response to Comment A-1).

**Table 6-1. Agencies, Organizations, and Interested Parties that Submitted Comment Letters on the Draft EIR**

Letter	Agency/Organization	Dated	Received	Page
Federal Agencies				
A	National Marine Fisheries Service	2/20/18	2/20/18	6-3
State Agencies				
B1	State Clearinghouse and Planning Unit	1/29/18	2/6/18	6-7
B2	State Clearinghouse and Planning Unit	1/31/18	2/6/18	6-13
C	Department of Toxic Substances Control	1/3/18	1/5/18	6-20
D	California Department of Transportation, District 11	1/30/18	1/30/18	6-30
E	California Coastal Commission	1/30/18	1/31/18	6-47
Regional and Local Agencies				
F	City of San Diego Planning Department	1/30/18	1/30/18	6-71
G	City of San Diego Public Utilities Department	1/30/18	1/30/18	6-99
Organizations				

<b>Letter</b>	<b>Agency/Organization</b>	<b>Dated</b>	<b>Received</b>	<b>Page</b>
H	Fifth Avenue Landing, LLC	1/30/18	1/30/18	6-101
I	Save Our Heritage Organisation	1/30/18	1/29/18	6-163
J	San Diego Convention Center Corporation	1/30/18	1/30/18	6-165
K	San Diego County Archaeological Society, Inc.	1/29/18	1/31/18	6-173
<b>Individuals</b>				
L	Mark G. Stephens	1/29/18	1/29/18	6-174
M	Spencer Mosher	1/30/18	1/30/18	6-179

## 6.3 Comment Letters and Responses

### 6.3.1 Comment Letter A: National Marine Fisheries Service

#### Candice Magnus

**From:** Eileen Maher <emaher@portofsandiego.org>  
**Sent:** Tuesday, February 20, 2018 4:19 PM  
**To:** Dana Sclar  
**Subject:** Fwd: FAL issues

Comment Letter A

FAL issues

Begin forwarded message:

**From:** Eric Chavez - NOAA Federal <eric.chavez@noaa.gov>  
**Date:** February 20, 2018 at 11:05:03 AM PST  
**To:** Eileen Maher <emaher@portofsandiego.org>, Robert Smith <Robert.R.Smith@usace.army.mil>  
**Subject:** Re: FAL issues

Hi Eileen (and Robert),

A-1

Thanks again for discussing this proposed project with me last week, Eileen, and for your efforts to understand and address some of the points I brought up. As I said on the phone, given that NMFS will conduct an essential fish habitat (EFH) consultation and provide input on how to conserve EFH under section 305(b)(4)(A) of the Magnuson-Stevens Fishery Conservation and Management Act as this project goes through the U.S. Army Corps of Engineers permitting process, this input should be considered pre-consultation technical assistance for that EFH consultation. In general, your email captured my concerns well, though I'd like to make a few points of clarification.

A-2

Regarding #1, we support the overall concept of mitigating for a loss of open water habitat by restoring eelgrass habitat. My main point was that since green sea turtles (GSTs), which are listed as endangered under the Endangered Species Act (ESA), are known to utilize the proposed mitigation site at the former South Bay Power Plant intake channel, potential impacts to GSTs and their habitat would need to be carefully considered by NMFS staff that will be conducting the ESA section 7 consultation. In addition to impacts associated with construction activities at the site, because another, large-scale eelgrass mitigation project was recently conducted here that filled some of the deeper channel habitat, additional loss of this particular type of habitat would have to be evaluated. This evaluation will likely include coordination with NMFS Science Center staff involved in GST conservation. Although the proposed mitigation may not "eliminate existing or any remaining turtle habitat" as your email states, it could substantially reduce it. NMFS may not be able to fully evaluate these potential impacts until we've received and reviewed a proposed compensatory mitigation plan, and we note the previous mitigation project at that site required formal consultation under the ESA.

A-3

Regarding #2, I think you've captured my concerns pretty well. Please note that I also relayed that "Formalizing the credits" should include a verification process (e.g., by reviewing permits issued for specific projects) to get an accurate assessment of overwater structures removed and installed since the baseline period. To date, all we've ever received related to Port of San Diego shading credit accounting is a spreadsheet (i.e., a "ledger") without any supporting information.

#### Response to Comment A-1

This comment is an introductory comment stating that the National Marine Fisheries Service (NMFS) will conduct an essential fish habitat (EFH) consultation and provide input on how to conserve EFH as the project goes through the U.S. Army Corps of Engineers (USACE) permitting process. The comment states that this input should be considered pre-consultation technical assistance for that EFH consultation. The commenter states that it is providing points of clarification on a previous email from the District in an attempt to summarize NMFS comments, which is provided as comment number A-5 below.

The District appreciates NMFS's interest in the proposed project. This comment does not raise any issues requiring a response pursuant to CEQA. The specific comments that follow this introduction are listed separately (below) along with the District's responses.

#### Response to Comment A-2

The commenter references a previous email from the District, which is provided as comment number A-5 below. The comment expresses support for the overall concept of mitigating the loss of open water habitat by restoring eelgrass habitat as described in mitigation measure MM-BIO-5, Section 2.B. However, the comment states that potential impacts on green sea turtles and their habitat will need to be considered by NMFS staff because the species are known to utilize the proposed mitigation site at the former South Bay Power Plant intake channel. The comment further states that additional loss of this particular habitat type would have to be evaluated due to a recent large-scale eelgrass mitigation project that filled some of the deeper channel habitat. The commenter suggests that the evaluation will likely include coordination with NMFS Science Center staff involved in green sea turtle research and conservation. The commenter states that the proposed mitigation could substantially reduce turtle habitat and indicates that NMFS may not be able to fully evaluate these potential impacts without a proposed compensatory mitigation plan.

The District appreciates NMFS input regarding the potential infeasibility of the former South Bay Power Plant as a mitigation site due to the presence

of green sea turtle habitat. As identified in Section 4.3, *Biological Resources*, MM-BIO-5 identifies four mitigation options to reduce Impact-BIO-5 to below a level of significance. As stated in the mitigation measure, prior to the issuance of a Coastal Development Permit, the project proponent shall request and participate in stakeholder meetings with resource agencies, including NMFS. The mitigation option selected to fully mitigate overwater coverage impacts would be identified through consultation with resource agencies and by obtaining all necessary agency approvals and permits. The project proponent is required to prepare a mitigation plan for review and approval by the District's Development Services and Planning & Green Port (P&GP) Departments. Furthermore, the project proponent is required to secure all applicable permits for the mitigation of overwater coverage and complete construction of the mitigation requirements for the mitigation site prior to commencement of waterside construction. If, during the resource agency consultation process, it is determined that the former intake channel is deemed infeasible, another mitigation option described in MM-BIO-5 may be implemented, as described below. MTS, the marine biology consultant for the proposed project, completed a preliminary review of potential sites within the San Diego Bay and identified several locations that may be considered by the project proponent, District, and the resource agencies.

As noted above, the final determination of either a mitigation site or implementation of one of the other mitigation options would be determined by the District during consultation with the resource agencies. Therefore, no changes to the Final EIR are required as a result of this comment.

### **Response to Comment A-3**

The commenter references a previous email from the District, which is provided as comment number A-5 below. The commenter expresses concern regarding the mitigation option of purchasing shading credits listed under mitigation measure MM-BIO-5, Section 2.D. The commenter's concern is that the shading credits are not formalized, and suggests that a verification process should be established to get an accurate assessment of overwater structures removed and installed since the baseline period. The commenter states that NMFS has only received a spreadsheet (i.e., ledger) from the District without any supporting information as to how the entries were derived and/or verified by the District and resources agencies, or how the baseline year was selected.

A-3 cont. as to how those entries were derived and/or verified by the Port and other resource agencies, or how the baseline year was selected and justified.

A-4 Regarding #3, you're correct in stating that NMFS has some concerns with construction and subsequent boat activity near the Campbell Shipyard Mitigation CAP site, especially since the marina expansion is, at least in part, supposed to accommodate larger vessels. Given that the eelgrass habitat at the Campbell Shipyard site was created as a mitigation site to offset impacts elsewhere, there is a presumption that the habitat functions at the site will continue indefinitely. Therefore, any impacts to that site should be avoided to the greatest extent practicable and careful monitoring of the site should occur. If impacts to the mitigation site should occur, developing an appropriate mitigation ratio would likely be more complicated than the standard process and ratios outlined in the California Eelgrass Mitigation Policy, and would require careful coordination between the Corps, NMFS, and other interested stakeholders.

Thanks again and feel free to contact me with any questions,  
Eric

On Fri, Feb 16, 2018 at 4:09 PM, Eileen Maher <[emaher@portofsandiego.org](mailto:emaher@portofsandiego.org)> wrote:

Eric

Per our conversation, please let me know if I captured your concerns regarding the FAL – EIR

1) There is concern with MM-BIO-5, Section 2.B, which states that one of the mitigation options for loss of open water habitat from marine operations is to restore eelgrass habitat at the former South Bay Power Plan cooling water intake channel at a 1:1 ratio. Although similar mitigation was included in the BAE EIR, the concern is that this option would eliminate existing or any remaining turtle habitat in the intake channel.

A-5 2) NMFS is concerned that another mitigation option listed under MM-BIO-5, Section 2.D, that states that the project may purchase credits from the District Shading Credit Program established pursuant to board Policy 735. Apparently they are concerned that shading credits are not formalized and they requested the Port set up a meeting with the resource agencies to establish a baseline year and to formalize the credits.

3) The NMFS is also concerned about the impacts or potential loss of eelgrass on the habitat CAP due to increased boat traffic and marina operations (specifically propwash) in such close proximity to the eelgrass.

Please let me know if your concerns are captured.

thanks

Eileen Maher

In 2017, the Port submitted an application to USACE to formalize the shading credit ledger that accurately documents overwater structures that have been removed and installed in San Diego Bay since the late 1990s. No baseline year has been established to date.

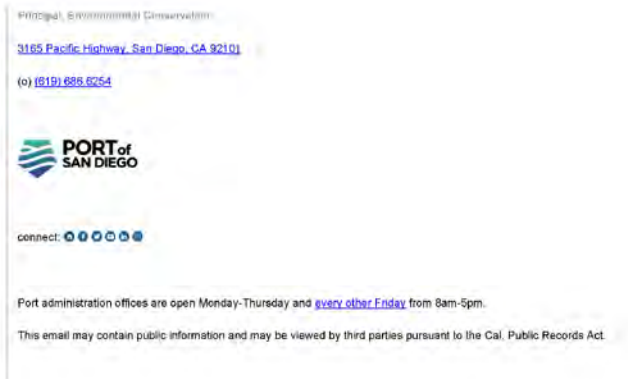
The District's P&GP Department will continue to work with USACE to formalize the shading ledger. Additionally, P&GP is coordinating with the District's Engineering and Development Services Departments to obtain and archive supporting documentation for all projects included in the ledger. Supporting documentation includes: USACE permits, CEQA documents, Coastal Development Permits; project construction drawings, project approval letters, aerial photography, and other imagery and agency correspondence that documents overwater structure calculations applicable to individual project overwater square footage for shading credits.

The District anticipates that USACE will coordinate with other resource agencies per USACE's standard process to formalize the ledger.

In addition, as identified in Section 4.3, *Biological Resources*, of the Draft EIR, use of shading credits is one of four mitigation options identified to reduce Impact-BIO-5 to below a level of significance. As stated in the mitigation measure, prior to the issuance of a Coastal Development Permit, the project proponent shall request and participate in stakeholder meetings with resource agencies, including NMFS. Therefore, the final mitigation option selected to fully mitigate overwater coverage impacts would be identified through consultation with resource agencies and obtainment of all necessary permits for the mitigation of overwater coverage prior to the commencement of project waterside construction that requires mitigation.

## Response to Comment A-4

The commenter references a previous email from the District, which is provided as comment number A-5 below. The commenter expresses concern regarding the construction and operation of the marina expansion near the Campbell Shipyard Mitigation CAP site, particularly because the marina expansion would accommodate larger vessels. The commenter states that the eelgrass habitat at the Campbell Shipyard site was created to offset impacts and that there is a presumption that the habitat functions at the site will continue indefinitely. The commenter further states that impacts on this site should be avoided to the extent possible and monitoring should occur. The comment indicates that impacts on the



mitigation site would require coordination between USACE, NMFS, and other interested stakeholders and notes that developing an appropriate mitigation ratio would likely be more complicated than the standard process.

As identified in Section 4.3, *Biological Resources*, of the Draft EIR, the proposed project's construction and operational related impacts on the Campbell Shipyard Mitigation CAP were analyzed with the preparation of propeller wash study (Appendix E-2 of the Draft EIR) and a potential eelgrass impacts memorandum (Appendix E-3 of the Draft EIR). Based on these studies, potential impacts on the eelgrass within the Campbell Shipyard Mitigation Cap were identified during construction (Impact-Bio-7) and operation of the marina (Impact-Bio-8). Mitigation measures MM-BIO-6 through MM-BIO-8 were identified to reduce impacts to a less-than-significant level. To address the commenters concern regarding the monitoring of the eelgrass during the construction and operation of the proposed project, MM-BIO-6 has been revised to clarify the required eelgrass monitoring schedule. These changes are included in Chapter 5, *Errata and Revisions*, of the Final EIR.

### Response to Comment A-5

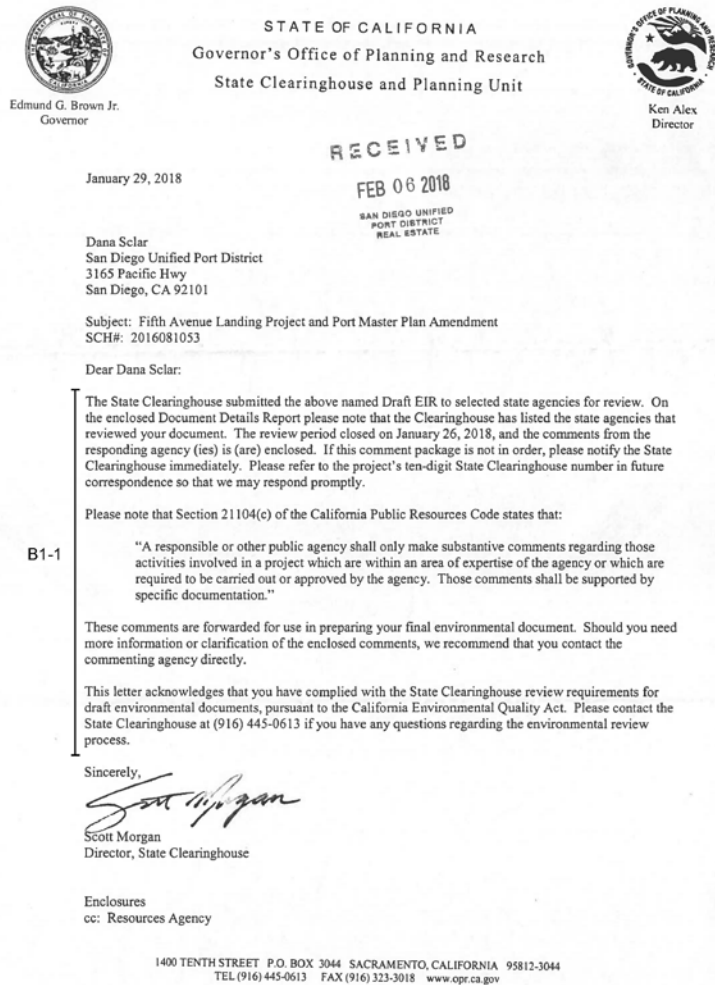
This comment summarizes the concerns previously discussed between the District and NMFS. Concerns raised by the comment include the loss of open water habitat/green sea turtle habitat as a result of mitigation measure MM-BIO-5, Section 2.B, the purchasing of shading credits under mitigation measure MM-BIO-5, Section 2.D, and the potential loss of eelgrass habitat on the CAP from increased boat traffic and marina operations.

Please see responses to comments A-2 through A-4 above for responses to the three issues raised by NMFS.



## 6.3.2 Comment Letter B1: State Clearinghouse and Planning Unit

Comment Letter B1



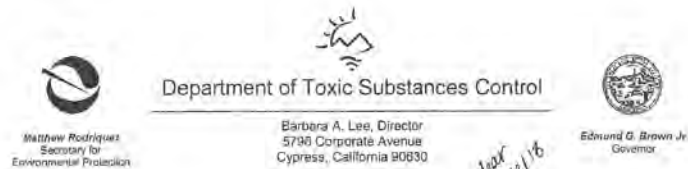
### Response to Comment B1-1

The comment notes that select State agencies received the Draft EIR for comment and the date the comment period closed. A letter from the California Department of Toxic Substances Control (see Comment Letter C) was included. In addition, the comment notes that the project has complied with the State Clearinghouse review requirements for the Draft EIR pursuant to CEQA.

The District appreciates the Office of Planning and Research's coordination of the Draft EIR. As indicated, one comment letter was received by the State Clearinghouse during the review period that ended on January 26, 2018. This comment letter was also received separately by the District. The letter is labeled as Comment Letter C, and the District's responses follow.

Document Details Report State Clearinghouse Data Base			
<b>SCH#</b>	2016081053		
<b>Project Title</b>	Fifth Avenue Landing Project and Port Master Plan Amendment		
<b>Lead Agency</b>	San Diego Unified Port District		
<b>Type</b>	EIR Draft EIR		
<b>Description</b>	The proposed project would construct an approx. 850 room hotel tower, an approx. 565 bed lower cost visitor serving hotel, retail development along the promenade, approx. 1.96 acres of public access plaza space, approx. 263 onsite parking spaces, a connecting bridge from the hotel public access plaza to the San Diego Convention Center, and a marina expansion. In addition, the proposed project would maintain the existing public in-bay water transportation system, including the water transportation ferry and water taxi service. The proposed project also includes a Port Master Plan Amendment for Planning District 3, Centre City Embarcadero, to change the allowable land and water uses on the project site.		
<b>Lead Agency Contact</b>			
<b>Name</b>	Dana Sclar		
<b>Agency</b>	San Diego Unified Port District		
<b>Phone</b>	619-400-4765	<b>Fax</b>	
<b>email</b>			
<b>Address</b>	3165 Pacific Hwy		
<b>City</b>	San Diego	<b>State</b>	CA <b>Zip</b> 92101
<b>Project Location</b>			
<b>County</b>	San Diego		
<b>City</b>	San Diego		
<b>Region</b>			
<b>Lat / Long</b>	32° 42' 18.99" N / 117° 9' 43.3" W		
<b>Cross Streets</b>	Convention Way and Marina Park Way		
<b>Parcel No.</b>			
<b>Township</b>	<b>Range</b>	<b>Section</b>	<b>Base</b>
<b>Proximity to:</b>			
<b>Highways</b>	5, 163, 75, 282, 94		
<b>Airports</b>	SDIA, NAS north island		
<b>Railways</b>	BNSF, Amtrak, NCTD		
<b>Waterways</b>	San Diego Bay		
<b>Schools</b>	Perkins ES, Burbank ES		
<b>Land Use</b>	Commercial Recreation, Park/Plaza, recreational boat berthing, specialized berthing and ship navigation corridor		
<b>Project Issues</b>	Air Quality; Archaeologic-Historic; Biological Resources; Coastal Zone; Drainage/Absorption; Economics/Job; Flood Plain/Flooding; Geologic/Seismic; Public Services; Recreation/Parks; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Landuse; Cumulative Effects; Other Issues; Aesthetic/Visual; Noise; Schools/Universities; Wetland/Riparian		
<b>Reviewing Agencies</b>	Resources Agency; Department of Boating and Waterways; California Coastal Commission; Department of Fish and Wildlife, Region 5; Department of Parks and Recreation; Caltrans, Division of Aeronautics; California Highway Patrol; Caltrans, District 11; Office of Emergency Services, California; Department of Housing and Community Development; Resources, Recycling and Recovery; Regional Water Quality Control Board, Region 9; Department of Toxic Substances Control; Native American Heritage Commission; State Lands Commission		
<b>Date Received</b>	12/13/2017	<b>Start of Review</b>	12/13/2017 <b>End of Review</b> 01/26/2018





January 3, 2018

Ms. Dana Sclar  
Senior Planner  
Development Services  
3165 Pacific Highway  
San Diego, California 92101  
[dsclar@portsandiego.org](mailto:dsclar@portsandiego.org)

Governor's Office of Planning & Research  
JAN 03 2018  
STATE CLEARINGHOUSE

DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) FOR FIFTH AVENUE LANDING  
PROJECT AND PORT MASTER PLAN AMENDMENT (SCH# 2016081053)

Dear Ms. Sclar:

The Department of Toxic Substances Control (DTSC) has reviewed the subject EIR. The following project description is stated in the EIR: "The proposed project evaluated in this Draft EIR involves a commercial and recreational bayside redevelopment by Fifth Avenue Landing, LLC (project proponent) on an approximately 18-acre site. The proposed project includes landside (5 acres) and waterside (13 acres) development components, as well as a Port Master Plan Amendment (PMPA) for Planning District 3, Centre City Embarcadero to change the allowable land and water uses on the project site. The landside development components include a market-rate hotel tower, lower-cost visitor-serving hotel, an onsite parking structure, visitor-serving retail establishments, a new water transportation center (WTC) that would operate the existing water transportation ferry and water taxi service, and several public spaces and amenities, including an optional connecting pedestrian bridge from the hotel public plaza to the San Diego Convention Center (SDCC), public plaza and park areas, and maintenance of the existing Embarcadero Promenade. The waterside development components include a marina expansion with additional slips to allow for both small and larger vessels to dock at the marina and the continued operation of a water transportation ferry and water taxi service. The proposed project also includes offsite infrastructure improvements that are needed to adequately serve the proposed project, as well as offsite construction staging and construction worker parking. The proposed project would construct an approximately 850-room hotel tower, an approximately 565-bed lower-cost visitor-serving hotel, retail development along the promenade,

Ms. Dana Solar  
January 3, 2018  
Page 2

approximately 2.1 acres of public access plaza space, approximately 213 onsite parking spaces, a connecting bridge from the hotel public access plaza to the San Diego Convention Center, and a marina expansion. In addition, the proposed project would include the potential use of approximately 110 offsite parking spaces in the Convention Center garage and maintain the existing public in-bay water transportation system including a water ferry service."

Based on the review of the submitted document, DTSC has the following comments:

1. The Environmental Impact Report (EIR) should identify the current or historic uses at the project site that may have resulted in a release of hazardous wastes/substances. If there are any recognized environmental conditions that exist on the project area, then proper investigation, sampling and remedial actions overseen by the appropriate regulatory agencies should be conducted prior to the new development or any construction.
2. The EIR states: "The City constructed a garbage incinerator sometime between 1906 and 1921 on land formed of trash deposits and dredged fill material, which gradually expanded the shoreline nearer to the project site. Although the City garbage incinerator was removed from the project vicinity sometime in the 1930s, an area designated by the City as a garbage disposal site, which included a ramp and garbage chute, remained present east of the project site into the early 1940s." As the project site was used for garbage disposal, all potential contaminants should be investigated. In addition, the area was used for a garbage incinerator, the site should be investigated for polycyclic aromatic hydrocarbons (PAHs), dioxins and furans.
3. The EIR further states: "Moreover, previous soil studies and remediation reports indicate that, while portions of the project site have been cleaned up, there is still a possibility that soils contaminated with heavy metals are present on site (District 2012)." DTSC recommends investigation and cleanup, as necessary, to mitigate potential impact to human health and environment.
4. The EIR states: "As discussed in Section 4.8, Hydrology and Water Quality, past activities and current urban runoff, stormwater runoff, and sewer spills have also affected water quality in the San Diego Bay. Specifically, the Bay, Bay shoreline near Marriott Marquis San Diego Hotel and Marina (directly north of the project site), and Bay shoreline near Switzer Creek (directly south of the project site) have 303(d)-listed impairments for chlordane, PAHs, PCBs, and copper (State Water Resources Control Board 2012)." Identify whether these impairments were mitigated. Otherwise, propose the mitigation measures in the EIR.


Ms. Dana Sclar  
January 3, 2018  
Page 3

5. The EIR further states: "Stored hazardous materials are not currently present within the project site boundaries (both land and water) (Appendix H). Stored hazardous materials have been previously reported within the project site, as discussed in the next section. The Campbell Shipyard Bay Sediment Cleanup & Capping site, as well as the landside TPH-impacted soils area and the landside PAH zone, partially extend into the project site." Identify whether these contaminants were mitigated from the project area. Otherwise, propose the mitigation measures in the EIR.
6. The EIR states that several agencies involved with the cleanup and abatement of soil and groundwater at several areas of the site.
  - a. Identify the name(s) of the regulatory agency(ies) that approved the closure of these remediation efforts and provide the specific locations of the project areas that are already remediated.
  - b. DTSC is unable to evaluate whether vapor sampling and/or potential vapor intrusion risk was adequately addressed due to lack of relevant detailed information in the EIR.
  - c. DTSC recommends soil gas sampling and vapor intrusion risk evaluation on sites with releases of volatile organic compounds (VOCs) and/or total petroleum hydrocarbon (TPH). DTSC recommends soil gas sampling after removal action to confirm no residual VOC contamination remain onsite and/or risk is acceptable based on applicable and relevant state guidelines.
7. As the soil is contaminated, excavated soil should be sampled prior to export/disposal. If the soil is contaminated, it should be disposed of properly in accordance with all applicable and relevant laws and regulations. In addition, if the project proposes to import soil to backfill the excavated areas, proper evaluation and/or sampling should be conducted to make sure that the imported soil is free of contamination.
8. If during construction/demolition of the project, soil and/or groundwater contamination is suspected, construction/demolition in the area would cease and appropriate health and safety procedures should be implemented. If it is determined that contaminated soil and/or groundwater exist, the EIR should identify how any required investigation and/or remediation will be conducted, and the appropriate government agency to provide regulatory oversight.

Ms. Dana Sclar  
January 3, 2018  
Page 4

If you have any questions regarding this letter, please contact me at (714) 484-5476 or email at [Johnson.Abraham@dtso.ca.gov](mailto:Johnson.Abraham@dtso.ca.gov).

Sincerely,



Johnson P. Abraham  
Project Manager  
Brownfields Restoration and School Evaluation Branch  
Brownfields and Environmental Restoration Program – Cypress

ed/sh/ja

cc: Governor's Office of Planning and Research (via e-mail)  
State Clearinghouse  
P.O. Box 3044  
Sacramento, California 95812-3044  
[State.clearinghouse@opr.ca.gov](mailto:State.clearinghouse@opr.ca.gov)

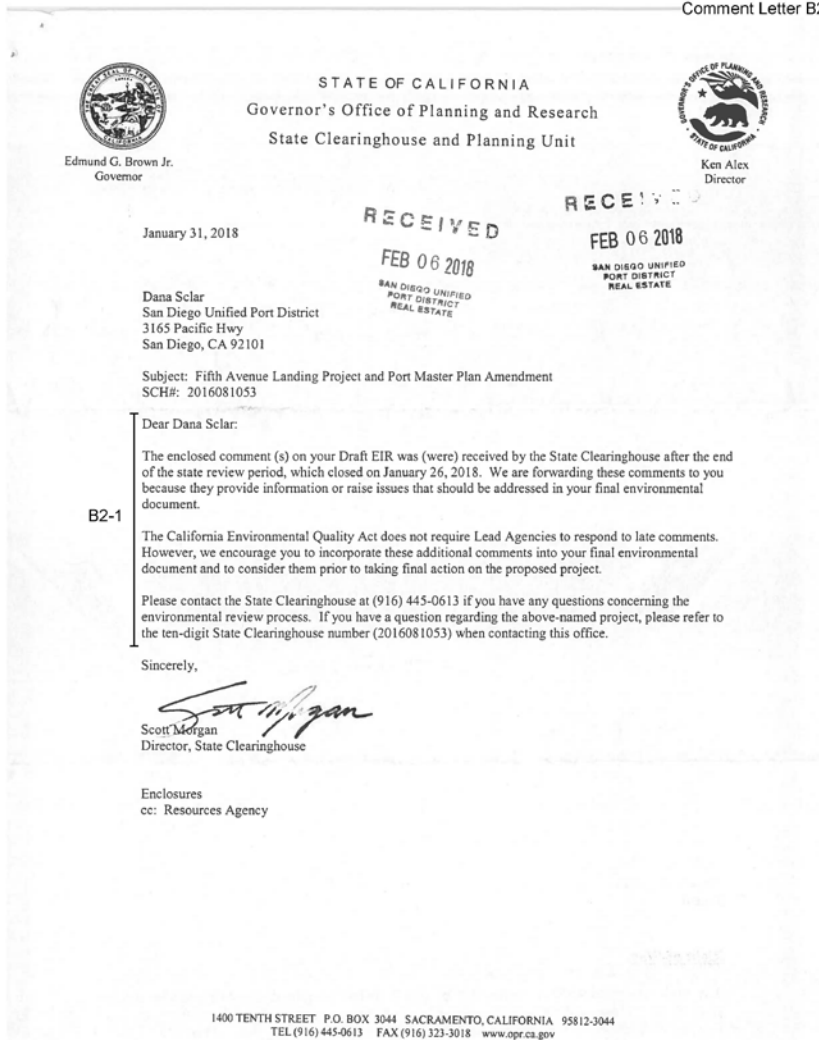
Mr. Dave Kereazis (via e-mail)  
Office of Planning & Environmental Analysis  
Department of Toxic Substances Control  
[Dave.Kereazis@dtsc.ca.gov](mailto:Dave.Kereazis@dtsc.ca.gov)

Mr. Shahir Haddad, Chief (via e-mail)  
Brownfields Restoration and School Evaluation Branch  
Brownfields and Environmental Restoration Program - Cypress  
[Shahir.Haddad@dtsc.ca.gov](mailto:Shahir.Haddad@dtsc.ca.gov)

CEQA# 2016081053

### 6.3.3 Comment Letter B2: State Clearinghouse and Planning Unit

Comment Letter B2



#### Response to Comment B2-1

The comment notes that the State Clearinghouse received comment(s) on the Draft EIR after the state review period closed, which includes one attached letter from the California Department of Transportation (see Comment Letter D). The comment notes that the Lead Agency is not required to respond to late comments, but encourages the incorporation of these comments into the final environmental document and consideration prior to taking action on the proposed project.

The District appreciates the Office of Planning and Research's coordination of the Draft EIR. As indicated, one comment letter was received by the State Clearinghouse after the review period ended on January 26, 2018. This is comment letter was also received separately by the District. The letter is labeled as Comment Letter D, and the District's responses follow.

STATE OF CALIFORNIA – CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

**DEPARTMENT OF TRANSPORTATION**

**DISTRICT II**

4050 TAYLOR STREET, MS-240  
SAN DIEGO, CA 92110  
PHONE (619) 688-3193  
FAX (619) 688-4299  
TTY 711  
www.dot.ca.gov

Supervisor's Office of Planning & Research



Making Transportation  
a California Way of Life

JAN 30 2018

STATE CLEARINGHOUSE

January 30, 2018

11-SD-5, 75, 94, 163, 282

PM VAR

Fifth Avenue Landing Project and Port Master Plan Amendment  
DEIR/SCH#2016081053

Ms. Dana Sclar  
San Diego Unified Port District  
3165 Pacific Highway  
San Diego, CA 92101

Dear Ms. Sclar:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Draft Environmental Impact Report (DEIR) for the Fifth Avenue Landing Project and Port Master Plan Amendment located near Interstate 5 (I-5), State Route 75 (SR-75), State Route 94 (SR-94), State Route 163 (SR-163), and State Route 282 (SR-282). The mission of Caltrans is to provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability. The Local Development-Intergovernmental Review (LD-IGR) Program reviews land use projects and plans to ensure consistency with our mission and state planning priorities.

Caltrans has the following comments:

**Traffic Impact Study**

1. The Traffic Impact Analysis (TIA) report is incomplete, as all appendices are missing. Caltrans must be able to review these in order to compare and respond thoroughly. Please submit the following appendices for the TIA:
  - a. Appendix A – Traffic Counts
  - b. Appendix B – Intersection LOS calculations for Existing Conditions
  - c. Appendix C – Intersection LOS calculations for Existing Plus Project
  - d. Appendix D – Near Term Year 2021 Base Intersection Volumes
  - e. Appendix E – Intersection LOS calculations for Near Term Year 2021 Base
  - f. Appendix F – Intersection LOS calculations for Near Term Year 2021 Base plus Project
  - g. Appendix G – Relevant pages from Downtown San Diego Mobility Plan
  - h. Appendix H – Intersection LOS calculations for Future Year 2035 Base
  - i. Appendix I – Intersection LOS calculations for Future Year 2035 Base plus Project
2. The analysis of signalized and un-signalized intersections used procedures from the 2000 Highway Capacity Manual (HCM). Please use the 2010 HCM for all Caltrans' intersections.

*"Provide a safe, sustainable, integrated and efficient transportation system  
to enhance California's economy and livability"*

Ms. Dana Selar  
January 30, 2018  
Page 2

3. The project distribution shown on Figure 3-2 'Project Trip Distribution' includes 10% of internal downtown capture. Assuming this 10% is vehicle traffic, the project trip distribution adds up to 110%. Please clarify.
4. Please explain the project distribution which shows 20% coming from the Point Loma area, yet only 10% from east county San Diego(SR-94).
5. Traffic arriving from south San Diego most likely will use the Cesar Chavez Parkway exit, yet the intersection of Cesar Chavez Parkway and I-5 northbound off-ramp was not analyzed. Please include this intersection to the traffic study and/or assign appropriate trips to this ramp and street.
6. Section 3.3 'Project Study Area' of the TIA under 'Freeway' (page 19) states that there are currently not any ramp meters within the project study area; however, the Fifth Avenue southbound on-ramp is metered.
7. Section 4.6 'Impact Significance and Mitigation' (Existing plus Project) of the TIA recommends signalization of intersection #45 and #53 as mitigation for the direct impact. An Intersection Control Evaluation (ICE) would be required per the 2014 California Manual on Uniform Traffic Control Devices (CA-MUTCD). A submittal of traffic analysis with these improvements would need to be reviewed and approved before implementation, as both of these intersections directly affect SR-94.
8. Section 4.6 'Impact Significance and Mitigation' (Existing plus Project) of the TIA recommends to restripe intersection #56 - the northbound left turn lane into a northbound left turn/through shared lane. A submittal of traffic analysis with these improvements would need to be reviewed and approved before implementation as this intersection directly affects the I-5 northbound 19<sup>th</sup> Street/J Street off-ramp.
9. The TIA also identifies a direct impact to a segment of I-5 northbound between Grape Street and First Avenue (AM peak hour). The report states that there are not any existing projects to contribute a fair share; therefore, this impact would remain significant and unavoidable. There are other options to mitigate this impact other than a contribution to an existing program; such as, ramp metering, adding storage capacity to on/off-ramps, etc.
10. Please clarify why SR-94 was not analyzed even though various SR-94 intersections were determined to be negatively impacted by the proposed project.
11. Section 5.5 'Impact Significance and Mitigation' (Near Term Year 2021 Base plus Project) and Section 6.5 'Impact Significance and Mitigation' (Future Year 2035 Base plus Project) of the TIA recommends to pay a fair share percentage on the same three intersections (#45, #53, and #56). Please clarify why that was determined when these were already identified as being directly impacted by the proposed project. Furthermore, an ICE would also be required at these intersections, per 2014 CA-MUTCD.

*"Provide a safe, sustainable, integrated and efficient transportation system  
to enhance California's economy and livability"*



Ms. Dana Seiar  
January 30, 2018  
Page 3

12. Section 5.5 'Impact Significance and Mitigation' (Near Term Year 2021 Base plus Project) of the TIA identified intersection #27 as being indirectly impacted, yet no feasible mitigation is identified to offset the negative impact; however, it states that the extension of Park Boulevard to Harbor Drive would alleviate some of the impact. Is the extension of Park Boulevard to Harbor Drive funded and/or scheduled?
13. Section 5.5 'Impact Significance and Mitigation' (Near Term Year 2021 Base plus Project) of the TIA identified intersections #44 and #48 as being indirectly impacted. An analysis of the proposed improvement would need to be reviewed and approved before implementation. Please clarify why a fair share of 2-4% was recommended.
14. Section 5.5 'Impact Significance and Mitigation' (Near Term Year 2021 Base plus Project) of the TIA identified intersection #47 as being indirectly impacted without feasible mitigation. Since the intersection directly impacts SR-94, mitigation solutions need to be provided.
15. Section 5.5 'Impact Significance and Mitigation' (Near Term Year 2021 Base plus Project) of the TIA identified intersection #58 and #59 as being indirectly impacted with future signalization of the intersections as appropriate mitigation. Further analysis is required to determine if a signal at intersection #58 is warranted and/or if the storage on the ramp is sufficient to prevent an impact I-5 mainline operations. Therefore, Caltrans cannot assure that the signalization of intersections #58 and #59 would be approved.  
  
The TIA also states that 6-22% of fair share would be provided for the improvements; however, it is not clear where the remaining percentage would be coming from. If it is evaluated and deemed feasible for the proposed intersections, including #58 and #59, to be signalized and other improvements to occur, the Port should consider creating a reimbursement process where the developer would burden the full cost of improvements and be mechanism be in place to be reimbursed by the Port as future development occurs.  
  
An ICE would be also be required at intersections #58 and #59 per Policy Directive 13-02.
16. The segment of I-5 northbound between Grape Street and First Avenue has been identified to be indirectly impacted by the project. Please clarify why 34% of the total cost of improvements were found to be associated with the project, yet no mitigation is proposed.
17. Section 6.5 'Impact Significance and Mitigation' (Future Year 2035 Base plus Project) of the TIA identified two segments along I-5 to be indirectly impacted by the project. A list of fair share calculations is shown without specific mitigation improvements; therefore, please propose mitigation solutions to address the impacts.
18. On page S-102 it states "Prior to the issuance of occupancy permits, Caltrans shall install the following I-5 operational improvements for the segment of northbound I-5 between Grape Street and First Avenue in compliance with *San Diego Forward: the Regional Plan* prepared by SANDAG (SANDAG 2015)." However, on page 4.12-2 of the TIA the comment references that the operational improvements from the SANDAG RTP are not scheduled

*"Provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability."*

Ms. Dana Sclar  
January 30, 2018  
Page 4

until Year 2050 and "no 'fair-share' fund established at this time." The Port should also set a reimbursement process for I-5 operational improvements.

#### **Complete Streets and Mobility Network**

Caltrans views all transportation improvements as opportunities to improve safety, access and mobility for all travelers in California and recognizes bicycle, pedestrian and transit modes as integral elements of the transportation system. Caltrans supports improved transit accommodation through the provision of Park and Ride facilities, improved bicycle and pedestrian access and safety improvements, signal prioritization for transit, bus on shoulders, ramp improvements, or other enhancements that promotes a complete and integrated transportation system. Early coordination with Caltrans, in locations that may affect both Caltrans and the Port of San Diego, is encouraged.

To reduce greenhouse gas emissions and achieve California's Climate Change target, Caltrans is implementing Complete Streets and Climate Change policies into State Highway Operations and Protection Program (SHOPP) projects to meet multi-modal mobility needs. Caltrans looks forward to working with the Port of San Diego to evaluate potential Complete Streets projects.

#### **Land Use and Smart Growth**

Caltrans recognizes there is a strong link between transportation and land use. Development can have a significant impact on traffic and congestion on State transportation facilities. In particular, the pattern of land use can affect both local vehicle miles traveled and the number of trips. Caltrans supports collaboration with local agencies to work towards a safe, functional, interconnected, multi-modal transportation system integrated through applicable "smart growth" type land use planning and policies.

The Port of San Diego should continue to coordinate with Caltrans to implement necessary improvements at intersections and interchanges, as well as coordinate with Caltrans as development proceeds and funds become available to ensure that the capacity of on/off-ramps is adequate.

#### **Traffic Control Plan/Hauling**

Caltrans has discretionary authority with respect to highways under its jurisdiction and may, upon application and if good cause appears, issue a special permit to operate or move a vehicle or combination of vehicles or special mobile equipment of a size or weight of vehicle or load exceeding the maximum limitations specified in the California Vehicle Code. The Caltrans Transportation Permits Issuance Branch is responsible for the issuance of these special transportation permits for oversize/overweight vehicles on the State Highway System.

*"Provide a safe, sustainable, integrated and efficient transportation system  
to enhance California's economy and livability"*

Ms. Dana Selar  
January 30, 2018  
Page 5

Additional information is provided online at:  
<http://www.dot.ca.gov/trafficops/permits/index.html>

A Traffic Control Plan is to be submitted to Caltrans District 11, including the interchanges at I-5/Logan Avenue, at least 30 days prior to the start of any construction. Traffic shall not be unreasonably delayed. The plan shall also outline suggested detours to use during closures, including routes and signage.

Potential impacts to the highway facilities (I-5) and traveling public from the detour, demolition and other construction activities should be discussed and addressed before work begins.

#### Mitigation

Caltrans endeavors that any direct and cumulative impacts to the State Highway System be eliminated or reduced to a level of insignificance pursuant to the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) standards.

Caltrans recommends consideration of "fair share" funds towards future improvements associated with I-5 corridor. Since the Project's cumulative impact is considered significant, feasible mitigation measures to State facilities should be identified in the TIS. Impacts that are significant and unavoidable need to have an alternative mitigation identified in the DEIR TIS. Recommended feasible mitigation measures include "fair share" contribution towards ramp metering and adding storage capacity to on-ramps. Mitigation identified in the traffic study, subsequent environmental documents, and mitigation monitoring reports, should be coordinated with Caltrans to identify and implement the appropriate mitigation. This includes the actual implementation and collection of any "fair share" monies, as well as the appropriate timing of the mitigation. Mitigation improvements should be compatible with Caltrans concepts.

Mitigation measures for proposed intersection modifications are subject to the Caltrans ICE policy (Traffic Operation Policy Directive 13-02). Alternative intersection design(s) will need to be considered in accordance with the ICE policy. Please provide ICE analysis to Caltrans District 11 for review and approval. Please refer to the policy for more information and requirements (<http://www.dot.ca.gov/trafficops/ice.html>).

Mitigation conditioned as part of a local agency's development approval for improvements to State facilities can be implemented either through a Cooperative Agreement between Caltrans and the lead agency, or by the project proponent entering into an agreement directly with Caltrans for the mitigation. When that occurs, Caltrans will negotiate and execute a Traffic Mitigation Agreement.

*"Provide a safe, sustainable, integrated and efficient transportation system  
to enhance California's economy and livability"*

Ms. Dana Sclar  
January 30, 2018  
Page 6

**Right-of-Way**

Any work performed within Caltrans right-of-way (R/W) will require discretionary review and approval by Caltrans and an encroachment permit will be required for any work within the Caltrans R/W prior to construction. As part of the encroachment permit process, the applicant must provide an approved final environmental document including the California Environmental Quality Act (CEQA) determination addressing any environmental impacts within the Caltrans' R/W, and any corresponding technical studies.

If you have any questions, please contact Kimberly Dodson, of the Caltrans Development Review Branch, at (619) 688-2510 or by e-mail sent to [Kimberly.dodson@dot.ca.gov](mailto:Kimberly.dodson@dot.ca.gov).

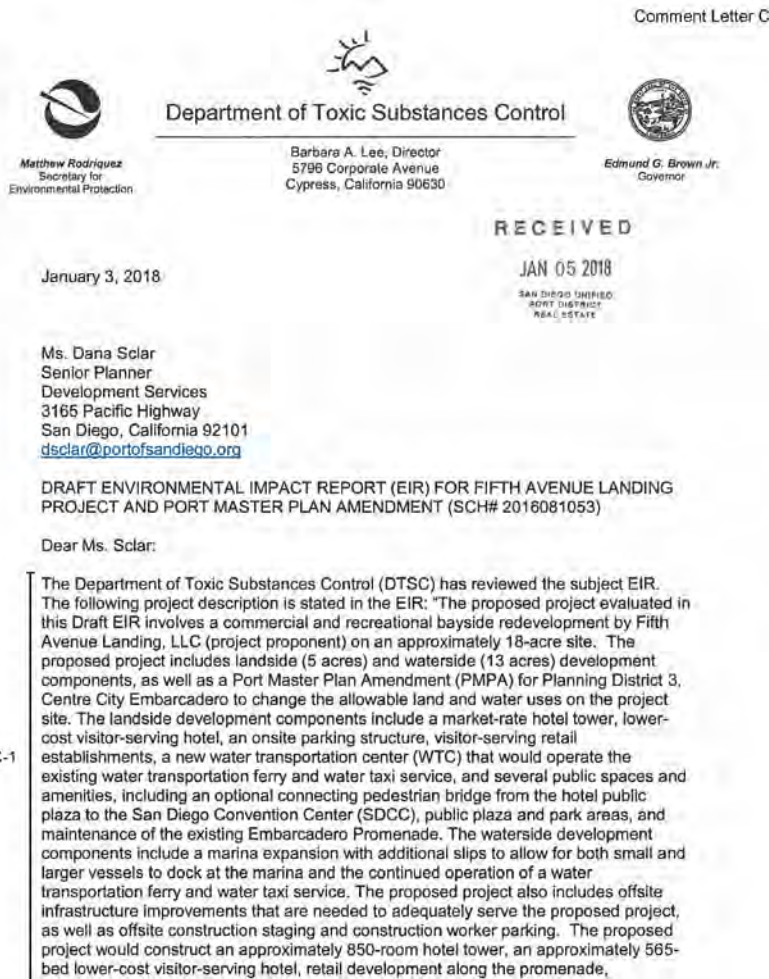
Sincerely,



DAMON DAVIS, Acting Branch Chief  
Local Development and Intergovernmental Review Branch

*"Provide a safe, sustainable, integrated and efficient transportation system  
to enhance California's economy and livability"*

## 6.3.4 Comment Letter C: Department of Toxic Substances Control



### Response to Comment C-1

This comment is an introductory comment that summarizes the proposed project and states that the Department of Toxic Substances Control (DTSC) is providing comments on the Draft EIR.

The District appreciates DTSC's interest in the proposed project. This comment does not raise any issues requiring a response pursuant to CEQA. The specific comments that follow this introduction are summarized separately (below) along with the District's individual responses.

Ms. Dana Sclar  
January 3, 2018  
Page 2

C-1 cont. approximately 2.1 acres of public access plaza space, approximately 213 onsite parking spaces, a connecting bridge from the hotel public access plaza to the San Diego Convention Center, and a marina expansion. In addition, the proposed project would include the potential use of approximately 110 offsite parking spaces in the Convention Center garage and maintain the existing public in-bay water transportation system including a water ferry service."

Based on the review of the submitted document, DTSC has the following comments:

- C-2 1. The Environmental Impact Report (EIR) should identify the current or historic uses at the project site that may have resulted in a release of hazardous wastes/substances. If there are any recognized environmental conditions that exist on the project area, then proper investigation, sampling and remedial actions overseen by the appropriate regulatory agencies should be conducted prior to the new development or any construction.
- C-3 2. The EIR states: "The City constructed a garbage incinerator sometime between 1906 and 1921 on land formed of trash deposits and dredged fill material, which gradually expanded the shoreline nearer to the project site. Although the City garbage incinerator was removed from the project vicinity sometime in the 1930s, an area designated by the City as a garbage disposal site, which included a ramp and garbage chute, remained present east of the project site into the early 1940s." As the project site was used for garbage disposal, all potential contaminants should be investigated. In addition, the area was used for a garbage incinerator, the site should be investigated for polycyclic aromatic hydrocarbons (PAHs), dioxins and furans.
- C-4 3. The EIR further states: "Moreover, previous soil studies and remediation reports indicate that, while portions of the project site have been cleaned up, there is still a possibility that soils contaminated with heavy metals are present on site (District 2012)." DTSC recommends investigation and cleanup, as necessary, to mitigate potential impact to human health and environment.
- C-5 4. The EIR states: "As discussed in Section 4.8, Hydrology and Water Quality, past activities and current urban runoff, stormwater runoff, and sewer spills have also affected water quality in the San Diego Bay. Specifically, the Bay, Bay shoreline near Marriott Marquis San Diego Hotel and Marina (directly north of the project site), and Bay shoreline near Switzer Creek (directly south of the project site) have 303(d)-listed impairments for chlordane, PAHs, PCBs, and copper (State Water Resources Control Board 2012)." Identify whether these impairments were mitigated. Otherwise, propose the mitigation measures in the EIR.

## Response to Comment C-2

This comment states that the EIR should identify the current or historic uses at the project site that could have resulted in the release of hazardous materials and waste. This comment also states that investigation, sampling, and remediation should be conducted under the oversight of the appropriate regulatory agencies if any recognized environmental conditions exist on the project site.

As discussed in Section 4.7, *Hazards and Hazardous Materials*, of the Draft EIR, there are several historic uses at and in the vicinity of the project site that involved the handling of hazardous materials and waste. Historic uses include the Campbell Industries Marine Construction and Design Company shipyard, a City of San Diego (City) garbage incinerator and disposal site, the former General Petroleum bulk fuel distribution facility, and a San Diego Gas & Electric (SDG&E) manufactured gas plant. These represent the recognized environmental conditions that exist within the project site. Section 4.7 of the Draft EIR also listed several other historic contamination areas that were identified within or in the vicinity of the project site; however, each of these cases is considered closed.

As detailed in Section 4.7 of the Draft EIR, the historical activities conducted at Campbell Shipyard involved the use of various hazardous materials that contaminated the offshore San Diego Bay sediment, soil, and groundwater. As a result, this site has been the subject of several environmental studies and cleanup and abatement orders (CAO), beginning in 1985. CAO No. 95-21, issued by the San Diego Regional Water Quality Control Board (RWQCB) on May 4, 1995, to Campbell, addressed the contaminated Bay sediments, upland soils, and groundwater at the former facility. In 2008, the District constructed an engineered cap and a habitat cap to isolate the sediments that were contaminated, in compliance with Order R9-2004-0295. Order R9-2004-0295 also required monitoring of the cap to ensure it continues to function effectively and contain the contaminants of concern so that water quality standards are not affected.

Additionally, a revised Addendum Number 3 to CAO No. 95-21 was issued on June 15, 2001, concerning the landside soil and groundwater contamination at the former shipyard. The soil and groundwater contamination resulted from previous activities at the former shipyard, as well as prior waste disposal activities associated with SDG&E and the City. Numerous investigations, sampling, and remedial actions have been

conducted in this area in accordance with the appropriate regulatory agencies' oversight. These previous studies and remediation reports indicate that, while portions of the project site have been cleaned up, there is still a possibility that soils contaminated with heavy metals are present on site.

As detailed in Section 4.7 of the Draft EIR, the proposed project would be required to implement mitigation measures to reduce potentially significant impacts associated with landside and waterside hazardous materials, including requiring proper investigation, sampling, and remedial actions overseen by the appropriate regulatory agencies to be conducted prior to construction. Specifically, mitigation measures MM-HAZ-1 through MM-HAZ-4 would be implemented to reduce potentially significant impacts associated with landside soil contamination, while mitigation measures MM-HAZ-5 through MM-HAZ-7 would address waterside sediment contamination and damage to the engineered cap. These mitigation measures require soil, groundwater, and sediment sampling, and, in the event contamination is encountered, require remediation in accordance with applicable local, state, and federal regulations and guidelines. With implementation of MM-HAZ-1 through MM-HAZ-4, potential landside impacts would be reduced to less-than-significant levels because safeguards would be taken during landside construction to ensure upset and accident conditions do not occur, and effects in the event of an unanticipated upset condition would be minimized. While implementation of mitigation measures MM-HAZ-5 through MM-HAZ-7 would minimize potential impacts associated with waterside sediment contamination, the Draft EIR concluded that this impact would be significant and unavoidable because it is still possible that in-water construction activities for the marina expansion could be located within areas with contaminated sediment. In addition to the implementation of these mitigation measures, the RWQCB and/or other federal and state agencies have final regulatory authority to approve specific methods for in-water construction. No changes to the Final EIR are required as a result of this comment.

### **Response to Comment C-3**

The commenter restates information from the Draft EIR regarding the historic use of the area adjacent to the project site as a garbage incinerator and disposal site. The commenter states that all potential contaminants,



including polycyclic aromatic hydrocarbons (PAHs), dioxins, and furans, should be investigated due to this historic use.

Please see response to comment C-2. The historic use of the area adjacent to the project site as a garbage incinerator and disposal site is discussed in Section 4.7, Hazards and Hazardous Materials, of the Draft EIR. The proposed project would be required to implement mitigation measures to reduce potentially significant impacts associated with landside and waterside hazardous materials. As required by mitigation measure MM-HAZ-1, a landside site contamination characterization report shall be prepared to delineate the extent and concentration of landside contamination, which would include contamination still present from the municipal burn dump. Additional soil and groundwater sampling shall be conducted if conditions detailed in the characterization report are met. Mitigation measure MM-HAZ-1 also requires testing of materials that will be disposed of during construction for all potential contaminants of concern, including CA Title 22 metals, PAHs, volatile organic compounds (VOCs), pesticides, polychlorinated biphenyls (PCBs), semi-volatile organic compounds, hydrocarbons, or any other potential contaminants. The Testing and Profiling Plan that would be prepared under MM-HAZ-1 shall document compliance with CA Title 22 for proper identification and segregation of hazardous and solid waste as needed for acceptance at a CA Title 22-compliant offsite disposal facility. No development would occur until the area is deemed safe for construction and occupancy. No changes to the Final EIR are required as a result of this comment.

#### **Response to Comment C-4**

The commenter restates information from the Draft EIR regarding the possibility of soils contaminated with heavy metals being present on site. The comment recommends that investigation and cleanup be conducted as necessary to mitigate potential impacts on human health and the environment.

Please see response to comment C-2. As discussed in Section 4.7 of the Draft EIR, the proposed project will be required to implement the comment's recommendation that the investigation and cleanup be conducted as necessary to mitigate potential impacts on human health and the environment. The proposed project would be required to implement mitigation measures to reduce potentially significant impacts associated with landside and waterside hazardous materials, and those mitigation measures include further investigation and cleanup wherever necessary.

As required by mitigation measure MM-HAZ-1, testing shall occur for all potential contaminants of concern, including CA Title 22 metals, PAHs, VOCs, pesticides, PCBs, semi-volatile organic compounds, hydrocarbons, or any other potential contaminants. Additionally, MM-HAZ-1 requires development and implementation of a Soil and Groundwater Disposal Plan, which shall describe the process for excavation, stockpiling, dewatering, treating, and loading and hauling of soil and groundwater from the site, and a Site Worker Health and Safety Plan to ensure compliance with Code of Federal Regulations (CFR), Title 29, Part 120, Hazardous Waste Operations and Emergency Response regulations for site workers at uncontrolled hazardous waste sites. Moreover, MM-HAZ-4 requires development and implementation of a Site-Specific Community Health and Safety Program that addresses the chemical constituents of concern for the project site. The program must include environmental and personal air monitoring, dust control, and other appropriate construction means and methods to minimize the public's exposure to the chemical constituents of concern. With implementation of these mitigation measures, potential impacts on human health and the environment would be avoided. No changes to the Final EIR are required as a result of this comment.

### **Response to Comment C-5**

The commenter restates information from the Draft EIR related to existing 303(d)-listed impairments for San Diego Bay for chlordane, PAHs, PCBs, and copper. The comment asks if these impairments have been mitigated or suggests that mitigation measures be proposed within the EIR to address the existing condition.

This comment addresses existing conditions, rather than potential impacts of the proposed project. The list of 303(d) impairments for the San Diego Bay shoreline near Marriot Marquis San Diego Hotel and Marina and Bay shoreline near Switzer Creek are a result of past activities and current urban runoff, stormwater runoff, and sewer spills not associated with the proposed project. As such, because these are existing conditions, the proposed project is not required to mitigate for existing 303(d)-listed impairments unless the proposed project would exacerbate the existing conditions. As detailed in Section 4.8, *Water Quality and Hydrology*, of the Draft EIR, the proposed project is required to implement mitigation measures MM-HWQ-1 through MM-HWQ-3 to reduce potential water quality impacts during construction and operation of the waterside components of the project. Specifically, these mitigation measures require

Ms. Dana Sclar  
January 3, 2018  
Page 3

- C-6 5. The EIR further states: "Stored hazardous materials are not currently present within the project site boundaries (both land and water) (Appendix H). Stored hazardous materials have been previously reported within the project site, as discussed in the next section. The Campbell Shipyard Bay Sediment Cleanup & Capping site, as well as the landside TPH-impacted soils area and the landside PAH zone, partially extend into the project site." Identify whether these contaminants were mitigated from the project area. Otherwise, propose the mitigation measures in the EIR.
- C-7 6. The EIR states that several agencies involved with the cleanup and abatement of soil and groundwater at several areas of the site.
- Identify the name(s) of the regulatory agency(ies) that approved the closure of these remediation efforts and provide the specific locations of the project areas that are already remediated.
  - DTSC is unable to evaluate whether vapor sampling and/or potential vapor intrusion risk was adequately addressed due to lack of relevant detailed information in the EIR.
  - DTSC recommends soil gas sampling and vapor intrusion risk evaluation on sites with releases of volatile organic compounds (VOCs) and/or total petroleum hydrocarbon (TPH). DTSC recommends soil gas sampling after removal action to confirm no residual VOC contamination remain onsite and/or risk is acceptable based on applicable and relevant state guidelines.
- C-8 7. As the soil is contaminated, excavated soil should be sampled prior to export/disposal. If the soil is contaminated, it should be disposed of properly in accordance with all applicable and relevant laws and regulations. In addition, if the project proposes to import soil to backfill the excavated areas, proper evaluation and/or sampling should be conducted to make sure that the imported soil is free of contamination.
- C-9 8. If during construction/demolition of the project, soil and/or groundwater contamination is suspected, construction/demolition in the area would cease and appropriate health and safety procedures should be implemented. If it is determined that contaminated soil and/or groundwater exist, the EIR should identify how any required investigation and/or remediation will be conducted, and the appropriate government agency to provide regulatory oversight.

preparation and implementation of a Marina Best Management Practice Plan and copper reduction measures (MM-HWQ-1), water quality sampling for total and dissolved copper (MM-HWQ-2), and incorporation of marina design measures to promote tidal flushing (MM-HWQ-3). With implementation of these mitigation measures, potential construction- and operation-related water quality impacts of the proposed project would be reduced to less-than-significant levels, and the proposed project would not worsen the existing water quality of 303(d)-listed waterbodies. No changes to the Final EIR are required as a result of this comment.

### Response to Comment C-6

The commenter restates information from the Draft EIR regarding the partial extension of the Campbell Shipyard Bay Sediment Cleanup and Capping site, landside total petroleum hydrocarbons (TPH)-impacted soils area, and landside PAH zone into the project site. The comment requests that the EIR identify whether these contaminants were mitigated in the project area, or otherwise propose mitigation measures in the EIR to address these existing contaminants.

This comment addresses existing conditions, rather than potential impacts of the proposed project. Mitigation is not required unless the proposed project would exacerbate the existing condition. As detailed in Section 4.7 of the Draft EIR, the proposed project would be required to implement mitigation measures MM-HAZ-1 through MM-HAZ-4 for potential landside hazardous materials impacts and MM-HAZ-5 through MM-HAZ-7 for potential waterside hazardous materials impacts. These mitigation measures are proposed to specifically address potentially contaminated soil, groundwater, and sediment associated with historical uses at and in the vicinity of the project site, including the Campbell Shipyard Bay Sediment Cleanup and Capping site, landside TPH-impacted soils area, and landside PAH zone. With implementation of MM-HAZ-1 through MM-HAZ-4, potential landside impacts would be reduced to less-than-significant levels because safeguards would be taken during landside construction to ensure upset and accident conditions do not occur, and effects in the event of an unanticipated upset condition would be minimized. However, while implementation of mitigation measures MM-HAZ-5 through MM-HAZ-7 would minimize potential impacts associated with waterside sediment contamination, the Draft EIR concluded that this impact would be significant and unavoidable because it is still possible that in-water construction activities for the marina expansion could be located within areas with contaminated sediment, and San Diego RWQCB and/or other

federal and state agencies have final regulatory authority to approve specific methods for in-water construction. No changes to the Final EIR are required as a result of this comment.

### **Response to Comment C-7**

The comment restates information from the Draft EIR that several agencies were involved with the cleanup and abatement of soil and groundwater at several areas of the site and raises three separate issues, as described below.

The first issue raised by the commenter requests the name(s) of regulatory agencies that approved closure of the remediation efforts and the locations that have already been remediated. As stated in Section 4.7 of the Draft EIR, Appendix H includes the full list of sites that were identified within or near the project site, as well as their approximate geographic location. Also as stated in Section 4.7 of the Draft EIR, the site locations identified on the map are approximate because the extent of contamination and/or the exact location of sites are not always available. Onsite contamination sites that were identified during the hazardous materials database search are detailed in Table 4.7-2 of the Draft EIR. Table 4.7-2 provides a site summary and status, as well as the agency that provided regulatory oversight for each onsite contamination site. Clarifying language has been added to Table 4.7-2 of the Draft EIR to indicate that San Diego RWQCB was the agency responsible for regulatory oversight of the Campbell Shipyard Bay Sediment Cleanup and Capping site. This clarifying language is included in Chapter 5, *Errata and Revisions*, of the Final EIR. Please see Table 4.7-2 for the regulatory agencies responsible for oversight of the remaining onsite contamination sites identified during the hazardous materials database search.

The second issue raised in this comment indicates that DTSC is unable to evaluate whether vapor sampling and/or potential vapor intrusion risk was adequately addressed based on the information contained in the EIR. Mitigation measure MM-HAZ-1 in Section 4.7 of the Draft EIR requires the preparation of a Landside Site Contamination Characterization Report delineating, throughout the landside project construction area, the vertical and lateral extent and concentration of landside residual contamination from the site's past use, including, but not limited to, past use of the site as a fuel facility, municipal burn dump, and manufactured gas plant waste disposal area. If data gaps are identified, MM-HAZ-1 states that additional sampling is required. Mitigation measure MM-HAZ-1 also states that the

project proponent shall enroll in the Voluntary Assistance Program with the County of San Diego Department of Environmental Health and shall submit the results of the Landside Characterization Report to Department of Environmental Health staff for regulatory concurrence of results.

In addition, MM-HAZ-1 has been updated to clarify that requirements for the project proponent include a complete soil vapor analysis, which includes soil gas sampling and an indoor air quality risk assessment prior to construction. Additionally, MM-HAZ-1 has been clarified to explicitly state that if the Landside Site Contamination Characterization Report identifies residual contamination that would be disturbed by the proposed project and potentially cause harm to human health or the environment, additional remedial actions shall be taken, in accordance with Department of Environmental Health oversight. These remedial actions will be coordinated with the Department of Environmental Health and will include the removal of contaminated soils that pose a vapor intrusion risk and/or the incorporation of project design features that prevent vapor intrusion into the proposed new buildings and structures. The clarifications to MM-HAZ-1 do not constitute significant new information under Section 15088.5 of the State CEQA Guidelines, and therefore do not require recirculation of the Draft EIR. This clarifying language is included in Chapter 5, *Errata and Revisions*, of the Final EIR and is reflected in the project's Mitigation Monitoring and Reporting Program (MMRP).

The last issue raised by the commenter is a recommendation to conduct soil gas sampling and vapor intrusion risk evaluation on sites with releases of VOCs and/or TPH. The comment recommends soil gas sampling after removal action to confirm that no residual VOC contamination remains or that it is below applicable and relevant state guidelines. As mentioned above, MM-HAZ-1 has been clarified to indicate that a soil vapor analysis and an indoor air quality risk assessment are required, as well as the appropriate remedial actions based on coordination with the Department of Environmental Health. This clarifying language is included in Chapter 5, *Errata and Revisions*, of the Final EIR and is reflected in the project's MMRP.

### **Response to Comment C-8**

The comment states that excavated soil should be sampled prior to export/disposal and, if contaminated, be properly disposed of in accordance with all applicable laws and regulations. The commenter also

states that import soil for the backfilling of excavated areas should be properly evaluated and/or sampled to ensure it is free of contamination. Please see response to comment C-2. The proposed project would be required to implement mitigation measures to reduce potentially significant impacts associated with hazardous materials. As detailed in Section 4.7 of the Draft EIR, MM-HAZ-1 requires preparation and implementation of a Soil and Groundwater Management Plan. In accordance with MM-HAZ-1, the Soil and Groundwater Management Plan includes a Landside Site Contamination Characterization Report, a Soil and Groundwater Testing and Profiling Plan, a Soil and Groundwater Disposal Plan, and a Site Worker Health and Safety Plan. As part of the Soil and Groundwater Testing and Profiling Plan, testing of materials that will be disposed of during construction will occur for all potential contaminants of concern, including CA Title 22 metals, PAHs, VOCs, pesticides, PCBs, semi-volatile organic compounds, hydrocarbons, or any other potential contaminants. Additionally, the Soil and Groundwater Disposal Plan will describe the process for excavation, stockpiling, dewatering, treating, and loading and hauling of soil and groundwater from the site. This plan shall be prepared in accordance with the Testing and Profiling Plan (i.e., in accordance with CA Title 22 and DOT Title 40 CFR Part 263, CAC Title 27), and current industry best practices for the prevention of cross contamination, spills, or releases, such as segregation into separate piles for waste profile analysis based on organic vapor, and visual and odor monitoring. In the event contaminated soil is encountered, it would be removed and disposed of in accordance with CA Title 22 and DOT Title 40 CFR Part 263, CAC Title 27 and under the oversight of the County of San Diego Department of Environmental Health, which serves as the local regulatory agency responsible for oversight of hazardous materials issues in San Diego County. MM-HAZ-1 has been clarified to further explain the process for sampling and properly disposing of excavated soil, as well as testing of imported soil. The clarifications to MM-HAZ-1 do not constitute significant new information under Section 15088.5 of the State CEQA Guidelines, and therefore do not require recirculation of the Draft EIR. This clarifying language is included in Chapter 5, *Errata and Revisions*, of the Final EIR and is reflected in the project's MMRP.

### **Response to Comment C-9**

The comment states that construction/demolition would cease and appropriate health and safety procedures should be implemented if soil and/or groundwater contamination is suspected during

Ms. Dana Sclar  
January 3, 2018  
Page 4

C-10

If you have any questions regarding this letter, please contact me at (714) 484-5476 or email at [Johnson.Abraham@dtsc.ca.gov](mailto:Johnson.Abraham@dtsc.ca.gov).

Sincerely,



Johnson P. Abraham  
Project Manager  
Brownfields Restoration and School Evaluation Branch  
Brownfields and Environmental Restoration Program – Cypress

ed/sh/ja

cc: Governor's Office of Planning and Research (via e-mail)  
State Clearinghouse  
P.O. Box 3044  
Sacramento, California 95812-3044  
[State.clearinghouse@opr.ca.gov](mailto:State.clearinghouse@opr.ca.gov)

Mr. Dave Kereazis (via e-mail)  
Office of Planning & Environmental Analysis  
Department of Toxic Substances Control  
[Dave.Kereazis@dtsc.ca.gov](mailto:Dave.Kereazis@dtsc.ca.gov)

Mr. Shahir Haddad, Chief (via e-mail)  
Brownfields Restoration and School Evaluation Branch  
Brownfields and Environmental Restoration Program - Cypress  
[Shahir.Haddad@dtsc.ca.gov](mailto:Shahir.Haddad@dtsc.ca.gov)

CEQA# 2016081053

construction/demolition of the proposed project. The comment also states that the EIR should identify how any required investigation and/or remediation will be conducted if it is determined that contaminated soil and/or groundwater exists, as well as the appropriate government agency to provide regulatory oversight.

Please see responses to comments C-2, C-4, and C-8 for a discussion of the soil and groundwater sampling and disposal procedures required under mitigation measure MM-HAZ-1. In addition, MM-HAZ-1 also requires preparation and implementation of a Site Worker Health and Safety Plan to ensure that site workers potentially exposed to site contamination in soil and groundwater are trained, equipped, and monitored during site activity. The training, equipment, and monitoring activities shall ensure that workers are not exposed to contaminants above personnel exposure limits established by Table Z, 29 CFR Part 1910.1000. The Safety Plan shall be signed by and implemented under the oversight of a California State Certified Industrial Hygienist. Moreover, MM-HAZ-4 requires the development and implementation of a Site-Specific Community Health and Safety Program that addresses the chemical constituents of concern for the project site. The guidelines of the Site-Specific Community Health and Safety Program shall be in accordance with the County of San Diego Department of Environmental Health's *Site Assessment and Mitigation Manual* (2009) and the U.S. Environmental Protection Agency's *SW-846 Manual* (1986). The Site-Specific Community Health and Safety Program shall include detailed plans on environmental and personal air monitoring, dust control, and other appropriate construction means and methods to minimize the public's exposure to the chemical constituents of concern. No changes to the Final EIR are required as a result of this comment.

### Response to Comment C-10

This comment concludes the comment letter and provides a contact name and information.

The District appreciates DTSC's interest in the proposed project. This comment does not raise any issues requiring a response pursuant to CEQA.



## 6.3.5 Comment Letter D: California Department of Transportation, District 11

Comment Letter D

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION  
DISTRICT 11  
4050 TAYLOR STREET, MS-240  
SAN DIEGO, CA 92110  
PHONE (619) 688-3193  
FAX (619) 688-4299  
TTY 711  
www.dot.ca.gov

RECEIVED

JAN 30 2018

SAN DIEGO UNIFIED  
PORT DISTRICT  
REAL ESTATE
  
Making Conservation  
a California Way of Life

January 30, 2018

11-SD-5, 75, 94, 163, 282  
PM VAR  
Fifth Avenue Landing Project and Port Master Plan Amendment  
DEIR/SCH#2016081053

Ms. Dana Sclar  
San Diego Unified Port District  
3165 Pacific Highway  
San Diego, CA 92101

Dear Ms. Sclar:

D-1 Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Draft Environmental Impact Report (DEIR) for the Fifth Avenue Landing Project and Port Master Plan Amendment located near Interstate 5 (I-5), State Route 75 (SR-75), State Route 94 (SR-94), State Route 163 (SR-163), and State Route 282 (SR-282). The mission of Caltrans is to provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability. The Local Development-Intergovernmental Review (LD-IGR) Program reviews land use projects and plans to ensure consistency with our mission and state planning priorities.

Caltrans has the following comments:

### Traffic Impact Study

- D-2 1. The Traffic Impact Analysis (TIA) report is incomplete, as all appendices are missing. Caltrans must be able to review these in order to compare and respond thoroughly. Please submit the following appendices for the TIA:
- a. Appendix A – Traffic Counts
  - b. Appendix B – Intersection LOS calculations for Existing Conditions
  - c. Appendix C – Intersection LOS calculations for Existing Plus Project
  - d. Appendix D – Near Term Year 2021 Base Intersection Volumes
  - e. Appendix E – Intersection LOS calculations for Near Term Year 2021 Base
  - f. Appendix F – Intersection LOS calculations for Near Term Year 2021 Base plus Project
  - g. Appendix G – Relevant pages from Downtown San Diego Mobility Plan
  - h. Appendix H – Intersection LOS calculations for Future Year 2035 Base
  - i. Appendix I – Intersection LOS calculations for Future Year 2035 Base plus Project
- D-3 2. The analysis of signalized and un-signalized intersections used procedures from the 2000 Highway Capacity Manual (HCM). Please use the 2010 HCM for all Caltrans' intersections.

*"Provide a safe, sustainable, integrated and efficient transportation system  
to enhance California's economy and livability"*

### Response to Comment D-1

This comment is an introductory comment indicating that the California Department of Transportation (Caltrans) has reviewed the Draft EIR. The comment also summarizes the mission of Caltrans and the role of the Local Development-Intergovernmental Review Program. The comment further indicates that Caltrans' comments are to follow.

The District appreciates Caltrans' interest in the proposed project. This comment does not raise any issues requiring a response pursuant to CEQA. The specific comments that follow this introduction are listed separately below along with the District's individual responses.

### Response to Comment D-2

The commenter suggests that the Traffic Impact Analysis (TIA) report is incomplete because all of the associated appendices are missing. The comment states that Caltrans must review the TIA appendices and requests for them to be submitted.

As indicated in Appendix K-1, Transportation Impact Analysis, of the Draft EIR, the TIA appendices were available for review during the public review period at the District's Office of the District Clerk. Furthermore, in response to the comment, the District has provided a courtesy copy of the TIA appendices to Caltrans. The Draft EIR was complete and no changes to the Final EIR are required as a result of this comment.

### Response to Comment D-3

The comment states that the analysis of signalized and unsignalized intersections used procedures from the 2000 Highway Capacity Manual (HCM), and requests that the 2010 HCM be used for all Caltrans intersections instead.

The original Downtown Community Plan EIR (March 2006) used the 2000 HCM to analyze and determine traffic impacts for the downtown area, including Caltrans intersections in the downtown area. Based on the 2000 HCM, several intersections within the downtown area were determined to operate at level of service (LOS) F. Mitigation measures were adopted, which are based on the 2000 HCM. Findings were made for each impact to identify where mitigation was feasible and where additional mitigation was not feasible. A Statement of Overriding Considerations was adopted

Ms. Dana Sclar  
January 30, 2018  
Page 2

- D-4 3. The project distribution shown on Figure 3-2 'Project Trip Distribution' includes 10% of internal downtown capture. Assuming this 10% is vehicle traffic, the project trip distribution adds up to 110%. Please clarify.
- D-5 4. Please explain the project distribution which shows 20% coming from the Point Loma area, yet only 10% from east county San Diego(SR-94).
- D-6 5. Traffic arriving from south San Diego most likely will use the Cesar Chavez Parkway exit, yet the intersection of Cesar Chavez Parkway and I-5 northbound off-ramp was not analyzed. Please include this intersection to the traffic study and/or assign appropriate trips to this ramp and street.
- D-7 6. Section 3.3 'Project Study Area' of the TIA under 'Freeway' (page 19) states that there are currently not any ramp meters within the project study area; however, the Fifth Avenue southbound on-ramp is metered.
- D-8 7. Section 4.6 'Impact Significance and Mitigation' (Existing plus Project) of the TIA recommends signalization of intersection #45 and #53 as mitigation for the direct impact. An Intersection Control Evaluation (ICE) would be required per the 2014 California Manual on Uniform Traffic Control Devices (CA-MUTCD). A submittal of traffic analysis with these improvements would need to be reviewed and approved before implementation, as both of these intersections directly affect SR-94.
- D-9 8. Section 4.6 'Impact Significance and Mitigation' (Existing plus Project) of the TIA recommends to restripe intersection #56 - the northbound left turn lane into a northbound left turn/through shared lane. A submittal of traffic analysis with these improvements would need to be reviewed and approved before implementation as this intersection directly affects the I-5 northbound 19<sup>th</sup> Street/J Street off-ramp.
- D-10 9. The TIA also identifies a direct impact to a segment of I-5 northbound between Grape Street and First Avenue (AM peak hour). The report states that there are not any existing projects to contribute a fair share; therefore, this impact would remain significant and unavoidable. There are other options to mitigate this impact other than a contribution to an existing program; such as, ramp metering, adding storage capacity to on/off-ramps, etc.
- D-11 10. Please clarify why SR-94 was not analyzed even though various SR-94 intersections were determined to be negatively impacted by the proposed project.
- D-12 11. Section 5.5 'Impact Significance and Mitigation' (Near Term Year 2021 Base plus Project) and Section 6.5 'Impact Significance and Mitigation' (Future Year 2035 Base plus Project) of the TIA recommends to pay a fair share percentage on the same three intersections (#45, #53, and #56). Please clarify why that was determined when these were already identified as being directly impacted by the proposed project. Furthermore, an ICE would also be required at these intersections, per 2014 CA-MUTCD.

*"Provide a safe, sustainable, integrated and efficient transportation system  
to enhance California's economy and livability"*

that indicated that the benefits of the Downtown Community Plan outweighed the impacts, including significant traffic impacts. In 2016, the Downtown Community Plan was amended with the updated 2016 Mobility Plan. To maintain consistency in the analysis and mitigation prescribed, the Mobility Plan used the 2000 HCM as well. Therefore, to maintain consistency with the analysis and mitigation measures identified in the latest downtown-wide mobility study, the transportation analysis for the proposed project relies on the MMRP and Findings when identifying transportation improvements that have been approved. Consequently, it is important to maintain the same methodologies between the two documents. Therefore, no changes to the TIA or the Final EIR are required as a result of this comment.

### Response to Comment D-4

The comment suggests that the project trip distribution adds up to 110% based on the project distribution shown on Figure 3-2 of the TIA. The comment asks for clarification.

There was a typographical error on the figure; the project trip distribution adds up to 100%. Figure 4.12-2 of the Draft EIR and Figure 3-2 of the TIA (Appendix K-1 of the Draft EIR) have been revised to indicate that the project trip distribution adds up to 100%. This revision does not result in any changes to the analysis or conclusions in the TIA or the EIR. These changes are included in Chapter 5, *Errata and Revisions*, of the Final EIR.

### Response to Comment D-5

The comment asks for an explanation of why the project distribution shows 20% coming from the Point Loma area but only 10% from the east (i.e., State Route [SR-] 94).

The proposed project is a commercial and recreational bayside redevelopment, including a market-rate hotel tower and lower-cost visitor-serving hotel. As such, visitors to the project site would be primarily out-of-town visitors. Consequently, 20% of the hotel traffic is assumed to use Harbor Drive to access the San Diego International Airport, from which most hotel guests are expected to arrive. The 20% distribution of hotel to airport traffic assumption maintains consistency with the assumptions used in several other traffic studies prepared for the District and within downtown San Diego. The hotel is not anticipated to draw many guests from the east, and the 10% figure for traffic coming from SR-94 is anticipated to be associated with employees. In addition, it

is anticipated that 45% of visitors would be drawn from the north, 15% from the south, and the remaining 10% from the downtown area. Therefore, no changes to the TIA or the Final EIR are required as a result of this comment.

### **Response to Comment D-6**

The comment suggests that traffic arriving from south San Diego would likely use the Cesar Chavez Parkway exit, but that the intersection of Cesar Chavez Parkway and the Interstate (I-) 5 northbound (NB) off-ramp was not analyzed. The comment requests that this intersection be included in the TIA and/or that appropriate trips be assigned to this ramp and street.

Due to the presence of several I-5 NB off-ramps located within the downtown area, it is not likely that a significant percentage of the project traffic would use the I-5 NB off-ramp at Cesar Chavez Parkway. When traffic is at peak congestion, off-ramps farther south, such as the I-5 NB off-ramps located at 28<sup>th</sup> Street/National Avenue and at Harbor Drive in National City, are more efficient than Cesar Chavez Parkway. Furthermore, under Future Year 2035 Conditions, the Park Boulevard to Harbor Drive connection will be in place, likely making the J Street off-ramp the most direct connection when congestion is not experienced. The project is estimated to generate 405 inbound trips during the PM peak hour (highest peak). Over 12% of the project-related traffic ( $405 \times 12\% = 50$  trips) would need to utilize the I-5 NB/Cesar Chavez Parkway off-ramp to trigger the City's requirement (50 peak hour trips—as per *the City of San Diego Traffic Impact Study Manual*, July 1998) for this ramp to be analyzed. With only 15% (see revised Figure 4.12-2 in Chapter 5, *Errata and Revisions*) of the total project traffic anticipated to come to/from the south utilizing I-5, it is not anticipated that 12% (the majority of the traffic coming from this direction) would utilize the I-5 NB/Cesar Chavez Parkway off-ramp. Therefore, no changes to the TIA or the Final EIR are required as a result of this comment.

### **Response to Comment D-7**

The comment indicates that the TIA claims that there are no ramp meters within the project study area, but states that the Fifth Avenue southbound (SB) on-ramp is metered.

As shown for intersection #30, Fifth Avenue & Cedar Street, in Figure 3-3B of the TIA (Appendix K-1 of the Draft EIR), the proposed project is anticipated to contribute 10 AM trips and 14 PM trips to the I-5 SB/Fifth

Avenue on-ramp. As per *the City of San Diego Traffic Impact Study Manual* (July 1998), this is well below the City's threshold of 50 peak hour trips required to analyze the ramp. Therefore, this ramp was not included in the project study area. No changes to the TIA or the Final EIR are required as a result of this comment.

### **Response to Comment D-8**

The comment restates the recommendation from the TIA to signalize intersections #45 and #53 as mitigation. The comment states that an Intersection Control Evaluation (ICE) would be required per the 2014 *California Manual on Uniform Traffic Control Devices*. The comment states that a submittal of the traffic analysis with these improvements would need to be reviewed and approved before implementation because they would directly affect SR-94.

Please note that intersection #45 (15<sup>th</sup> Street/F Street) and intersection #53 (17<sup>th</sup> Street/G Street) are within the City of San Diego's jurisdiction. The City does not require an ICE for intersection control changes. As such, an ICE is not required for these intersections. Also, please note that mitigation measures for these intersections, MM-TRA-2 and MM-TRA-3, identified in Section 4.12, *Transportation, Circulation, and Parking*, of the Draft EIR, are consistent with the recommendations in the Downtown Mobility Plan Traffic Impact Study and Supplemental EIR (2016). As identified in Section 4.12 of the Draft EIR, because the timing and implementation of the necessary improvements at these intersections are within the exclusive jurisdiction of the City and not the District, the District cannot state with certainty that the improvements will be completed prior to an impact occurring; thus, the impacts would remain significant and unavoidable. Therefore, no changes to the TIA or the Final EIR are required as a result of this comment.

### **Response to Comment D-9**

The comment indicates that the TIA requires restriping intersection #56 as mitigation. The comment states that a submittal of the traffic analysis with these improvements would need to be reviewed and approved by Caltrans before implementation because they would directly affect the I-5 NB 19<sup>th</sup> Street/J Street off-ramp.

Please note that intersection #56 (19<sup>th</sup> Street/J Street) is located within the City of San Diego's jurisdiction, not Caltrans'. However, this improvement, as identified as MM-TRA-4 in Section 4.12, *Transportation*,

*Circulation, and Parking*, of the Draft EIR, was included as feasible mitigation in the adopted Downtown Mobility Plan Traffic Impact Study and Supplemental EIR (2016) under Future Conditions of the Preferred Alternative. Mitigation measure MM-TRA-4 has been clarified to state that the restriping shall be coordinated with Caltrans. The changes are included in Chapter 5, *Errata and Revisions*, of the Final EIR.

### Response to Comment D-10

The comment indicates that the TIA identifies a direct impact on the freeway segment of I-5 NB between Grape Street and First Avenue (AM peak hour). The comment also indicates that the TIA did not identify any existing projects toward which the proposed project would be able to contribute a fair share payment and that the impact would remain significant and unavoidable. The comment states that there are other mitigation options, such as ramp metering or adding storage capacity to on-/off-ramps.

As identified in Section 4.12. *Transportation, Circulation, and Parking*, of the Draft EIR, mitigation measure MM-TRA-5 (which requires compliance with *San Diego Forward: The Regional Plan*) I-5 operational improvements were identified for the impact along NB I-5 between Grape Street and First Avenue (Impact-TRA-4). However, Impact-TRA-4 was determined to remain significant and unavoidable because the timing and installation of the recommended improvements are within the exclusive jurisdiction of Caltrans and not the District; therefore, the District cannot state with certainty that the improvements would be completed prior to an impact occurring. In addition, the proposed series of improvements along I-5 between I-15 and I-8 in compliance with *San Diego Forward: The Regional Plan* are not scheduled until Year 2050 and are subject to budget availability and the discretion of Caltrans. As with the project-related impacts identified within the downtown area, the TIA identified cumulative projects or improvements that have been planned or adopted that can make a fair-share contribution to help potentially alleviate some impacts once those plans/projects are implemented. However, as with the impacts on I-5 NB, these impacts were also identified as significant and unavoidable, as the District cannot ensure the timing of these improvements.

Additionally, the comment noted that additional measures such as ramp metering or adding ramp storage capacity to on-/off-ramps may also help to alleviate the significant impact. While these measures will help to store

and organize traffic entering the freeway facility, they will not reduce the overall vehicular demand or increase the capacity of the facility. Because the City of San Diego's Significant Impact Criteria for mainline freeway facilities is based on the increase in volume-to-capacity ratio of the segment, these measures will not reduce Impact-TRA-4. Therefore, no changes to the TIA or the Final EIR are required as a result of this comment.

### **Response to Comment D-11**

The comment requests clarification as to why SR-94 was not analyzed even though various SR-94 intersections were determined to be negatively affected by the proposed project.

As noted in Figure 3-3B of the TIA (intersections #47 and #48), 30 AM peak hour trips and 41 PM peak hour trips are anticipated to utilize SR-94 westbound, while 20 AM peak hour trips and 27 PM peak hour trips are anticipated to utilize SR-94 eastbound. As per *the City of San Diego Traffic Impact Study Manual* (July 1998), this is below the City's threshold of 50 peak hour trips to require the analysis of freeway facilities; therefore, these intersections were not included in the analysis for the TIA. Consequently, no changes to the TIA or the Final EIR are required as a result of this comment.

### **Response to Comment D-12**

The comment indicates that the TIA requires the project proponent to pay a fair-share percentage on the same three intersections (#45, #53, and #56) and requests clarification as to why fair-share payments are needed when these three intersections were already identified as being directly affected by the proposed project. The comment further states that an ICE would also be required at these intersections.

Please note that intersections #45 (15<sup>th</sup> Street/F Street), #53 (17<sup>th</sup> Street/G Street), and #56 (19<sup>th</sup> Street/J Street) are located within the City of San Diego's jurisdiction. The City does not require an ICE for intersection control changes.

Moreover, the mitigation measures for these intersections (MM-TRA-2, MM-TRA-3, and MM-TRA-4, identified in Section 4.12, *Transportation, Circulation, and Parking*, of the Draft EIR) are consistent with the recommendations in the Downtown Mobility Plan Traffic Impact Study and Supplemental EIR (2016). As identified in Section 4.12 of the Draft

Ms. Dana Sclar  
January 30, 2018  
Page 3

- D-13 12. Section 5.5 'Impact Significance and Mitigation' (Near Term Year 2021 Base plus Project) of the TIA identified intersection #27 as being indirectly impacted, yet no feasible mitigation is identified to offset the negative impact; however, it states that the extension of Park Boulevard to Harbor Drive would alleviate some of the impact. Is the extension of Park Boulevard to Harbor Drive funded and/or scheduled?
- D-14 13. Section 5.5 'Impact Significance and Mitigation' (Near Term Year 2021 Base plus Project) of the TIA identified intersections #44 and #48 as being indirectly impacted. An analysis of the proposed improvement would need to be reviewed and approved before implementation. Please clarify why a fair share of 2-4% was recommended.
- D-15 14. Section 5.5 'Impact Significance and Mitigation' (Near Term Year 2021 Base plus Project) of the TIA identified intersection #47 as being indirectly impacted without feasible mitigation. Since the intersection directly impacts SR-94, mitigation solutions need to be provided.
- D-16 15. Section 5.5 'Impact Significance and Mitigation' (Near Term Year 2021 Base plus Project) of the TIA identified intersection #58 and #59 as being indirectly impacted with future signalization of the intersections as appropriate mitigation. Further analysis is required to determine if a signal at intersection #58 is warranted and/or if the storage on the ramp is sufficient to prevent an impact I-5 mainline operations. Therefore, Caltrans cannot assure that the signalization of intersections #58 and #59 would be approved.  
The TIA also states that 6-22% of fair share would be provided for the improvements; however, it is not clear where the remaining percentage would be coming from. If it is evaluated and deemed feasible for the proposed intersections, including #58 and #59, to be signalized and other improvements to occur, the Port should consider creating a reimbursement process where the developer would burden the full cost of improvements and be mechanism be in place to be reimbursed by the Port as future development occurs.  
An ICE would be also be required at intersections #58 and #59 per Policy Directive 13-02.
- D-17 16. The segment of I-5 northbound between Grape Street and First Avenue has been identified to be indirectly impacted by the project. Please clarify why 34% of the total cost of improvements were found to be associated with the project, yet no mitigation is proposed.
- D-18 17. Section 6.5 'Impact Significance and Mitigation' (Future Year 2035 Base plus Project) of the TIA identified two segments along I-5 to be indirectly impacted by the project. A list of fair share calculations is shown without specific mitigation improvements; therefore, please propose mitigation solutions to address the impacts.
- D-19 18. On page S-102 it states "Prior to the issuance of occupancy permits, Caltrans shall install the following I-5 operational improvements for the segment of northbound I-5 between Grape Street and First Avenue in compliance with *San Diego Forward: the Regional Plan* prepared by SANDAG (SANDAG 2015)." However, on page 4.12-2 of the TIA the comment references that the operational improvements from the SANDAG RTP are not scheduled

"Provide a safe, sustainable, integrated and efficient transportation system  
to enhance California's economy and livability"

EIR, each of these mitigation measures requires the project proponent to either pay for or directly implement the necessary improvement.

Because these improvements are located within the City's jurisdiction and not the District's, implementation of the mitigation measures would require approval by the City. Therefore, the City has the discretion to either require a payment or require the installation of the improvement. As identified in Section 4.12 of the Draft EIR, because the timing and implementation of the necessary improvements at these intersections are within the exclusive jurisdiction of the City and not the District, the District cannot state with certainty that the improvements will be completed prior to an impact occurring; therefore, the impacts would remain significant and unavoidable. To be conservative, because the direct impacts were identified as significant and unavoidable at these locations, no mitigation measures or improvements were assumed under the cumulative conditions. Therefore, the impacts were also identified as cumulative impacts because they would occur under cumulative conditions as well if the improvements were not made by the City or the project applicant.

Therefore, no changes to the TIA or the Final EIR are required as a result of this comment.

### Response to Comment D-13

The comment indicates that the TIA identified a significant indirect impact on intersection #27 and determined that there would be no feasible mitigation to avoid this significant impact. The comment notes that the TIA indicates that the extension of Park Boulevard to Harbor Drive would alleviate the impact to some degree. The comment asks if the extension of Park Boulevard to Harbor Drive is funded and/or scheduled.

The extension of Park Boulevard is a funded City of San Diego Capital Improvement Plan Project (S15045 – Park Boulevard At-Grade Crossing). The extension was approved by the California Public Utilities Commission in October 2017 and is scheduled to begin construction soon. Because the project is funded and was included in the Downtown Mobility Plan Traffic Impact Study and Supplemental EIR (2016), the extension was assumed under Future Year 2035 conditions.

In addition, the commenter appears to confuse an indirect impact with a cumulative impact. As identified in Chapter 5, *Cumulative Impacts*, of the Draft EIR, this intersection was identified as failing in the Downtown Mobility Plan Traffic Impact Study and Supplemental EIR (2016) with no



feasible mitigation identified to improve operations. In the Downtown Mobility Plan Supplemental EIR, the City identified the following improvements at this intersection that would mitigate the impact: “First Avenue & Beech Street – Convert on-street parking to a travel lane on First Avenue between Cedar Street and Ash Street during the PM peak hour which would require on-street parking removal. Construct an additional eastbound left-turn lane at the Beech Street approach, which would require street widening.” The Downtown Mobility Plan Supplemental EIR (adopted 2016) found these improvements to be infeasible due to the required roadway widening. Therefore, due to the uncertainty of the feasibility of these improvements, the impact was determined to be significant and unavoidable. The City of San Diego adopted a Statement of Overriding Considerations for the significant and unavoidable impacts. Therefore, no changes to the TIA or the Final EIR are required as a result of this comment.

#### **Response to Comment D-14**

The comment indicates that the TIA identified a significant indirect impact on intersections #44 and #48. The comment states that an analysis of the proposed improvement would need to be reviewed and approved by Caltrans before implementation. The comment also requests clarification of why a fair-share contribution between 2 and 4% was recommended.

The commenter appears to confuse an indirect impact with a cumulative impact. As identified in Chapter 5, *Cumulative Impacts*, of the Draft EIR, the proposed improvements identified in mitigation measures MM-C-TRA-3 and MM-C-TRA-5 are within the City’s jurisdiction, not within Caltrans jurisdiction, and would require the City’s review and approval prior to implementation. Because the impacts on these intersections are cumulative, a fair-share payment is appropriate. The fair-share contribution at the intersections was derived by dividing the project-related traffic at the intersection by the total growth in traffic at the intersection (AM+PM Project Trips)/(AM+PM Existing Traffic – AM+PM Future Traffic). No changes to the TIA or the Final EIR are required as a result of this comment.

#### **Response to Comment D-15**

The comment indicates that the TIA identified a significant indirect impact on intersection #47 (16<sup>th</sup> Street and F Street) and did not identify any

feasible mitigation. The comment states that because the intersection directly affects SR-94, mitigation should be provided.

The commenter appears to confuse an indirect impact with a cumulative impact. As identified in Chapter 5, *Cumulative Impacts*, of the Draft EIR, this intersection was identified as failing in the Downtown Mobility Plan Traffic Impact Study and Supplemental EIR (2016) with the following mitigation measure identified as infeasible: “16<sup>th</sup> Street & F Street – Construct an exclusive northbound through lane at the 16<sup>th</sup> Street approach which would require street widening.” Therefore, the Downtown Mobility Plan Traffic Impact Study and Supplemental EIR (2016) identified the future impacts on this intersection as being significant and unavoidable due to the required roadway widening. Consequently, due to the uncertainty of the feasibility of these improvements, the impact was determined to be significant and unavoidable. To maintain consistency with the vision of the Downtown Community Plan (amended 2016), no project-related improvements were recommended at this intersection and Impact-C-TRA-4 for the 16<sup>th</sup> Street and F Street intersection was significant and unavoidable. In addition, this intersection is outside of the District’s jurisdiction; therefore, the District has no authority to implement any mitigation measures or other improvements at the intersection. As such, the project’s incremental contribution to this cumulatively significant intersection impact was identified in the Draft EIR as being cumulatively considerable. Therefore, no changes to the TIA or the Final EIR are required as a result of this comment.

### **Response to Comment D-16**

The comment raises three issues related to intersections #58 (Logan Avenue and I-5 SB off-ramp) and #59 (Logan Avenue and I-5 SB on-ramp).

(1) The comment claims that the TIA identified indirect impacts on intersections #58 and #59 with future signalization as mitigation identified in the TIA. The comment states that further analysis is required to determine if a signal is warranted at intersection #58 and/or if the storage on the ramp is sufficient to prevent an impact on I-5 mainline operations. The comment further states that Caltrans cannot ensure that signalization of these intersections would be approved.

The commenter appears to confuse an indirect impact with a cumulative impact. As identified in Chapter 5, *Cumulative Impacts*, of the Draft EIR, impacts on intersections #58 and #59 were identified as cumulative

impacts Impact-C-TRA-4 and Impact-C-TRA-5. As noted in the TIA and Draft EIR, the impacts on intersections #58 (Logan Avenue/I-5 SB off-ramp) and #59 (Logan Avenue/I-5 SB on-ramp) would be reduced to a less-than-significant level with the signalization of the intersections. As the impacts are identified in the Draft EIR as cumulative impacts and not direct impacts of the proposed project, the project proponent is required to pay a fair-share contribution to the improvement. The payment of a fair-share contribution is consistent with the recommendations of the Downtown Community Plan EIR. As noted in the TIA and response to comment D-13, these impacts will become less than significant with the extension of Park Boulevard to Harbor Drive, as shown under Future Year 2035 conditions. However, because these intersections are controlled by Caltrans and the District does not have jurisdiction to ensure that improvements are completed, it cannot be certain that the mitigation would be implemented when needed or at all, and, therefore, impacts would remain significant and unavoidable.

(2) The comment indicates that the TIA identifies a range of fair-share improvement contributions between 6 and 22%, but states that it is unclear where the remaining percentage would be coming from. The comment states that the District should consider creating a reimbursement process if the proposed signalization and other improvements are evaluated and deemed feasible. The comment suggests that the reimbursement process should require the developer to shoulder the full cost of the improvements and that a mechanism should be in place so the District could reimburse the developer as future development occurs.

Because the impacts on intersections #58 (Logan Avenue and I-5 SB off-ramp) and #59 (Logan Avenue and I-5 SB on-ramp) are cumulative (Impact-C-TRA-4), the proposed project would only be responsible for a fair share of the mitigation cost (i.e., 22% for intersection #58 and 6% for intersection #59). The proposed project is not responsible for the remaining costs, their source, or their collection. The payment of a fair-share contribution is consistent with the recommendations of the Downtown Community Plan EIR. Mitigation measures MM-C-TRA-1 and MM-C-TRA-2 have been clarified to state that the project proponent shall be required to enter into a Traffic Mitigation Agreement with Caltrans and shall provide proof of this agreement to the District prior to issuance of occupancy permits. The changes are included in Chapter 5, *Errata and Revisions*, of the Final EIR. In addition, there are other non-District projects, such as the continued buildout of the Downtown Community

Plan (amended 2016) area, that contribute to the need for the improvement. A list of all of the projects within the Downtown Community Plan that were included in the analysis of the Draft EIR and TIA is provided in Table 5-2 of Chapter 5, *Cumulative Impacts*, of the Draft EIR.

Specific mitigation measures designed to reduce cumulative impacts on the freeway require Caltrans to provide oversight and implementation of the physical improvements. Therefore, the District is only able to require a fair-share payment by the project proponent that is proportional to the proposed project's impacts on freeway facilities within Caltrans' jurisdiction.

(3) The comment states that an ICE would be required at intersections #58 and #59 per Policy Directive 13-02.

As noted in the response to comment D-13 and in the Draft EIR, these impacts become less than significant with the extension of Park Boulevard to Harbor Drive, as shown under Future Year 2035 conditions. If Caltrans determines that the signalization is necessary, as required by mitigation measures MM-C-TRA-1 and MM-C-TRA-2, the project proponent is required to pay a fair-share contribution toward the improvement. However, implementation of the improvement falls within the jurisdiction of Caltrans, and the installation of any signalization must be approved by Caltrans, which will require any necessary analysis, which may include an ICE as noted in this comment.

No changes to the TIA or the Final EIR are required as a result of this comment.

### **Response to Comment D-17**

The comment indicates that the TIA identifies an indirect impact on the freeway segment of I-5 NB between Grape Street and First Avenue. The comment requests clarification as to why 34% of the total cost of the improvements was determined to be associated with the project, but no mitigation is proposed.

The commenter appears to confuse an indirect impact with a cumulative impact. As discussed in Chapter 5, *Cumulative Impacts*, of the Draft EIR, mitigation measure MM-TRA-5 was identified, which would reduce the project's incremental contribution to this cumulatively significant impact to a less-than-cumulatively considerable level. Mitigation measure MM-TRA-5 requires Caltrans to install I-5 operational improvements for the segment of NB I-5 between Grape Street and First Avenue, in compliance with *San Diego Forward: The Regional Plan*. The TIA identifies the fair-

share contribution that the proposed project would be required to contribute toward the plan for the freeway facility improvements to be constructed. However, as identified in Chapter 5 of the Draft EIR, *San Diego Forward: The Regional Plan* includes a series of operational improvements along I-5 between I-15 and I-8, which would encompass the segments of NB and SB I-5 that would be affected by the proposed project. However, these improvements are not scheduled until Year 2050. These improvements are subject to budget availability and coordination with Caltrans. At present, there is no program in place into which the project proponent could pay its fair share toward the cost of such improvements. However, mitigation measure MM-TRA-5 has been clarified to state that the project proponent shall be required to enter into a Traffic Mitigation Agreement with Caltrans. The changes are included in Chapter 5, *Errata and Revisions*, of the Final EIR. Because the timing and installation of the recommended improvements are within the exclusive jurisdiction of Caltrans and not the District, the District cannot state with certainty that the improvements will be completed prior to an impact occurring. As such, the impacts on freeway segments along NB and SB I-5 under near-term and future year conditions (Impact-C-TRA-6 and Impact-C-TRA-10) would remain significant and unavoidable.

### **Response to Comment D-18**

The comment indicates that the TIA identified two segments along I-5 as being indirectly affected by the project. The comment states that a list of fair-share calculations is provided without specific mitigation improvements, and requests that mitigation solutions be proposed to address the impacts.

Please see response to comment D-17 above, which discusses the I-5 improvements proposed as mitigation in the Draft EIR. No changes to the TIA or the Final EIR are required as a result of this comment.

### **Response to Comment D-19**

The comment restates information from the Draft EIR regarding the implementation of operational improvements to I-5 prior to the issuance of occupancy permits, as required by mitigation. The comment indicates that the TIA notes that the operational improvements from *San Diego Forward: The Regional Plan* are not scheduled to occur until Year 2050 and that no fair share fund is established at this time. The comment suggests

Ms. Dana Sclar  
January 30, 2018  
Page 4

D-19 cont. until Year 2050 and “no ‘fair-share’ fund established at this time.” The Port should also set a reimbursement process for I-5 operational improvements.

#### Complete Streets and Mobility Network

D-20 Caltrans views all transportation improvements as opportunities to improve safety, access and mobility for all travelers in California and recognizes bicycle, pedestrian and transit modes as integral elements of the transportation system. Caltrans supports improved transit accommodation through the provision of Park and Ride facilities, improved bicycle and pedestrian access and safety improvements, signal prioritization for transit, bus on shoulders, ramp improvements, or other enhancements that promotes a complete and integrated transportation system. Early coordination with Caltrans, in locations that may affect both Caltrans and the Port of San Diego, is encouraged.

To reduce greenhouse gas emissions and achieve California’s Climate Change target, Caltrans is implementing Complete Streets and Climate Change policies into State Highway Operations and Protection Program (SHOPP) projects to meet multi-modal mobility needs. Caltrans looks forward to working with the Port of San Diego to evaluate potential Complete Streets projects.

#### Land Use and Smart Growth

D-21 Caltrans recognizes there is a strong link between transportation and land use. Development can have a significant impact on traffic and congestion on State transportation facilities. In particular, the pattern of land use can affect both local vehicle miles traveled and the number of trips. Caltrans supports collaboration with local agencies to work towards a safe, functional, interconnected, multi-modal transportation system integrated through applicable “smart growth” type land use planning and policies.

The Port of San Diego should continue to coordinate with Caltrans to implement necessary improvements at intersections and interchanges, as well as coordinate with Caltrans as development proceeds and funds become available to ensure that the capacity of on-/off-ramps is adequate.

#### Traffic Control Plan/Hauling

D-22 Caltrans has discretionary authority with respect to highways under its jurisdiction and may, upon application and if good cause appears, issue a special permit to operate or move a vehicle or combination of vehicles or special mobile equipment of a size or weight of vehicle or load exceeding the maximum limitations specified in the California Vehicle Code. The Caltrans Transportation Permits Issuance Branch is responsible for the issuance of these special transportation permits for oversize/overweight vehicles on the State Highway System.

“Provide a safe, sustainable, integrated and efficient transportation system  
to enhance California’s economy and livability”

that the District should set up a reimbursement process for I-5 operational improvements.

Please see the responses to D-16 and D-17. Section 4.12, *Transportation, Circulation, and Parking* of the Draft EIR identifies a mitigation measure (MM-TRA-5) that would reduce the impact to a less-than-significant level. However, as discussed in Section 4.12, *Transportation, Circulation, and Parking*, and discussed above under response to comment D-17 in more detail, the impact would remain significant and unavoidable. Mitigation measure MM-TRA-5 has been clarified to state that the project proponent shall be required to enter into a Traffic Mitigation Agreement with Caltrans. The changes are included in Chapter 5, *Errata and Revisions*, of the Final EIR.

### Response to Comment D-20

The comment states Caltrans’ support for opportunities to improve safety, access, and mobility of all travelers in California and improved transit accommodation through enhancements that promote a complete and integrated transportation system. The comment also encourages early coordination with Caltrans in locations that may affect both Caltrans and the District. The comment states that Caltrans is implementing Complete Streets and Climate Change policies into State Highway Operations and Protection Program projects to reduce GHG emissions, achieve California’s Climate Change targets, and meet multi-modal mobility needs. The comment further states that Caltrans is looking forward to working with the District to evaluate potential Complete Streets projects.

The District appreciates the information regarding the Complete Streets and Climate Change policies and looks forward to working together with Caltrans to identify any potential opportunities within the District’s jurisdiction. This comment does not raise any issues requiring a response pursuant to CEQA.

### Response to Comment D-21

The comment states that Caltrans recognizes the link between transportation and land use, and that Caltrans supports collaboration with local agencies to work toward a safe, functional, interconnected, multi-modal transportation system integrated through applicable smart growth-type land use planning and policies. The comment also states that the District should continue to coordinate with Caltrans to implement necessary improvements to intersections and interchanges, and also

Ms. Dana Sclar  
January 30, 2018  
Page 5

Additional information is provided online at:  
<http://www.dot.ca.gov/trafficops/permits/index.html>

D-22  
cont.

A Traffic Control Plan is to be submitted to Caltrans District 11, including the interchanges at I-5/Logan Avenue, at least 30 days prior to the start of any construction. Traffic shall not be unreasonably delayed. The plan shall also outline suggested detours to use during closures, including routes and signage.

Potential impacts to the highway facilities (I-5) and traveling public from the detour, demolition and other construction activities should be discussed and addressed before work begins.

#### Mitigation

Caltrans endeavors that any direct and cumulative impacts to the State Highway System be eliminated or reduced to a level of insignificance pursuant to the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) standards.

D-23

Caltrans recommends consideration of "fair share" funds towards future improvements associated with I-5 corridor. Since the Project's cumulative impact is considered significant, feasible mitigation measures to State facilities should be identified in the TIS. Impacts that are significant and unavoidable need to have an alternative mitigation identified in the DEIR TIS. Recommended feasible mitigation measures include "fair share" contribution towards ramp metering and adding storage capacity to on-ramps. Mitigation identified in the traffic study, subsequent environmental documents, and mitigation monitoring reports, should be coordinated with Caltrans to identify and implement the appropriate mitigation. This includes the actual implementation and collection of any "fair share" monies, as well as the appropriate timing of the mitigation. Mitigation improvements should be compatible with Caltrans concepts.

Mitigation measures for proposed intersection modifications are subject to the Caltrans ICE policy (Traffic Operation Policy Directive 13-02). Alternative intersection design(s) will need to be considered in accordance with the ICE policy. Please provide ICE analysis to Caltrans District 11 for review and approval. Please refer to the policy for more information and requirements (<http://www.dot.ca.gov/trafficops/ice.html>).

Mitigation conditioned as part of a local agency's development approval for improvements to State facilities can be implemented either through a Cooperative Agreement between Caltrans and the lead agency, or by the project proponent entering into an agreement directly with Caltrans for the mitigation. When that occurs, Caltrans will negotiate and execute a Traffic Mitigation Agreement.

*"Provide a safe, sustainable, integrated and efficient transportation system  
to enhance California's economy and livability"*

coordinate with Caltrans as development proceeds and funds become available to ensure that the capacity of on- and off-ramps is adequate.

The District appreciates Caltrans' interest in the proposed project. The District looks forward to continuing its coordination with Caltrans on District projects that may affect Caltrans facilities. This comment does not raise any issues requiring a response pursuant to CEQA.

## **Response to Comment D-22**

The comment states that Caltrans has discretionary authority with respect to highways under its jurisdiction, summarizes the criteria under which a special permit may be issued, and identifies the Caltrans Transportation Permits Issuance Branch as the ones responsible for issuance of these special transportation permits. The comment also provides a link for more information on special permits. The comment further states that a Traffic Control Plan should be submitted to Caltrans District 11, including the interchanges at I-5/Logan Avenue, prior to construction and identifies issues that should be discussed in the plan.

As identified in Chapter 5, *Cumulative Impacts*, the impacts at the intersections of I-5/Logan Avenue on- and off-ramps (Impact-C-TRA-4 and Impact-C-TRA-5) are cumulative operational impacts and not construction impacts. Therefore, a Traffic Control Plan is not required for these intersections. However, as identified in Section 4.12, *Transportation, Circulation, and Parking*, of the Draft EIR, mitigation measure MM-TRA-1 requires the project proponent to provide a Transportation Demand Management (TDM) Plan prior to commencing any construction or demolition activities. Mitigation measure MM-TRA-1 has been revised to include Caltrans as a reviewing agency and identifies that prior to construction the project proponent shall prepare a Traffic Control Plan in accordance with Caltrans policies for impacts on the I-5 SB on-ramp/Boston Avenue intersection during construction of the proposed project. These changes are included in Chapter 5, *Errata and Revisions*, of the Final EIR. As this clarifies an existing mitigation measure and no new or more severe significant impacts were identified, this clarification does not require recirculation of the Draft EIR.

## **Response to Comment D-23**

This comment states that any direct and cumulative impacts on the State Highway System should be eliminated or reduced to a level of insignificance pursuant to CEQA and National Environmental Policy Act

standards. The comment recommends consideration of fair share funds toward future improvements associated with the I-5 corridor, and states the opinion that the TIA should identify feasible mitigation measures for significant cumulative impacts of the project. The comment also indicates that alternative mitigation measures should be identified in the TIA for significant and unavoidable impacts, and outlines the process for fair-share contributions and proposed improvements to Caltrans facilities.

As identified in Section 4.12, *Transportation, Circulation, and Parking*, and Chapter 5, *Cumulative Impacts*, of the Draft EIR, mitigation measures MM-TRA-1, MM-TRA-5, MM-C-TRA-1, and MM-C-TRA-2 specifically address impacts associated with freeway facilities that are under the jurisdiction of Caltrans. The commenter recommends consideration of fair-share funds toward future improvements associated with the I-5 corridor. Mitigation measures MM-C-TRA-1 and MM-C-TRA-2 would require the project proponent to pay a fair-share contribution toward signalizations of I-5 ramps. Mitigation measures MM-C-TRA-1 and MM-C-TRA-2 have been clarified to require the project proponent to enter into a Traffic Mitigation Agreement with Caltrans for the fair-share contributions. With regard to the other I-5 improvements identified in mitigation measure MM-TRA-5 of the Draft EIR, mitigation measure MM-TRA-5 has been clarified to state that the project proponent shall be required to enter into a Traffic Mitigation Agreement with Caltrans. These changes are included in Chapter 5, *Errata and Revisions*, of the Final EIR. Because the timing and installation of the signalizations on I-5 ramps and recommended I-5 improvements are within the exclusive jurisdiction of Caltrans and not the District, the District cannot state with certainty that the improvements will be completed prior to an impact occurring. As such, the impacts on I-5 SB on- and off-ramps (Impact-C-TRA-4) and the freeway segments along NB and SB I-5 under near-term and future year conditions (Impact-C-TRA-6 and Impact-C-TRA-10) would remain significant and unavoidable.

In addition, the commenter identifies that the impacts that are identified as significant and unavoidable need to have an alternative mitigation identified in the EIR and TIA. While preparing the TIA, Chen Ryan Associates reviewed numerous potential mitigation options. However, the City of San Diego's impact standards are currently based on volume-to-capacity ratios; therefore, unless the mitigation measure would reduce demand or increase the capacity (i.e., add more lanes), the significant impact would not be reduced. The commenter does not identify any specific mitigation measure alternatives for consideration, and no additional options were identified in the TIA and Draft EIR that would



reduce impacts. It should be noted that mitigation measure MM-TRA-8: Implement a Parking Management Plan that Provides Parking Management, as identified in Section 4.12, *Transportation, Circulation, and Parking*, in the Draft EIR, requires the project proponent to implement strategies such as coordination with transportation network companies (such as Lyft and Uber), provide bike racks on the project site or adjacent thereto, promote and encourage employees and patrons to use alternative modes of transportation, provide public transit subsidies for employees, participate in Port of San Diego shuttle system, provide a shuttle to and from the airport for hotel guests, participate in the San Diego Association of Governments–operated iCommute Program, designate employee carpool and vanpool parking spaces, and designate an onsite employee coordinator to inform employees of alternative commute options. Although the benefits cannot be quantified, the implementation of these strategies would reduce demand at the project site and ultimately reduce GHG emissions.

With regard to the comment related to intersection modifications being subject to Caltrans' ICE policy, the only area in which an ICE policy would be required is where the project proponent was required to install the signals at the Logan Avenue/I-5 SB off-ramp (MM-C-TRA-1) and Logan Avenue/I-5 on-ramp (MM-C-TRA-2). As noted in the response to comment D-13 and in the Draft EIR, these impacts become less than significant with the extension of Park Boulevard to Harbor Drive, as shown under Future Year 2035 conditions. If Caltrans determines that the signalization is necessary, as required by mitigation measures MM-C-TRA-1 and MM-C-TRA-2, the project proponent is required to pay a fair-share contribution toward the improvement. However, implementation of the improvement falls within the jurisdiction of Caltrans, and the installation of any signalization must be approved by Caltrans and will be subject to an ICE as noted by Caltrans.

These mitigation measures have been clarified to state that the project proponent shall be required to enter into a Traffic Mitigation Agreement with Caltrans. These changes are included in Chapter 5, *Errata and Revisions*, of the Final EIR.

Ms. Dana Sclar  
January 30, 2018  
Page 6

**Right-of-Way**

D-24

Any work performed within Caltrans right-of-way (R/W) will require discretionary review and approval by Caltrans and an encroachment permit will be required for any work within the Caltrans R/W prior to construction. As part of the encroachment permit process, the applicant must provide an approved final environmental document including the California Environmental Quality Act (CEQA) determination addressing any environmental impacts within the Caltrans's R/W, and any corresponding technical studies.

D-25

If you have any questions, please contact Kimberly Dodson, of the Caltrans Development Review Branch, at (619) 688-2510 or by e-mail sent to [Kimberly.dodson@dot.ca.gov](mailto:Kimberly.dodson@dot.ca.gov).

Sincerely,



DAMON DAVIS, Acting Branch Chief  
Local Development and Intergovernmental Review Branch

*Providing useful, accessible, integrated and efficient transportation services  
to enhance California's economy and lifestyle*

## Response to Comment D-24

The comment states that any work performed within Caltrans' right-of-way (ROW) will require discretionary review and approval by Caltrans and an encroachment permit prior to construction. The comment states that a final environmental document addressing impacts with Caltrans' ROW, as well as any technical studies, is required as part of the encroachment permit process.

The proposed project would not require work within Caltrans' ROW, nor would it result in significant impacts within Caltrans's ROW.

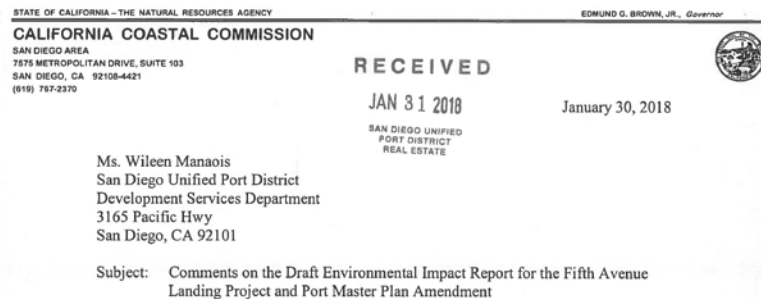
## Response to Comment D-25

This comment concludes the comment letter and provides a contact name and information.

The District appreciates Caltrans' interest in the proposed project. This comment does not raise any issues requiring a response pursuant to CEQA.

## 6.3.6 Comment Letter E: California Coastal Commission

Comment Letter E



Dear Ms. Manaois:

E-1 Commission staff appreciates the opportunity to review and comment on the above-referenced environmental document which was received by our San Diego District Office on December 14, 2017. Commission staff has reviewed the Draft Environmental Impact Report ("DEIR"), dated December 2017, for the proposed project, which consists of a bayside redevelopment on an approximately 18-acre site (five acres of land and thirteen acres of water) located west of the San Diego Convention Center. Waterside improvements include a 57,696 sq. ft. marina expansion with 50 slips ranging from 50 to 200 feet, and a 400 ft. by 20 ft. breakwater with wave attenuation panels constructed during Phase 1 and a 630 ft. by 20 ft. breakwater constructed during Phase 2. Landside improvements include construction of an approximately 796,000 sq. ft., 500 ft. high (44 story), 850-room market-rate hotel; an approximately 80,000 sq. ft., 82 ft. high, 565-bed lower-cost visitor-serving hotel which will include a 6,127 sq. ft. water transit center; a 263-space parking structure; 6,000 sq. ft. of visitor-serving retail establishments; and 85,490 sq. ft. of public plaza and park areas. Our preliminary comments are as follows:

### Port Master Plan Amendment (PMPA)

E-2 The proposed project will replace the Convention Center Expansion, which was approved by the Commission on October 11, 2013 (6-PSD-MAJ-45-13), in the certified PMP. The proposed project will have many of the same impacts as the Convention Center Expansion, including impacts to coastal views to and along the San Diego Bay, and public access. The Convention Center Expansion PMPA contained considerable detail on how the proposed project would protect and enhance coastal views and public access (e.g., drawing people to the waterfront and public promenade from Harbor Drive, wayfinding, pedestrian access ways, programming of the public park and special events, etc.). The PMPA proposed for the subject project, however, does not contain the same level of detail as the Convention Center Expansion PMPA, even though it raises serious concerns about the public's ability to access the waterfront, both physically and visually. As such, the proposed PMPA should be modified to include greater detail on how physical and visual public access to and along the waterfront will be protected and improved as part of the subject project. Please use the language that was reviewed and

### Response to Comment E-1

This comment is an introduction to the letter, summarizing the proposed project and indicating that California Coastal Commission (CCC) staff has reviewed the Draft EIR and is providing comments.

The District appreciates the CCC staff's interest in the proposed project. This comment does not raise any issues requiring a response pursuant to CEQA. The specific comments that follow this introduction are listed separately (below) along with the District's individual responses.

### Response to Comment E-2

The comment states that the proposed project will replace the San Diego Convention Center (SDCC) Expansion previously approved by the CCC and will generally have many of the same impacts, including impacts on coastal views and public access. The comment also states that the Convention Center Expansion Port Master Plan Amendment (PMPA) had considerable detail on how coastal views and public access would be protected and enhanced, but that the PMPA for the proposed project does not include the same level of detail. The commenter requests that the language that was reviewed and approved by the CCC as part of the Convention Center Expansion PMPA be used as guidance for the proposed PMPA for the proposed project.

In response to this comment, the South Embarcadero Public Access Program (PAP) has been amended to include the proposed project. It is incorporated by reference within the Draft PMPA for the proposed project. The Draft PMPA (Appendix C) with the attached Amended South Embarcadero PAP is included in Chapter 5, *Errata and Revisions*, of the Final EIR. The Amended South Embarcadero PAP contains greater detail on how physical and visual public access to and along the waterfront will be protected and improved as part of the proposed project, consistent with the California Coastal Act. The Draft PMPA for the proposed project including the Amended South Embarcadero PAP contain detail comparable to the level of detail contained in the CCC-approved Convention Center Expansion PMPA. Specifically, the Amended South Embarcadero PAP for the proposed project includes: details on public and private access to the public plaza and park areas (including public access, wayfinding signage, and reporting requirements), public access to the

Fifth Avenue Landing Project and Port Master Plan Amendment  
January 30, 2018  
Page 2

- E-2 cont. approved by the Commission as part of the Convention Center Expansion PMPA as guidance in drafting language for the proposed PMPA for Fifth Avenue Landing.
- E-3 In addition, in reference to the programming of the public park and plazas, the proposed PMPA identifies that "Portions of this park and plaza space will be open to the public as specified in the South Embarcadero Public Access Plan, as amended." The draft public access plan has not been included in the DEIR. Therefore, please include the proposed South Embarcadero Public Access Plan in the Final EIR so that it can be reviewed by the Commission, as well as the public. However, please note that programming details for the public park and plaza should also be included in the text of the PMPA itself.
- E-4 As you are aware, the Commission cannot suggest modifications or place conditions on a Port Master Plan Amendment, but can only approve or deny the plan. Thus, it is vital that the amendment contain the degree of specificity which will assure the Commission that all elements of the proposed access and parking plans are clearly identified and will be implemented.
- E-5 Finally, of major concern to the Commission at the time the Convention Center Expansion PMPA was approved was the replacement of waterfront park space with a rooftop park. At the Commission hearing, the Port amended its submittal to require that after the development was completed, reports would be provided to the Commission that describe the utilization of the rooftop park/plaza and promenade for all public and private events; park programming and activities would be implemented to invite the public to access the rooftop park/plaza, promenade and coast; and marketing activities and signage would be implemented to enhance way-finding and public usage of the rooftop park/plaza, promenade, and coastal access. After five years, a summary report would also be submitted with the addition of potential opportunities that could be pursued to increase public access to the rooftop park and waterfront promenade, including possible additional access points and related infrastructure. To further ensure public access to the rooftop park/plaza was maximized, the PMPA was also amended to include a requirement by the Port District that the coastal development permit issued by the Port to the City of San Diego (the project proponent) would require the City to reprioritize an amount of the City's construction budget to implement alternative access measures to activate the rooftop park/plaza. These changes to the PMPA resulted in the maintenance and improvement of public access in this area, and the Commission determined that the PMPA, as revised, was consistent with the Chapter 3 and Chapter 8 policies of the Coastal Act. Given the similarity of the proposed project, similar provisions should be included in the subject PMPA.
- E-6 Public Access and Recreation  
Of primary concern to this office is the lack of proposed parking and reduction of street level park space, especially when viewed cumulatively with the proposed San Diego Symphony Bayside Performance Center project. In regards to parking, the DEIR references the Port's Tideland Parking Guidelines in the calculation of the required 472 parking spaces. However, the proposed project will be located on two existing parking lots that currently provide a total of 303 parking spaces, and the replacement of these

public promenade and public observation viewing point, activation activities proposed for the public plaza and park areas, maintenance and enhancement of the existing 35-foot-wide Embarcadero Promenade, description of the required minimum five elevated public vista areas, description of the required one low-cost or no-cost boat slip for public use, and required participation in the Port of San Diego Shuttle. The PAP also contains an exhibit describing the public access within the public plaza and park areas.

### Response to Comment E-3

The comment cites text from the proposed PMPA related to the programming of the public park and plazas as specified in the South Embarcadero PAP, as amended. The comment states that the draft public access program has not been included in the Draft EIR and requests that the South Embarcadero PAP be included in the Final EIR. The commenter states that the programming details for the public park and plaza should also be included in the text of the PMPA itself.

As noted in response to comment E-2, the South Embarcadero PAP has been amended to include the proposed project. It is incorporated by reference within the Draft PMPA for the proposed project. The Draft PMPA (Appendix C) with the attached Amended South Embarcadero PAP is included in Chapter 5, *Errata and Revisions*, of the Final EIR. As noted in response to comment E-2, the Draft PMPA contains an appropriate level of detail regarding public access on the project site.

### Response to Comment E-4

The comment notes that the CCC cannot suggest modifications or place conditions on the PMPA, but can only approve or deny the plan. The comment states that the PMPA should contain the degree of specificity that will ensure that all elements of the proposed access and parking plans are identified and will be implemented.

As noted in response to comments E-2 and E-3, the South Embarcadero PAP has been amended to include the proposed project. It is incorporated by reference within the Draft PMPA for the proposed project. The Draft PMPA (Appendix C) with the attached Amended South Embarcadero PAP is included in Chapter 5, *Errata and Revisions*, of the Final EIR. The Draft PMPA, coupled with the Amended South Embarcadero PAP, is consistent with the California Public Resource Code 30000 et seq. (California Coastal Act) Section and contains the degree of specificity needed to ensure that

all public access elements of the proposed project are clearly identified and will be implemented. The Amended South Embarcadero PAP includes the requirement for an Annual Public Access Usage Report, which is also required by MM-PS-1. In addition, if a coastal development permit is approved for the proposed project in the future, compliance with the PAP will be made a special condition of the permit and the PAP will be an attachment to the permit, consistent with other similar District tenant projects. With regard to parking, please see response to comment E-6 below.

### **Response to Comment E-5**

The comment cites the concerns of the CCC from the Convention Center Expansion PMPA related to the replacement of waterfront park space with a rooftop park. The comment summarizes all of the requirements for the rooftop park that were included in the amended PMPA submittal at the CCC hearing for the Convention Center Expansion, including providing utilization reports to the CCC, implementing park programming and activities to invite people to access the rooftop park, implementing marketing activities and signage to enhance wayfinding and public usage of the rooftop park, submitting a summary report after 5 years with potential opportunities to increase public access to the rooftop park, and ensuring that the coastal development permit require the City of San Diego to budget funds to implement alternative access measures to activate the rooftop park. The comment states that, because of these changes to the Convention Center Expansion PMPA, the CCC determined that the Convention Center Expansion PMPA, as revised, was consistent with the California Coastal Act. The comment further states that similar provisions should be included in the PMPA for the proposed project given the similarity.

The proposed project is consistent with the California Coastal Act. As noted in response to comment E-2, the South Embarcadero PAP has been amended to include the proposed project. It is incorporated by reference within the Draft PMPA for the proposed project. The Draft PMPA (Appendix C) with the attached Amended South Embarcadero PAP is included in Chapter 5, *Errata and Revisions*, of the Final EIR. The Amended South Embarcadero PAP contains detail on how physical and visual public access to and along the waterfront will be protected and improved as part of the proposed project consistent with the California Coastal Act.

The Fifth Avenue Landing PMPA proposed public access amenities that are

not similar in size and scale compared to the Convention Center Expansion PMPA proposed public access amenities. The proposed project proposes approximately 85,490 square feet of elevated public plaza and park areas at approximately 44 feet above grade, whereas the Convention Center Expansion proposed a 5-acre (217,800 square feet) rooftop park at 50 to 100 feet above grade. The Draft PMPA for the proposed project, coupled with the Amended South Embarcadero PAP, contains detail comparable to the level of detail contained in the CCC-approved Convention Center Expansion PMPA as appropriate for the proposed project. Specifically, the Amended South Embarcadero PAP for the proposed project includes: details on public and private access to the public plaza and park areas (including public access, wayfinding signage, and reporting requirements), public access to the public promenade and public observation viewing point, activation activities proposed for the public plaza and park areas, maintenance and enhancement of the existing 35-foot-wide Embarcadero Promenade, description of the required minimum five elevated public vista areas, description of the required one low-cost or no-cost boat slip for public use, and required participation in the Port of San Diego Shuttle. Furthermore, the PAP requires that an annual public access usage report be submitted to the District that demonstrates that the Multifunctional Plaza and Lawn, Public Park Plaza, and Public Park Plaza and Public Observation Terrace are being used for public access and private access as allowed by the PAP (this requirement is also contained in mitigation measure MM-PS-1). The Amended South Embarcadero PAP is incorporated by reference within the Draft PMPA for the proposed project. The Draft PMPA (Appendix C) with the attached Amended South Embarcadero PAP is included in Chapter 5, *Errata and Revisions*, of the Final EIR. In addition, if a coastal development permit is approved for the proposed project in the future, compliance with the PAP will be made a special condition of the permit and the PAP will be an attachment to the permit, consistent with other similar District tenant projects.

### Response to Comment E-6

The commenter expresses concern regarding the lack of proposed parking and reduction of street level park space, especially when viewed together with the proposed San Diego Symphony Bayside Performance Center project. The commenter cites the project's requirement to provide 472 parking spaces from the Draft EIR, but notes that the project will be located on two existing parking lots that provide 303 parking spaces. The comment states that the required parking should be at least 775 spaces,

and that an equivalent amount of public parking spaces should be provided as one of the displaced parking lots is a public lot. The comment notes that the certified PMP requires at least 12 short-term public parking spaces adjacent to the relocated water transportation center (WTC) building, but that the proposed PMPA does not identify a number of parking spaces for the new WTC. The commenter states that it is unclear whether those 12 spaces as well as the proposed entire development (i.e., restaurant and retail uses) have been included in the parking calculations. The commenter indicates that it is inappropriate to use San Francisco hostel parking rates and suggests using a rate between that used for a traditional hotel and a hostel derived from a Southern California jurisdiction. The commenter also suggests that the actual parking deficit is likely greater than 500 parking spaces, and recommends that the Final EIR provide a more detailed explanation of the parking calculation methodology and consider all existing public parking requirements.

The existing 303 parking spaces are located within a private leasehold and while they may be available at times to the public for a parking fee, they are used by the SDCC and other event organizers for temporary staging and uses; as such, these parking lots cannot be depended upon by the general public. Accordingly, these spaces were not included in the parking calculation of the Draft EIR. Therefore, please note that the District identified an error in the depiction of the parking lots on Figure 2-4 of the Draft EIR. Figure 2-4 has been revised to correctly identify the parking lots within the project site and now identifies the number of parking spaces available in each lot. The revised figure is provided in Chapter 5, *Errata and Revisions*, of the Final EIR. In addition, the certified PMPA for the Phase III Expansion of the SDCC does require at least 12 short-term public parking spaces adjacent to the relocated WTC. This was a condition specifically related to the public access associated with that project and is not required to be carried over for the Fifth Avenue Landing Project. However, as identified in Section 4.12, *Transportation, Circulation, and Parking*, of the Draft EIR, the marina was identified as requiring 21 parking spaces. In addition, as shown in Table 4.12-21 of the Draft EIR, there are 96 parking spaces included within the proposed project's parking demand, which were allocated due to its proximity to public waterfront amenities for public access.

As noted in Table 4.12-13 of the Draft EIR, the retail storefronts are anticipated to serve hotel guests and not attract outside patrons other than passers-by already in the project area and thus were not included in the project trip generation. It is assumed that no additional trip

Fifth Avenue Landing Project and Port Master Plan Amendment  
January 30, 2018  
Page 3

E-6  
cont.

parking spaces was not included in the calculation. Thus, the required parking should be at least 775 spaces. Further, one of these displaced parking lots is a public lot and an equivalent amount of public parking spaces should be replaced as such. In addition, the certified PMP requires a public parking lot with at least 12 short term public parking spaces adjacent to the relocated water transit center building, but the proposed PMPA does not identify how many parking spaces will be allocated for coastal access at the new water transit center in the lower-cost hotel, and it is unclear whether those 12 public parking spaces have been included in parking calculation. It is also unclear whether the entire proposed development has been included in the parking requirement calculation. For example, the plans show a restaurant located at the lower-cost hotel, but it does not appear that this restaurant or the proposed retail spaces have been factored into the parking calculations. Finally, it does not seem appropriate to use San Francisco hostel parking rates to calculate required parking for the proposed lower-cost hotel given that proposed development is not technically a hostel, and public transportation in San Francisco is significantly more efficient than in San Diego. As such, the parking requirement should be determined using a rate in between that used for a traditional hotel and hostel; however, the hostel rate should be derived from a southern California jurisdiction. Thus, while the DEIR states the proposed project would result in a parking deficit of 209 spaces during its highest demand period, the actual number is likely greater than 500 parking spaces. The Final EIR should provide a more detailed explanation of how required parking was calculated and take into consideration all existing public parking requirements.

E-7

In addition, the Port has also proposed to construct a permanent venue for the San Diego Symphony at Marina Park North which would double the capacity of the existing temporary venue without providing for additional parking nearby. The DEIR's cumulative impact discussion for transportation, circulation, and parking is inadequate as it does not include an analysis of the cumulative impacts of both projects even though the subject project is proposed in the same general vicinity within the Port's jurisdiction as the Symphony project, and the EIR conducted for the Symphony project did include cumulative impact analysis. The Final EIR should include a detailed analysis of the cumulative traffic and parking impacts from this project and the Symphony project, as well as other nearby projects including those proposed in North Embarcadero, Seaport Village, and the Gaslamp Quarter, once parking requirements have been recalculated. Because the proposed project is located in an area with an existing deficit of public parking, the Port and project proponent should seriously consider alternatives that reduce the scope of the project or contain additional parking spaces, as they would significantly reduce impacts to public access, traffic and parking.

E-8

While the DEIR represents that the proposed project would increase the total area of public plaza and park areas from approximately 30,300 square feet (0.7 acre) to approximately 85,490 square feet (1.96 acres), which would result in a cumulative benefit to recreation, it fails to analyze the quality of the proposed public plaza and park areas compared to existing. For instance, the proposed development would be built on top of an existing park (located at street level), which is not proposed to be replaced. Instead, the project incorporates roof-top parks and a wider promenade to increase the acreage of

generation will be associated with the retail uses; therefore, no additional parking demand was assumed. Additionally, as noted in the same table, both the restaurant uses and meeting spaces are assumed to be part of the hotel use and its associated trip generation; as such, the parking demand associated with these uses is included in the overall hotel parking demand.

Although an insufficient parking supply was identified during operations (Impact-TRA-7), mitigation measure MM-TRA-8 requires the project proponent to implement a parking management plan and requires the project proponent to enter into agreements to secure 189 parking spaces at one or more offsite parking lots and provide valet parking operations for these offsite parking spaces. Therefore, the parking required for the proposed project would be fulfilled with the combination of onsite and offsite parking. However, because the necessary agreements have not yet been reached and the project proponent has no control over those agreements, the District cannot ensure that they will be reached and, therefore, the project's parking impacts would remain significant and unavoidable. Additionally, the benefits of the parking management plan cannot be quantified and, therefore, impacts would remain significant and unavoidable even though the mitigation measure requires securing a sufficient number of parking spaces from the many nearby parking facilities. Clarifying language has been added to Section 4.12, *Transportation, Circulation, and Parking*, and is included in Chapter 5, *Errata and Revisions*, of the Final EIR.

With regard to the comment related to the hostel parking rates, the proposed lower-cost hotel was determined to be similar to a hostel because it will provide a mixture of family suites (448 square feet) with their own bathroom, and queen (68 square feet), single (42 square feet), and Americans with Disabilities Act (ADA) (68 square feet) units with shared bathrooms. The hotel is located in a downtown, urban area in proximity to the San Diego International Airport; a short walking distance to a highly used trolley station (5<sup>th</sup> Avenue) that provides local downtown access and regional access to the San Diego-Mexico border to the south, Old Town and Qualcomm stadium to the north, and access to communities to the east; surrounding attractions in downtown San Diego and along the waterfront; free downtown shuttles; easy access to Transportation Network Companies such as Uber and Lyft; and an abundance of bike share options.

Prior to using San Francisco parking rates, research was performed to identify a hostel parking rate in San Diego County or another jurisdiction



within Southern California; however, no rate was found or identified. Given the proposed project is located within the downtown community with a substantial number of transportation options, using a parking rate from San Francisco was deemed reasonable.

### **Response to Comment E-7**

The comment notes that the proposed San Diego Symphony at Marina Park North project (a separate and unrelated project) would double the capacity of the existing venue but would not provide additional parking nearby. The commenter indicates that the cumulative impact analysis for transportation, circulation, and parking is inadequate because it did not include a cumulative impact analysis of both projects, while the Symphony project EIR did include cumulative impact analysis. The commenter suggests that the Final EIR include a detailed analysis of the cumulative traffic and parking impacts of these two projects and other nearby projects proposed in North Embarcadero, Seaport Village, and the Gaslamp Quarter once parking requirements have been recalculated. The commenter recommends that the District and the project proponent consider alternatives that reduce the project scope or contain additional parking spaces.

The Draft EIR adequately analyzes the cumulative parking impacts of the proposed project, as well as past, present, and reasonably foreseeable future projects in the cumulative study area. Cumulative parking impacts are addressed in Chapter 5, *Cumulative Impacts*, of the Draft EIR. Per State CEQA Guidelines Section 15130(b), the discussion of cumulative impacts does not need to be as detailed as the discussion of the effects of the project alone. The Draft EIR provides an appropriate level of detail to adequately analyze the cumulative parking impacts of the proposed project and cumulative projects. The San Diego Symphony Bayside Performance Park Enhancement Project was a reasonably foreseeable cumulative project and was considered in the cumulative transportation, circulation, and parking impact analysis. As discussed in Section 5.3.12 of the Draft EIR, the near-term scenario is based on the list method for short-term cumulative impact analysis and includes all of the present and reasonably foreseeable future projects listed in Table 5-2 of the Draft EIR. The San Diego Symphony Bayside Performance Park Enhancement Project is specifically included as cumulative project #87 in Table 5-2. The Draft EIR concluded that parking supply deficits are anticipated to increase with reasonably foreseeable future projects, and cumulative parking impacts from past, present, and reasonably foreseeable projects are significant.

This determination reflects the cumulative effects on parking from the cumulative projects identified in Table 5-2 of the Draft EIR, including the San Diego Symphony Bayside Performance Park Enhancement Project. Additionally, the Draft EIR concluded that the proposed project's contribution to significant impacts on parking supply would be cumulatively considerable, and cumulative parking impacts would remain significant and unavoidable after mitigation.

Regarding the commenter's recommendation to consider alternatives that reduce the project scope or contain additional parking, in Chapter 7, *Alternatives to the Proposed Project*, the Draft EIR includes an analysis of a Below Grade Parking Alternative intended to avoid or substantially lessen the significant parking impacts of the proposed project. Under the Below Grade Parking Alternative, 478 parking spaces would be provided in a concrete parking structure, which would include a subterranean parking level approximately 12 feet below grade. The P1 level would include 190 standard stall spaces, 9 Americans with Disabilities Act spaces, and 64 valet spaces. The P2 level would include 167 standard spaces and 48 valet spaces. Valet parking would be provided between the drive aisles on both the P1 and P2 levels. Public parking would be provided on both the P1 and P2 levels. As such, all of the parking demand generated during operations would be accommodated on site under the Below Grade Parking Alternative, resulting in a surplus of six parking spaces during the highest demand period. Consequently, implementation of this alternative would reduce the significant and unavoidable project-level and cumulative parking impact that would occur under the proposed project to less-than-significant levels. However, in comparison to the proposed project, this alternative would result in slightly greater, but still less-than-significant, impacts (after mitigation) associated with air quality emissions, cultural resources, geology and soils, GHG emissions and climate change, and hazards and hazardous materials. Therefore, no changes to the Final EIR are required as a result of this comment.

### **Response to Comment E-8**

The commenter acknowledges that the Draft EIR identifies the increase in the total area of public plaza and park areas, but indicates that it fails to analyze the quality of the proposed public plaza and park areas compared to what is existing. The commenter suggests that it is unclear if a wider promenade will increase public recreation in the area or if the rooftop

Fifth Avenue Landing Project and Port Master Plan Amendment  
January 30, 2018  
Page 4

- E-8 cont. public plaza and park areas. It is not clear, however, that a wider promenade will increase public recreation in the area, nor if the roof park will be utilized by the public, especially since portions of it will be privatized 50-85 percent of the year. The Final EIR should include a qualitative analysis of the proposed changes to the public park and promenade area.
- E-9 The connecting bridge to the San Diego Convention Center (SDCC) should not be an optional component. It is critical that this new public access bridge be included as part of the project in order to connect the development with the SDCC view deck in order to provide visitors with elevated views of the north and mid-Bay and allow for travel to and from the City's Gaslamp Quarter.
- E-10 Finally, public access along the waterside perimeter of the market rate hotel site should be clearly identified and maintained so that pedestrians may walk along water's edge.
- E-11 The potential impacts to public access from the proposed marina expansion are also of concern. In prior permit actions, the Commission has been concerned about the trend towards larger slips in marinas at the expense of smaller slips. In this case, the marina expansion includes 50 additional slips ranging from 50 to 200 feet. While it is difficult to contend that recreational boating is in fact a "low" cost recreational activity, in general, smaller boats are less expensive, and therefore more available to a larger segment of the population than are larger boats. While the Commission has not historically regulated the rates at which marinas rent their slips to the public, it has regulated the design of a marina in order to ensure that the redesigned slips conform to the public access and recreation policies of the Coastal Act by providing the correct balance between the size of slips and boaters' demand for slips. To mitigate for the lack of smaller slips, MM-PS-2 requires that at least one boat slip accommodating a vessel 30 feet in length be provided for public use, at low cost or no cost. However, the proposed project should also be modified to include a more equitable range of slips. The project description should also include the specific mix of slip sizes, and a discussion related to the operation of the marina and the public's access to the boat slips and dock.
- E-12 Regarding the proposed lower-cost hotel, additional information is needed to understand the operations and how the proposed hotel will be maintained as lower-cost through the duration of its lifetime.
- E-13 Please identify the location of all proposed public amenities, including public restrooms, in the Final EIR.
- E-14 Finally, the proposed Water Transit Center (WTC) appears to be a marina amenity more than transit center, as it will contain a marina office and a gym for marina members and hotel guests. Please clarify whether the restrooms located at the WTC will be available to the public, including ferry and water taxi users. Also, please identify how parking was calculated for WTC users.

park will be utilized by the public. The commenter suggests that the Final EIR include a qualitative analysis of these changes.

According to State CEQA Guidelines Section 15358(b), impacts to be analyzed in the EIR must be "related to physical changes" in the environment. The quality of public park space is highly subjective and what may be attractive to one person may not be to another. For example, providing substantially more park space than what is currently available may entice more visitors as it would provide more space and greater privacy for group gatherings that might otherwise not have sufficient space to hold such gatherings. Another person may find the views from approximately 44 feet above the current ground level to be more appealing than the current condition. Moreover, someone may have the opinion that the current park area lacks amenities, such as places to purchase refreshments (which is proposed by the project) or lack visual interest as the current space is open turf without any interesting landscaping or structural components (significant structural components are included in the design of the roof top park). In addition, while a portion of the turf area would be removed for the development of the lower-cost visitor-serving hotel and a park side café for park users, the majority of the existing turf area east of the project site would remain intact and available for continued use. Consequently, given the highly subjective nature of this issue, the quality of park space is generally not considered an issue subject to CEQA unless a specific physical impact on the environment would occur. The comment does not indicate how a decrease in the quality of public park space would result in a physical impact on the environment, and the District does not agree that the project would result in a decrease in the quality of park space compared to the existing condition. Therefore, no changes to the Final EIR are required as a result of this comment.

Notably, as identified in Section 4.1, *Aesthetics and Visual Resources*, of the Draft EIR, mitigation measure MM-AES-2 requires the project proponent to install wayfinding signage to direct visitors to the proposed public plaza and park areas on the rooftop. In addition, an Amended South Embarcadero PAP has been prepared to include the proposed project and identifies how the publicly accessible spaces within the project site would be accessed and activated within the implementation of the proposed project. As noted in response to comment E-2, the Amended South Embarcadero PAP includes details on public and private access to the public plaza and park areas, including public access, wayfinding signage, and reporting requirements. The Multifunction Plaza and Lawn area (Area

A as identified in Figure 3-12 of the Draft EIR) will be available for private events 50% of the year, while the Public Park Plaza area (Area B) will be available for private events 15% (not 85%) of the year. The Amended South Embarcadero PAP is incorporated by reference within the Draft PMPA for the proposed project. The Draft PMPA (Appendix C) with the attached Amended South Embarcadero PAP is included in Chapter 5, *Errata and Revisions*, of the Final EIR.

### **Response to Comment E-9**

The commenter indicates that the connecting pedestrian bridge to the SDCC should not be an optional component and states that it is necessary to provide elevated views of the north and mid-Bay, and facilitate pedestrian travel.

As discussed in Chapter 3, *Project Description*, of the Draft EIR, the proposed optional connecting bridge was identified as an optional project feature in the Draft EIR because an amendment to the Management Agreement between the District and the City (as the contractual managing entity of the SDCC) may be required. The District has determined as a result of the comment that an amendment would be required. The Management Agreement is between the District and the City, and any amendment thereto would require both parties' consent and agreement. Because there is no guarantee that the City would agree to amend the Management Agreement, the Draft EIR analyzed the project with and without the optional public access bridge component. This allows for CEQA compliance should an amendment to the Management Agreement to build the bridge be agreed to among the City and District. However, for informational and transparency purposes, it was defined as an optional project component. Clarifications to the Draft EIR have been made to more clearly indicate potential impacts with and without the bridge for specific resource topics such as aesthetics, land use and planning, and public services. These clarifications are reflected in Chapter 5, *Errata and Revisions*, of the Final EIR and do not change the impact conclusions for the proposed project.

The comment also suggests that the bridge is critical in order to connect the development of the existing SDCC view deck with the proposed project to provide visitors with elevated views of the north and mid-Bay and allow for travel to and from the City's Gaslamp District. Although the bridge may provide some additional view angles between the proposed project and the SDCC, as noted above, construction of the bridge would not reduce the

significant impact from the proposed project related to the obstruction of views within a vista area (i.e., Impact-AES-2) as the hotel tower would continue to dominate views from the SDCC viewing deck to the southwest whether or not the bridge is constructed. As for access to the Gaslamp District, visitors to the project site and in the general area surrounding the project site would be able to continue to access the Gaslamp District in the same manner as under current conditions. This includes stair and elevator access between the SDCC Phase I and Phase II expansions or walking around the SDCC Phase II expansion, through or around the Convention Center Park. The proposed project is designed to maintain the 35-foot-wide pedestrian promenade, and no change in the accessibility of the promenade would occur. Therefore, no changes to the Final EIR are required.

### **Response to Comment E-10**

The commenter recommends that public access along the waterside perimeter of the market-rate hotel should be clearly identified and maintained so that pedestrians may walk along the water's edge.

As required by mitigation measure MM-AES-2, the project proponent will install wayfinding and public accessibility signage at the grand staircase, market-rate hotel tower staircase, public observation terrace, optional pedestrian bridge, and two locations along the existing Embarcadero Promenade that directs visitors to the proposed public plaza and park areas on the rooftop of the parking structure and hotel ballrooms as well as the walkway around the market-rate hotel tower. These areas are depicted as Exterior Areas B, C, and D on Figure 3-12 of the Draft EIR. The wayfinding signage will clearly direct the public to the public plaza and park areas, public access along the waterside perimeter of the market-rate hotel, and the public observation terrace and indicate that the space is open to the public except during certain circumstances consistent with the PMPA. In addition, Area D, identified on Figure 3-12 and in Table 3-2 of the Draft EIR, is an approximately 10-foot-wide walkway along the southeast portion of the market-rate hotel tower and will include a public viewing deck. Area D would provide 100% access to the public. Mitigation measure MM-PS-1 in the Draft EIR has been amended to include the requirement to maintain 100% public access of Area D. These changes are also included in Chapter 5, *Errata and Revisions*, of the Final EIR.

**Response to Comment E-11**

The commenter expresses concern regarding potential impacts on public access from the proposed marina expansion, particularly related to slip size. The comment notes the number and size of slips that would be provided by the project. The comment also notes that the CCC has not historically regulated slip rates, but rather has regulated the marina design to ensure conformance with the public access and recreation policies of the California Coastal Act. The comment cites the requirement of MM-PS-2 to provide at least one public use boat slip for a vessel smaller than 30 feet in length at low cost or no cost. The commenter suggests that the project be modified to include a more equitable range of slips, and also suggests that the project description include the specific mix of slip sizes, a discussion of marina operations, and the public's access to the boat slips and dock.

As discussed in Chapter 3, *Project Description*, of the Draft EIR, the marina would be constructed in two phases, with Phase I adding approximately 23 new slips ranging in size from approximately 50 to 200 feet in length, and Phase II adding approximately 29 slips ranging from approximately 50 to 240 feet in length. Total build-out would allow for 50 additional slips for smaller and larger vessels. The proposed slip mix could allow for smaller boats to be integrated into the marina while at the same time allowing for larger vessels to dock. These slips would be accessible from the approximately 20-foot-wide pile-supported dock. Additionally, Figures 3-14 and 3-15 of the Draft EIR depict the proposed Phase I and Phase II marina layouts, respectively, and the proposed dock and slip lengths and quantities.

In addition, Section 4.11, *Public Services and Recreation*, of the Draft EIR includes mitigation measure MM-PS-2 that requires the project proponent to provide at least one boat slip for public use, for a vessel of a maximum size of 30 feet in length, at low cost or no cost. Furthermore, the mitigation measure states that to ensure sufficient availability to the public, berthing at the low-cost or no-cost slip shall be a maximum of 6 hours at any one time, signage shall be provided, and availability of the low-cost or no-cost slip shall be posted on the project proponent marina operator's website. Nevertheless, the project proponent will be required to provide at least one boat slip for public use, for a vessel of a maximum size of 30 feet in length. A description of this requirement is also included in the text of the Draft PMPA and the Amended South Embarcadero PAP that is incorporated by reference within the Draft PMPA for the proposed project.

Fifth Avenue Landing Project and Port Master Plan Amendment  
January 30, 2018  
Page 5

#### Sea Level Rise

The flood analysis included in the DEIR considers the life of the structure to be 66 years for analysis purposes because that is the length of the lease with the Port; however, the Commission has historically provided guidance that sea level rise impacts should be analyzed for the economic life of the structure or 75 years. Thus, the flood analysis should be revised to consider a 75-year economic life.

- E-15 Still, the analysis found the development would be impacted during its lifetime. Please include more specificity regarding the causes, types, and location of impacts. For instance, it does not appear that the analysis has taken into effect the impacts to the project from flooding due to the increase in impervious surfaces that will occur as a result of the project. In addition, it is not clear if the impacts would remain if portions of the project, such as the bulkheads, were not constructed. Finally, it is unclear why MM-LU-1 is proposed to assist with flooding once it occurs instead of moving ahead with a project that is designed to be safe from sea level rise throughout its lifetime or proposing adaptation strategies. The FEIR should identify if there are any alternatives that would assure the development would be safe from sea level rise for its 75-year economic life, such as an alternative with increased setbacks from the waterfront.

#### Biological Resources

- E-16 MM-BIO-5 requires the applicant to implement mitigation for open water coverage and fill in coordination with several resource agencies but fails to name the Coastal Commission as one of those agencies, even though we will be analyzing the proposed project with the PMPA application and the associated Coastal Development Permit will also be appealable to the Commission. The FEIR should identify that coordination is necessary with the Commission in the discussion regarding appropriate mitigation.

- E-17 The Marine Biological Resources Report, included as Appendix E-1, finds that during construction of the proposed marina, fishes greater than or equal to 2 grams are expected to be injured when they occur within 33 meters of pile driving and fish less than 2 grams are expected to be injured if they remain within 61 meters of pile driving. The Commission has typically required that the dual criteria not be exceeded at 10 meters distance from pile driving. Considerably higher sound levels are predicted for this project. Thus, attenuation devices and/or hydroacoustic monitoring should be considered and implemented to minimize potential impacts to marine resources in San Diego Bay.

- E-18 In terms of landscaping, the project would remove 39 trees but it is unclear if these trees would be replaced. The total loss of trees should be mitigated by providing the same amount of trees preferably at the site. The DEIR identifies that the landscaping will be drought tolerant, however, plants listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California should not be employed or allowed to naturalize or persist on the site.

The Draft PMPA (Appendix C) with the attached Amended South Embarcadero PAP is included in Chapter 5, *Errata and Revisions*, of the Final EIR.

The marina would operate as the only large vessel marina on the west coast and would satisfy a unique niche market for large vessels that have high-security operations and protocols. As such, a security perimeter would be observed around certain areas of the marina.

### **Response to Comment E-12**

The commenter states that additional information is needed to understand the operations of the proposed lower-cost hotel and how it will be maintained as lower-cost through its lifetime.

As discussed in Chapter 3, *Project Description*, of the Draft EIR, the proposed project includes the construction of a lower-cost visitor-serving hotel that would be situated on its own leasehold as a stand-alone development. The project proponent would be required to enter into a long-term operational agreement with a company or non-profit organization whose principal business is operating lower-cost visitor-serving hotels such as micro hotels. The lower-cost visitor serving hotel would provide a mix of family suites (448 square feet) with their own bathroom, and queen (68 square feet), single (42 square feet), and ADA (68 square feet) units with shared bathrooms. Through the long-term operational agreement and design, the lower-cost visitor-serving hotel would be maintained as a lower-cost visitor-serving hotel throughout the duration of the lease. It is important to note that Section 30213 of the California Coastal Act prohibits the District and the CCC from setting or regulating room rates and, in fact, states that “developments providing public recreational opportunities are preferred.” The proposed project is meeting this section of the California Coastal Act through providing both recreational opportunities and a lower-cost visitor-serving hotel.

### **Response to Comment E-13**

The commenter requests that the Final EIR identify the location of all proposed public amenities, such as public restrooms.

The locations of public amenities, including restrooms, plaza and park areas, the observation terrace, and promenade, are depicted on Figures 3-

12 and 3-13 of the Draft EIR. No changes to the Final EIR are required as a result of this comment.

### **Response to Comment E-14**

The commenter suggests that the proposed WTC appears to be a marina amenity more than a transit center and requests clarification on whether the WTC restrooms will be available to the public. The commenter also inquires how parking was calculated for WTC users.

As shown on Figure 3-13 of the Draft EIR, public restrooms would be provided along the existing Embarcadero Promenade, adjacent to the proposed activating retail. In addition, the restrooms on the rooftop public plaza and park area would be available to the public when the area is not used for a private event. However, there would not be public access to the restrooms located within the WTC. Regarding the WTC parking calculations, the existing ferry service and water taxi provide additional transportation options that enable users to move from one destination along District Tidelands to another without a vehicle. As provided in the District's *Tidelands Parking Guidelines* and identified in Table 4.12-21 of the Draft EIR, providing dedicated water transportation service results in a 10% parking reduction requirement.

As described in Section 3.4.2 of Chapter 3, *Project Description*, of the Draft EIR, the amenities in the WTC would serve the users of the marina and would provide operational support for the existing water transportation ferry service. Operational support for the ferry service and water taxi provided by the WTC includes an accessory office, business center, and ticketing. However, the other amenities, such as the gym for hotel guests and marina users, marina crew restroom/showers, and a marina guest lounge, would only be available for guests of the marina and/or hotel and not users of the ferry service and water taxi. No changes to the Final EIR are required as a result of this comment.

### **Response to Comment E-15**

The comment notes that the Draft EIR considers the life of the structure as 66 years, but indicates that the CCC has historically provided guidance that sea level rise impacts should be analyzed for the economic life of the structure or 75 years. The commenter suggests that the flood analysis should be revised to consider a 75-year economic life, and requests that more specificity of the causes, types, and locations of sea level impacts be provided. The comment cites the increase in impervious surfaces as a



potential contributor to flooding and states that it is unclear if impacts would remain if certain project components, such as the bulkheads, were not constructed. In addition, the commenter states that it is unclear why MM-LU-1 is proposed instead of designing the project to address sea level rise throughout its lifetime or proposing adaptation strategies. The commenter suggests that the Final EIR identify any alternatives, such as an alternative with increased setbacks from the waterfront that would ensure the project would be safe from sea level rise for its 75-year economic life.

The District considers the length of the lease as the useful life of the project when conducting CEQA analyses, rather than the economic life of the structure. The current California Coastal Commission Sea Level Rise Policy Guidance (2015) specifies, “The goal of these Steps is to ensure careful attention to minimizing risk to development and avoiding impacts to coastal resources over the life of the project.” The District considers the lease period to cover the entire authorized life of the project. If the lease were extended after this time, it would be a discretionary action subject to a new CEQA analysis, which would analyze the impacts of sea level rise over the new lease period.

The sea level rise analysis, which is provided in Section 4.6, *Greenhouse Gas Emissions and Climate Change*, and Section 4.9, *Land Use and Planning*, of the Draft EIR found that the development would not be exposed to daily inundation, even under a high sea level rise scenario, during the life of the lease. This is because the project site is protected from coastal flooding by existing bulkheads. Therefore, no mitigation strategies are required to protect the development from daily inundation by sea level rise.

When the flooding analysis included a 100-year storm surge in addition to sea level rise, the results show there is a risk of water overtopping the bulkheads at mid-century if sea level rise follows the upper end of the current projections. By 2100, a 100-year storm would overtop the bulkheads and flood the project site under the median and high sea level rise projections. If the bulkheads were overtopped during this storm event, the entire project site would be flooded.

To ensure the risks presented by sea level rise and storm surge are addressed, MM-LU-1 takes an adaptive management approach to mitigation. The measure has four primary components:

1. It requires integration of critical flood protection strategies, such as elevating mechanical and electrical equipment, and eliminating the infiltration of flood waters into water and sewage systems.

2. It requires the project proponent to contribute a “fair share” to future bulkhead improvements, which would protect the project site and neighboring properties from flooding.
3. Given that the project site is only projected to be exposed to future 100-year storm surge events under median to high sea level rise projections, the project proponent is required to prepare for the installation of additional coastal flood protection measures. In addition, MM-LU-1 has been revised to specify the trigger for implementing the additional flood protection mitigation measures, as follows:

*Upon receipt of the operational strategies report (see below), the District’s Development Services Department shall determine, if given the most up-to-date sea level rise projections, the current coastal protection features (e.g., the existing bulkheads) would be overtopped if a 100-year storm surge were to occur in the next 10 years. If so, within the next 5 years, the project proponent, in consultation with and approved by the District’s Development Services, must either install onsite protections (e.g., flood walls and flood proof openings) to protect the buildings from a high sea level rise scenario and a 100-year storm surge through the end of the District lease or, as mentioned above, contribute a “fair share” to bulkhead improvements that would offer an equal or greater level of protection.*

This adaptive management approach to sea level rise is advocated for in many climate change adaptation best practice documents, including the current California Coastal Commission Sea Level Rise Policy Guidance (2015).

4. It requires the development of operational strategies to prepare for flooding. This requirement acknowledges that (1) there may be future flooding events that exceed the 100-year storm analyzed in the EIR, and (2) the project site is dependent on other systems that may be less resilient to future sea level rise and storm surge (e.g., utilities). The operational strategies will enhance the robustness of the physical mitigation measures.

Fifth Avenue Landing Project and Port Master Plan Amendment  
January 30, 2018  
Page 6

E-19 Finally, if a nesting bird is discovered in the project area during construction, MM-BIO-3 allows the applicant's biologist to determine the appropriate construction buffer. Instead, an appropriate buffer should be determined in consultation with the California Department of Fish and Wildlife, and any subsequent reports should also be sent to them.

#### Geological Hazards

E-20 Information in the Geological Hazards section is based on the *Geotechnical and Environmental Reconnaissance Report for the San Diego Convention Center Expansion* prepared by Geocon Incorporated in 2009 (Appendix G-1) and the *Preliminary Geotechnical Evaluation Hilton Bayfront Hotel Tower Expansion* prepared by Ninyo and Moore in 2011 (Appendix G-2). The 2009 report was conducted within the proposed project site and the 2011 report was conducted adjacent to the project site. However, the project lies within 1500 ft. of the Rose Canyon Fault Line and additional research on this fault line has taken place since the previous studies. Further, the project is different than those analyzed in the previous reports and an updated geotechnical investigation should be prepared and analyzed with the subject DEIR and available for public review and comment, and not used as mitigation as is proposed in MM-GEO-1.

#### Visual Access

E-21 The DEIR states that a project objective is to "Provide for the development and operation of a full-service hotel of a ... similar size and stature as nearby hotels..." however, the proposed full-service hotel will be approximately 500 ft. tall, while the nearby Hilton is 372 ft. high and the two towers of the Marriott hotel are 293 ft. This hotel will be considerably higher and compare only to the Manchester Grand Hyatt (two towers are 497 ft. and 446 ft.) which is believed to be the tallest existing building on the waterfront in California. The Final EIR should identify that this would be the tallest hotel tower along the San Diego waterfront. Given the potential adverse impacts to public access and traffic identified in the DEIR, the project proponent should consider reduced scope alternatives that include a market-hotel with a reduced height.

E-22 The FEIR should include a detailed lighting analysis that includes the types, numbers, and location, and impact of lighting for all aspects of the project, including to coastal birds within the Pacific Flyway, and include a visual rendering.

#### Water Quality

E-23 Given the proposed increase in impervious surfaces by 18,540 square feet, water quality design features should be identified and discussed in more detail in the Final EIR.

As for impervious surfaces, Section 4.8, *Hydrology and Water Quality*, of the Draft EIR analyzed the proposed project's potential to result in flooding on or off site. As detailed in Section 4.8, any increases in peak flows for storm events would be managed through the use of low-impact development (LID) features and stormwater pollutant control best management practices (BMPs) that are designed to retain (i.e., intercept, store, infiltrate, evaporate, and evapotranspire) stormwater runoff generated on the project site. Accordingly, the Draft EIR concluded that the proposed project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in: (1) substantial erosion or siltation on or off site; or (2) flooding on or off site.

The changes to mitigation measure MM-LU-1 are included in Chapter 5, *Errata and Revisions*, of the Final EIR. In addition, based on further review of Sections 4.6 and 4.9 of the Draft EIR, some revisions were made to these sections to fix a few editorial errors and provide some additional clarifications of the analysis. These changes are also included in Chapter 5, *Errata and Revisions*, of the Final EIR.

### **Response to Comment E-16**

The commenter cites the requirement of mitigation measure MM-BIO-5 to coordinate with several resources agencies but notes that CCC is not identified as one of those agencies. The commenter requests that the Final EIR identify coordination with the CCC in the mitigation discussion.

Mitigation measure MM-BIO-5 has been revised as suggested by the commenter to include the CCC as one of the coordinating agencies. The changes are included in Chapter 5, *Errata and Revisions*, of the Final EIR.

### **Response to Comment E-17**

The comment indicates that the *Marine Biological Resources Report* identifies impacts on fish from pile driving activities. The comment states that the CCC typically requires the dual criteria not be exceeded at 10 meters distance from pile driving and indicates that considerably higher sound levels are anticipated for the proposed project. The commenter suggests that attenuation devices and/or hydroacoustic monitoring be considered and implemented to minimize impacts on marine resources.

The marine biological assessment (Appendix E-1 of the Draft EIR) noted that the noise data was evaluated, and the thresholds for injury were

calculated, based on a worst-case scenario. It is likely that actual sound levels will be lower than those assumed for the analysis. Even modest reductions in sound levels at source will cause the distance threshold to be significantly reduced. However, the worst-case scenario was used because it is difficult to be certain with regard to in-water sound levels when actual field conditions vary from the conditions used in the model. For this reason, the District agrees that additional monitoring is required during construction. As identified in Section 4.3, *Biological Resources*, MM-BIO-2 requires that biological monitoring for marine mammals and green sea turtles within 384 feet be implemented during all pile driving activities to prevent impacts on these species. The mitigation measure has been revised to include a requirement to also complete hydroacoustic monitoring during pile driving activities in order to determine the actual noise levels from construction and require the biological monitor to work with the contractor to ensure that in-water construction does not exceed noise levels that would impact any marine species, including fish. The changes are included in Chapter 5, *Errata and Revisions*, of the Final EIR.

### Response to Comment E-18

The comment notes that the project would remove 39 trees but states that it is unclear if they will be replaced. The commenter suggests that the loss of trees should be mitigated by replacing the same number of trees on site. The comment notes that drought-tolerant landscaping be used as identified in the Draft EIR and recommends that plants listed as problematic and/or invasive should not be used or allowed to naturalize on the site.

As identified in the figure at this end of the responses to this letter, the proposed project would install a total of 75 trees within the project site. Therefore, the proposed project would provide 36 more trees than the existing condition. In addition, as noted on the referenced figure, plants listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California, would not be installed on the project site. Section 3.4.9 of Chapter 3, *Project Description*, has been revised to identify the number of trees that would be planted on the project site and notes that all plants installed would not be problematic and/or invasive as defined by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time

by the State of California. The changes are included in Chapter 5, *Errata and Revisions*, of the Final EIR.

### **Response to Comment E-19**

The comment notes that MM-BIO-3 permits the applicant's biologist to determine the appropriate construction buffer for nesting birds. The commenter suggests that instead an appropriate buffer should be determined in consultation with the California Department of Fish and Wildlife (CDFW) with any subsequent reports sent to them as well.

Mitigation measure MM-BIO-3 has been revised as suggested by the commenter to require consultation with CDFW when determining the appropriate construction buffer. The changes are included in Chapter 5, *Errata and Revisions*, of the Final EIR.

### **Response to Comment E-20**

The comment cites the geotechnical reports used in the Geological Hazards section of the Draft EIR, which were completed in 2009 for the project site and in 2011 for the property adjacent to the project site. The commenter notes the proximity of the Rose Canyon fault to the project site and indicates that additional research on this fault has been completed since the previous reports. The commenter notes that the proposed project is different than those previously analyzed and suggests that an updated geotechnical report be prepared and analyzed in the Draft EIR, rather than be included as mitigation as proposed in MM-GEO-1.

Although the proposed project is different from those analyzed in the Geotechnical and Environmental Reconnaissance Report for the San Diego Convention Center Expansion and the Preliminary Geotechnical Evaluation Hilton Bayfront Hotel Tower Expansion, the existing condition information in these reports was used to describe the geologic conditions in Section 4.5, *Geology and Soils*, of the Draft EIR. These reports provide an adequate level of detail for the purposes of conducting CEQA analysis. These reports are not intended to provide design-level geotechnical recommendations, but rather to provide an overview of the existing geologic conditions that could be affected by the proposed project. Because geologic conditions do not change over the course of only a few years, the setting and conclusions stated in the reports are still considered valid for the purposes of the environmental analysis. Under CEQA, an EIR is not required to analyze the potential impacts of the existing environmental conditions on a project unless the project would

exacerbate those conditions. Therefore, when discussing impacts from the environment on the project, such as how a fault rupture or soil condition may affect a project, the analysis will first determine if there is a potential for the project to exacerbate the issue. If evidence indicates it would not, then the analysis will conclude by stating such. If the proposed project would potentially exacerbate the issue, then analysis is provided to determine if the exacerbation would or would not be significant.

The commenter does not explicitly state the title of the updated report(s) and none was provided by the commenter. Therefore, the District is unable to review and provide a response related to those studies. However, a recent Fault Hazard Evaluation for the World Class Waterfront Development prepared by Ninyo Moore dated February 26, 2018 (available for review at the Office of the District Clerk), which is a large project currently in the planning stages, located near the project site, within the Seaport Village, Tuna Harbor, and Embarcadero Marina Park North areas. As identified in Figures 2 through 4 of this report, which are included at the end of this chapter, there are some faults that cross the proposed World Class Waterfront Development site; however, there are no faults that cross the Fifth Avenue Landing project site. Therefore, there is no evidence that the proposed project would exacerbate the potential for geologic hazards associated with the fault.

Moreover, the project must be built in accordance with the California Building Code and the City's Municipal Code, which include requirements to conduct geotechnical evaluations that identify geologic hazards and recommend measures that would minimize these hazards. While compliance with these existing regulations is required in order to construct the proposed project, they are further enforced through mitigation measure MM-GEO-1, which includes performance standards for the geotechnical report that is required to be prepared under this mitigation measure. The geotechnical report is required to be submitted to, and approved by, the City, which is the agency that would issue building permits for the proposed project. Therefore, no changes to the Final EIR are required as a result of this comment.

### **Response to Comment E-21**

The comment restates the project objective related to providing a hotel similar in size and stature as nearby hotels. The commenter notes that the proposed hotel tower will be approximately 500 feet tall and provides the height of other nearby hotels that are smaller in height. The commenter

suggests that the Final EIR identify that the proposed hotel tower would be the tallest along the San Diego waterfront. The commenter further suggests that the project proponent consider reduced scope alternatives that include a reduced height market-rate hotel.

The Draft EIR fully discloses the potential impacts of the proposed project on aesthetics and visual resources. As discussed in Section 4.1, *Aesthetics and Visual Resources*, of the Draft EIR, the proposed project would result in significant and unavoidable operational impacts related to obstructed views within a vista area, displacement of existing designated vista areas, and new permanent sources of glare. It should be noted that the project has included design elements to minimize impacts on aesthetics and visual resources. Specifically, the market-rate hotel tower has been designed to accommodate existing viewsheds by proposing the tower to the west of the existing and proposed public plaza and park areas and by increasing the height of the tower in order to minimize its bulk (i.e., the tower would be tall and slender relative to the views from the Convention Center viewing decks). However, despite this design consideration, the proposed project would still result in significant and unavoidable impacts on aesthetics, as previously described, because it would block some panoramic views from the Grand Staircase. Furthermore, the commenter is correct that the proposed hotel tower would be the tallest tower along the Waterfront but it is comparable in height and massing to the nearby Hilton San Diego Bayfront Hotel, the Manchester Grand Hyatt, and the two towers of the Harbor Club Condominiums. As identified in Section 4.1, *Aesthetics and Visual Resources*, of the Draft EIR, the Hilton San Diego Bayfront 30 stories high, Marriott Marquis San Diego Marina is 25 stories high, and the Manchester Grand Hyatt is 40 stories high. The proposed hotel tower would be four stories taller than the existing tallest tower along the waterfront, which is the Manchester Grand Hyatt. Section 4.1, *Aesthetics and Visual Resources*, has been amended to include a statement that the proposed hotel tower would be the tallest hotel tower along the waterfront.

Regarding the commenter's suggestion to consider reduced scope alternatives that include a reduced height market-rate hotel, these alternatives were considered and analyzed under the Reduced Density Alternative (Alternative 5) in Chapter 7, *Alternatives to the Proposed Project*, of the Draft EIR. Under the Reduced Density Alternative, the hotel tower would be reduced by 20%, from 843 rooms to 675 rooms, and the lower-cost visitor-serving hotel would be reduced by 20%, from 228 beds (220 rooms) to 183 beds. The height of the hotel tower would be reduced

from 498 feet (45 stories) to 428 feet (38 stories). All other components of the proposed project would still occur under this alternative. The Draft EIR determined that the Reduced Density Alternative would result in similar impacts on aesthetics and visual resources as the proposed project because it would still block panoramic views from the Grand Staircase. The Board will take into consideration the alternatives analyzed in the Draft EIR when deciding whether to approve the proposed project or an alternative. No changes to the Final EIR are required as a result of this comment.

### **Response to Comment E-22**

The commenter suggests that the Final EIR include a detailed lighting analysis of the types, numbers, location, and impact of project lighting, including impacts on coastal birds within the Pacific Flyway, as well as a visual rendering.

The exact types, numbers, and locations of lighting elements is not currently known at this stage of project design. In accordance with State CEQA Guidelines Section 15124, the project description contains the level of detail needed for the evaluation and review of environmental impacts. Several renderings of the proposed project are provided in Chapter 3, *Project Description*, of the Draft EIR. Specifically, Figures 3-2 through 3-4 and Figures 3-7 through 3-10 depict visual renderings of the various components of the proposed project, and provide a general representation of lighting conditions under the proposed project. Additionally, the potential impacts on aesthetics associated with light and glare are analyzed in Section 4.1 of the Draft EIR. As discussed in Section 4.1, the lighting from the proposed high-rise market-rate hotel tower would be visible within a wider viewshed because the height of the building would exceed surrounding structures such as the SDCC. The proposed market-rate hotel tower would ultimately establish new sources of nighttime lighting at the project site, which would be comparable to existing lighting sources at the Hilton San Diego Bayfront Hotel and those created by other high-rise buildings in the surrounding area. The Draft EIR concluded that, because existing nighttime views in the area surrounding the site already experience high levels of nighttime lighting, the market-rate hotel tower would not represent a significant new source of substantial light within the area.

Additionally, Section 4.3, *Biological Resources*, of the Draft EIR analyzed the potential for bird strikes to occur as a result of new reflective surfaces.



Fifth Avenue Landing Project and Port Master Plan Amendment  
January 30, 2018  
Page 7

E-24 Thank you again for the opportunity to review and provide preliminary comments on the proposed project. If you have any questions or require further clarification, please do not hesitate to contact me at the above office.

Sincerely,

Melody Lasiter  
Coastal Program Analyst

Cc (copies sent via e-mail):  
Karl Schwing (CCC)  
Deborah Lee (CCC)  
Kanani Brown (CCC)  
Dana Sclar (Port)

As described in Section 4.3, many studies have concluded that the majority of bird strikes on buildings occur during the day and involve avian species that are spring or fall migrants as well as resident species hitting reflective plate glass windows. The Draft EIR determined that the market-rate hotel tower, lower-cost visitor-serving hotel, and glass surfaces in the pedestrian bridge from the hotel public access plaza to the SDCC would potentially increase the potential for bird strikes, which would result in significant impacts on avian species protected under the Migratory Bird Treaty Act and sensitive and listed species protected under the California Endangered Species Act. To reduce this potential impact to a less-than-significant level, mitigation measure MM-BIO-4 requires the implementation of bird strike reduction measures on new structures. As required by MM-BIO-4, building plans must be reviewed by an ornithologist familiar with local species, retained by the developer and approved by the District, to verify that the proposed building has incorporated specific design strategies to reduce bird strikes and that qualify for Leadership in Energy and Environmental Design (LEED) credits, as described in the American Bird Conservancy's *Bird-Friendly Building Design* (Sheppard and Phillips 2015) or an equivalent guide to avoid or reduce the potential for bird strikes. MM-BIO-4 requires the incorporation of design strategies related to building façade and site structures, low reflective building materials, and exterior lighting. In addition, MM-BIO-4 requires that the design strategies be confirmed with the U.S. Fish and Wildlife Service (USFWS) and/or CDFW, also a performance monitoring plan is required to monitor the effectiveness of the building and site design in preventing bird collisions. Therefore, with implementation of MM-BIO-4, impacts on birds in flight would be less than significant. Some text has been added to mitigation measure MM-BIO-4 to clarify that the design strategies shall be confirmed with USFWS and/or CDFW and the performance monitoring plan shall be reviewed and approved by the District, USFWS, and/or CDFW. These changes are also included in Chapter 5, *Errata and Revisions*, of the Final EIR.

### Response to Comment E-23

The commenter suggests that water quality design features be identified and discussed in greater detail in the Final EIR due to the proposed increase in impervious surfaces.

Section 4.8, *Hydrology and Water Quality*, of the Draft EIR, provides a detailed description of the construction and post-construction BMPs that would be implemented consistent with all applicable regulations. As

detailed in Section 4.8, the proposed project would be required to implement pollutant control BMPs, following the hierarchy described in the District's BMP Design Manual (retention, partial retention with biofiltration, biofiltration, or flow-through with participation in an Alternative Compliance Program). Stormwater pollutant control BMPs are engineered facilities that are designed to retain (i.e., intercept, store, infiltrate, evaporate, and evapotranspire), biofilter, and/or provide flow-through treatment of stormwater runoff generated on the project site. Minimum BMPs consistent with the District's BMP Design Manual require the use of site design BMPs and source control and pollutant control BMPs. Additionally, the project proponent would prepare a project-specific Stormwater Quality Management Plan for approval by the District that identifies LID features (site design and source control BMPs) and pollutant control BMPs to reduce the discharge of pollutants to the maximum extent practicable. A draft Stormwater Quality Management Plan was prepared for the proposed project (Appendix I-1 of the Draft EIR), which identifies that the project would retain as much runoff as possible within the green roof and the landscaping areas along the proposed public plaza and park areas. In addition, modular wetland proprietary biofiltration units would be utilized throughout the project site to ensure proper treatment of stormwater to remove pollutants prior to discharge into the Bay.

Moreover, the proposed project would include non-structural BMPs such as storm drain stenciling and signage, properly designed outdoor materials storage areas, properly designed trash storage areas, proof of ongoing BMP maintenance, and other items relevant to operations of the site. Implementation of site-specific LID features and pollutant control BMPs, in accordance with the Jurisdictional Runoff Management Program, would filter potential pollutants from runoff prior to discharge into receiving waters. No changes to the Final EIR are required as a result of this comment.

### **Response to Comment E-24**

This comment concludes the comment letter by providing a contact name. The District appreciates the CCC's interest in the proposed project. This comment does not raise any issues requiring a response pursuant to CEQA.

## 6.3.7 Comment Letter F: City of San Diego Planning Department

Comment Letter F



January 30, 2018

Dana Sclar  
Development Services Department  
San Diego Unified Port District  
3165 Pacific Highway  
San Diego, CA 92101-1128

SUBJECT: FIFTH AVENUE LANDING PROJECT AND PORT MASTER PLAN AMENDMENT DRAFT EIR  
(SCH# 2016081053)

Dear Ms. Sclar:

F-1

The City of San Diego ("City") Planning Department has received the Draft Environmental Impact Report ("Draft EIR") prepared for Fifth Avenue Landing Project and appreciates this opportunity to provide comments to the San Diego Unified Port District on the Project and the EIR. In response to this request for public comments, the City has identified significant issues with the project, Plan Amendment, and EIR that may directly conflict with the City's previously approved project for a San Diego Convention Center Expansion at the same location. Approval of this project or the Environmentally Superior Alternative (#3) prevents any contiguous expansion of the San Diego Convention Center, and as such, adversely impacts the City's San Diego Convention Center Phase III Expansion project.

F-2

Additionally, the proposed project would have a number of significant and unavoidable impacts as disclosed within the Draft EIR, including substantial adverse impacts to visual resources associated with a scenic vista, greenhouse gas emissions for post-2020 statewide targets, release of hazardous materials release associated with the waterside improvements, exposure of persons to excessive noise levels during construction, substantial increase in ambient noise levels from mechanical equipment and outdoor special events, effects of the project on park and recreational resources, construction and operational impacts to transportation circulation, and inadequate parking supply. In addition to these identified significant and unavoidable impacts, the City believes that there are additional or substantially greater significant impacts not previously identified for land use as it relates to the consistency with the Downtown Community Plan that is immediately adjacent to the project site and within the Coastal Zone, circulation impacts on delivery and freight traffic associated with the existing and future expansion of the San Diego Convention Center, the secondary environmental effects on greenhouse gas and air quality emissions from the woefully inadequate parking supply programmed for the project, and the lack of a water supply assessment as required for projects subject to CEQA under SB 610 (2001) that must be contained within the environmental analysis document prepared by the Port of San Diego, the Lead Agency under CEQA.

The City has further comments on the adequacy of the analysis, including the Project Objectives, analysis of potential environmental effects of the project, and alternatives analyzed within the EIR. The following City departments have provided comments on the Draft EIR for this project: Planning Department, Public Utilities Department, Transportation & Storm Water Department, and Development Services Department, as further detailed below.

### Response to Comment F-1

This comment is an introductory comment indicating that the City of San Diego Planning Department has reviewed the Draft EIR and is providing comments. The comment states that the City has identified significant issues with the project, PMPA, and EIR that may directly conflict with the City's previously approved SDCC Expansion at the same location. The comment further states that approval of the proposed project or Alternative 3 would prevent any contiguous expansion of the SDCC and adversely impacts the City's SDCC Phase III Expansion project as a result.

The District appreciates the City of San Diego taking the time to comment on the proposed project. This comment does not raise a specific issue with the environmental analysis contained within the Draft EIR. The comment correctly indicates that the proposed project site is at the same location as the SDCC Phase III Expansion site and is correct in concluding that both the proposed project and the SDCC Phase III Expansion, which is analyzed as Alternative 2 in Chapter 7 of the Draft EIR, could not occur at the same location. The proposed PMPA would modify the Port Master Plan (PMP) to allow for the proposed hotel, lower-cost visitor serving hotel, and other components of the proposed project.

### Response to Comment F-2

The comment indicates that the Draft EIR discloses a number of significant and unavoidable impacts. However, the comment suggests that there are additional or substantially greater significant impacts not previously identified for land use, circulation, the secondary environmental effects from inadequate parking supply, and the lack of a water supply assessment. The comment also states that the City has further comments on the adequacy of the analysis, including the project objectives, analysis of potential environmental effects of the project, and alternatives analyzed within the EIR. The comment identifies the City departments providing comments on the Draft EIR, which include the Planning Department, Public Utilities Department, Transportation & Storm Water Department, and Development Services Department. The comment indicates that these comments are further detailed below.

This comment provides an overview of the comments to come in the City's letter concerning a number of specific issues with the environmental

Page 2  
Ms. Dana Sclar  
January 30, 2018

PLANNING DEPARTMENT - LONG RANGE PLANNING DIVISION  
Tait Galloway - Principal Planner / Program Manager

- F-3 1) The Draft EIR did not include the proposed text for the Port Master Plan Amendment nor did it provide a reference where the public could review the amendment. The proposed amendment has the potential to significantly modify the Port Master Plan, and directly affect the future opportunity for the expansion of the San Diego Convention Center. The Draft EIR should be recirculated with the proposed Port Master Plan Amendment (PMPA), or a referenced location for which this can be found, in order to provide the public, responsible and trustee agencies with the complete text allowing for meaningful review and comment of the Draft EIR in accordance with CEQA.
- F-4 2) Public views from the Phase II San Diego Convention Center to the San Diego Bay would be directly impacted by the proposed project's bulk, scale, and height. This impact would be in direct conflict with the Draft EIR project objective of "Provide new public vista opportunities of San Diego Bay from vantage points such as the San Diego Convention Center and proposed public plaza and park areas", and as documented in the Draft EIR, this is an impact that would be significant and unavoidable.
- F-5 3) Fundamentally, the proposed project reduces public access when compared to the adopted Port Master Plan with the San Diego Convention Center Phase III Expansion project; and therefore, it would be inconsistent with the adopted Port Master Plan. Further, the Draft EIR proposes an "optional" pedestrian bridge, with the language stating, "As an optional project feature, the proposed project may potentially include a new public access bridge connecting the proposed market-rate hotel tower rooftop public plaza and park areas to the San Diego Convention Center view deck." This proposed bridge appears to be determined to be necessary for the proposed project. However, depending on the location, the public visitors at the southern boundary of the San Diego Convention Center would need to walk over 500 feet to access the bridge to the public plaza and park areas. It is anticipated that the location could further reduce public coastal views which was not analyzed within this Draft EIR. The Draft EIR should be revised to include the applicant's bridge as a component of the proposed project rather than optional, including the proposed location, as this bridge could mitigate the impacts of the project on public access.
- F-6 4) The Draft EIR is unclear regarding the responsible entity for the construction of the proposed optional bridge, and when it would occur. The Draft EIR states that, "Concurrence by the District, and potentially the City of San Diego as the contractual managing entity of the San Diego Convention Center, would be required prior to implementing this portion of the proposed project." Since the implementation and timing of the applicant's optional bridge is unclear, public access from the San Diego Convention Center to the proposed public plaza and park areas would be significantly reduced, and thus impacted. This would also be inconsistent with the project objectives, since the public at the San Diego Convention Center would not have greater access to the proposed recreational facilities. The Draft EIR should be revised to identify how, without the bridge, public access as required under the Coastal Act from the San Diego Convention Center to the proposed public plaza and park areas would be impacted.

analysis contained within the Draft EIR; those comments are addressed when the specific comments are raised further along in the City's letter.

### Response to Comment F-3

The comment states that the Draft EIR did not include the proposed text for the PMPA or provide a reference to where it could be reviewed. The comment states that the PMPA has the potential to significantly modify the PMP and directly affect the expansion of the SDCC. The comment further states that the Draft EIR should be recirculated with the proposed PMPA or a referenced location for where it can be found.

The PMPA was included as Appendix C of Volume II, *Technical Appendices*, of the Draft EIR. Volume II was circulated for public review with Volume I, *Draft EIR*, beginning December 13, 2017, and ending on January 30, 2018. Volume II was included on a labeled CD with each hardcopy of Volume I, was available on the District's website, and was available for review at the District's Port Administration Building located at 3165 Pacific Highway. The Notice of Availability, which indicates where copies of the Draft EIR and all documents referenced in the Draft EIR may be reviewed, was posted on the District's website and mailed to various agencies, organizations, individuals, and interested parties. Responsible and interested agencies, including the City of San Diego, received the Notice of Availability and a CD with the complete Draft EIR volume set.

The specific location of the PMPA within Volume II is identified in several locations in the Draft EIR, including the Table of Contents on page vi of the Draft EIR, the Executive Summary on page S-26, and the Project Description on page 3-31.

As the PMPA was available for review during the public review period and referenced in appropriate locations in the Draft EIR, such as the Table of Contents of the Draft EIR, no recirculation or additional referenced locations are necessary. No changes to the Final EIR are required.

### Response to Comment F-4

The comment states that public views from the Phase II SDCC to San Diego Bay would be directly affected by the proposed project's bulk, scale, and height. The commenter suggests that this impact would be in direct conflict with the project objective to "provide new public vista opportunities of San Diego Bay from vantage points such as the SDCC and proposed public plaza and park areas." The comment restates the

conclusion of the Draft EIR that this impact would be significant and unavoidable.

As the commenter indicates, the Draft EIR identified a significant and unavoidable aesthetic impact due to obstructed views within a vista area. Specifically, the Draft EIR indicates that the introduction of a high-rise market-rate hotel tower within the viewshed of vista areas at the SDCC's existing plaza and grand staircase would block or substantially obstruct existing expansive and uninterrupted views of the San Diego Bay, including views of the San Diego-Coronado Bay Bridge. This obstruction is in reference to Key Observation Point (KOP) 5.

The project's objective to "provide *new* public vista opportunities of San Diego Bay from vantage points such as the SDCC and the proposed public plaza and park areas" (italics added for emphasis) is not in conflict with the obstruction of one existing scenic vista. As stated on page 4.1-26, "In addition, the proposed project would introduce up to 98,448 square feet of new public and park areas on the roof of the proposed parking structure and hotel ballrooms that would be at a similar height as KOP 2 and could restore views similar to those offered by KOP 2. The proposed rooftop public plaza and park areas would sit closer to the waterfront than KOP 2 and would be larger than the existing SDCC plaza where KOP 2 is located." As shown on the Draft Figure 11 of the proposed PMPA (Appendix C of the Draft EIR), the project would add up to eight designated vista areas, most of which would be elevated and would provide direct visual access to the Bay and Coronado. In addition, the proposed project's public plazas would be limited to two stories and would match the viewing decks of the SDCC. As such, expansive views from the SDCC Phase II viewing balconies would be maintained. Therefore, the addition of new scenic vistas is consistent with the project's objective to provide new public vista opportunities. No changes to the Final EIR are required.

### **Response to Comment F-5**

The comment suggests that the proposed project reduces public access when compared to the SDCC Phase III Expansion project in the adopted PMP, and therefore would be inconsistent with the adopted PMP. The comment states that the proposed optional pedestrian bridge appears to be determined to be necessary for the proposed project, but depending on the location, public visitors at the southern boundary of the SDCC would have to walk over 500 feet to access the bridge. The commenter indicates that the location could further reduce public coastal views, which was not

analyzed in the Draft EIR. The commenter suggests that the Draft EIR be revised to include the pedestrian bridge as a component of the project because it could mitigate the project's impacts on public access.

The first portion of this comment is a general comment that suggests that public access is reduced by the proposed project when compared with the SDCC Phase III Expansion. As the City does not provide evidence to support this statement, the District cannot provide a specific response. However, as detailed in Chapter 4, including Sections 4.1, *Aesthetics and Visual Resources*, 4.9, *Land Use and Planning*, 4.11, *Public Services and Recreation*, and 4.12, *Transportation, Circulation, and Parking*, the proposed project's impacts on public access would be less than significant with mitigation incorporated. Therefore, no further mitigation is necessary and the project would not result in a significant and unavoidable public access impact.

The second part of this comment suggests that the optional pedestrian bridge is determined to be necessary for the proposed project. The District is not clear why the City believes this is the case as no supporting evidence is provided. As stated in the Draft EIR on page 3-18, under the heading *Optional Connecting Bridge to the San Diego Convention Center*, it is described clearly that the connecting bridge is optional. It states, "[a]s an optional project feature, the proposed project may potentially include a new public access bridge connecting the proposed market-rate hotel tower rooftop public plaza and park area to the SDCC view deck. This optional bridge connection would provide visitors with elevated and expansive views of the entire north and mid-Bay and would allow for travel to the City's Gaslamp Quarter. This optional bridge would be approximately 1,882 square feet with a length of 85 feet and a width at the narrow end of 18 feet and wide end of 26 feet. The paving materials for the proposed bridge would be designed to be integrated with the proposed rooftop public plaza and park area and may consist of a variety of enhanced materials including integral color decorative finished concrete, precast pavers, and/or stone accent paving. In addition, planting material would be included along the bridge in either integrated or free-standing planters. The guardrails are proposed to be constructed of painted metal or stainless steel or a combination of these along with solid planter walls. Concurrence of the District, and potentially the City of San Diego as the contractual managing entity of the SDCC, would be required prior to implementing this portion of the proposed project. An amendment to the Management Agreement between the District and the City of San Diego may also be required. Therefore, the bridge is identified

as optional in this EIR. The EIR analyzes the project with and without the optional public access bridge component.”

As indicated, the bridge is labeled as optional because it would require concurrence from the City and possibly the San Diego Convention Center Corporation (SDCCC), and potentially an amendment to the Management Agreement between the District and City. Given the uncertainty associated with approvals outside of the District’s sole control, the District elected to fully analyze the bridge pursuant to CEQA, but cannot require the bridge. As such, the Draft EIR includes a full environmental analysis of the bridge should the City, District, and SDCCC come to an agreement; however, none of the mitigation relies on the bridge and, therefore, its construction is not required as a component of the proposed project to reduce the project’s significant impacts.

The commenter suggests that the bridge location is unknown. However, the location is clearly shown on multiple figures, including the overall site plan, where it is also labeled as “Optional Bridge.” Please see Figures 3-1, 3-5, 3-6, 3-10, 3-13, 3-16, 3-18, and 4.1-9. The commenter expresses the opinion that the optional connecting bridge would reduce public coastal views and that it was not analyzed in the Draft EIR. It is not clear why the commenter believes the connecting bridge would block public coastal views, as no evidence was provided for consideration. The bridge would link the SDCC to the second-level terrace of the proposed public plaza and park area atop the ballrooms, meeting rooms, and proposed parking structure. The public plaza and park area is limited to two stories to ensure views from the SDCC second-story balconies are retained, as analyzed in KOP 2 (please see the response to comment F-4). The bridge would be at the same elevation as the public plaza and park area and second-story floor of the SDCC. The bridge is shown on Figure 4.1-9, which demonstrates no view obstruction beyond what has already been identified from other components of the proposed project in Section 4.1, *Aesthetics and Visual Resources*. No changes to the Final EIR are required.

### **Response to Comment F-6**

The comment states that the Draft EIR is unclear of the entity responsible for the construction of the proposed optional bridge and when it would occur. The comment cites text from the Draft EIR regarding the agencies requiring concurrence prior to implementing the optional bridge. The commenter then suggests that public access from SDCC to the proposed public plaza and park areas would be significantly reduced and affected

Page 3  
Ms. Dana Sclar  
January 30, 2018

- F-7 5) The existing public promenade (shown on Figure ES-10) would be divided by the proposed open area pedestrian archway within the market rate hotel as shown on Figure ES-14. While Figure ES-11 appears to show the path continuing through the market rate hotel, the Draft EIR is unclear how public access would be impacted for people entering the open area pedestrian archway. The Draft EIR does not address if public access to the pedestrian archway would be limited during certain hours, and therefore, public access along the existing public promenade could be impacted. Figure ES-10 notes that public access would be available during normal operating hours (e.g., 6:00 AM to 10:30 PM). It is unclear if this would be applied to the existing public promenade. Please provide clarification if access through the pedestrian archway would be limited or restricted during events or time of day.
- F-8 6) The proposed public promenade around the harbor side of the proposed market rate hotel shown as Area D on Figure ES-10 would only be 10 feet wide as shown in Table ES-1. The existing promenade is 35 feet wide. The proposed public promenade would limit and potentially discourage coastal public access due to its limited width. The width of the proposed public promenade should be increased to be consistent with the existing public promenade to encourage people to access the promenade without the feeling of it being a private space only for hotel guests.
- F-9 7) Mitigation Measure MM-HAZ-8 requires that the project applicant "Obtain ALUC and FAA Formal Review and Determination". The proposed PMPA is required by the California Aeronautics Act to be submitted to the Airport Authority acting as the San Diego County ALUC for a consistency determination with the Airport Land Use Compatibility Plan for San Diego International Airport prior to the District taking action to approve the amendment. This is actually a regulatory requirement that must be done as part of the project and would not be a mitigation measure under CEQA. And the City of San Diego will not issue construction permits until a proposed project has obtained determinations of No Hazard from the FAA as addressed in the City of San Diego, Development Services Department - Information Bulletin 520. This requirement and the process should be included in the Applicable Rules and Regulations of the Land Use Section of this Draft EIR, with a detailed analysis and summary of the actions required for this project. Further, the City of San Diego will not issue construction permits until a proposed project has obtained determinations of No Hazard from the FAA as addressed in the City of San Diego, Development Services Department - Information Bulletin 520. Please revise this mitigation measure to require FAA No Hazard Determinations prior to the issuance of building permits.
- F-10 8) On Page 4.9-4: Surrounding Community: Please make the following edit: Mixed-Use Multifamily land use designations are located inland to the north/northwest in the City's jurisdiction.
- F-11 9) Within Figure 4.11-2, please address the following figure revision: Children's Park boundaries are incorrectly depicted on Figure 4.11-2.
- F-12 10) The proposed project does not provide adequate parking to meet the onsite demand, nor does the project identify nearby shared parking opportunities reasonably foreseeable and feasible to address the demand. While parking directly would not be a significant effect on the

until the bridge is built. The comment also attempts to link an inconsistency with the project objectives and SDCC's access to the proposed project. The commenter then suggests that the Draft EIR be revised to identify how public access from the SDCC to the proposed public plaza and park areas would be affected without the bridge.

The optional pedestrian bridge is included as an optional component of the proposed project; therefore, as with the other elements of the proposed project, Fifth Avenue Landing, LLC (FAL), the project proponent, would be responsible for the construction and operation of the pedestrian bridge should it be implemented. Regarding the commenter's concerns of the potential impacts of the optional pedestrian bridge, please see the response to comment F-5. As detailed in Chapter 4, including Sections 4.1, *Aesthetics and Visual Resources*, 4.9, *Land Use and Planning*, 4.11, *Public Services and Recreation*, and 4.12, *Transportation, Circulation, and Parking*, the proposed project's impacts on public access would be less than significant with mitigation incorporated. Moreover, the impact determination contained within the Draft EIR does not rely on building the optional bridge to avoid or mitigate a significant impact. The City suggests that convention goers who wished to access the proposed project's public plaza and park areas from the second floor of the SDCC would somehow be affected such that a significant impact on the environment would occur. However, even without the bridge, convention goers would continue to have access to the project area in the same manner as under the current condition. This includes using the stairs and elevators between the Phase I and Phase II SDCC sections or walking around the Phase 2 expansion, or through or around the Convention Center Park to access the adjacent parcel at the ground level. Once at the existing promenade (ground level), pedestrians would be able to safely climb one flight of stairs, use the ramp, or take an elevator to the second-level public plaza and park area. Therefore, the project would not result in a significant and unavoidable public access impact. No changes to the Final EIR are required.

### Response to Comment F-7

The comment states that the existing public promenade would be divided by the proposed open area pedestrian archway within the market-rate hotel. The commenter suggests that the Draft EIR is unclear how public access would be affected for people entering the open area pedestrian archway or if access would be limited during certain hours. The comment notes the operating hours of 6:00 a.m. to 10:30 p.m. from Figure ES-10 of the Draft EIR, and states that it is unclear if this would be applied to the



existing public promenade. The commenter requests clarification as to whether access would be limited or restricted during events or time of day.

The proposed project would not limit public access along the existing public promenade. As stated on page S-13 of the Draft EIR, “Figure ES-10 depicts the public plaza and park area locations, and Table ES-1 provides further detail on each area. *The proposed project would also maintain and enhance the existing 35-foot-wide Embarcadero Promenade across the site. The existing promenade does not count toward the acreage of the proposed project’s public plaza and park areas.*” (Italics added for emphasis.)

Please see Figures ES-11 and 3-13 as well as Figure 3-8. As shown on these figures, the public promenade would remain and would continue to connect with the offsite public promenade. No barriers are proposed, and no project-related restrictions would be placed on the existing public promenade during project operation.

The public promenade extension shown on Figure ES-10 and referenced by the commenter is an additional connection to the full public promenade and would serve as public access around the perimeter of the proposed hotel tower. This would function as an additional pedestrian connection and would be in addition to the existing 35-foot-wide public promenade, not a replacement for it. This additional area would be associated with the hotel tower and therefore is not open during the late night and early morning hours between 10:30 p.m. and 6:00 a.m. The proposed project would not change the operating hours of the existing public promenade. No changes to the Final EIR are required.

### **Response to Comment F-8**

The comment indicates that the proposed public promenade around the harbor side of the proposed market-rate hotel would only be 10 feet wide per Table ES-1. The commenter notes that the existing promenade is 35 feet wide and expresses the opinion that the width of proposed public promenade would limit and potentially discourage coastal public access. The commenter suggests that the width of the proposed public promenade be increased to be consistent with the existing promenade.

The proposed project would provide an additional 10-foot-wide connection (Area D) to the existing 35-foot-wide Embarcadero Promenade and would serve as public access path around the perimeter of the proposed hotel tower. As explained in response to comment F-7 above, this connection is an additional connection to the full public promenade

and would serve as public access around the perimeter of the proposed hotel tower, and the proposed project would maintain and enhance the existing 35-foot-wide Embarcadero Promenade across the site. The commenter raises an issue regarding the design of the proposed project, but does not raise a specific issue with the environmental analysis contained within the Draft EIR. Therefore, no changes to the Final EIR are required and no further response is required pursuant to CEQA. However, this comment will be included in the materials presented to the Board for consideration in whether to approve the proposed project.

### **Response to Comment F-9**

The comment cites the requirement of mitigation measure MM-HAZ-8 to obtain Airport Land Use Commission (ALUC) and Federal Aviation Administration (FAA) formal review and determination. The commenter states that the proposed PMPA is required to be submitted to the Airport Authority prior to District approval of the amendment. The comment further states that this is a regulatory requirement and not a mitigation measure under CEQA, and suggests that the required process be included in the Applicable Rules and Regulations portion of the Land Use section of the Draft EIR. The commenter indicates that the City will not issue construction permits until this determination has been obtained and requests that the mitigation measure be revised to require the FAA No Hazard Determinations prior to the issuance of building permits.

The additional language requested by the commenter is already contained within the Draft EIR on page 4.7-13, under Section 4.7.2.4, which states, "Airport Land Use Commission (ALUC) review is required for land use plans and regulations within Review Area 2 proposing increases in height limits and for land use projects that: (1) have received from the Federal Aviation Administration (FAA) a Notice of Presumed Hazard, a Determination of Hazard, or a Determination of No Hazard subject to conditions, limitations, or marking and lighting requirements; and/or (2) would create any of the following hazards (San Diego County Regional Airport Authority 2014). [...]"

Local agencies must submit an application for consistency determination to the ALUC for its review prior to construction (San Diego County Regional Airport Authority 2014). The ALUC must respond to a local agency's request for consistency determination within 60 calendar days after the application is deemed complete by ALUC staff."

While CEQA does not require that existing regulations be made into mitigation measures, as the lead agency for CEQA compliance of the proposed project, the District, at its discretion, may include mitigation measures that are designed to ensure compliance with existing regulations. As identified in Section 4.7, *Hazards and Hazardous Materials*, mitigation measure MM-HAZ-8 requires FAA approval and ALUC formal review and determination. In response to this comment, MM-HAZ-8 has been revised to change “prior to initiation of project construction” to “prior to the Board of Port Commissioners taking final action to adopt the PMPA in accordance with 14 California Code of Regulations Section 13632(e).” As the mitigation measure does not conflict with the applicable regulations and serves to ensure its enforcement, no further changes to the Final EIR are required. The changes are included in Chapter 5, *Errata and Revisions*, of the Final EIR.

### **Response to Comment F-10**

The commenter requests that “multifamily” be revised to “mixed-use” on page 4.9-4 of the Draft EIR.

In response to this comment, minor clarifications have been made to indicate that “Multiple Use” land uses are present inland to the north/northwest in the City’s jurisdiction, which is consistent with Figure LU-2 of the Land Use Element (2015) of the City’s General Plan. The changes are included in Chapter 5, *Errata and Revisions*, of the Final EIR.

### **Response to Comment F-11**

The commenter indicates that the Children’s Park boundaries are incorrectly depicted on Figure 4.11-2 and requests that the figure be revised.

Figure 4.11-2 has been revised to reflect the correct boundaries for the Children’s Park. The changes are included in Chapter 5, *Errata and Revisions*, of the Final EIR.

### **Response to Comment F-12**

The comment states that the proposed project does not provide adequate parking to meet the onsite demand or identify reasonably foreseeable and feasible nearby shared parking opportunities. The commenter suggests that the secondary effects of inadequate parking were not analyzed, specifically as it relates to air quality, GHG emissions, and noise. The

Page 4  
Ms. Dana Sclar  
January 30, 2018

- F-12 cont. environment, the secondary effects of woefully inadequate onsite parking has not been analyzed. Specifically, the effects on air quality emissions related to intersection queuing and CO "hot spots" that can directly impact nearby pedestrians and bicyclists, increase in greenhouse gas emissions from idling or circling vehicles, and increased noise at congested street segments and intersections from idling cars and trucks. A detailed analysis of the potential secondary (indirect) effects of the inadequate onsite parking should be included within the Draft EIR.
- F-13 11) Mitigation Measure MM-TRA-8 requires that the project applicant "Implement a Parking Management Plan that Provides Parking Management Strategies". This planning and analysis of parking management is an inappropriate deferral of analysis and possible mitigation because no specific performance standards have been identified. The City recommends that the applicant prepare the Parking Management Strategies at this time, and recirculate the Draft EIR to include this information, as it would likely identify significant new information on the feasible mitigation measures related to the identified impact such as participation in the SANDAG-operated I-commute program, provision of parking spaces for employee carpools and vanpools, discounted employee transit passes, and designation of an onsite employee coordinator to inform employees of the alternative commute options, all of which should be included as mitigation measures and incorporated into the Mitigation Monitoring and Reporting Program (MMRP) for this project.
- F-14 12) Mitigation Measure MM-AES-2 requires that the project applicant "Install Wayfinding and Public Accessibility Signage". The proposed wayfinding signage and locations should be consistent with the adopted Port Master Plan and additional wayfinding sign locations should be included since the proposed project would be physically separated from the San Diego Convention Center and form a barrier to public access along Convention Way. It is recommended that the following locations for wayfinding and public accessibility signage be included to identify coastal access points: the pedestrian bridge at Harbor Drive, along Convention Way and Park Blvd, along the public promenade, and public access corridors at the San Diego Convention Center.
- F-15 13) Threshold 2 (4.9.4.2 Thresholds of Significance) states that "Implementation of the proposed project would conflict with an applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect". The Draft EIR did not address the City's General Plan and Downtown Community Plan which is immediately adjacent to the project area. Please address in the Draft EIR if implementation of the proposed project would conflict with the policies and/or goals of the City's General Plan and Downtown Community Plan, including view corridors, public access, and circulation. This includes a number of policies related to public view corridors extending down to the water front, prohibition of "sky walks" that would affect public views, ensure waterfront development is low in scale and intensity with tapering from Broadway south, maintain a comprehensive downtown-wide wayfinding system, and encourage the use energy conserving techniques such as photovoltaics.
- F-16 14) With respect to the last policy, there is great concern that the proposed project would directly conflict with the future installation of photovoltaic panels on the rooftop of the San Diego

comment states that a detailed analysis of the potential secondary effects should be included in the Draft EIR.

The Draft EIR identifies a significant and unavoidable impact associated with the lack of sufficient parking proposed on site (Impact-TRA-7). However, mitigation measure MM-TRA-8 would require that the deficit number of parking spaces (i.e., 189) be secured through agreements with nearby parking operators. Nearby garages, which are identified on page 4.9-31, include the adjacent Hilton San Diego Bayfront Hotel Parking garage, the SDCC parking garage, 6<sup>th</sup> and K Parkade, 550 J St Parking Garage, the Padres Public Parking Garage, and the Autopark Public Parking Garage. All of these facilities are less than 0.5 mile from the project site. No excessive idling or driver circling would occur because a sufficient number of parking spaces would be available between the onsite spaces provided and the nearby offsite spaces that would be secured through a formal agreement. Therefore, no new or more severe significant environmental impacts would occur. No changes to the Final EIR are required.

### Response to Comment F-13

The comment notes the requirement of mitigation measure MM-TRA-8 to implement a parking management plan and indicates that this planning and analysis of parking management is a deferral of analysis and possible mitigation because no specific performance standards have been identified. The commenter recommends that the applicant prepare the Parking Management Strategies at this time and recirculate the Draft EIR to include this information. The commenter also suggests a number of strategies that should be included as mitigation measures.

Implementation of mitigation measure MM-TRA-8 is not a deferral of analysis or mitigation. As noted in the Draft EIR, the proposed project would include 260 parking spaces on site, which, if applying the District's *Tidelands Parking Guidelines*, is a deficit of approximately 189 spaces. Mitigation measure MM-TRA-8, in addition to identifying and requiring additional ways to reduce the project's parking demand, requires that the project proponent secure 189 spaces with one or more nearby parking operators through a formal agreement through the life of the proposed project lease. Supplying or guaranteeing the supply of adequate parking (i.e., an additional 189 spaces) is a performance standard that the project must meet before it may operate. Consequently, the project would not be under-parked at any point during its operation, and, because this

requirement is triggered prior to project operations, there is no deferral of mitigation.

Moreover, the mitigation measure is specific in its other requirements for the parking management plan. Designated pick-up/drop-off locations for transportation services such as Uber and Lyft are required. A direct path and clear signage to the water taxi and ferry is required. Bike sharing facilities would be provided within 1,000 feet of the project site, and bike racks for a minimum of 24 bikes would be provided. A hotel-sponsored airport shuttle is required and the project proponent would be required to provide public transit subsidies for employees. Therefore, the mitigation in the Draft EIR identifies the specific requirements that would need to be included, among any additional measures identified, in the Parking Management Plan.

Furthermore, the District appreciates the City's additional measure suggestions and has amended mitigation measure MM-TRA-8 to include several strategies, including participation in the San Diego Association of Governments-operated iCommute Program, provision of employee carpool and vanpool parking spaces, and designation of an onsite employee alternative commute options coordinator. The changes are included in Chapter 5, *Errata and Revisions*, of the Final EIR. As identified in mitigation measure MM-TRA-8, public transit subsidies for employees would be required as one of the parking management strategies. As such, the commenter's suggestion to add discounted employee transit passes is included in the mitigation measure in the form of employee subsidies.

### **Response to Comment F-14**

The comment notes the requirement of mitigation measure MM-AES-2 to install wayfinding and public accessibility signage and suggests that the proposed signage and locations should be consistent with the adopted PMP. The commenter also suggests that additional wayfinding sign locations should be included and indicates that the proposed project would be physically separated from the SDCC and form a barrier to public access along Convention Way. The comment identifies four locations for wayfinding and public accessibility signage.

The current PMP designates the project site for the SDCC Phase III Expansion. Locations of wayfinding signage described in the PMP are specific to that project. Although the commenter suggests that wayfinding signage should be consistent with the current adopted PMP, it should be noted that the proposed project also consists of an amendment to the PMP

to replace the existing Phase III Convention Center Designation with the designations that would allow the proposed project to be implemented. As a result, because the PMPA would modify the PMP to replace the Convention Center Phase III Expansion with the proposed project, the locations of wayfinding signage currently included in the PMP would not be applicable to the proposed project. No changes to the Final EIR are required.

### **Response to Comment F-15**

The comment restates Threshold 2 of Section 4.9, *Land Use and Planning*, of the Draft EIR. The commenter indicates that the Draft EIR did not address the City's General Plan and Downtown Community Plan and requests that the Draft EIR address whether implementation of the proposed project would conflict with the policies and/or goals of these plans. The comment identifies specific policies related to view corridors, public access, circulation, and energy conservation.

As noted by the commenter, Threshold 2 states "Implementation of the proposed project would conflict with an applicable land use plan, policy, or regulation of an agency *with jurisdiction* over the project..." (italics added for emphasis). The proposed project is located on public tidelands within the District's land use jurisdiction. Within the District's jurisdiction, the PMP is the primary document that governs land and water uses, while the City's General Plan and applicable community plans serve as the governing land use documents for projects within the City's jurisdiction. Moreover, the City does not have any discretionary authority over the proposed project. As such, the City is not a responsible agency and an analysis of City planning documents is not required. An analysis of the proposed project's consistency with the goals, policies, and objectives of the PMP is provided in Table 4.9-3 of the Draft EIR. No changes to the Final EIR are required.

### **Response to Comment F-16**

The commenter expresses concern that the proposed project would directly conflict with the future installation of solar photovoltaic (PV) panels on the rooftop of the SDCC. The commenter requests that a shading study be conducted of secondary impacts related to the ability to further reduce GHG emissions on the SDCC, under existing and expanded scenarios. The commenter states that the Draft EIR should include analysis

Page 5  
Ms. Dana Sclar  
January 30, 2018

F-16  
cont.

Convention Center. A shading study should be conducted to ensure that secondary (indirect) impacts related to the ability to further reduce greenhouse gas emissions on the adjacent San Diego Convention Center, under both existing and expanded scenarios. Full disclosure of the analysis of this potential impact should be included in the Draft EIR and recirculated as required under CEQA Guidelines Section 15088.5 to allow for meaningful public review and comment on this important area of analysis related to greenhouse gas emissions and the City's Climate Action Plan, adopted in December 2015.

F-17

15) Under California Water Code section 10912, the proposed project is proposing more than 500 hotel rooms; and therefore, is subject to SB610 which requires that the City of San Diego's Public Utilities Department (PUD), as the water supplier, prepare a water supply assessment for the proposed project. Neither the applicant nor the Port have requested the City PUD to prepare a water supply assessment pursuant to SB610. Under State law, this assessment must be prepared and incorporated into the CEQA environmental document to allow for disclosure of potential impacts related to water supply. Further, this document must be included as part of the decision making process by the CEQA Lead Agency, which is the Port of San Diego, on a project that meets such requirements under SB610. While state regulatory code mentions the applicability of these regulations are to a City or County, because it also refers to the CEQA Lead Agency for consideration of the Water Supply Assessment, the City asserts that this requirement would also apply to the Port of San Diego as an independent land use authority and CEQA Lead Agency for such planning and development projects. Therefore, the applicant has not adequately demonstrated with substantial evidence that adequate water supplies exist for the proposed project. Please revise the Draft EIR to include a WSA and full recirculation of the analysis of whether there would be adequate water supplies for this project. At this time, all conclusions are unsubstantiated and deficient under CEQA.

F-18

16) The Draft EIR rejected the San Diego Convention Center Expansion and Market-Rate Hotel Tower Alternative proposed by the San Diego Convention Center Corporation (SDCCC). The Draft EIR states that "... this alternative was rejected because (1) it is not likely to reduce a significant impact pursuant to CEQA, (2) it is uncertain if sufficient park space could be provided with the reduction of the rooftop park proposed as part of the San Diego Convention Center Expansion approved by the Port Board and the Coastal Commission, and (3) only FAL has leasing rights to the site and would need to agree to any changes to its current leasing agreement that would be up to FAL's sole discretion. However, rejection of this alternative from further consideration in the Draft EIR does not preclude future consideration of a San Diego Convention Center Expansion/Hotel Tower project by the Port Board." By rejecting this alternative, the project has taken the ability for decision makers and the public to consider the environmental impacts of the proposed San Diego Convention Center Expansion and Market-Rate Hotel Tower Alternative and compare it to the other alternatives. This alternative, while it would not reduce all significant impacts, would reduce some impacts which is adequate for consideration of an alternative as part of a "reasonable range of alternatives". While it could be possible that this alternative could result in a reduction of the rooftop park, proposed as part of the San Diego Convention Center Phase III Expansion, this could be addressed as to how the alternative would meet the project objectives. Leasing rights to the site is not an issue under CEQA which cannot be used as a reason for rejection of the proposed alternative. The Draft EIR should include the San Diego

of this potential impact and be recirculated as it relates to GHG emissions and the City's Climate Action Plan (CAP).

While the addition PV solar panels on the SDCC rooftop would contribute to the GHG reduction targets in the City's CAP, the amount of GHG reductions provided would likely be minimal compared to the City's overall reduction targets. Moreover, the future installation of PV panels on the rooftop of the SDCC is not identified in the City's CAP as a means to reduce the City's GHG emissions. As such, the proposed project would not directly impede implementation of the City's CAP, as there are a number of other ways that the City could reach its GHG reduction targets other than through the installation of a PV system on the SDCC rooftop. In addition, CEQA requires that an EIR evaluate a project's potential effects on existing environmental conditions. The PV panels referenced by the commenter are not currently present on the SDCC rooftop, and therefore are not part of the environmental baseline. Although the installation of a PV system on the SDCC rooftop is a mitigation requirement of the SDCC Phase III Expansion EIR and would be reasonably foreseeable if the currently approved Phase III Expansion were to proceed rather than the proposed project, development of the proposed project would preclude development of the SDCC Phase III Expansion project as analyzed in the SDCC Phase III Expansion EIR because they would occupy the same space. Therefore, because there is no evidence that the proposed project would hinder the City's ability to reach its CAP targets and because there are currently no PV panels on the SDCC, nor were any plans provided to suggest there might be in the future, an analysis of the proposed project's effects on a potential future PV installation on the SDCC rooftop is not required. Therefore, no changes to the Final EIR are required.

### Response to Comment F-17

The commenter suggests that the proposed project is subject to Senate Bill (SB) 610 because it proposes more than 500 hotel rooms and states that neither the applicant nor the District have requested a water supply assessment from the City's Public Utilities Department. The comment states that the water supply assessment must be incorporated into the CEQA document and included as part of the decision-making process under state law. The commenter acknowledges that the state regulatory code identifies that these requirements are applicable to a city or county, but expresses the opinion that this requirement would also apply to the District as an independent land use authority and CEQA Lead Agency. The commenter asserts that the applicant has not demonstrated with

substantial evidence that adequate water supply exists and requests that the Draft EIR be revised to include a water supply assessment and recirculated.

The District disagrees with the commenter's interpretation of the referenced California Water Code Section 10910 et. al and SB 610. As the commenter notes, California Water Code Section 10912 requires city and county lead agencies to request that water purveyors prepare water supply assessments for certain projects subject to CEQA. As defined in Section 15155(a)(5) of the State CEQA Guidelines, a city or county lead agency means a *city or county*, acting as lead agency, for purposes of certifying or approving an EIR, negative declaration, or a mitigated negative declaration for a water-demand project. As such, because the District is not a city or county government, California Water Code Section 10910 does not apply to the proposed project, and a water supply assessment is not required.

Moreover, the California Department of Water Resources (DWR) issued a guidebook to assist with compliance with SB 610 and 221. In the introduction of the guidebook, DWR writes: "Senate Bills 610 (Chapter 643, Statutes of 2001) and Senate Bill 221 (Chapter 642, Statutes of 2001) amended state law, effective January 1, 2002, to improve the link between information on water supply availability and certain land use decisions made by *cities and counties*. SB 610 and SB 221 are companion measures which seek to promote more collaborative planning between local water suppliers and *cities and counties*. Both statutes require detailed information regarding water availability to be provided to the *city and county* decision-makers prior to approval of specified large development projects. Both statutes also require this detailed information be included in the administrative record that serves as the evidentiary basis for an approval action by the *city or county* on such projects" (*italics added*). Therefore, not only do the California Water Code, SB 610 and 221, and the State CEQA Guidelines clearly state that SB 610 and California Water Code Section 10910 apply only to city and counties, DWR's *Guidebook for Implementation of Senate Bill 610 and Senate Bill 221 of 2001* clearly indicates that these laws only apply to cities and counties as part of city and county decision-making. Notably, none of these documents, regulations, and legislative bills support the City's opinion that non-city and non-county agencies with land use decision authority over a project and/or acting as a CEQA lead agency be required to prepare a water supply assessment.



It is important to note that while the District is not required to prepare a water supply assessment for the proposed project, the Draft EIR does contain a complete analysis of the project's water demand and the likely supply, as well as an impact determination. Section 4.14, *Utilities and Energy Use*, of the Draft EIR describes the overall environmental setting associated with water and water supply (including details extracted from the City's and County's Urban Water Management Plans), the existing water demand at the project site, and the proposed water demand with all project components. The Draft EIR also describes several options for obtaining water to meet the project's future demand as well as the mitigation measures related to GHG emissions that will reduce the water demand of the proposed project compared to typical hotel projects by a minimum of 20%. The Draft EIR concluded that impacts on water supply and facilities would be less than significant. Therefore, no changes to the Final EIR are required.

### **Response to Comment F-18**

The comment restates the reasons from the Draft EIR for rejecting the SDCC Expansion and Market-Rate Hotel Tower Alternative. The commenter suggests that by rejecting this alternative, the project has taken away the ability for decision-makers and the public to consider the environmental impacts of this alternative. The commenter acknowledges that this alternative would not reduce all significant impacts but states that it would reduce some impacts, which is adequate for considering the alternative. The commenter provides reasons why the alternative should be considered and states that leasing rights to the site is not an issue under CEQA that can be used as a reason for rejection of an alternative. The commenter requests that the Draft EIR be revised to consider this alternative and recirculated.

The State CEQA Guidelines require that an EIR present a range of reasonable alternatives to a project, or to the location of a project, that could feasibly attain a majority of the basic project objectives, but that would avoid or substantially lessen one or more significant environmental impacts of the project. The range of alternatives required in an EIR is governed by a "rule of reason" that requires an EIR to set forth only those alternatives necessary to permit a reasoned choice. An EIR need not consider every conceivable alternative to a project. Alternatives may be eliminated from detailed consideration in the EIR if they fail to meet most of the basic project objectives, are not feasible, or do not avoid or

Page 6  
Ms. Dana Sclar  
January 30, 2018

Convention Center Expansion and Market-Rate Hotel Tower Alternative selected for analysis to provide Port of San Diego Board of Directors the ability to evaluate this alternative. The Draft EIR should be revised for consideration of this alternative within the reasonable range of alternatives, and recirculated as required under CEQA Guidelines Section 15088.5 as both a feasible project alternative and to allow for meaningful public review and comment.

**PLANNING DEPARTMENT - ENVIRONMENTAL & RESOURCE ANALYSIS**  
Myra Herrmann - Senior Planner/Archaeologist/Tribal Liaison

F-19

17) Section 4.4 – Cultural Resources. Subsection 4.4.3 under the heading “Existing Historical Resources provides a summary of the methodology used to address Cultural Resources within the Project site, including “Native American consultation”. Section 4.13 – Tribal Cultural Resources clearly states that no consultation was conducted in accordance with Assembly Bill 52 (AB 52) because notification from any California Native American tribes in San Diego County requesting consultation for projects under Port Jurisdiction were not received, and as such no further review or evaluation was required. While this is clear to a CEQA practitioner, the statement in Section 4.43 is conflicting and should merely be revised to clarify that the Native American consultation for cultural resources discussed in this section was conducted as part of the extensive records search, background research and survey rather than under the auspice of AB 52. Inserting a cross-reference to Section 4.13 would be recommended in this case.

**TRANSPORTATION AND STORM WATER DEPARTMENT – STORM WATER DIVISION**  
Vicki Kalkirtz – Senior Planner

F-20

18) The project site and surrounding area include important components of the City of San Diego storm drain system, including storm drain lines and outlets, which would be affected by project construction and operation. Some of these facilities are tidally influenced. Please ensure that that any adverse environmental impacts of the proposed project and Port Master Plan Amendment, as well as cumulative impacts, on the City's storm drain system are fully addressed and disclosed within the Draft EIR. Additionally, the new marina appears to be located directly on or adjacent to the City of San Diego's storm drain outlet (Figure 4.8-1). This location may have impacts during high tidal and storm events that should be analyzed and included within this Draft EIR. Please recirculate the Draft EIR to include an analysis of the project's impacts on the storm drain outlet, as well as any impacts and mitigation measures as necessary.

F-21

19) Page 4.8-3. Section 4.8.2.2, last sentence should be revised as follows: “The most significant sources of pollutants affecting the beneficial uses of San Diego Bay are urban runoff, and marinas and boating activities (Project Clean Water 2017).”

F-22

20) Page 4.8-4, Section 4.8.2.2, second paragraph, last sentence should be revised as follows: “In response to this contamination, the San Diego RWQCB has been working collaboratively with the City of San Diego to study the sources of PAHs for San Diego Bay (San Diego RWQCB 2017).”

substantially lessen any significant environmental effects (State CEQA Guidelines, Section 15126.6(c)).

The Draft EIR considered but rejected four alternatives, and six alternatives were carried through for detailed analysis. As such, the Draft EIR included a reasonable range of alternatives. Additionally, as detailed in Section 7.5.1.4 of the Draft EIR, the SDCC Expansion and Market-Rate Hotel Tower Alternative was rejected from further consideration because it would not likely reduce a significant impact pursuant to CEQA, and actually would potentially result in greater impacts on air quality, noise, GHG emissions, and transportation, circulation, and parking because these uses would most likely increase the amount of traffic traveling to and from the project site. Therefore, this alternative would potentially have greater impacts compared to the proposed project, which is sufficient for eliminating an alternative from detailed consideration pursuant to State CEQA Guidelines Section 15126.6(c).

However, not reducing significant impacts was just one of the reasons this alternative was rejected from further consideration. CEQA also requires that alternatives be feasible. Feasible is defined in CEQA as “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors” (Public Resources Code Section 21061.1). The State CEQA Guidelines indicate that factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, other plans or regulatory limitations, and jurisdictional boundaries and whether the proponent can reasonably acquire, control, or otherwise have access to the alternative site (State CEQA Guidelines Section 15126.6).

As detailed in Section 7.5.1.4, the SDCC Expansion and Market-Rate Hotel Tower Alternative would require the consent of the current lessee of the project site, FAL, and an agreement between multiple parties, such as FAL, the City, and SDCC, in order to implement the alternative. Because FAL is the current tenant on the project site and is the proponent of the proposed project, this alternative would be infeasible unless FAL were to agree to an assignment of its leasehold interest. No changes to the Final EIR are required.

### Response to Comment F-19

The comment states that Section 4.4.3 of the Draft EIR provides the methodology used to address cultural resources, including Native

American consultation. The commenter restates text from Section 4.13, *Tribal Cultural Resources*, of the Draft EIR related to Assembly Bill 52 consultation. The commenter suggests that the statement in Section 4.4.3 is conflicting and should be revised for clarification. The commenter also suggests inserting a cross-reference to Section 4.13.

In response to this comment, Section 4.4.3 has been revised to clarify that the methodology in Section 4.4 involved Native American due diligence outreach, rather than Native American consultation. A cross-reference to Section 4.13 has also been added as suggested by the commenter to indicate that formal consultation processes can be found in that section. The changes are included in Chapter 5, *Errata and Revisions*, of the Final EIR.

### **Response to Comment F-20**

The comment states that the project site and surrounding area include components of the City's storm drain system, some of which are tidally influenced, that would be affected by project construction and operation. The commenter requests that any environmental impacts of the proposed project on the City's storm drain system be fully addressed in the Draft EIR. The commenter states that a storm drain outlet located within or adjacent to the new marina could be affected during high tidal and storm events, and requests that the Draft EIR be recirculated to include an analysis of potential impacts on this outlet.

A Preliminary Drainage Report was prepared for the proposed project, dated December 22, 2016. The Preliminary Drainage Report was included as Appendix I-2 of the Draft EIR. The Preliminary Drainage Report provided detailed descriptions of the existing and proposed drainage patterns and storm drain improvements known at this level of design detail for the proposed project. The analysis is considered preliminary and subject to change as the design progresses. A hydrologic analysis using the rational method determined the relative difference in peak flows for the existing and proposed conditions for each outfall and verified that the proposed project would not adversely affect the existing storm drains. Based on the results of the preliminary hydrologic analysis, the total peak flow from the proposed project is expected to be similar to existing conditions. The proposed green roof and other site landscaping would reduce the percentage of rainfall that becomes runoff and enters the storm drains. While the proposed project would result in an increase in impervious surfaces, the runoff conditions are expected to be similar to

existing conditions. As such, the proposed project is not anticipated to adversely affect storm drains on site. In addition, pipe capacity calculations for each existing pipe system were reviewed. Pipe capacities identified during the work associated with the SDCC Phase III EIR showed that no existing storm drains in the Fifth Avenue Landing project area were significantly under capacity. As the building design progresses, the drainage analysis would be revised to match the proposed storm drain layout. However, it is anticipated that because the site has several existing storm drains to tie into with available capacity, there is flexibility for the proposed storm drain design to ensure that the proposed project does not adversely affect the existing storm drain improvements. Refer to the Preliminary Drainage Report in Appendix I-2 of the Draft EIR for additional details.

The additional 50 boat slips in the marina would result in a net increase in floating dock area of approximately 57,696 square feet of pile-supported dock space. Several outfalls discharge within this proposed marina expansion location; however, as identified above, runoff conditions are expected to be similar to existing conditions, so substantial additional discharges are not expected. Nonetheless, the additional boat slips would result in more pilings that could affect the discharge of existing stormwater from these outfalls. Impact-HWQ-2 identified that the addition of the proposed marina expansion and the breakwater could also reduce tidal flushing within the marina interior compared to existing conditions. Proper flushing was identified as necessary to ensure that the water quality within the marina is maintained. The Draft EIR identified the proposed marina should be designed so that the structures do not significantly restrict the natural circulation of water caused by tidal action. Mitigation measure MM-HWQ-3 requires the proposed project to be designed to maximize the flushing rate and promote circulation within the marina. This mitigation measure would consider the storm drain outfall discharges in order to ensure proper tidal flushing. Because flows are anticipated to remain similar to existing conditions and design measures would be implemented to maximize tidal flushing, the proposed project is not anticipated to result in impacts on storm drains during high tidal and storm events. No changes to the Final EIR are required.

### **Response to Comment F-21**

The comment requests that the last sentence on page 4.8-3 be revised as follows: "The most significant sources of pollutants affecting the beneficial

Page 7  
Ms. Dana Sclar  
January 30, 2018

- F-23 21) Page 4.8-27, Section 4.8.4.3, Marina Construction Phase section: This section is missing a discussion of the Campbell Shipyard Engineered Cap, which is discussed at length in other sections of the document such as under Biological Impacts. The impacts of the construction of the marina on the Campbell Shipyard Engineered Cap are potentially significant and merit a thorough discussion in the Hydrology and Water Quality section of this report. Please include a detailed analysis within the Draft EIR and any identified impacts.
- F-24 22) Figure 2-3: Include the location of the Campbell Shipyard Engineered Cap (as seen on Figure 4.7-1) to this figure for a visual representation of the overlap.
- F-25 23) The impacts of the construction and ultimate use of the new marina on the Campbell Shipyard Engineered Cap should be thoroughly explored. While disturbance of the sediment on this Cap was discussed, the City has substantial concerns that any waterside improvements could cause re-contamination of this area which would be a significant impact under CEQA that necessitates coordination with regulating agencies, careful analysis, and disclosure of a worst case scenario from unforeseen contaminants and disturbance within this Draft EIR. Further, the mitigation measure should include a monitoring plan for a minimum of the constituents from the Cleanup and Abatement Order should be included for the construction phase of the marina, as well as a clear plan to prevent disturbance of the sediment and eelgrass once the marina is in use. This analysis should be included and the Draft EIR should be recirculated for review and comment on this potential environmental impact.
- DEVELOPMENT SERVICES DEPARTMENT - TRANSPORTATION DEVELOPMENT SECTION  
Ismail Elhamad, RTE - Associate Traffic Engineer
- F-26 24) According to Table ES-2 in the Executive Summary, most of the Existing Plus Project transportation impacts, and all of the cumulative transportation impacts, are described as significant and unavoidable after mitigation based on the findings listed in Table 4.12-1 and Table 5-1 of the Draft EIR. City staff disagrees with the rationale for most of these determinations in Table 4.12-1 for Existing Plus Project impacts, and Table 5-1 does not provide rationale, but rather statement of impacts. In many cases City staff believes that mitigation measures are feasible, such as signalization of the intersections of 15th Street and F Street, 17th Street and G Street and 19th Street and J Street and that the project should implement the mitigation measures. The Draft EIR should clarify that the project would implement mitigation measures on City transportation facilities, even if it is possible they may not be completed by the time of the first impact.
- F-27 25) Page 4.12-1: MM-TRA-1: Construction related impact. This mitigation measure by implementing the TDM, should be estimated and quantified.
- F-28 26) Page 4.12-2: The statement "Significant and Unavoidable", All Direct and Near Term mitigation measures should be implemented such as MM-TRA-1, MM-TRA-2, and MM-TRA-3. (Transportation, Circulation and Parking, Page 4.12-1).

uses of San Diego Bay are urban runoff, and marinas and boating activities (Project Clean Water 2017)."

The text the commenter is requesting to be revised is from a credible source, Project Clean Water. The quoted text states, "The most significant sources of pollutants affecting the beneficial uses of San Diego Bay are urban and agricultural runoff, resource extraction, septic systems, and marinas and boating activities (Project Clean Water 2017)." However, the text has been revised to reflect the specific language from Project Clean Water, which indicates that the aforementioned pollutant sources affect the beneficial uses of the San Diego Bay Watershed Management Area, rather than just the San Diego Bay. The changes are included in Chapter 5, *Errata and Revisions*, of the Final EIR.

### Response to Comment F-22

The commenter requests that the last paragraph of the second paragraph on page 4.8-4 be revised as follows: "In response to this contamination, the San Diego RWQCB has been working collaboratively with the City of San Diego to study the sources of PAHs for San Diego Bay (San Diego RWQCB 2017)."

The text the commenter is requesting to be revised is from a credible source, the San Diego RWQCB. The cited paragraph states, "In response to this contamination, the San Diego RWQCB has initiated efforts to develop a TMDL for this site (San Diego RWQCB 2017)." Therefore, because the text is quoted from a credible source, the District views the current statement as sufficient evidence and cannot keep the citation while modifying the quote. As this does not address the adequacy of the environmental analysis, no change to the Final EIR is required. However, the District acknowledges and appreciates the City's collaborative work with the San Diego RWQCB in helping to improve the water quality of the City's watersheds.

### Response to Comment F-23

The commenter suggests that page 4.8-27, Section 4.8.4.3, *Marina Construction Phase*, is missing a discussion of the Campbell Shipyard engineered cap. The comment indicates that the impacts of the proposed marina construction on the Campbell Shipyard engineered cap are potentially significant and requests that a detailed analysis be included in the Hydrology and Water Quality section.

The existing Campbell Shipyard engineered cap and the project's potential impact associated with the cap are discussed and analyzed in substantial detail in Section 4.7, *Hazards and Hazardous Materials*. Section 4.7 focuses on known and suspected contamination within the project site and in the project vicinity. Therefore, discussion of the contaminated site within the context of Section 4.7 is appropriate. As described on page 4.7-3, the "Campbell Industries Marine Construction and Design Company (together referred to as "Campbell") operated a shipyard partially within the project site from approximately 1915 to the 1990s (District 2012). The historical activities conducted at Campbell Shipyard related to various hazardous materials contaminated the offshore San Diego Bay sediment, soil, and groundwater (Ninyo & Moore 2006). As a result, this site has been the subject of several environmental studies and cleanup and abatement orders (CAO), beginning in 1985 (RWQCB 1995). CAO No. 95-21, issued by the San Diego Regional Water Quality Control Board (RWQCB) on May 4, 1995, to Campbell, addressed the contaminated Bay sediments, upland soils, and groundwater at the former facility. Chemicals of concern included copper, lead, zinc, total petroleum hydrocarbons (TPH), polynuclear aromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs), and tributyltin (TBT)."

Consequently, rather than repeating the same impacts in several sections, the significant impact from potential sediment contamination from the existing contamination at the Campbell Shipyard is disclosed in Section 4.7 as Impact-HAZ-2. As described in this section, "historical information and monitoring reports compiled from previous site assessments and database searches indicate that it is reasonably foreseeable that contaminated sediments may be encountered during construction activities within the marina portion of the project site. As such, construction activities that disturb the sediment would potentially result in a release of hazardous materials and create a potentially significant hazard within the environment by bringing and releasing subsurface sediment contaminants to the surface of the Bay floor or exacerbating the existing hazardous conditions by spreading contaminated sediment." The section concludes by determining that while mitigation measures MM-HAZ-5, MM-HAZ-6, and MM-HAZ-7 may reduce impacts to less-than-significant levels, the District has conservatively concluded that impacts would be considered significant and unavoidable because there would still be the potential to result in a hazardous materials release if in-water construction activities are located within areas with contaminated sediment.

To be responsive to the commenter's request, reference to this impact is now provided in Section 4.8, *Hydrology and Water Quality*, for additional clarity. The addition of this clarifying reference does not change the conclusions in Section 4.7 related to Impact-HAZ-2. The changes are included in Chapter 5, *Errata and Revisions*, of the Final EIR. However, because a full discussion of this potential impact is provided in Section 4.7 of the Draft EIR, the addition of this clarifying reference does not constitute significant new information requiring recirculation.

### **Response to Comment F-24**

The commenter requests that Figure 2-3 be revised to include the location of the Campbell Shipyard engineered cap for a visual representation of the overlap.

Figure 2-3 of the Draft EIR depicts the land and water use designations for the project site and surrounding area as identified within the current PMP. Because the Campbell Shipyard engineered cap is not a land or water use designation, it has not been included on Figure 2-3. However, a visual representation of the Campbell Shipyard engineered cap is provided on Figure 4.7-1 in Section 4.7, *Hazards and Hazardous Materials*, of the Draft EIR, which depicts the landside and waterside project boundaries as well as the approximate boundaries of the engineered cap. As such, Figure 4.7-1 sufficiently provides a visual representation of the overlap between the project boundaries and the engineered cap. No changes to the Final EIR are required.

### **Response to Comment F-25**

The comment indicates that the City has substantial concerns that any waterside improvements could cause recontamination of the Campbell Shipyard engineered cap, which would necessitate coordination with regulating agencies, careful analysis, and disclosure within the Draft EIR of a worst-case scenario from unforeseen contaminants and disturbance. The commenter states that mitigation measures should include a monitoring plan for a minimum of the constituents from the Cleanup and Abatement Order for the marina construction phase and a plan to prevent sediment and eelgrass disturbance during marina operation. The commenter suggests that the Draft EIR be recirculated with this analysis.

Please see the response to comment F-23. Section 4.7, *Hazards and Hazardous Materials*, provides a detailed analysis and mitigation measures related to any disturbance of contaminated sediment and the engineered

cap. The Draft EIR discloses all potential significant impacts related to the existing sediment contamination and engineered cap and, as stated in Section 4.7, determined that mitigation measures MM-HAZ-5, MM-HAZ-6, and MM-HAZ-7 would potentially reduce impacts to less-than-significant levels. However, the analysis considered the worst-case scenario and conservatively concluded that impacts would be significant and unavoidable because there is still the potential for the project to encounter contaminated sediment that could be released into the project area even with the mitigation required of the project. In addition, the significance determination noted that the state and federal permitting process has yet to be initiated and completed, which occurs after the CEQA process is concluded. As such, coordination with the appropriate regulatory agencies will occur prior to any potential activities that may affect the engineered cap.

In regard to the commenter's suggestion that a monitoring plan should be implemented during the marina construction phase, please note that there is a mitigation measure that already specifies this requirement. Mitigation measure MM-HAZ-6 requires the retention of a licensed Professional Engineer with substantial experience (i.e., more than 5 years) in marine sediment contamination, sediment sampling, and contamination remediation to perform all sediment sampling and analysis required by the Sampling and Analysis Plan and Marine Sediment Contamination Characterization Report (Sediment Characterization Report). The Professional Engineer will perform sediment sampling in area(s) of potential disturbance for in-water construction activities that are located outside of the engineered cap, as it will not be disturbed directly pursuant to mitigation measure MM-HAZ-5. The samples will include analysis of (1) grain size analysis, (2) physical parameters, (3) total organic carbon, (4) Target Analyte List metals, (5) pesticides, (6) PAHs, (7) PCBs (all 209 individual PCB congeners), as analyzed and reported by U.S. Environmental Protection Agency Method 1668, and (8) total polychlorinated terphenyls. However, mitigation measure MM-HAZ-6 has been augmented to also require sampling for additional constituents that are identified in the Cleanup and Abatement Order, including TPHs and TBT. The changes are included in Chapter 5, *Errata and Revisions*, of the Final EIR.

In addition, the Sediment Characterization Report will delineate the vertical and lateral extent and concentration of the project site's sediment contamination outside the engineered cap (Sediment Characterization) and will rely on the Effects Range – Low (ER-L) and Effects Range –



Median (ER-M) guideline values of the National Oceanic and Atmospheric Administration's *Sediment Quality Guidelines* (1999) as the basis for characterizing the sediment. The results of the Sediment Characterization Report will be provided to the RWQCB and the District (and any other appropriate regulatory agencies), and consultation with the RWQCB on the contamination characterization of the sediment will be held. If contaminated sediment is identified in the Sediment Characterization Report, the project proponent will prepare a Contaminated Sediment Management Plan (Sediment Management Plan) for the District's, RWQCB's, and any other appropriate regulatory agencies' review and approval. Once approved, the Sediment Management Plan will be implemented by the project proponent subject to oversight by the District, RWQCB, and any other appropriate regulatory agencies, as applicable. The Sediment Management Plan will describe in detail the methods to be employed to prevent waterside construction activity from adversely affecting or exposing the contaminated sediment outside the engineered cap as identified in the Sediment Characterization Report and the monitoring that will occur post-construction. The mitigation measure includes potential methods and reporting requirements as well.

The last applicable mitigation measure in Section 4.7, MM-HAZ-7, requires that prior to in-water construction, the project proponent will need to obtain all federal and state permits required for in-water construction activities. The project proponent will then need to demonstrate to the District compliance with all permit conditions during in-water construction. In addition, the project proponent will not impede the District's compliance with Investigative Order No. R9-2017-0081 as it pertains to the project site.

The commenter also suggests that a clear plan be developed to prevent disturbance of the sediment and eelgrass once the marina is operational. It should be noted that there are already existing marina operations in the project area. The project would continue marina operations and would potentially result in an increase in recreational vessels. As analyzed in Section 4.4, *Biological Resources*, a propeller wash study was conducted to determine if marina vessels would potentially affect the cap and associated eelgrass habitat that was installed. The study concluded that under normal operations there would be no effect from vessel use, and impacts would only occur if boaters drifted away from the marina and into the cap area. However, mitigation measures MM-BIO-7 and MM-BIO-8 would minimize any potential impacts to less-than-significant levels by avoiding any vessel operations over the cap and by installing a floating

barrier to demarcate the eelgrass beds and create a visual barrier to protect the eelgrass beds from negligent boating. No changes to Section 4.4 are required as a result of this comment.

Clarifications to Section 4.8, *Hydrology and Water Quality*, have been made that include an analysis summary and significance determination related to the Campbell Shipyard engineered cap, which are discussed in detail in Section 4.7, *Hazards and Hazardous Materials*, and these changes are reflected in Chapter 5, *Errata and Revisions*, of the Final EIR. No changes to Section 4.7 are required as a result of this comment and no new or more severe impacts have been identified within the EIR. As none of the conditions described in Section 15088.5(a) of the State CEQA Guidelines have been met, recirculation of the Draft EIR is not warranted.

### Response to Comment F-26

The commenter states that, according to Table ES-2 in the *Executive Summary*, most of the Existing Plus Project transportation impacts and all of the cumulative transportation impacts are significant and unavoidable based on the findings in Tables 4.12-1 and 5-1 of the Draft EIR. The commenter states that the City disagrees with the rationale for most of these determinations and suggests that Table 5-1 does not provide a rationale. The commenter further states that City staff believes that mitigation measures are feasible in many cases, such as the signalization of 15<sup>th</sup> Street and F Street, 17<sup>th</sup> Street and G Street, and 19<sup>th</sup> Street and J Street. The commenter requests that the Draft EIR clarify that the project would implement mitigation measures on City transportation facilities even if they may not be completed by the time of first impact.

Tables ES-2 and 5-1 of the Draft EIR are only impact and mitigation summary tables that briefly summarize the impact analysis and significance determinations discussed at length in each applicable resource section. A full discussion of the rationale for the significance determinations for transportation impacts is provided in Section 4.12.4.3 for project impacts and Section 5.3.12 for the project's cumulative contributions.

In addition, the commenter appears to confuse the significant and unavoidable impact determinations with the feasibility of implementing the proposed mitigation measures. The Draft EIR provides mitigation measures that would minimize significant transportation-related impacts of the project. The Draft EIR does not make any determinations as to the feasibility of mitigation measures, but rather describes the factors that

contribute to the uncertainty of being able to implement the proposed mitigation measures. For example, all of the transportation impacts that were determined in the Draft EIR to be significant and unavoidable after mitigation would occur on Caltrans or City of San Diego controlled transportation facilities. However, this does not eliminate the requirement to implement the mitigation, it only explains the uncertainty of another jurisdiction choosing to make the improvement or deciding on another course of action, all of which is outside the control of the District because it is outside of the District's jurisdiction and land use authority.

As detailed in Section 4.12, *Transportation, Circulation, and Parking*, of the Draft EIR, because the timing and installation of the recommended improvements are within the exclusive jurisdiction of Caltrans or the City of San Diego and not the District, the District cannot state with certainty that the improvements will be completed prior to an impact occurring. This includes the recommended signalization of the 15<sup>th</sup> Street and F Street intersection (MM-TRA-2) and the 17<sup>th</sup> Street and G Street intersection (MM-TRA-3) referenced by the commenter, as well as the recommended restriping of the NB left-turn lane at the 19<sup>th</sup> Street and J Street intersection (MM-TRA-4). Although these measures are required to be implemented if they are feasible, the District cannot guarantee when the mitigation measures would be implemented. For these reasons, the Draft EIR concluded that impacts on the identified transportation facilities would be significant and unavoidable because the ultimate implementation of the actual improvements is not certain. No changes to the Final EIR are required.

### **Response to Comment F-27**

The commenter suggests that mitigation measure MM-TRA-1, which requires implementation of a TDM Plan, should be estimated and quantified.

The Transportation Impact Analysis recommends a TDM Plan as mitigation for temporary construction impacts, which is included as mitigation measure MM-TRA-1 in the Draft EIR. One of the required components of the TDM entails restricting workers from accessing the project site during the AM and PM peak periods (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.). If all construction workers are compliant with the TDM Plan, no peak hour trips associated with construction workers will occur. The TDM also requires the implementation of ride-sharing program to encourage carpooling among the workers; the provision of offsite

Page 8  
Ms. Dana Sclar  
January 30, 2018

- F-29 27) Page 4.12-2: MM-TRA-4: Restriping of northbound left turn lane at 19th Street/J Street intersection. The Draft EIR should contain a conceptual design to demonstrate that this mitigation measure can feasibly be implemented via restriping alone.
- F-30 28) Page 4-2-2 and Page 4-12-42: With respect to the rationale for finding of significant and unavoidable after mitigation for MM-TRA-1, MM-TRA-2, and MM-TRA-3, the determination on the two referenced pages are conflicting. Page 4-2-2 states that these mitigation measures cannot be implemented due to outside jurisdiction, while Page 4.12-42 says the project shall install/construct these improvements. Please revise for consistency or clarify the conflicting determinations as provided within the Draft EIR.
- F-31 29) Page 4.12-3: MM-TRA-6, The Draft EIR should clarify that the project would implement the Parking Management Plan described in MM-TRA-6, even if the project cannot guarantee that the result would be to reduce parking demand to less than parking supply. All parking sections should also note the loss of the existing 303 onsite parking spaces stated on Page 4.12-16 of the Draft EIR.
- F-32 30) The Draft EIR, Appendix K Transportation Impact Study should include traffic signal warrants analysis for all proposed signalized intersections e.g. 15th Street and F Street, and 17th Street and G Street.
- F-33 Based on the City's comprehensive review of the Draft EIR, the analysis on the subject topics detailed above is incomplete. As required under CEQA Guidelines Section 15088.5, the analysis and the determination of all potential environmental impacts under CEQA, and any feasible mitigation measures and alternatives that would lessen identified environmental impacts of the project, including the City's expansion of the San Diego Convention Center in the same area, should be recirculated for meaningful public review and comment with the previously recommended analysis and revisions.
- Please contact me directly if there are any questions regarding the contents of this letter or if the San Diego Unified Port District would like to meet with City staff to discuss our comments.

Sincerely,



Alyssa Muto, Deputy Director  
Planning Department

MJH/mjh

cc: Reviewing Departments (via email)  
Review and Comment online file

parking locations for workers outside of the area with shuttle services to bring them to the site; and the provision to subsidize transit passes for construction workers. However, because compliance of all of the individual recommended strategies and overall TDM Plan is unable to be confirmed or estimated, the Draft EIR conservatively concluded that construction-related impacts on study area roadways and intersections would be significant and unavoidable after mitigation. No changes to the Final EIR are required.

### Response to Comment F-28

The commenter cites the statement of “significant and unavoidable” on page 4.12-2 and suggests that all direct and near-term mitigation measures should be implemented, such as mitigation measures MM-TRA-1, MM-TRA-2, and MM-TRA-3.

Please see response to comment F-26. The determination of “significant and unavoidable” refers to the significance of the impact after the implementation of all feasible mitigation measures and does not preclude the implementation of mitigation measures. Unless noted otherwise in the Draft EIR, all mitigation measures proposed for transportation impacts are anticipated to be implemented. No changes to the Final EIR are required.

### Response to Comment F-29

The commenter suggests that the Draft EIR contain a conceptual design of mitigation measure MM-TRA-4, which requires restriping of the NB left-turn lane at the 19<sup>th</sup> Street/J Street intersection, to demonstrate that it can be feasibly implemented via restriping alone.

The restriping of the NB left-turn lane at the 19<sup>th</sup> Street and J Street intersection, as required by mitigation measure MM-TRA-4 in the Draft EIR, was included in the Downtown Mobility Plan and Downtown Community Plan, which was adopted by the City of San Diego in June 2016. Therefore, the Draft EIR assumed that this improvement can be feasibly implemented, as it was included in an adopted City planning document and the City has jurisdiction and control over the proposed improvement. No changes to the Final EIR are required.

### Response to Comment F-30

The commenter suggests that the rationale for a finding of significant and unavoidable after implementing mitigation measures MM-TRA-1, MM-TRA-2, and MM-TRA-3 is conflicting on pages 4.12-2 and 4.12-42. The

comment indicates that page 4.12-2 states that these mitigation measures cannot be implemented due to outside jurisdiction, while page 4.12-42 states that the project will install/construct these improvements. The commenter requests that the Draft EIR be revised for consistency or clarification be provided.

The pages and text cited by the commenter are referring to two separate discussions; therefore, the information on page 4.12-2 and page 4.12-42 are not in conflict. Each threshold in Section 4.12.4.3 is organized with the following headings: *Impact Discussion*, *Level of Significance Prior to Mitigation*, *Mitigation Measures*, and *Level of Significance After Mitigation*. Table 4.12-1 is intended to provide a brief summary of the impact analysis detailed later in Section 4.12.4.3, including a summary of the final significance determination. The heading *Mitigation Measures* on page 4.12-42 details the mitigation measures proposed to reduce project impacts, while the heading *Level of Significance After Mitigation*, also on page 4.12-42, provides a discussion of the significance of project impacts after the implementation of mitigation measures. As detailed on pages 4.12-42 and 4.12-43, because the timing and installation of the recommended improvements are within the exclusive jurisdiction of Caltrans or the City and not the District, the District cannot state with certainty that the improvements will be completed prior to an impact occurring. This conclusion is consistent with the rationale for the finding after mitigation in Table 4.12-1. No changes to the Final EIR are required.

### **Response to Comment F-31**

The commenter suggests that the Draft EIR clarify that the project would implement the Parking Management Plan described in mitigation measure MM-TRA-8, even if the project cannot guarantee that the parking demand would be reduced to less than the parking supply. The comment requests that all parking sections note the loss of the existing 303 onsite parking spaces stated on page 4.12-16 of the Draft EIR.

The proposed project would be required to implement all mitigation measures proposed to reduce project impacts, even if the significance determination is significant and unavoidable after mitigation. The determination of “significant and unavoidable” means after the implementation of all recommended mitigation measures.

Regarding the commenter’s request to note the loss of the existing 303 onsite parking spaces, these existing parking spaces were not included in the parking calculation of the Draft EIR because they are private spaces

and not public spaces. On an as-needed and frequent basis, the SDCC uses the parking lots as temporary staging areas for events held at the SDCC. As such, these parking lots are not always available for parking, and therefore were not considered public in the parking analysis. No changes to the Final EIR are required.

### **Response to Comment F-32**

The commenter suggests that the Transportation Impact Analysis include traffic signal warrants analysis for all proposed signalized intersections.

Signalization is recommended for the 15<sup>th</sup> and F Street intersection and 17<sup>th</sup> and G Street intersection as mitigation in the adopted Downtown San Diego Mobility Plan. Signal warrants are provided for both intersections within Appendix P of the Downtown San Diego Mobility Plan Technical Report. The Fifth Avenue Landing Project Transportation Impact Analysis (Appendix K-1 of the Draft EIR) assumed implementation of the improvements and mitigation measures, consistent with their respective phasing, identified in the Downtown San Diego Mobility Plan, as it is an adopted City planning document. No changes to the Final EIR are required.

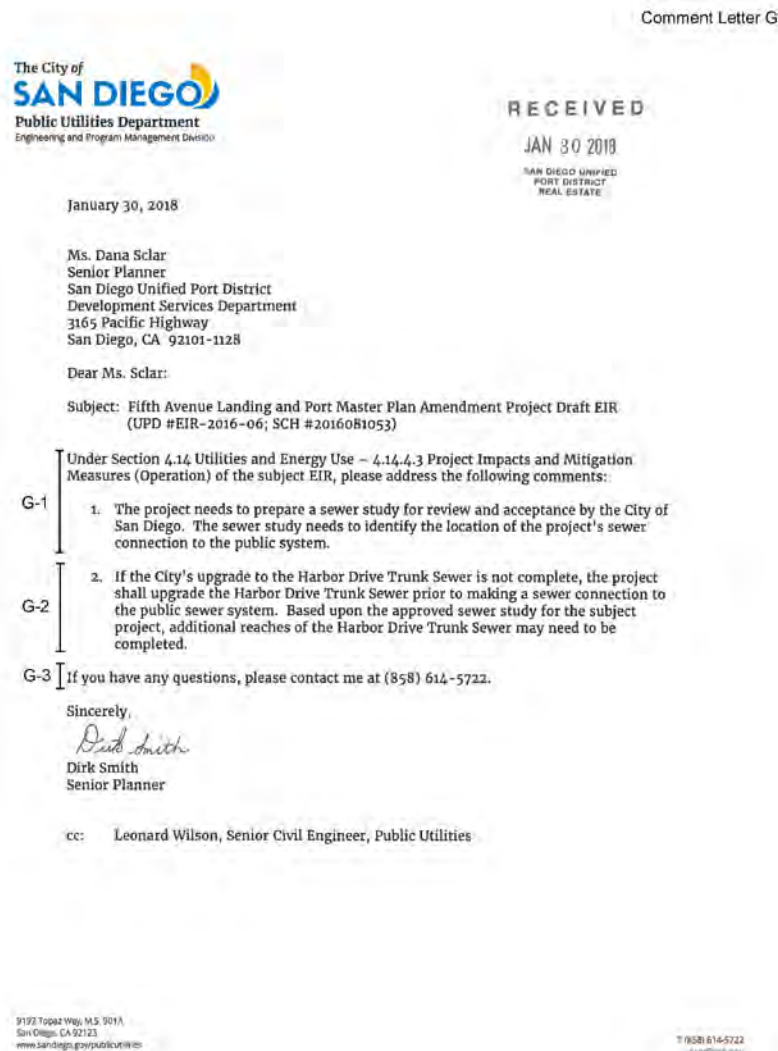
### **Response to Comment F-33**

The commenter states that, based on the City's review of the Draft EIR, the analysis of the subject topics detailed above is incomplete. The comment cites State CEQA Guidelines Section 15088.5 and suggests that the Draft EIR should be recirculated. The comment concludes the comment letter by providing a contact name and information.

As described in the responses to the City's comments, none of the conditions described in Section 15088.5(a) have been met, and, as such, recirculation of the Draft EIR is unwarranted. No new comments are raised in this comment and no further response is required.

The District appreciates the City's interest in the proposed project and the time required to provide written comments on the project.

## 6.3.8 Comment Letter G: City of San Diego Public Utilities Department (PUD)



### Response to Comment G-1

This comment requests that the specific comments that follow be addressed in Section 4.14, *Utilities and Energy Use*. The comment states that the project needs to prepare a sewer study for review and acceptance by the City, and that the sewer study needs to identify the location of the project's sewer connection to the public system.

A Preliminary Sewer Study was prepared for the proposed project and is included as Appendix L-1 to the Draft EIR. The Preliminary Sewer Study is based on the design criteria outlined in the *City of San Diego Sewer Design Guide* (May 2015). The study provides detailed descriptions of existing and proposed sewer facilities and analyzes the proposed project's effect on the existing sewer infrastructure to determine if there is a need to upsize the facilities. The analysis is considered preliminary and subject to change as the design progresses. The Preliminary Sewer Study determined that a 12-inch sewer main is required to convey the total post development peak flow from Marina Park, SDCC, and the project site to the Harbor Drive trunk sewer. As a result, the existing 8-inch polyvinyl chloride (PVC) sewer line that runs through the project site would be abandoned either in place and/or removed as necessary. The sewer main would be relocated into the center of Convention Way, resulting in approximately 550 linear feet of new 12-inch sewer line. Additionally, the existing 10-inch sewer line within Convention Way would be upsized to a 12-inch PVC main from the force main manhole to West Harbor Drive, for a total of approximately 1,500 linear feet. The proposed new 12-inch sewer line would connect to the existing 15-inch trunk sewer located west of the intersection of West Harbor Drive and Park Boulevard, adjacent to SDCC. Exhibit A of the Preliminary Sewer Study depicts the existing and proposed sewer improvements. In accordance with Sections 64.0400 and 64.0401 of the City's Municipal Code, the project proponent will submit construction plans, including proposed wastewater facilities, to the City for approval prior to constructing any wastewater improvements. No changes to the Final EIR are required as a result of this comment.

### Response to Comment G-2

The comment states that, if the City's upgrade to the Harbor Drive Trunk Sewer is not complete, the project shall complete the upgrade prior to making a sewer connection to the public sewer system. The comment also

states that additional reaches of the Harbor Drive Trunk Sewer may need to be completed based on the approved sewer study for the project.

As detailed in Section 4.14 of the Draft EIR, the existing 15-inch trunk sewer located west of the intersection of West Harbor Drive and Park Boulevard would need to be upsized to accommodate wastewater generated by the proposed project. In the event that upsizing of the existing 15-inch trunk sewer does not occur, mitigation measure MM-UTIL-1 will be implemented. As required by MM-UTIL-1, the project proponent shall upsize the existing 15-inch trunk sewer main located at the intersection of West Harbor Drive and Park Boulevard to a 30-inch trunk sewer main prior to occupancy and operation of the proposed market-rate hotel tower or the lower-cost visitor-serving hotel, whichever is first. At no point shall the project proponent operate the market-rate hotel tower or the lower-cost visitor-serving hotel prior to the trunk sewer main being upsized. No changes to the Final EIR are required as a result of this comment.

### **Response to Comment G-3**

The comment concludes the comment letter by providing a contact name and information.

The District appreciates the City's interest in the proposed project. This comment does not raise any issues requiring a response pursuant to CEQA.



## 6.3.9 Comment Letter H: Fifth Avenue Landing, LLC

Comment Letter H

### *Fifth Avenue Landing, LLC*

January 30, 2018

San Diego Unified Port District  
Attn: Dana Sclar  
Senior Planner  
Development Services Department  
3165 Pacific Highway  
San Diego, CA 92127  
[dsclar@portofsandiego.org](mailto:dsclar@portofsandiego.org)

RECEIVED

JAN 30 2018

SAN DIEGO UNIFIED  
PORT DISTRICT  
REAL ESTATE

Draft Environmental Impact Report ("DEIR") for Fifth Avenue Landing Project and Port Master Plan Amendment (SCH#2016081053) ("Project")

Dear Ms. Sclar:

Fifth Avenue Landing LLC (FAL) and its predecessor companies have been tenants of the Port in good standing on the FAL leasehold since 1984. As proposed, the Project requires no public funds. It generates over \$100 million in revenue to the Port over ten years. It provides a similar amount to the City in tax revenue. The water transportation center provides the opportunity to link the south bay cities to the north. It will create high paying wages based on the agreement we have with Unite HERE. More specifically:

- The economic impact of the Project is estimated to produce a regional economic impact of \$600 to \$775 million (based on SANDAG regional economic construction multipliers)
- The Hotel is estimated to produce \$11 to \$13 million in TOT to the City of San Diego annually
- The Port of San Diego is estimated to receive \$7 to \$10 million in annual rents
- The Project is estimated to provide 750 to 1,100 construction jobs over a 2-3 year period and 550 to 700 permanent jobs for the Hotel alone

The DEIR has done a thorough job of analyzing Project impacts and, where possible, identifying feasible mitigation measures to reduce impacts to below a level of significance. However, in the interest of clarity, FAL desires to supplement the record regarding the DEIR's conclusions and mitigation measures.

#### Section 4.3 / Biological Resources

The DEIR suggests that the Hotel tower will impact eelgrass beds at the nearby Marriott Marina through shading of sunlight. However, there is no causal nexus between temporary and seasonal shading from a hotel tower and damage to an eelgrass bed.

The DEIR states that the operations of the Marina Expansion will impact the Port's eelgrass beds contained in the adjoining engineered cap. Under existing conditions, these eelgrass beds appear to be less than 40% productive. At that level of productivity, it makes little sense to try to rehabilitate them. There is also a lack of a nexus between prop wash from the Marina Expansion and the eelgrass beds of the cap, particularly when compared to the high-volume prop wash coming from the adjoining Tenth Avenue Marine Terminal.

### Response to Comment H-1

This comment is an introductory comment that provides the commenter's estimated economic benefits that would result from implementation of the proposed project. The comment states that the Draft EIR does a thorough job analyzing project impacts and identifying feasible mitigation measures to reduce impacts below a level of significance, where possible. The commenter states the desire to supplement the record regarding the Draft EIR's conclusions and mitigation measures.

The District appreciates FAL's interest in the proposed project. This comment does not raise any issues requiring a response pursuant to CEQA. The specific comments that follow this introduction are listed separately below along with the District's individual responses.

### Response to Comment H-2

The comment restates the impact determination contained within the Draft EIR that the hotel tower would significantly affect eelgrass beds at the nearby Marriott Marina by increasing shading. The commenter states the opinion that there is no causal nexus between temporary and seasonal shading from a hotel tower and damage to an eelgrass bed.

Eelgrass is a marine vascular plant that is held in place with rhizomes and roots similar to terrestrial grasses. As such, it is dependent upon the conditions of its surroundings to survive. Alteration of factors such as sediment chemistry, water temperature, water chemistry, and levels of photosynthetically active radiation (portion of sunlight spectrum) can improve or degrade conditions relative to a given site's ability to support eelgrass. The "causal nexus" in the current context is that the hotel would increase shading and therefore decrease light levels at the existing eelgrass beds at the Marriott Marina. What is not certain, however, is the extent to which the modest decreases identified in the biological resources assessment would actually cause a noticeable decline in eelgrass coverage or density.

Sunlight attenuates rapidly moving through the water column in Southern California embayments. Bays and harbors typically have water that is clearer than open water. This results in a reduced photic zone where marine plants and algae can receive enough sunlight to grow and persist. In the north central portion of San Diego Bay where Fifth Avenue Landing

and the Marriott Marina occur, eelgrass is generally found to occur in water that is not shaded from surface structures and is less than -12 feet below mean lower-low water level. In other words, it only takes 12 feet of water to reduce light levels to the point at which eelgrass cannot survive. Given the rapid attenuation of light through water, even modest changes in the duration and intensity of light at the surface can reduce photosynthesis to a point where eelgrass cannot persist. This is why eelgrass will often temporarily die back from some areas in winter months.

The shading model included in the marine biological resources report (Appendix E-1 of the Draft EIR) found that the hotel would shade the eelgrass beds at the Marriot Marina. However, shading was generally limited to morning hours and was more pronounced in the winter months. It is scientifically certain that the reduced light will mean reduced photosynthesis. What is not certain is if eelgrass would receive enough light when exposed to sun to ensure that it persists in the same locations with the same density and overall health once the hotel tower is constructed. For this reason, mitigation and monitoring (MM-BIO-6 of the Draft EIR) is required to ensure that potentially significant impacts are reduced to less-than-significant levels. As identified in Section 4.3, *Biological Resources*, mitigation measure MM-BIO-6 requires pre- and post-construction surveys to monitor potential impacts on eelgrass. If impacts are detected, the project proponent is required to mitigate impacts in accordance with the mitigation measure. No change to the Final EIR is warranted as a result of this comment.

### Response to Comment H-3

The comment restates the impact determination contained within the Draft EIR that operation of the marina expansion would significantly affect the eelgrass beds located in the adjoining engineered cap. The commenter states the opinion that these eelgrass beds appear to be less than 40% productive under existing conditions, and, as a result, it is not prudent to attempt to rehabilitate them. The commenter further states the opinion that there is a lack of a nexus between propeller wash from the marina expansion and the eelgrass beds of the cap, particularly when compared to propeller wash from operations at the adjoining Tenth Avenue Marine Terminal.

The commenter expresses an opinion about the appearance of the existing productivity of the eelgrass bed, but does not present any evidence to

support its opinion. Furthermore, it is uncertain what time of year the commenter made its observations. Observations in months with less sun exposure would have reduced eelgrass habitat, whereas months with greater sun exposure would have more eelgrass habitat. (Please see response H-2 for a detailed explanation of the link of eelgrass health with sun exposure.) No change to the Final EIR is warranted as a result of this comment.

The commenter's second comment suggests there is no nexus between propeller wash created from harbor craft that would use the proposed marina and the eelgrass beds of the cap. The environmental impact analysis conducted for the proposed project included a propeller wash study (Appendix E-3 of the Draft EIR). The report found that yachts measuring longer than 50 feet would not be able to access any areas near the eelgrass habitat and thus would have no effect on the engineered eelgrass habitat area. Typical yachts measuring up to 50 feet, a length at which some may be able to use the portion of the proposed marina bordering the eelgrass habitat area, also are generally not expected to affect the eelgrass habitat. It is possible that yachts around 50 feet in length may cause velocities exceeding the original criteria of 1.1 feet per second (for initiation of motion of the capping material at the eelgrass habitat area) at the eelgrass habitat area when making their final turn toward a boat slip. However, these high propeller wash velocities experienced during vessel docking would be localized, infrequent, and short in duration; while these velocities may result in some initiation of motion of some sediment particles, these particles would quickly settle once the vessel is docked. Consequently, there may be some minor localized shifting of the capping material at eelgrass habitat areas that experience these high yet infrequent propeller wash velocities, but there would be no significant bed erosion or sediment transport in such areas. However, as identified in Section 4.4, *Biological Resources*, of the Draft EIR, vessels near the Campbell eelgrass bed could disturb beds directly from running aground on the ocean floor or from propeller wash if vessels are pushed off course due to wind, inexperience, or negligence (Impact-BIO-8). However, with the implementation of mitigation measure MM-BIO-6, MM-BIO-8, and MM-HWQ-1, impacts would be reduced to less-than-significant levels. No change to the Final EIR is warranted as a result of this comment.

H-4	<p>The DEIR recommends that copper free zones be created in the Marina Expansion and that economic incentives be provided to marina guests to somehow persuade them to stop using copper based paints. It is not the Port's role to set rate structures for a tenants' customers. And the vessels coming to the FAL marina will not be persuaded to change their bottom paint because of some small and temporary slip rental rate reduction. It is important to note that the industry trend is to move away from copper based paints. But most vessels visiting the FAL marina are foreign flagged vessels and neither the Port nor FAL can influence their bottom paint decisions.</p>
H-5	<p><b>Section 4.7 / Hazards and Hazardous Materials</b></p> <p>With respect to the waterside portion of the Project described as the Marina Expansion, the DEIR assumes a level of disturbance to marine sediments that is overstated and imposes mitigation measures that are infeasible. The DEIR mitigation measures require that each of the 188 piles in the Marina Expansion be surrounded by an individual silts curtain and that the applicant perform pre- and post-construction sampling, remediation, and reporting. That mitigation is based on the premise that pile installation and spud placement will exacerbate the level of contaminated sediments by disseminating contamination already present in the waterside portion of the Project area. In truth and in fact, the actual area of Bay floor disturbed by construction of the Marina Expansion will be less than 0.3% of the waterside Project area. A single storm event or a ship docking at the Tenth Avenue Marine Terminal will have a far greater capacity to introduce or disseminate contaminants than this minor level of disturbance.</p>
H-6	<p>Contamination of sediments throughout San Diego Bay has been a topic of concern for many years. Similarly, the Project vicinity has had its share of attention with RWQCB CAO No. 95-21 (Campbell Shipyard), the Port's response to that order by completing an engineered sediment cap and 20-year monitoring plan that began in 2008 and, more recently, RWQCB Investigative Order No. R9-2017-0081 covering the 10<sup>th</sup> Avenue Marine Terminal and surrounding areas.</p> <p>Despite the efficacy of the Campbell Shipyard cap in isolating contaminated sediment, the Regional Harbor Monitoring Program (RHMP) has confirmed that pollutants are present in Bay sediment in immediate vicinity of Project Area. Although the Project is outside the scope of RWQCB Investigative Order R9-2017-0081, sampling indicates the presence of pollutants listed on the 303(d) list (including copper, mercury, PAHs, PCBs, zinc, chlordane, etc.) at various levels of toxicity in the Bay sediment south of the waterside portion of the Project area. This is due to the dynamism of this portion of the Bay with currents, storm drain outfalls and prop wash. For example, the DEIR notes that Switzer Creek, located directly south of the Project, has 303 (d)-listed pollutants including chlordane, PAHs, PCBs and copper. (DEIR, 4.7-4). As a result, new upstream-originating pollutants are introduced with every storm event. Tug boats routinely operate in the immediate vicinity of the Project with heavy, high-volume prop wash capable of introducing additional contaminants.</p> <p>In spite of the dynamism of the environment, the DEIR has identified mitigation measures for the construction of the Marina Expansion that the applicant estimates will cost up to \$5 million (in testing alone)—an amount completely disproportionate to the Project's potential for contributing to the contamination of Bay sediment. In evaluating whether imposition of such a disproportionate burden on the Project is good policy, we ask the Port to consider the following:</p> <ul style="list-style-type: none"> <li>• The operation and construction of the Marina Expansion will not introduce any pollutants or contaminants into the Project area and the applicant will employ best management practices to minimize dispersion of existing sediments.</li> </ul>

## Response to Comment H-4

The commenter states that the mitigation requirements prescribed in the Draft EIR create copper-free zones in the marina expansion and provide economic incentives for marina guests to reduce the use of copper-based paint. The commenter states that it is not the District's role to set rate structures for tenant customers, and that a temporary slip rental rate reduction would not influence bottom paint decisions of marina users, noting that most vessels visiting the marina are foreign flagged vessels and neither the District or FAL (i.e., the marina operator) can influence their bottom paint decisions.

Language used in MM-WQ-1 has been relocated to MM-WQ-2 to clarify that certain BMPs must be considered if copper levels exceed the Basin Plan water quality objectives, but acknowledges that one or more BMPs may not ultimately be feasible. Importantly, the critical requirement of MM-WQ-2 is that should the Basin Plan water quality objectives be exceeded by the project at any point during the proposed marina's operation, the project proponent is required to implement one or more BMPs that would successfully reduce total and dissolved copper to a level below the Basin Plan's water quality objectives. Clarifications to MM-HWQ-1 and MM-HWQ-2 have been made and are reflected in Chapter 5, *Errata and Revisions*, of the Final EIR.

## Response to Comment H-5

The commenter states the opinion that the Draft EIR overstates the level of disturbance to marine sediments and imposes infeasible mitigation measures. The comment restates the mitigation requirements prescribed in the Draft EIR and indicates that the mitigation is based on the premise that pile and spud placement would exacerbate the level of contaminated sediment by disseminating contamination already present in the waterside portion of the project area. The commenter believes that the area of Bay floor disturbance would be less than 0.3% of the waterside project area, and states the opinion that a single storm event or ship docking at Tenth Avenue Marine Terminal would have a greater capacity to introduce or disseminate contaminants.

The commenter is referring to Impact-HAZ-2 and MM-HAZ-6 in the Draft EIR. Sediment in the Bay has been contaminated with polychlorinated biphenyl, copper, zinc, lead, tributyltin, polynuclear aromatic hydrocarbons, and total petroleum hydrocarbons due to previous

activities conducted by Campbell (Kleinfelder 2016; Ninyo & Moore 2006). A cap was constructed over the contaminated sediment to protect the Bay from potential water quality impairments that could occur if the contaminated sediment is disturbed. The Draft EIR notes that Campbell Shipyard cap extends into the eastern portions of the project site. Therefore, if the cap is disturbed and/or contaminated sediments are present outside of the cap, construction of the marina could result in a release of hazardous materials and create a potentially significant hazard within the environment by exacerbating the existing hazardous conditions. Disruption of contaminated sediment and/or the cap could result in a potential violation of, or interfere with the goals of, Order No. R9-2004-0295 and would be considered a significant impact (Impact-HAZ-2). Clarification to Impact HAZ-2 has been provided to indicate that disruption of the cap could result in a potential violation of, and/or interfere with the goals of, Order No. R9-2004-0295. This clarification is reflected in Chapter 5, *Errata and Revisions*, of the Final EIR. The San Diego RWQCB is responsible for enforcing the order.

Mitigation measure MM-HAZ-5 requires complete avoidance of the cap. MM-HAZ-6 requires specific steps to ensure construction activities, namely jetting and spudding, do not encounter and then re-suspend contaminated sediments that may currently be residing several feet below the Bay floor outside of the capped area. (Note: the engineered cap represents the known boundaries of contamination, but as identified in Section 4.7, *Hazards and Hazardous Materials*, of the Draft EIR, based on historical information and monitoring reports it is reasonably foreseeable that contaminated sediments may be encountered outside the boundaries of the cap.) The commenter suggests that the EIR assumes a level of disturbance that is overstated and that the recommended mitigation is infeasible, but does not present any evidence to support this opinion. As such, the mitigation measure is required unless its infeasibility can be proven, which would then be documented as part of the CEQA findings.

Furthermore, the commenter attempts to draw a conclusion that because the area of effect from the proposed jetting and spudding is small relative to the entire project site, impacts should be less than significant. Of vital importance, however, is that the commenter is only calculating the two-dimensional area that would be affected and does not factor in the volume of sediment that would be disturbed by the project's proposed jetting and spudding, which would require excavating deep into the sediment layers. In addition, the comment employs a type of "ratio analysis" (i.e., the size of the area affected compared to the size of the entire project area) that is

inappropriate under CEQA. The key consideration is whether or not the project has the potential to encounter contaminated sediments and, if so, whether or not the proposed project would include one or more actions that could result in a release of existing contamination previously under the Bay floor that would now be exposed to the Bay in quantities sufficient to measurably increase the contamination within the project area. As determined in the Draft EIR, jetting and spudding both have the potential to expose contamination that is currently covered and contained, which could lead to re-suspension (see the discussion regarding Impact-HAZ-2). However, mitigation measure MM-HAZ-6 requires a pre-construction sampling of sediment in appropriate locations that will establish pre-construction conditions and a sampling of sediment in the same locations that will identify the post-construction conditions, which in turn will provide the net change of contamination as a result of construction activities. If no significant change to the pre-construction condition is observed, no further action for hazardous materials is required. If, however, contamination levels have increased, the project proponent is required to remediate the condition until it returns to pre-construction conditions or better. The commenter has presented no facts, data, or other scientifically supported evidence to suggest that the proposed project would not encounter and then release contamination into the Bay without mitigation measures identified in the Draft EIR. No changes to the Final EIR are warranted based on this comment.

### **Response to Comment H-6**

The comment states that sediment contamination throughout San Diego Bay has been a concern for years, and summarizes recent sampling results and regulatory actions in the project vicinity. The commenter suggests that the presence of 303(d) listed pollutants at various levels of toxicity in the Bay sediment, south of the waterside portion of the project area, is due to the dynamism of this portion of the Bay with currents, storm drain outfalls, and propeller wash. The commenter states the opinion that, despite the dynamism of the environment, the Draft EIR identifies mitigation measures that would be disproportionately costly compared to the project's potential contribution to sediment contamination. The commenter asks that the District consider two factors when evaluating whether imposition of such a disproportionate burden on the project is good policy. The first point offered for District consideration is the commenter's opinion that operation and construction of the marina expansion would not introduce any pollutants or contaminants into the

project area and the applicant has indicated that it will use BMPs to minimize dispersion of existing sediments. The second point offered for District consideration is the commenter's opinion that the required mitigation may create precedent for similar measures on other District projects in the future because the existing conditions in the project area are similar to conditions around the San Diego Bay.

The Draft EIR identified significant impacts related to hazardous materials within the Bay because the proposed project has the potential to exacerbate an existing hazardous materials condition by re-suspending contaminated sediment from marina construction activities. The area has known sediment contamination in the project vicinity and there is potential to encounter contaminated sediment during jetting and spudding (Impact-HAZ-2). The Draft EIR identified significant impacts related to water quality because the proposed project has the potential to increase copper levels and other constituents above the Basin Plan's water quality objectives from operation of the proposed marina expansion (Impact-HWQ-1).

Therefore, the commenter's opinion that the proposed project would not introduce any pollutants or contaminants into the project area is not accurate. As disclosed in the Draft EIR, operation of the proposed marina expansion would have the potential to increase water quality constituents. Mitigation is required to ensure the proposed project would not cause an exceedance of the Basin Plan's water quality objectives. While the commenter indicates that the applicant would employ BMPs to minimize dispersion of existing sediments during pile driving and spudding, the Draft EIR provides evidence that there is the potential for existing contamination to be present that could be encountered during marina expansion construction activities. While it is important to implement BMPs during the construction phase, the Draft EIR concluded that additional monitoring of activities and reporting of conditions pre- and post-construction were required to ensure release of contaminated sediments did not occur and, if it did occur, to require appropriate remediation. No changes to the Final EIR are warranted as a result of this comment.

In regard to the commenter's estimate that testing alone would cost \$5 million dollars, no evidence has been provided to the District to indicate this is accurate and, more importantly, that the cost of the mitigation would make the project infeasible. No changes to the Final EIR are warranted as a result of this comment.



H-5 cont.	<ul style="list-style-type: none"> <li>Since the existing contamination of the Bay sediment within the Project area is similar to conditions around the Bay, the mitigation measures imposed on this Project will create precedent to impose similar measures on other Port projects in the future.</li> </ul>																																
H-7	<p>We request the Board of Port Commissioners be aware of the following in the consideration of these issues:</p> <ol style="list-style-type: none"> <li>Construction of the Marina Expansion will use "jetting" in pile installation while spuds will be used to stabilize the barge used in pile installation. Use of spuds (heavy vertical posts on the forward end and near the aft end of a barge, lowered into the sediment to stabilize the vessel) creates the possibility that subsurface sediment may adhere to the spud and be displaced when the spuds are extracted in pile installation.</li> <li>The applicant has proposed using silt curtains to surround the entire barge work area (as opposed to individual silt curtains around each pile) to minimize dispersion of turbidity. In addition, applicant has proposed using controlled extraction of spuds with intermittent halting of extraction to allow sediment to settle back into the Bay floor cavity created by the spud. Although applicant believes that these practices will minimize dissemination of contaminants, some displacement of sediment may occur.</li> <li>We know from the sampling data contained in RWQCP Investigative Order R9-2017-0081 that sediment displaced from jetting and spud extraction may have concentrations of pollutants of concern at levels less than, equal to or greater than concentrations of such pollutants on the sediment surface. In other words, spot concentrations of pollutants on the surface of the sediment may decrease, remain the same or increase but the total concentration of pollutants of concern within the Project area will not change as a result of construction of the Marina Expansion. The actual impact on the Bay floor sediment within the Project area will be as much a function of random chance as predictable cause and effect.</li> <li>A simple calculation of the aggregate area of Bay floor impacted by construction of the Marina Expansion reveals that the impacted area is insignificant compared to the total waterside area of the Project. The following table reflects the calculation of that area:</li> </ol>																																
H-8																																	
H-9	<table border="1"> <thead> <tr> <th colspan="2">Total Area of Impact From Pile Driving and Spud Placement</th> </tr> </thead> <tbody> <tr> <td colspan="2"><b>Piles</b></td> </tr> <tr> <td>Pile size (octagonal)</td> <td>24"</td> </tr> <tr> <td>Area per pile</td> <td>3.31 sf</td> </tr> <tr> <td>Number of marina piles</td> <td>188</td> </tr> <tr> <td>Total area of marina piles</td> <td>623 sf</td> </tr> <tr> <td colspan="2"><b>Spuds</b></td> </tr> <tr> <td>Spud diameter</td> <td>30"</td> </tr> <tr> <td>Area per spud</td> <td>4.91 sf</td> </tr> <tr> <td>Number of spuds on pile driving barge</td> <td>2</td> </tr> <tr> <td>Total number of spud extractions during marina construction (50 barge positions)</td> <td>100</td> </tr> <tr> <td>Total spud coverage, sf</td> <td>982 sf</td> </tr> <tr> <td>Total marina area</td> <td>560,987 sf</td> </tr> <tr> <td>Percent of project area covered by piles</td> <td>0.11%</td> </tr> <tr> <td>Percent of project area covered by spuds</td> <td>0.18%</td> </tr> <tr> <td>Total percent of project area impacted by pile driving and spud retraction</td> <td>0.29%</td> </tr> </tbody> </table> <p>Based on the foregoing table, 1,605 square feet or less than .29% of the total waterside Project area (560,987 sf) will be impacted by displaced sediment.</p> <p>Under California law, "significant effect on the environment" means a substantial, or potentially substantial adverse change in the environment. Cal. Pub. Res. Code §21068. In the context of cumulative</p>	Total Area of Impact From Pile Driving and Spud Placement		<b>Piles</b>		Pile size (octagonal)	24"	Area per pile	3.31 sf	Number of marina piles	188	Total area of marina piles	623 sf	<b>Spuds</b>		Spud diameter	30"	Area per spud	4.91 sf	Number of spuds on pile driving barge	2	Total number of spud extractions during marina construction (50 barge positions)	100	Total spud coverage, sf	982 sf	Total marina area	560,987 sf	Percent of project area covered by piles	0.11%	Percent of project area covered by spuds	0.18%	Total percent of project area impacted by pile driving and spud retraction	0.29%
Total Area of Impact From Pile Driving and Spud Placement																																	
<b>Piles</b>																																	
Pile size (octagonal)	24"																																
Area per pile	3.31 sf																																
Number of marina piles	188																																
Total area of marina piles	623 sf																																
<b>Spuds</b>																																	
Spud diameter	30"																																
Area per spud	4.91 sf																																
Number of spuds on pile driving barge	2																																
Total number of spud extractions during marina construction (50 barge positions)	100																																
Total spud coverage, sf	982 sf																																
Total marina area	560,987 sf																																
Percent of project area covered by piles	0.11%																																
Percent of project area covered by spuds	0.18%																																
Total percent of project area impacted by pile driving and spud retraction	0.29%																																

Finally, the commenter's statement that precedence is created for future projects does not raise an issue under CEQA that requires a response. In general, where there is known contamination, the District would require mitigation for projects (as defined by CEQA) that have the potential to exacerbate the existing condition. No changes to the Final EIR are warranted as a result of this comment.

## Response to Comment H-7

The commenter requests that the Board be aware of several factors when considering the aforementioned issues. Firstly, the comment states that construction of the marina expansion would use jetting in pile installation while spuds would be used to stabilize the barge. The comment also states that the use of spuds could result in subsurface sediment adhering to the spud and being displaced when the spuds are extracted. Secondly, the comment states that the applicant has proposed to use silt curtains around the entire work area, rather than for each individual pile, to minimize dispersion of turbidity and controlled extraction of spuds to allow sediment to settle back into the Bay floor cavity created by the spud. The comment further states that the applicant believes these practices would minimize dissemination of contaminants, but acknowledges that some displacement of sediment may occur.

The use of silt curtains, as suggested by the commenter, is one of the possible BMPs that would be required during the construction of the marina expansion in accordance with the California Water Act Section 401 Water Quality Certification (see Section 4.8, *Hazards and Hazardous Materials*, of the Draft EIR). The commenter indicates that the practices it is proposing to implement would minimize turbidity from jetting and allow sediment to settle back to the Bay floor cavity created by spudding. However, aside from the belief that these steps would minimize turbidity and re-suspension of contaminated sediments, no evidence is provided to support this position. Moreover, the commenter acknowledges that some displacement of sediment may occur. The Draft EIR identifies mitigation measures that attempt to further reduce the potential displacement of sediment, which may include contaminated sediment given the proximity to the Campbell Shipyard and the existing engineered cap. Mitigation measure MM-HAZ-6 requires a pre-construction sampling of sediment in appropriate locations to establish pre-construction conditions and a sampling of sediment in the same locations to identify the post-construction conditions, which in turn will provide the net change of contamination as a result of construction activities. If no significant change



to the pre-construction condition is observed, no further action for hazardous materials is required. If, however, contamination levels have increased, the project proponent is required to remediate the condition until it returns to pre-construction conditions or better. No changes to the Final EIR are warranted as a result of this comment.

### **Response to Comment H-8**

The commenter states the opinion that, based on sampling data contained in Investigative Order R9-2017-0081, spot concentrations of pollutants on the surface of the sediment may decrease, remain the same, or increase but the total concentration of pollutants of concern would not change as a result of the marina expansion construction. The commenter further states the opinion that the actual impact on sediment within the project area would be as much a function of random chance as predictable cause and effect.

Please see responses to H-5, H-6, and H-7. As indicated in those responses, there is known contamination in the project vicinity and construction activities, namely jetting and spudding, have the potential to encounter contaminated sediment. Sediment that is currently below the Bay floor would have the potential to be re-suspended from the exposure caused by jetting and spudding, which may in turn increase pollutant concentrations exposed to the Bay that would no longer be contained under the Bay floor. Mitigation (MM-HAZ-6) is required to establish pre-construction levels and post-construction levels to determine the net change caused by the marina expansion's construction. If contamination levels are above pre-construction levels, remediation is required. No changes to the Final EIR are warranted as a result of this comment.

### **Response to Comment H-9**

The commenter states the opinion that the aggregate area of the Bay floor affected by construction of the marina expansion is insignificant compared to the total waterside area of the project. The commenter provides a table that reflects the calculation of that area and states that, based on the table, 1,605 square feet or less than 0.29% of the total waterside project area (560,987 square feet) would be affected by displaced sediment. The comment cites text from the California Public Resources Code related to significant effects on the environment and the State CEQA Guidelines related to cumulative impacts. The commenter states the opinion that the Board may reasonably determine, based on substantial evidence, and

following the imposition of mitigation measures proposed by the applicant, that pile installation and spud extraction would not have a significant effect on the environment and impacts would not be cumulatively considerable because the total area affected constitutes a *de minimis* portion of the waterside project area. The commenter suggests that the Board balance the region-wide benefits of current and future waterside construction in the Bay against its unavoidable *de minimis* environmental risk. The commenter further suggests that the Board may approve the project with the applicant's recommended mitigation measures by adopting a Statement of Overriding Considerations, if the Board concludes that the economic and other benefits of the project outweigh the unavoidable environmental adverse effects.

Comment H-5 is similar to comment H-9. Please see the response to H-5. The commenter has presented no scientifically supported evidence to suggest that the proposed project would not encounter and then release contamination into the Bay without the mitigation measures identified in the Draft EIR. No changes to the Final EIR are warranted based on this comment.

Additionally, the commenter provides reference to State CEQA Guideline Section 15130(a) and claims that the cumulative impacts of the project are *de minimis* and therefore less than cumulatively considerable. However, the courts have invalidated the use of *de minimis* as a determination of the significance of a project's cumulative contribution (*Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 983). In addition, the courts have rejected the type of "ratio analysis" the comment employs (*Cleveland National Forest Foundation v. San Diego Association of Governments* (2017) 3 Cal.5th 497; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692). No changes to the Final EIR are warranted based on this comment.

The commenter concludes this comment by appealing to the Board to balance the region-wide benefits of the project against the environmental impacts. The commenter references State CEQA Guidelines Section 15093, which provides guidance on preparing a Statement of Overriding Considerations. As this last comment does not raise issue with the environmental analysis contained within the Draft EIR, no response is required. However, this comment has been included in the record for consideration by the Board.

H-9 cont.	<p>impacts, the Guidelines provide that, even though a project's impacts are individually limited, they may be "significant" if the project's cumulative effect is considerable when viewed in connection with the effects of past, current and probable future projects. Guidelines Section 15064(h)(1). Where a lead agency is examining a project with an incremental effect that is not "cumulatively considerable," a lead agency need not consider that effect significant, but shall briefly describe its basis for concluding that the incremental effect is not cumulatively considerable. Guidelines Section 15130(a).</p> <p>Based on the foregoing, we believe that the Board of Port Commissioners may reasonably determine, based on substantial evidence, and following imposition of the mitigation measures proposed by applicant, that pile installation and spud extraction will not have a significant effect on the environment and are not cumulatively considerable because the total area impacted by pile installation and spud extraction constitutes a <i>de minimis</i> portion of the waterside area of the Project.</p> <p>However, due to the similarity of conditions within the Project area and rest of the Bay and the far-reaching effects of imposing burdensome mitigation on the Marina Expansion, we suggest the Board balance the region-wide benefits of current and future waterside construction in San Diego Bay against its unavoidable <i>de minimis</i> environmental risk. If you conclude and that the economic and other benefits of the Project (and future waterside development in the Bay) outweigh the unavoidable environmental adverse effects, you may approve the Project with applicant's recommended mitigation measures by adopting a Statement of Overriding Considerations pursuant to CEQA Guidelines Section 15093.</p>
H-10	<p><b>Section 4.12 / Transportation, Circulation and Parking</b></p> <p>The Port's parking guidelines are nearly two decades old and the movement and transportation decisions of hotel guests have changed dramatically since that time. Visitors today rely less on private or rental cars to arrive at their destinations. But because the Port has not taken the time to update its parking guidelines, all Port tenants and the Project are being held to an outdated standard. The Port should use a modern parking standard and then craft the appropriate mitigation requirements. For example, the City of San Diego uses a ratio of .3 parking space per key for hotels.</p>
H-11	<p><b>Chapter 7 / Alternatives to the Proposed Project</b></p> <p>The EIR compares the visual impacts if the SDCCC Expansion to the FAL hotel and but fails to take into consideration its large bulk and scale. FAL project provides a much more visually appealing project than the Expansion project with substantially reduced aesthetic impacts. In its staff recommendation regarding SDUPD Master Plan Amendment No. 6-PSD-MAJ-45-13, dated September 27, 2013, pages 2-3, Coastal Commission staff highlighted the negative impacts of the SDCC Phase 3 Expansion:</p> <p><i>"The proposed PMPA will result in significant impacts to views, visual quality and coastal recreation through the substantial loss of already limited waterfront area and open space. Specifically, constructing the 100-foot high, 1,000 foot long expanded SDCC building only 35 feet from the existing public promenade, 70 feet from the water's edge, will significantly diminish the spacious, open feel of the existing public accessway, and will contribute to the sense that the shoreline is part of the Convention Center. Construction of a building of this size and width so close to the waterfront would be unprecedented in San Diego County, because setting back buildings a reasonable distance from the shoreline ensures that the public will have both visual and physical access to the waterfront. The SDCC expansion also will eliminate the 1.6 acre landscaped open space and public area located adjacent to Harbor Drive while were provided to mitigate the first expansion of the SDCC, and the existing 5.5 acre ground level waterfront grassy park, which was created in part to help offset the impacts to public access and recreation resulting from construction of the existing Hilton and (unbuilt) Spinnaker projects. The waterfront park is one of the few grassy waterfront park areas in downtown San Diego, along with the South Embarcadero Marina Park, which is already cut off downtown. These areas are used by the public for passive recreation such as picnicking and observing the Bay, as well as for events that draw the public down to the waterfront. The project</i></p>

## Response to Comment H-10

The comment states that the District's parking guidelines are nearly two decades old and that hotel guests' transportation decisions have changed over this time span. The commenter states the opinion that visitors rely less on private or rental cars and, as a result, all District tenants and the project are being held to an outdated standard. The comment suggests that the District use a modern parking standard such as the City's ratio of 0.3 parking space per hotel key and then craft the appropriate mitigation requirements.

The commenter is taking issue with the District's existing parking guidelines and provides an opinion about the guidelines' current applicability to existing transportation behaviors. The District is required to evaluate parking requirements based on the adopted parking standards. Until the parking standards undergo an update, the current parking requirements will remain the basis for evaluating sufficient parking for development projects located on District Tidelands. In addition, the current parking standards provide specific standards for adjusting the number of required spaces, which take into account a variety of site-specific characteristics, including proximity to transit, access to the airport, shared parking potential, employee trip reduction programs, and dedicated airport shuttle and water transportation service (Tidelands Parking Guidelines, Table 2). No changes to the Final EIR are warranted based on this comment; however, this comment is included in the record for consideration by the Board.

## Response to Comment H-11

The comment states that the EIR compares the visual impacts of the SDCC Expansion to the Fifth Avenue Landing hotel but fails to take into consideration its large bulk and scale. The commenter states the opinion that the Fifth Avenue Landing project provides a more visually appealing project than the SDCC Expansion project, with substantially reduced aesthetics impacts. The comment cites text from pages 2 and 3 of the California Coastal Commission staff report for the SDCC Phase 3 Expansion related to the aesthetics impacts of that project. The commenter states that it views Coastal Commission Staff's comments as a complete summary of the reasons why the SDCC Phase 3 Expansion is an inappropriate bayfront use. The commenter states the opinion that Chapter 7, *Alternatives to the Proposed Project*, of the Draft EIR fails to adequately

compare the aesthetic impacts of the project versus the Phase 3 Expansion. The commenter states that a project proponent-supplied side-by-side analysis of several key observation points taken from the Draft EIR and the *San Diego Convention Center Phase III Expansion and Expansion Hotel Project and Port Master Plan Amendment Final Environmental Impact Report* is attached for the District's consideration.

The commenter's opinion that the SDCC expansion is an inappropriate bayfront use is contrary to the findings of the District in approving a PMPA for the SDCC Phase III Expansion Project; to the findings of the CCC, which certified the PMPA as being in conformance with the policies of the California Coastal Act; and to the judgment entered by the San Diego Superior Court in favor of the CCC and the District in a lawsuit challenging the CCC's certification of the PMPA (see *San Diego Navy Broadway Complex Coalition v. California Coastal Commission*, San Diego Superior Court Consolidated Cases Nos. 37-2013-00077213 and 37-2014-00006987). The CCC staff's comments referenced by the commenter did not address the modifications to the PMPA proposed by the District and approved by the CCC, which provide substantial additional improvements to public access and public views in the expansion area and were determined by the CCC to adequately address the staff's concerns. The issues raised by the commenter regarding the impact of the Phase III Expansion on public access and public views also were the subject of an unsuccessful appeal of the judgment in favor of the CCC and the District in the lawsuit concerning the PMPA for the Phase III Expansion (Court of Appeal, Fourth Appellate District, Division One, Case No. D072568). The commenter's opinion that the comparison of the aesthetics impacts of the project with the aesthetic impacts of the SDCC Phase III Expansion does raise a comment about the Draft EIR analysis and therefore the following response is provided.

The comment is in reference to the alternatives analysis for Alternative 2 – No Project/Port Master Plan Consistency Alternative. Under this alternative, the SDCC Phase III Expansion and Expansion Hotel would be constructed as entitled in the current PMP. The proposed Expansion Hotel would occur outside of the proposed project area and, therefore, the focus of this alternative is the portion of the SDCC Phase III Expansion that would occur within the project site. This analysis assumes that the City either obtains property rights to the site or constructs the expansion after the expiration of the Amended, Restated and Combined Lease term. Under the current PMP, the SDCC Phase III Expansion includes the expansion of the existing SDCC that would add approximately 220,150 square feet of exhibit hall space, approximately 101,500 square feet of meeting rooms,

H-11  
cont.

*includes construction of a 5 acre rooftop park, but the park would not be visible from any surrounding inland streets, and it is unlikely that people would even be aware of the existence of the park, let alone be willing to travel around and up to the top of the SDCC to stroll and recreate. The current SDCC has terraces and tables located on the waterside of the building which go used and unnoticed by the public, because they appear to be private amenities of the SDCC and it is likely that the proposed rooftop park would be similarly vacant, except for private functions held by the SDCC and the Hilton.*

*Furthermore, the SDCC and Hilton expansions will significantly reduce the view corridor between the two existing structures. This area is currently approximately 370 feet to 550 feet wide, and is one of the few windows to the water in the solid mass of buildings along almost the entire length of Harbor Drive. The proposed expansion will reduce the distance between the buildings to approximately 270 feet, creating a tunnel effect and significantly reducing views, particularly from the pedestrian bridge spanning Harbor Drive at Park Boulevard.*

*Since the first Convention Center expansion was approved, Park Boulevard/Convention Center Way has been the only vehicular access to the public park at Embarcadero Marina Park South. In many ways, Park Boulevard/Convention Center Way currently functions mainly as back-of-house access to the SDCC. As proposed, Park Boulevard would be redesigned to provide valet parking to the SDCC, and operate as the main accessway to the Hilton. Only a narrow road behind the SDCC would remain for Embarcadero Marina Park access. By narrowing the corridor between the structures even further, and expanding the SDCC next to the water, the project would further isolate this major coastal recreational resource, essentially transforming it into a private amenity for SDCC visitors."*

We view Coastal Commission Staff's comments as a complete summary of the reasons why the SDCC Phase 3 Expansion is an inappropriate bayfront use.

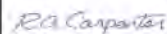
We also believe the Alternatives Section of the DEIR fails to adequately compare the aesthetic impacts of the Project versus the Phase 3 Expansion. To address this issue, the applicant commissioned Gensler, the Project architect, to do a side-by-side analysis of several of the key observation points ("KOPs") taken from the DEIR and from the *San Diego Convention Center Phase III Expansion and Expansion Hotel Project and Port Master Plan Amendment Final Environmental Impact Report*. That analysis is attached.

Thank you for the opportunity to address these issues. Please contact the undersigned or any member of the Project team if you have questions or need additional information.

H-12

Sincerely,

Fifth Avenue Landing, LLC



R.A. Carpenter  
Member

Attachment: Gensler / Comparison of Key  
Observation Points; FAL Hotel  
Project vs. SDCC Phase III Expansion

and approximately 78,470 square feet of ballroom space to the existing facility. Public amenities include a 5-acre rooftop park/plaza. It would be accessible to the public with lighted paths, seating areas, an open lawn/performance area, and several observation vistas. Spaces on the rooftop park/plaza would range from grand areas where events can take place to more intimate, contemplative areas. This alternative would not involve any in-water work.

As stated in Chapter 7 of the Draft EIR, development occurring under Alternative 2 would result in a substantially lower structure than what would occur under the proposed project and would involve implementation of an elevated 5-acre public park/plaza that would include the introduction of five new public vista areas to the project site. The Final EIR for the SDCC Phase III Expansion did not identify any significant and unavoidable aesthetic impacts. As such, development of the SDCC Phase III Expansion would not result in impacts on designated vista areas and scenic resources.

This less-than-significant impact determination of the SDCC Phase III Expansion is contrasted with the significant and unavoidable aesthetic impact identified with the proposed project's implementation. Specifically, the introduction of a high-rise market-rate hotel tower within the viewshed of vista areas at the SDCC's existing plaza and grand staircase would block or substantially obstruct existing expansive and uninterrupted views of the San Diego Bay, including views of the San Diego-Coronado Bay Bridge. Mitigation measures would reduce impacts on the views from the SDCC rooftop plaza, but not to less-than-significant levels. The aesthetic impact would remain significant and unavoidable.

Therefore, because no significant and unavoidable impacts were identified with the SDCC Phase III Expansion, but were identified with the proposed project, aesthetics impacts associated with the proposed project are considered more severe than the aesthetic impacts of the SDCC Phase III Expansion. No changes to the Final EIR are warranted based on this comment.

## Response to Comment H-12

This comment concludes the comment letter and provides a contact name and information.

The District appreciates FAL's interest in the proposed project. This comment does not raise any issues requiring a response pursuant to CEQA.



## Table of Contents

PURPOSE AND OVERVIEW	3
Discussion points	
VIEWSHED COMPARISON	4
Key Observation Points map	6
View comparison images	
SITE LOCATION AND IMPACT	26
Site overview	28
Roof plan	
ROOFTOP OPEN SPACE EXPERIENCE	32
Perspective views	
WATERFRONT ACTIVATION	40
Ground level plan	42
Activation diagram	44
Proposed activities	
VOLUMETRIC ANALYSIS	48
Volume and mass diagram	



2

Gensler

Fifth Avenue Landing Hotel and Marina / San Diego, CA / 01-29-2018 / 55,7553,000



### ***Purpose and Overview***

This study compares the proposed Fifth Avenue Landing (FAL) and San Diego Convention Center Expansion (SDCC) projects and their environmental impact to:

- Viewsheds and sightlines
- Site and surroundings
- Publicly accessible open space
- Quality of waterfront access and activation



Fifth Avenue Landing Hotel and Marina / San Diego, CA / 01-29-2018 / 55.7553.000

3





**Key Observation Points (KOP) Location Map**

4

Fifth Avenue Landing Hotel and Marina / San Diego, CA / 01-29-2018 / 55,7553,000

## Viewshed Comparison

The following viewshed studies render the proposed Fifth Ave Landing (FAL) project from the same key observation points (KOP) as included within the San Diego Convention Center Expansion (SDCC) EIR. Comparisons of the visual impact of the proposed SDCC Expansion and Fifth Ave Landing visual studies are shown opposite leaf for the following KOP:

### KOP 1: Coronado Bayfront Viewshed

Proposed SDCC Expansion obstructs views of Petco Park, East Village and distant landscape topography. Proposed SDCC Expansion and FAL projects screen unsightly existing Convention Center service areas. The FAL proposal preserves East Village views.

### KOP 2: Embarcadero Marina Park South Viewshed

Proposed SDCC Expansion and FAL projects screen unsightly existing Convention Center service areas. The SDCC proposal completely obstructs views of East Village whereas the FAL proposal preserves East Village views.

### KOP 3: Bayfront Promenade Viewshed

Proposed SDCC Expansion fronts the Promenade with activated retail within an imposing 80'-110' H non-pedestrian scaled street wall with grand ramp ascending to an elevated rooftop open space. Whereas the FAL proposal fronts the Promenade with multiple buildings with varied pedestrian-scaled street walls, public staircase access to an elevated rooftop plaza and varied uses including: activating retail, water transportation center, hotel lobby and lounge, hotel conference lobby, low-cost visitor lodging food & beverage retail, as well as public parking access. The FAL tower bridges the Promenade with a 40'H celebrational arched gateway to the Central Embarcadero.

### KOP 4: Harbor Drive Viewshed

Proposed SDCC Expansion introduces a new pedestrian bridge over Harbor Drive obstructing the sculptural mast of the Harbor Drive Pedestrian Bridge at Park Blvd; whereas the FAL proposal has no view shed impact on Harbor Drive.

### KOP 5: Downtown San Diego Viewshed (Park Blvd & Tony Gwynn)

Proposed SDCC Expansion narrows the view shed of the San Diego Bay from Park and Tony Gwynn Blvd; whereas the FAL proposal has no view shed impact.

### KOP 6: Harbor Drive Pedestrian Bridge (middle of bridge)

Proposed SDCC Expansion narrows the view shed of the San Diego Bay and Coronado Island beyond; whereas the FAL proposal has no view shed impact.

### KOP 7: Harbor Drive Pedestrian Bridge (top of stairs)

Proposed SDCC Expansion narrows the view shed of the San Diego Bay and Coronado Island beyond; whereas the FAL proposal has no view shed impact.

### KOP 8: Petco Park Viewshed

Proposed SDCC Expansion narrows the view shed of the San Diego Bay and Coronado Island beyond; whereas the FAL proposal has no view shed impact.

### KOP 9: Downtown San Diego Viewshed (Park Blvd & 10th Ave)

Proposed SDCC Expansion introduces a new hotel tower which has little impact to the view shed; whereas the FAL proposal has no view shed impact.



Fifth Avenue Landing, Hotel and Marina / San Diego, CA / 01-29-2018 / 55,7553,000

Gensler 5



***KOP 1: Coronado Bayfront Viewshed***

6 ICF

San Diego Convention Center Expansion



 **THE ROBERT GREEN COMPANY**  
 **Gensler**

Fifth Avenue Landing Hotel and Marina / San Diego, CA / 01-29-2018 / 55.7553.000 7





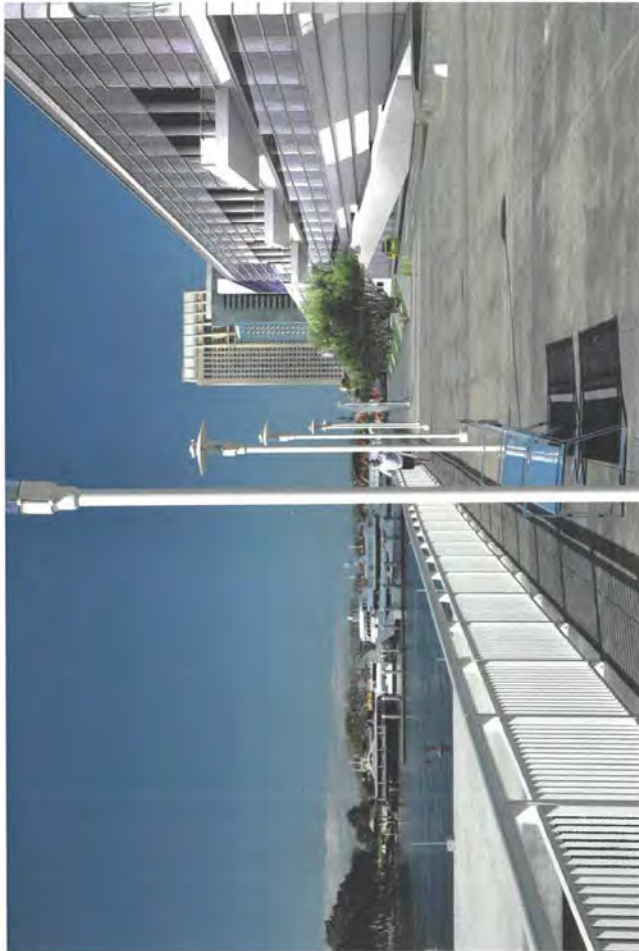
***KOP 2: Embarcadero Marina Park South Viewshed***

8 **ICF**

San Diego Convention Center Expansion



Fifth Avenue Landing Hotel and Marina / San Diego, CA / 01-29-2018 / 55.7553.000  
THE ROBERT GREEN COMPANY  
Gensler 9




***KOP 3: Bayfront Promenade Viewshed***

10 ICF

San Diego Convention Center Expansion



 **THE ROBERT GREEN COMPANY**  
Fifth Avenue Landing Hotel and Marina / San Diego, CA / 01-29-2018 / 55,7553,000  
**Gensler** 11





***KOP 4: Harbor Drive Viewshed***

12 **ICF**

San Diego Convention Center Expansion



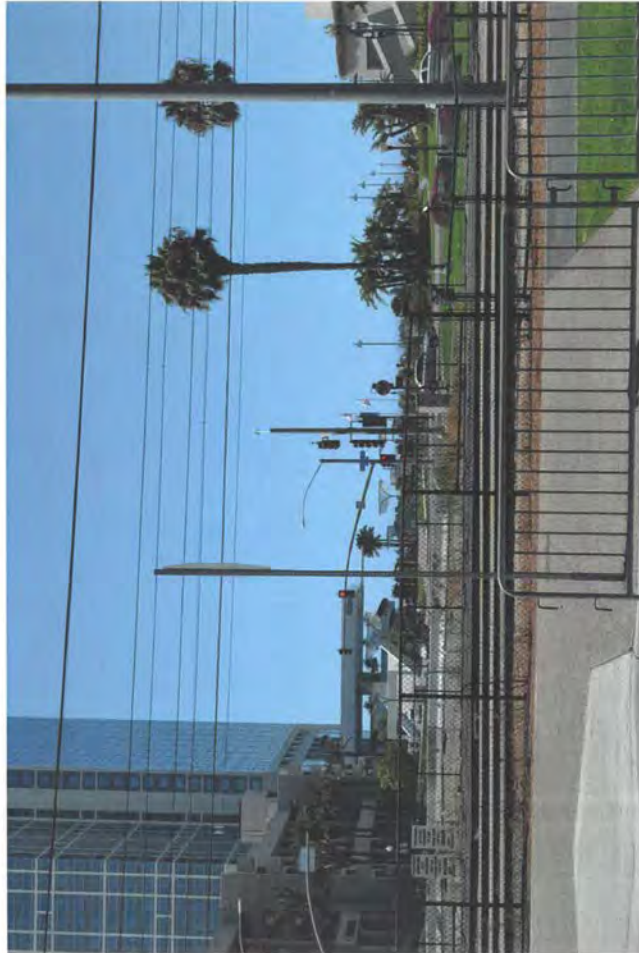
 THE ROBERT GREEN COMPANY  
Fifth Avenue Landing Hotel and Marina / San Diego, CA / 01-29-2018 / 55.7553.000  
**Gensler** 13



**KOP 5: Downtown San Diego Viewshed (Park Blvd & Tony Gwynn Dr)**

14 ICF

San Diego Convention Center Expansion



 **ROBERT GREEN**  
COMPANY  
Fifth Avenue Landing Hotel and Marina / San Diego, CA / 01-29-2018 / 55,7553,000  
**Gensler** 15




**KOP 6: Harbor Drive Pedestrian Bridge Viewshed (middle of bridge)**

16 ICF

San Diego Convention Center Expansion





 **THE ROBERT GREEN COMPANY**  
Fifth Avenue Landing Hotel and Marina / San Diego, CA / 01-29-2018 / 55.7553.000 **Gensler** 17



**KOP 7: Harbor Drive Pedestrian Bridge Viewshed (top of stairs)**

18 **ICF**

San Diego Convention Center Expansion



Fifth Avenue Landing Hotel and Marina / San Diego, CA / 01-29-2018 / 55,7553,000

19





***KOP 8: PETCO Park Viewshed***

20 ICF

San Diego Convention Center Expansion



Fifth Avenue Landing Hotel and Marina / San Diego, CA / 01-29-2018 / 55,7553,000

21




**KOP 9: Downtown San Diego Viewshed (Park Blvd & 10th Ave)**

22 **ICF**

San Diego Convention Center Expansion



 **THE ROBERT GREEN COMPANY**  
Fifth Avenue Landing Hotel and Marina / San Diego, CA / 01-29-2018 / 55,7553,000 **Gensler** 23



### Site Impact

The following site plans and diagrams for the proposed SDCC Expansion and Fifth Avenue Landing projects provide a comparison between each project:

- Proposed location on the site in relation to the existing Convention Center
- Proposed footprint
- Proximity to the waterfront
- Proposed pedestrian access points from the Promenade



Fifth Avenue Landing Hotel and Marina / San Diego, CA / 01-29-2018 / 55,7553.000

Gensler 25















## Rooftop Open Space

The following perspectives for the proposed SDCC Expansion and Fifth Avenue Landing projects provide a comparison of the proposed rooftop open space quality, accessibility and experience.

- Both the SDCC Expansion and the FAL projects propose activated rooftop open space with walkways, hardscape plazas, turf lawn areas, trellis shade structures, and landscape planting. The SDCC Expansion proposes a continuously sloping open space which will significantly limit practicality and use; whereas the FAL proposal includes expansive level plazas and lawns with multiple public access points inviting leisure, activity and events.
- The SDCC Expansion proposes an open space elevated at 80'-110' H over the Promenade connected to the waterfront via a long switchback ramp with passenger elevator; whereas FAL proposes an open space elevated at 42' H over the Promenade connected to the waterfront via a terraced grand staircase, two additional staircases, and passenger elevator.

- The SDCC Expansion rooftop open space continuously ascends via a series of switchback ramps from the Promenade to a 110' H dead-end rooftop viewing terrace. Whereas the FAL rooftop plaza with waterfront access provided by three staircases located at the mid-section, east and west terminuses - significantly improves public access and public safety.

- The SDCC Expansion and the FAL proposals propose connection to the existing 42' H Convention Center rooftop plaza and Convention grand staircase and Inclinitor. SDCC Expansion proposes a continuous addition and FAL proposes an optional pedestrian bridge over Convention Way.



Fifth Avenue Landing Hotel and Marina / San Diego, CA / 01-29-2018 / 55.7553.000

Gensler 31



View of SDCC Expansion elevated high above the Promenade with limited pedestrian access connection to the waterfront.

***Rooftop Park Comparison: Perspective***

32 **ICF**

San Diego Convention Center Expansion





View of FAL rooftop plaza with hardscape, turfed lawns and linear walkways supporting multiple uses and activities.



Fifth Avenue Landing Hotel and Marina / San Diego, CA / 01-29-2018 / 55,7553,000

33



View of SDCC Expansion continuously sloping rooftop open space presents functional and physical challenges for flexible use for events, social gatherings and recreation.

***Rooftop Park Comparison: Perspective***

34 ICF

San Diego Convention Center Expansion



View of FAL rooftop plaza with connecting centralized grand terraced staircase to Promenade below. Rooftop terracing provides activity zones separating recreational circulation, terraced stoops for views/observation and lawn areas for social activity and events.



Fifth Avenue Landing Hotel and Marina / San Diego, CA / 01-29-2018 / 55,7553,000

Gensler 35



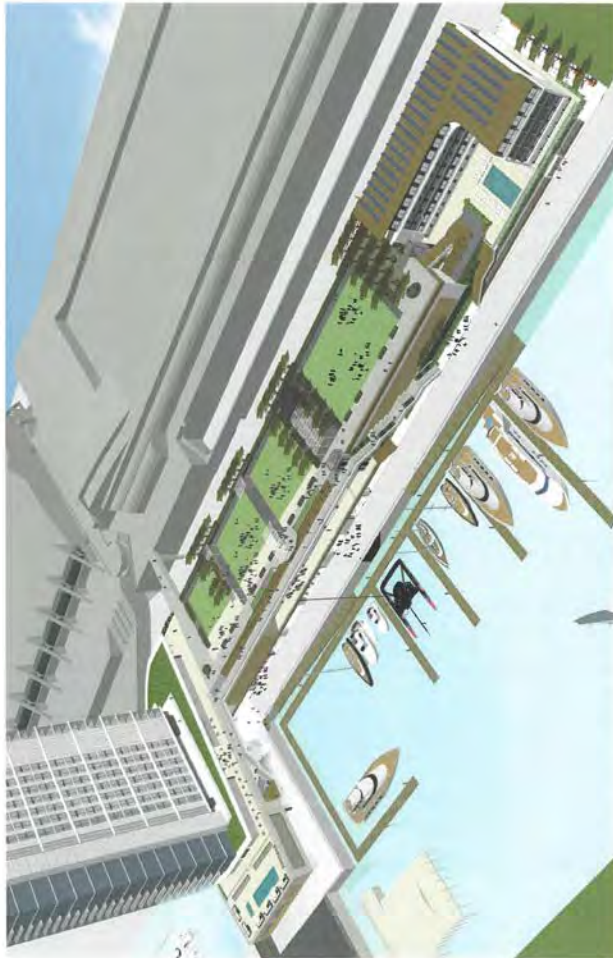


View of SDCC Expansion continuously sloping rooftop open space with grand switchback pedestrian ramp connecting from the Promenade to dead-end rooftop viewing terrace at 110' H.

***Rooftop Park Comparison: Perspective***

36 ICF

San Diego Convention Center Expansion



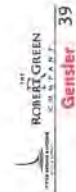
View of FAL rooftop plaza with connecting centralized grand terraced staircase and East and West staircases to Promenade.



## Waterfront Access and Activation

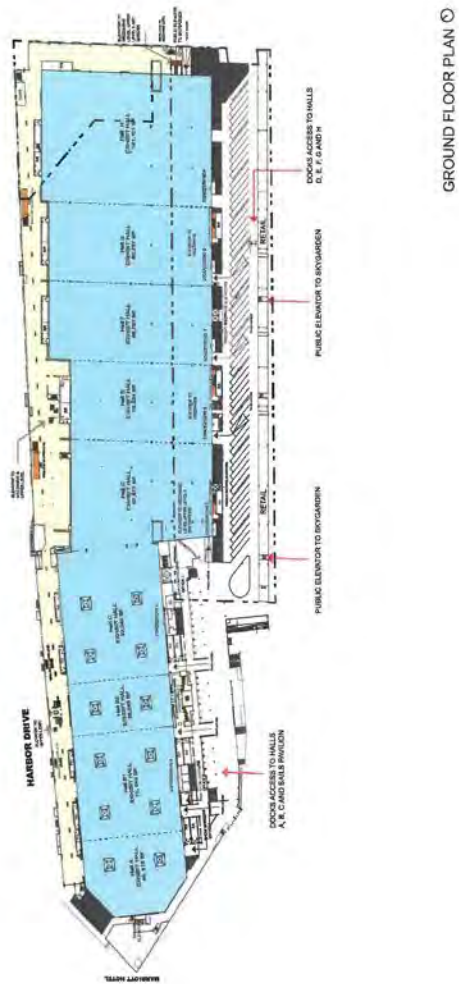
The following site plans, activation diagram and proposed waterside activities for the proposed SDCC Expansion and Fifth Ave Landing projects provide a comparison of the proposed waterfront Promenade quality, access and experience.

- Proposed SDCC Expansion fronts the Promenade with shallow depth activated retail; whereas the FAL proposal fronts the Promenade with a variety of mixed-uses including: activating retail, water transportation center, hotel lobby and lounge, hotel conference lobby, low-cost visitor lodging food & beverage retail, as well as public parking access.
- Proposed SDCC Expansion proposes a 80' - 110'H non-pedestrian scaled street wall adjacent to the Promenade; whereas the FAL proposal includes varied scale buildings with a 20' - 42'H street wall.
- Proposed SDCC Expansion proposes a grand scale switchback ramp ascending from the Promenade to the rooftop open space; whereas FAL proposes a centralized monumental terraced staircase and two additional east and west staircases with passenger elevator service.
- Proposed FAL waterfront activation include:
  - › water transportation center with water taxi and ferry service
  - › waterfront activating retail and food & beverage
  - › waterfront public art installations and interactive digital displays
  - › viewing and observation terraces, points with binoculars
  - › linear recreation walkways for walking, running and cycling
  - › open space and turfed lawn areas for respite and recreation
  - › hardscape plazas for events and social gatherings
  - › waterside mobile board games
  - › waterfront access and educational signage



Fifth Avenue Landing Hotel and Marina / San Diego, CA / 01-29-2018 / 55,7553,000

Gensler 39



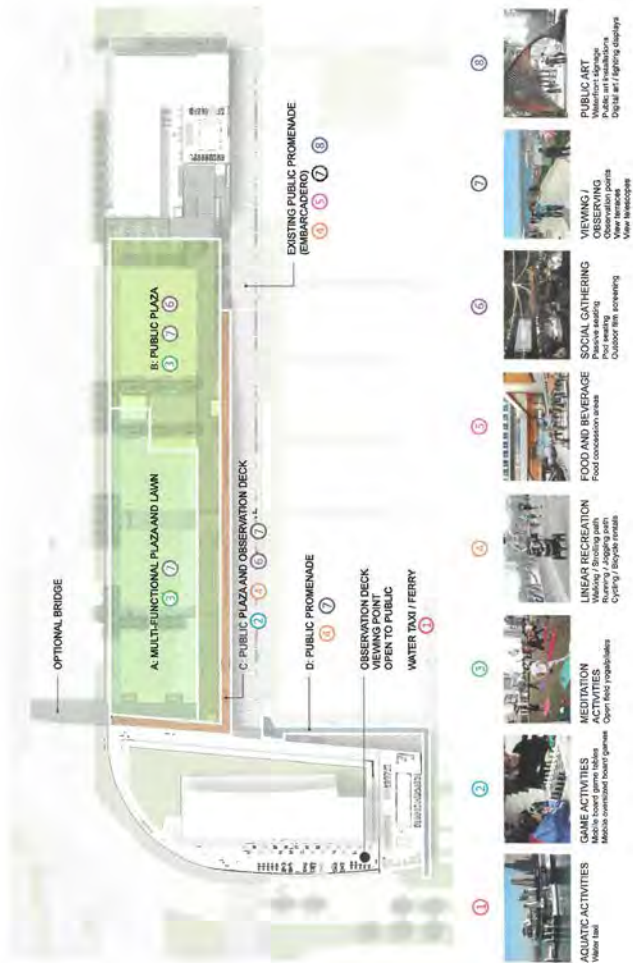
## Public Park and Waterfront Access and Activation Comparison

40 ICF

San Diego Convention Center Expansion







## Activation Diagram

42

Fifth Avenue Landing Hotel and Marina / San Diego, CA / 01-29-2018 / 55.7553.000

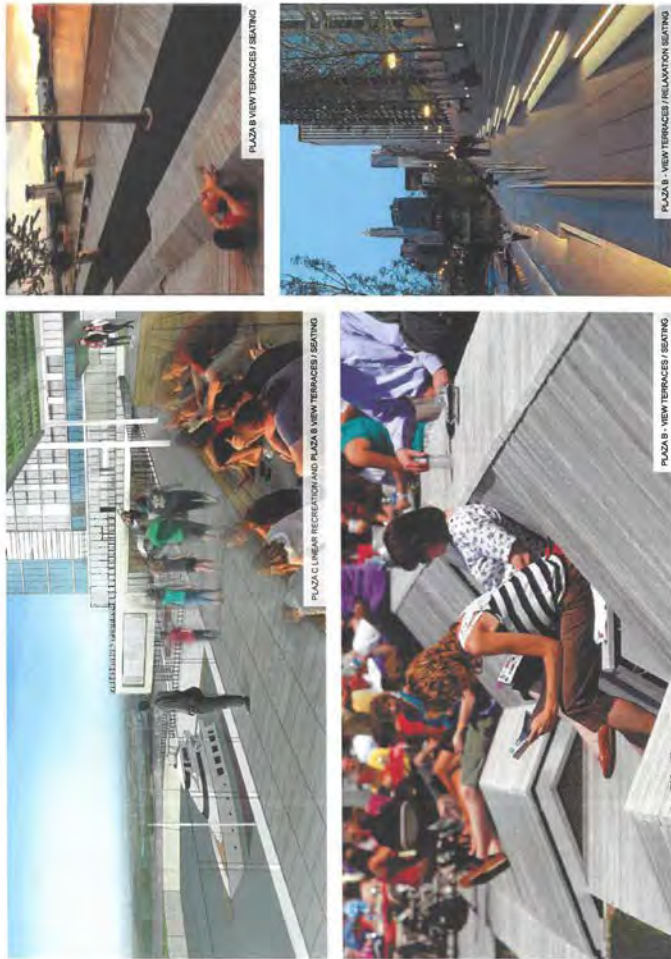
			
<b>AQUATIC ACTIVITIES</b> Water Ski	<b>GAME ACTIVITIES</b> Mobile board game tables Mobile oversized board games	<b>MEDITATION ACTIVITIES</b> Open field yoga-pilates	<b>LINEAR RECREATION</b> Walking / Strolling path Running / Jogging path Cycling / Bicyclist rentals
			
<b>FOOD AND BEVERAGE</b> Food commercial event	<b>SOCIAL GATHERING</b> Picnic / Food sharing Outdoor film screening	<b>VIEWING / OBSERVING</b> Observation deck / View points View telescopes	<b>PUBLIC ART</b> Viewpoint signage Public art installations



**43**

Fifth Avenue Landing Hotel and Marina / San Diego, CA / 01-29-2018 / 55,7553,000





## Proposed Plaza and Park Activities

44

Fifth Avenue Landing Hotel and Marina / San Diego, CA / 01-29-2018 / 55.7553.000



Fifth Avenue Landing Hotel and Marina / San Diego, CA / 01-29-2018 / 55,7553,000



### ***Volumetric Comparison***

The following diagrams show the relative volume and dimensions of the proposed SDCC Expansion and FAL projects.

The FAL proposal is less than half the volume of the SDCC Expansion.

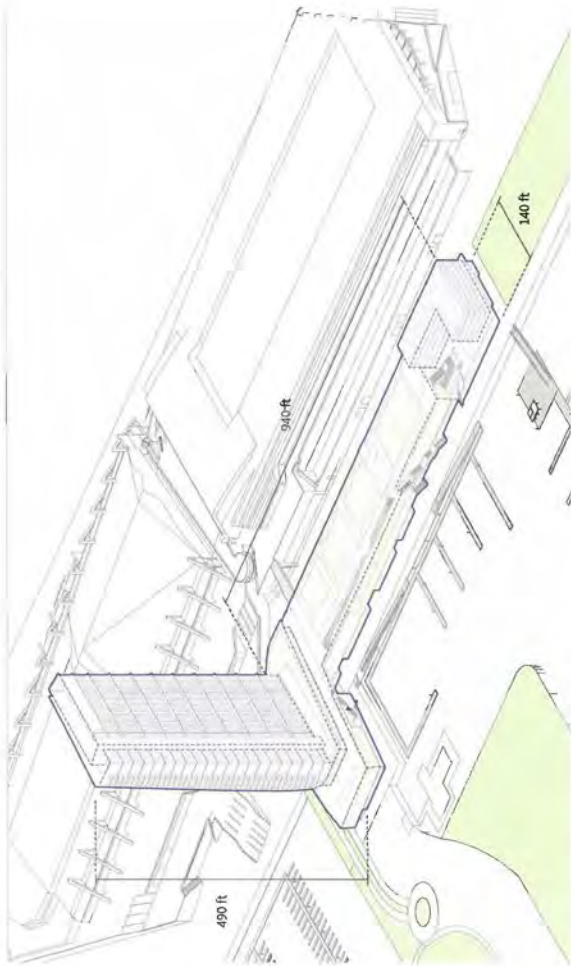


Volume: ~25, 600, 330 ft<sup>3</sup>

### Volumetric Comparison

48 ICF

San Diego Convention Center Expansion

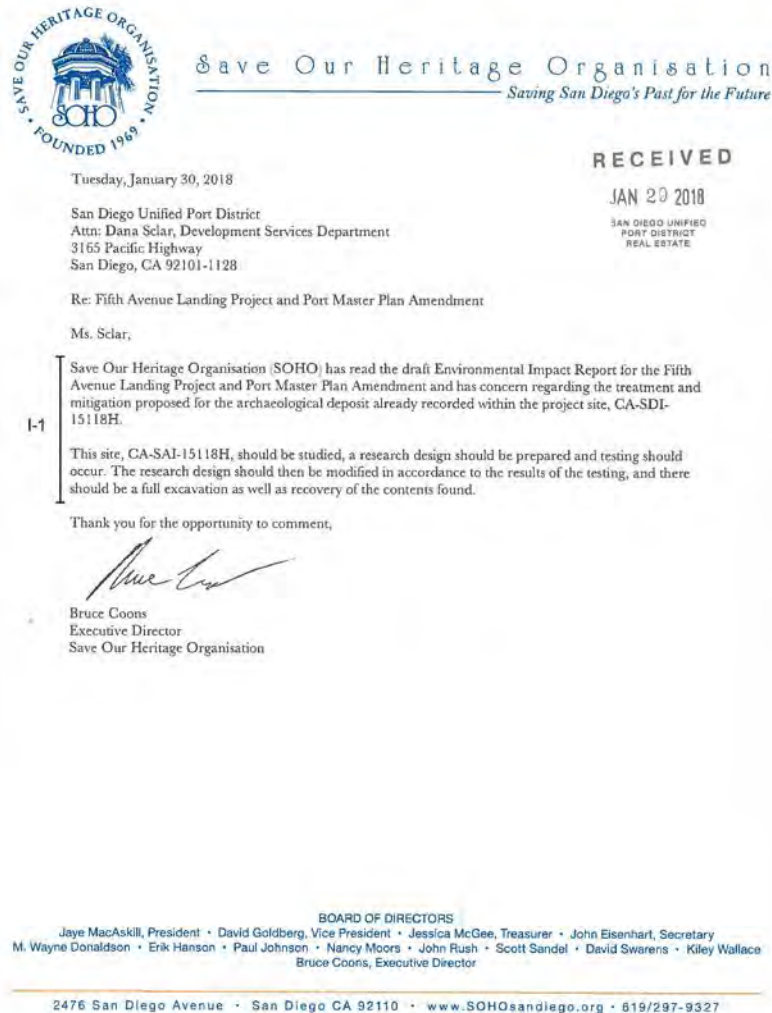


Volume: 12, 275, 250 ft<sup>3</sup>



### 6.3.10 Comment Letter I: Save Our Heritage Organisation (SOHO)

Comment Letter I



#### Response to Comment I-1

The comment indicates that SOHO has reviewed the Draft EIR and has concern regarding the treatment and mitigation proposed for archaeological deposit CA-SDI-15118H. The comment states that the site (CA-SAI-15118H) should be studied, a research design should be prepared, and testing should occur. The comment further states that the research design should then be modified in accordance with the results of the testing, and that there should be a full excavation and recovery of the contents found. The comment concludes by providing a contact name.

As stated in Section 4.4, *Cultural Resources*, CA-SDI-15118H is a large historic era trash dump located in the former tidelands that existed all along the edge of San Diego Bay in the vicinity of the project area. Monitoring conducted as part of the SDCC Phase I and Phase II construction concluded that the site was not significant, but subsequent monitoring for the Hilton San Diego Bayfront Hotel and associated parking structure concluded the site was significant (Pierson 2006). Due to the potential that portions of CA-SDI-15118H could be unearthed during excavation undertaken as part of proposed construction activities in this area, the Draft EIR included MM-CUL-1 that requires archaeological monitoring in areas of sensitivity.

ICF's project archaeologists, Karen Crawford (22 years of professional experience, MA in Anthropology) and Patrick McGinnis (22 years of professional experience, MA in Archaeology and Heritage) determined after reviewing all available records and conducting archival research that it is unlikely that any of the refuse discovered would be considered significant for the purposes of CEQA because the refuse is out of context, having been produced elsewhere, and then brought to the tidelands and dumped. There may be interesting materials and individual items of merit, though such materials or items would likely not allow for the types of analyses typically performed on historical archaeological collections. Most of the material would likely not be directly associated with specific homes or businesses, so there would be no way to look at population consumption patterns or consumer buying behavior, nor would it be able to address questions of ethnicity, age, or any other demographic factors. Therefore, archaeological testing through discrete and controlled excavation will not provide further contextual data that could provide information beyond the collection of diagnostic artifacts that would be

part of the monitoring program. Monitoring of construction and collection of diagnostic artifacts for further analysis or public display is adequate mitigation for any impacts that occur on this resource. As such, no changes to the Final EIR are required as a result of this comment.



### 6.3.11 Comment Letter J: San Diego Convention Center Corporation

Comment Letter J



RECEIVED

JAN 30 2018

SAN DIEGO UNIFIED  
PORT DISTRICT  
REAL ESTATE

January 30, 2018

San Diego Unified Port District  
Development-Development Services  
3165 Pacific Highway  
San Diego, California 92101

Submitted via USPS and email to: Dana Sclar: dsclar@portofsandiego.org

Subject: San Diego Convention Center comments on the Notice of Availability  
on the Draft Environmental Impact Report for the Fifth Avenue  
Landing Project and Port Master Plan Amendment Project.

(UPD #EIR-2016-06; SCH #2016081053)

J-1

The San Diego Convention Center Corporation (Corporation) has received and reviewed the Notice of Availability (NOA) for the Fifth Avenue Landing Project and Port Master Plan Amendment Project and appreciates this opportunity to provide comments to the Port of San Diego (Port). In response to the NOA, the Corporation has identified potential issues that may result in a significant impact to the operations of the San Diego Convention Center (SDCC).

SDCC has reviewed the NOA and have the following comments:

J-2

1. We commented in September of 2016 that a transportation study should be conducted to evaluate the project's impacts and to identify any potential impediments to the successful delivery of freight and equipment for trade shows, conventions, corporate events and special events at SDCC. Our position remains and we recommend that a transportation study be conducted. The roadway that would service this new property (Convention Way) provides the only ingress and egress to many of the docks that serve the SDCC. Specifically impacted are the docks that serve Exhibit Halls A, B and C. Additionally, it also impedes the exit requirements for the docks used to support Exhibit Halls D, E, F, G and H. See appendix A for pictures of this area.

#### Response to Comment J-1

This comment is an introductory comment indicating that the SDCCC has received and reviewed the Notice of Availability and makes a general statement that the SDCCC has identified potential issues that may result in a significant impact on SDCC operations. The commenter indicates that its specific comments follow.

The District appreciates SDCCC's interest in the proposed project. This comment does not raise any issues requiring a response pursuant to CEQA. The specific comments that follow this introduction are listed separately below along with the District's individual responses.

#### Response to Comment J-2

The comment restates comments that were previously provided by the commenter in September 2016 regarding the preparation of a transportation study that evaluates the project's impacts and identifies any potential impediments to successful delivery of freight and equipment to SDCC. The commenter recommends that a transportation study should still be conducted. The commenter states the opinion that the proposed project would affect docks that serve Exhibit Halls A, B, and C, and would impede the exit requirements for docks used to support Exhibit Halls D, E, F, G, and H. The commenter provides pictures of this area. The comment also describes the process for coordinating freight deliveries to SDCC and the potential economic impacts of decreased activity at SDCC from limited ingress and egress at Convention Way.

The proposed project is located on a separate leasehold from SDCC and is separated by Convention Way. Other than offsite utility improvements and a portion of the optional connecting pedestrian bridge, all of the proposed improvements would occur entirely within boundaries of the Fifth Avenue Landing leasehold. Additionally, the project does not propose any physical modifications to Convention Way that could affect ingress and egress to SDCC or the project site and would not preclude access to public ROW. Specifically, Convention Way would remain open and access to the SDCC loading docks would continue. The Transportation Impact Analysis (Appendix K-1 of the Draft EIR) determined that the intersection of Harbor Drive/Convention Way/Park Boulevard, which provides access to the project site and the SDCC loading docks, would operate at acceptable

San Diego Unified Port District  
January 30, 2018  
Page 2

J-2  
cont.

Customers and their contractors use these docks to bring in the millions of pounds of freight that become exhibits, audio-visual sets, decorations and products to be displayed at their event. The tractor/trailers are marshalled 12 miles away in a yard we lease, located in Chula Vista, as part of our EIR. This takes precise coordination to allay any major congestion and to prevent idling of the tractors per the EIR requirements we are committed to adhering to. Any alteration to this roadway must be coordinated with the SDCC, or else the conventions, trade shows, corporate events, and consumer shows would be severely impacted. This impact could also decrease the events held in SDCC annually; the more than 862,400 in annual attendance would go down correspondently, the direct spending of over \$724 million, and the over \$1.1 billion in regional impact would similarly decrease. This, in turn, could create a substantial decrease in hotel and sales tax revenue.

The hotel specific revenue, transient occupancy tax revenue, and sales tax revenue generated by the SDCC significantly contributes to the fiscal health of the Port of San Diego and the City of San Diego. The activity at the SDCC is expected to generate \$27.5 million in taxes during 2018. Return on investment is in danger of decreasing significantly if we erode the activity at the SDCC due to limited ingress and egress.

2. The SDCC presented access and safety concerns during the former comment period as well. Pedestrian access and safety is an everyday consideration at SDCC. The design of the plaza areas and the approaches to the project must take into consideration the more than 862,400 guests coming to the SDCC annually. Although every visitor to the convention center is a potential pedestrian, over 500,000 of our guests are from out of town. They take shuttles, taxis, Uber and Lyft to the SDCC. They then tend to explore the waterfront and the Gaslamp District and walk to the more than 137 restaurants in the downtown area.

J-3

The SDCC requests that a formal study be conducted on pedestrian safety as part of the EIR for this project. We applaud efforts for pedestrian access and safety. We acknowledge the placement of a pedestrian bridge between the proposed project and the convention center. This takes into consideration the safety of our guests. However, we still have had no actual conversation regarding this access bridge with the Fifth Avenue Landing team. We have no agreement or understanding of the design, scope, security or use of the bridge. This includes understanding how the bridge will impact the access of the hundreds of tractor-trailers that serve the dock area that is directly adjacent to the proposed project.

We look forward to receiving this information. We would welcome the opportunity to comment further once we have reviewed this information. However, until that time, we cannot endorse this element of the proposal.

levels of service with the proposed project, during both the AM and PM peak hours under both near-term and buildout conditions. Therefore, the proposed project would have no impacts on the docks that support Exhibit Halls D, E, F, G, and H. Moreover, while no impacts on Convention Way were identified, the potential economic impacts suggested by the commenter are not issues under the purview of CEQA unless they are attributed to a specific physical impact on the environment. As no physical impact was identified in the Transportation Impact Analysis related to traffic operations of the proposed project, no changes to the Final EIR are required as a result of this comment.

### Response to Comment J-3

The comment states that access and safety concerns were presented by the commenter during the previous comment period (for the Notice of Preparation) as well. The commenter expresses a general concern over pedestrian access and safety at SDCC and states that the design of the plaza areas and the approaches to the project must take SDCC guests into consideration. The commenter requests that a formal study be conducted on pedestrian safety as part of the EIR, but does not identify any specific safety concern that may occur as a result of the proposed project. The comment acknowledges the proposed placement of the pedestrian bridge between the proposed project and SDCC, but indicates that the commenter would like to understand how it would affect access for the tractor-trailers that serve the dock area. The commenter indicates that it cannot endorse this element of the proposal without further information.

As discussed in the response to comment J-2 above, all of the proposed landside improvements would occur entirely within boundaries of the Fifth Avenue Landing leasehold with the exception of a portion of the optional connecting pedestrian bridge and the offsite utility improvements, the latter of which would be buried under the ROW. Additionally, the project does not propose any physical modifications to Convention Way, which provides primary ingress and egress to the project site and the adjacent SDCC loading docks. There are several existing designated pedestrian crosswalks in the project vicinity that provide pedestrian access between SDCC and the waterfront. These pedestrian crosswalks are located at the intersection of Gull Street and Park Boulevard, the intersection of Convention Way and the existing WTC parking lot driveway, and across Marina Park Way connecting two segments of the existing Embarcadero Promenade. The project does not propose any changes to these existing designated pedestrian crossings,

San Diego Unified Port District  
January 30, 2018  
Page 3

- J-4 3. Previous EIRs conducted on this area included the proposed expansion of the SDCC. A requirement for any SDCC expansion resulting from that process included a requirement that solar voltaic systems be installed on our rooftop. Regardless of any expansion, the SDCC plans to proceed with a solar voltaic system sometime in the future. The system area is master planned for the West half of the existing convention center immediately adjacent to this proposed project. The hotel tower of this proposed project appears to be in the direct path of the sun rays that would feed the solar farm that would be installed. The almost 500-foot tower will potentially impact the usefulness, effectiveness, and the payback of such an installation, possibly making it impractical to move forward.
- Since the use of solar is a Port requirement for the SDCC, we request that any approvals for this project include a study that ensures the success of such an installation on another Port property (SDCC). Additionally, in the absence of such a study, we request that relief from this requirement be granted prior to any approval of this project.
- J-5 4. We have been clear that an approval of this project prevents the current, approved contiguous expansion of the SDCC. The SDCC contends that the expansion is needed to retain the region's largest convention clients, including Comic-Con International. Comic-Con has endorsed a contiguous expansion and has publicly stated that no other alternatives are suitable. This project, as proposed, on the adjacent property will prevent the approved contiguous expansion of the SDCC.
- J-6 5. The comments above describe real impacts on the SDCC. The resolution of the issues described will be necessary regardless of the project design, scope and use. The Corporation understands this from a unique point of view. The Corporation's public approval process for a project on this same property resulted in many of the same comments. That is where the requirements for a public plaza were determined and ultimately duplicated within this FAL proposed project. It is also where the requirement for the solar voltaic system was determined and issued.
- The Corporation acknowledges the potential for this site. The growth in visitor volume and the need for more hotel rooms is real. We see potential for this site that could be mutually beneficial to SDCC customers, visitors needing hotel rooms, the desired growth of tax revenue for essential City services, and other projects that benefit the citizens of the Region.

nor does it include any design features that would create hazardous conditions for pedestrians. Moreover, it is assumed pedestrians would continue to use designated crosswalks and comply with applicable City pedestrian and traffic laws and regulations and follow applicable signage in the area.

The optional pedestrian bridge would be designed and constructed to safely carry pedestrians between the SDCC and the proposed project, in compliance with applicable City building and structural codes. However, as the commenter notes, no agreement between the project proponent (i.e., FAL) and the SDCCC or City has been made at this time. As such, the EIR identifies the pedestrian bridge as an optional project feature, and the analysis considers the environmental impacts with and without the bridge constructed and operational. The pedestrian bridge would not result in any additional impacts or reduce any impacts that would result with the implementation of the other components of the proposed project. However, a sentence has been added to Sections 4.1, *Aesthetics and Visual Resources*, 4.9, *Land Use and Planning*, and 4.11, *Public Services and Recreation*, to clarify that additional public access would be provided with the bridge and how public access would be maintained without the bridge. These changes are reflected in Chapter 5, *Errata and Revisions*, of the Final EIR.

Regarding the commenter's concerns surrounding the potential effects of the optional pedestrian bridge on tractor-trailer access, the pedestrian bridge would be designed to provide adequate clearance for delivery trucks and tractor-trailers. As shown on Figures ES-4, ES-8, 3-6, and 3-10 and detailed in Section 3.4.3, *Optional Connecting Bridge to the San Diego Convention Center*, of the Draft EIR, the optional pedestrian bridge would connect the proposed market-rate hotel tower rooftop public plaza and park area to the SDCC viewing deck, which is approximately 44 feet above ground level. As such, the proposed pedestrian bridge would provide sufficient clearance for delivery vehicles accessing the SDCC loading docks adjacent to the project site. Therefore, no changes to the Final EIR are required as a result of this comment.

### Response to Comment J-4

The comment states that a requirement for any SDCC expansion from the previous EIRs for the site includes the installation of PV systems on the SDCC rooftop. The comment indicates that the SDCC plans to proceed with a PV system sometime in the future regardless of any expansion, and that

the system area is planned for the west half of the existing SDCC, immediately adjacent to the proposed project. The commenter expresses concern of the potential effects of the proposed hotel tower on the usefulness, effectiveness, and payback of the solar installation. As the rooftop PV system is a District requirement for the SDCC, the commenter requests that any approvals for the project include a study that ensures the success of a solar installation on another District property (SDCC), or, without a study, that relief from this requirement be granted prior to any approval of this project.

The installation of a PV system on the SDCC rooftop is a mitigation requirement of the SDCC Phase III Expansion EIR. As identified in that EIR, mitigation measure “MM-GHG-1c: Implement GHG Reduction Measures during Phase III Expansion Operations” requires the incorporation of a rooftop PV system to offset energy use. The system would include two separate PV systems, one on each of the east and west roofs. MM-GHG-1c was identified to mitigate “Impact-GHG-1: Emissions that Exceed Adopted GHG Thresholds during Construction and Operations (Phase III Expansion and Expansion Hotel),” which would result from emissions during combined project construction and operational activities that would exceed the threshold of 1,100 metric tons of carbon dioxide equivalent (MTCO<sub>2e</sub>) per year. However, as identified in the Phase III Expansion EIR, this impact would remain significant and unavoidable, because even with the implementation of all of the GHG mitigation measures identified in the EIR, emissions would remain above the threshold level of 1,100 MTCO<sub>2e</sub> per year and above the County of San Diego’s 2,500 MTCO<sub>2e</sub> per year threshold level.

The PV system is also described in Chapter 3, *Project Description*, of the Phase III Expansion EIR as a proposed sustainability feature for the proposed project to meet a LEED rating of Silver and possibly raise it to Gold. Although the installation of a PV system on the SDCC rooftop is a mitigation requirement of the SDCC Phase III Expansion EIR and would be reasonably foreseeable if the currently approved Phase III Expansion were to proceed rather than the proposed project, development of the proposed project would preclude development of the SDCC Phase III Expansion project as analyzed in the SDCC Phase III Expansion EIR because they would occupy the same space. As such, if the proposed project is approved and implemented, the mitigation measures included in the MMRP for the SDCC Phase III Expansion project would no longer be applicable, as

development of an expanded SDCC at the proposed project site would not occur.

In addition, the commenter suggests that it has considered moving forward with a PV system even if it was not a requirement of the MMRP for the Phase III Expansion. Such future speculative conditions are not within the purview of CEQA. Pursuant to State CEQA Guidelines Section 15064, the Lead Agency shall consider direct physical changes and reasonably foreseeable indirect changes in the environment that may be caused by the project. The commenter has not provided any evidence to indicate that the installation of a PV system on the SDCC rooftop, independent of any mitigation requirements of the SDCC Phase III Expansion EIR, is a reasonably foreseeable activity.

Importantly, it is not likely the proposed project would have a significant impact on the environment by potentially reducing the amount of sunlight that falls on nearby buildings that currently use PV systems, because the project site is located in a downtown setting where high-rise buildings are already in the immediate area. Because the SDCC does not currently have a PV system, construction and operation of the proposed project would have no effect on the baseline conditions, and the commenter has not provided evidence of how any potential partial shading of the SDCC would result in a significant environmental impact. Therefore, no changes to the Final EIR are required as a result of this comment.

### **Response to Comment J-5**

The comment states that approval of this project prevents the current, approved contiguous expansion of the SDCC, and that the expansion is needed to retain the region's largest convention clients.

This comment does not raise an environmental issue with the adequacy of the Draft EIR. Therefore, no changes to the Final EIR are required and no further response is required pursuant to CEQA. However, this comment will be included in the materials presented to the Board for consideration in whether to approve the proposed project.

### **Response to Comment J-6**

The commenter states that the comments above describe real impacts on the SDCC, and that the resolution of issues described will be necessary regardless of the project design, scope, and use. The commenter acknowledges that the growth in visitor volume and the need for more

San Diego Unified Port District  
January 30, 2018  
Page 4

J-7

6. The Corporation formally recommends that a joint project be considered for this property that addresses all concerns. A combined contiguous expansion of the SDCC and hotel complex would change the landscape of this area. Specifically, we recommend a contiguous convention center expansion with a small hotel footprint adjacent to it. The two uses could be served by separate entrances and maintain the use of existing docks as well as new dock spaces. In FY 17, we conducted research that showed that 14 of the top 25 convention centers in the United States are either connected to a hotel, or immediately adjacent to a hotel. We have not identified any that have two immediately adjacent on the same footprint. We already enjoy that relationship with the Marriott Marquis. The destination appeal of a combined contiguous convention center and two hotels immediately adjacent will give us a unique advantage over many of our competitors.

The combined project would require the resolution of the issues stated above. It would also require public access to the waterfront, including the waterfront park, and the creation of a joint operating agreement.

J-8

The San Diego Convention Center Corporation is a public benefit corporation whose purpose is to provide a premier gathering place for trade shows, conventions, and events that generate economic benefits to the Region. Our promise is to provide world class service and create a desire for our customers and their guests to return repeatedly in order to invest further in our local economy. This mutually beneficial use could be accomplished with the support of the Port and a collaborative approach to the use of the property.

Thank you for considering our comments. We appreciate the opportunity to respond during this review process. We are available to answer any questions or to provide any additional information you may require.

Respectfully submitted,



Clifford "Rip" Rippetoe, CFE  
President & CEO

Cc: Mayor Kevin Falconer  
San Diego City Council Members  
Port of San Diego Commissioners  
San Diego Convention Center Corporation Board of Directors

hotel rooms is real, and that it sees the potential for the site that could be mutually beneficial.

Please see responses to comments J-2, J-3 and J-4. This comment does not raise any specific environmental issues requiring a response pursuant to CEQA. Therefore, no changes to the Final EIR are required as a result of this comment. However, this comment will be included in the materials presented to the Board for consideration in whether to approve the proposed project.

### Response to Comment J-7

The comment states that the SDCCC formally recommends that a joint project be considered for the property that involves a contiguous convention center expansion with a small hotel footprint adjacent to it and provides its rationale for a joint project. The comment further states that the combined project would require resolution of the issues stated above and public access to the waterfront, including the waterfront park and the creation of a joint operating agreement.

This comment does not raise an environmental issue that relates to the adequacy of the Draft EIR. Therefore, no changes to the Final EIR are required and no further response is required pursuant to CEQA. However, this comment raises policy and planning concerns that will be included in the materials presented to the Board for consideration in whether to approve the proposed project.

### Response to Comment J-8

The comment letter concludes by stating the purpose of the SDCCC, indicating that the mutually beneficial use could be accomplished with the support of the District and a collaborative approach to the use of the property, and also provides a contact name.

The District appreciates the SDCCC's interest in the proposed project. This comment does not raise any issues requiring a response pursuant to CEQA.

San Diego Unified Port District  
January 30, 2018  
Page 5

Appendix A

J-2  
cont.





San Diego Unified Port District  
January 30, 2018  
Page 6

J-2  
cont.





### 6.3.12 Comment Letter K: San Diego County Archaeological Society, Inc.

Comment Letter K

**San Diego County Archaeological Society, Inc.**

Environmental Review Committee

29 January 2018

**RECEIVED**

JAN 31 2018

SAN DIEGO UNIFIED  
PORT DISTRICT  
REAL ESTATE

To: Ms. Dana Sclar  
Development Services Department  
San Diego Unified Port District  
3165 Pacific Highway  
San Diego, California 92101-1128

Subject: Draft Environmental Impact Report  
Fifth Avenue Landing Project and Port Master Plan Amendment

Dear Ms. Sclar:

K-1

I have reviewed the cultural resources aspects of the subject DEIR on behalf of this committee of the San Diego County Archaeological Society.

Based on the information contained in the DEIR and its Appendix F2, we agree with the mitigation monitoring program as described in the DEIR.

Thank you for affording SDCAS the opportunity to participate in the Port District's environmental review process for this project.

Sincerely,

  
James W. Royle, Jr., Chairperson  
Environmental Review Committee

cc: ICF International  
SDCAS President  
File

P.O. Box 81106 San Diego, CA 92138-1106 (858) 538-0935

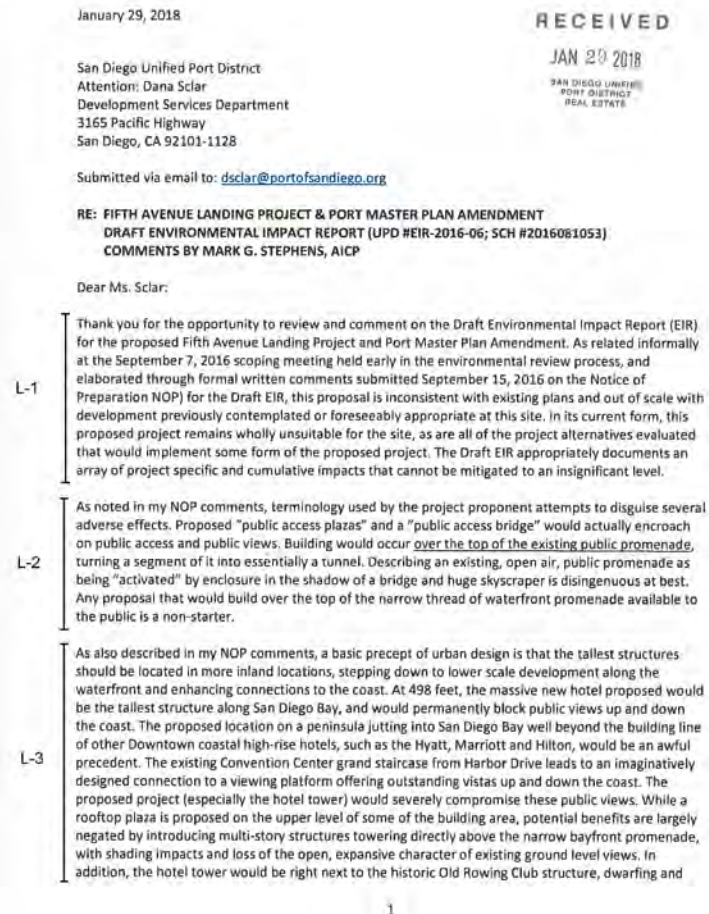
#### Response to Comment K-1

This comment is an introductory comment indicating that the San Diego County Archaeological Society has reviewed the cultural resources aspects of the Draft EIR and agrees with the mitigation monitoring program described in the Draft EIR. The comment concludes by providing a contact name.

The District appreciates the San Diego County Archaeological Society's interest in the proposed project. This comment will be included in the materials provided to the Board for its consideration prior to making a decision whether or not to certify the EIR and approve the proposed project.

### 6.3.13 Comment Letter L: Mark G. Stephens

Comment Letter L



#### Response to Comment L-1

The commenter indicates that he provided informal comments at the September 7, 2016 scoping meeting and submitted formal written comments during the scoping period for the Draft EIR. The commenter suggests that the project is inconsistent with existing plans and out of scale with development previously contemplated for the site. The commenter suggests that the project is unsuitable for the project site, as are all of the alternatives considered in the Draft EIR. The commenter states that the Draft EIR appropriately documents project-specific and cumulative impacts that cannot be mitigated to an insignificant level.

The District received the commenter's formal scoping letter during the 30-day scoping period for the Draft EIR. That letter was included within Appendix B of the Draft EIR, as submitted for public review. While there is no requirement to respond to scoping comments received during the scoping period, the District elected to include a summary of all scoping comments received, including the commenter's. The summary is included in Chapter 1, *Introduction*, of the Draft EIR. The commenter raised issues associated with the following:

- Accurately reflect current circumstances, applicable plans, and adverse effects related to the public access components and existing views in the Draft EIR. Include analysis of visual impacts on the existing viewshed and the historic Old Rowing Club.
- Assess the project impacts in context of the California Coastal Act policies and the increasingly intensive development of onshore lease space.
- Assess project impacts on pending or ongoing projects in the general vicinity of the project site, including the Navy Broadway Complex, the District's Central Embarcadero Development Project (Seaport Village and surrounding area), SDCC Phase III Expansion (while not currently progressing, it is still an approved project) and second Hilton San Diego Bayfront tower, Tenth Avenue Marine Terminal redevelopment projects, the San Diego Chargers' proposed stadium and convention facilities in East Village, SDCC major maintenance repairs, a San Diego Symphony permanent facility at South Embarcadero Park (displacing more public park green space), Ballpark Village, Cisterra Development

Project, and many other projects, including numerous additional downtown hotels.

- Evaluate alternatives that address: substantially reducing building heights, footprints, and square footages; alternative locations, such as private land downtown (which would be far more appropriate for a major high-rise structure), or in the Chula Vista bayfront area (which has much more developable land available, reducing the need for such a tall structure, and the City of Chula Vista and the District have been trying to attract a significant hotel project there for many years); and alternative uses of this proposed site that would complement rather than clash with the surrounding community.

In addition to summarizing the comments, Chapter 1 of the Draft EIR lists where the topics raised are discussed in detail.

The commenter's first issue raised is discussed in Section 4.1, *Aesthetics and Visual Resources*, Section 4.4, *Cultural Resources*, Section 4.9, *Land Use and Planning*, and Section 4.11, *Public Services and Recreation*. Each of these sections includes a complete environmental and regulatory setting related to their respective resources. Specifically, Section 4.1, *Aesthetics and Visual Resources*, discusses the circumstances, applicable plans, and adverse effects on designated vistas (i.e., designated scenic views) and general aesthetics. Section 4.4, *Cultural Resources*, discusses the circumstances, applicable plans, and adverse effects on cultural resources such as the San Diego Rowing Club. Section 4.9, *Land Use and Planning*, discusses the circumstances, applicable plans, and adverse effects on public access. Section 4.11, *Public Services and Recreation*, discusses the circumstances, applicable plans, and adverse effects on public services and recreation.

The commenter's second issue is discussed in Section 4.9, *Land Use and Planning*. This section provides a thorough consistency analysis with the California Coastal Act, including a table that lists all relevant policies and determines the project's consistency.

The commenter's third issue is discussed in Chapter 5, *Cumulative Impacts*. A list of relevant cumulative projects is included as Table 5-2. An extensive list of past and present projects is included in the cumulative project table. In addition, all reasonably foreseeable future projects that have sufficient detail about their potential development characteristics are included.

The commenter's fourth issue is discussed in Chapter 7, *Alternatives to the Proposed Project*. The Draft EIR compares the impacts of the proposed project with six project alternatives. In addition, four more alternatives

were considered, but did not undergo full comparison because specific considerations, as described in Chapter 7, made them unsuitable as CEQA alternatives. Alternatives that were carried through included reduced building height and square footage (Alternative #5). An alternative location was considered but rejected for reasons described in Section 7.5.1.1.

No changes to the Final EIR are required in response to this comment.

### **Response to Comment L-2**

The commenter suggests that terminology used by the project proponent attempts to disguise several adverse effects and notes that “public access plazas” and a “public access bridge” would encroach on public access and public views. Specifically, the commenter notes that the project would build over the top of the existing public promenade, which would create a tunnel. The commenter states the opinion that the use of the term “activated” is disingenuous at best.

The commenter is taking issue with the terms used in the Draft EIR to describe the plazas and optional pedestrian bridge. The terms were used because that they would be available to the public either at all times or during the majority of the time, as noted in Chapter 3, *Project Description*. Because these facilities would provide public access, labeling them as public access plazas is an accurate description. Furthermore, the commenter provides the opinion that the proposed open-air pedestrian archway would create a tunnel effect and would not encourage activation. However, the open-air pedestrian archway would be designed extensively with glass to maximize the space and allow for distant views from the archway. Furthermore, it would rise to a height of 40 feet and would span a width of 43 feet, providing both high ceilings and a wide walkway. In addition, proposed retail spaces such as cafés or restaurants would be connected with the open-air pedestrian archway, reasonably leading to greater activation in the project area. No changes to the Final EIR are required in response to this comment.

### **Response to Comment L-3**

The commenter believes the hotel tower is too tall for its location and indicates that the project would be the tallest building on the waterfront. The commenter suggests that the project would result in significant and unavoidable visual impacts and acknowledges appreciation for the

L-3 cont. shading it with an entirely incompatible design motif. How detached this proposal is from reality is illustrated by the following statement relating to the project description on page S-5 of the Draft EIR. "The market-rate hotel tower design is inspired by sail structures of the latest generation of America's Cup sailboats." A stationary 44-story glass, concrete, and steel block encompassing the better part of a million square feet of enclosed building space and permanently obscuring public views and coastal access is evocative of a sail? I appreciate the DEIR documenting that adverse Aesthetic and Visual Resource Impacts remain significant and unavoidable even after mitigation.

L-4 While the existing Port Master Plan Update is under way, the Port District continues to consider inconsistent proposals before completion of the update. Allowing such an incompatible and bad precedent setting project to proceed outside the context of an up-to-date overall plan would be extremely ill advised, and cause irreversible adverse impacts, as documented in the Draft EIR. Virtually the entire onshore lease space (and more) is proposed to be intensively developed. This flies in the face of California Coastal Act policies and the fact that every square foot of land involved is publicly owned. In addition to blocking the approved Phase III Convention Center Expansion, the proposed project would in all likelihood preclude development and successful operation of the San Diego Symphony's Bayside Performance Park Enhancement Project recently granted preliminary approval by the Board of Port Commissioners.

L-5 During the most recent San Diego Auto Show at the Convention Center, I was reminded of how adversely the proposed Fifth Avenue Landing Project would affect the functionality of the project site and surrounding area. Specifically, this was the morning of the Holiday Bowl Parade and 5K Run. Legions of people were running, jogging, and walking along the Embarcadero pathway that would no longer be able to function for this purpose. Much of the area behind the Convention Center was being used for activities supporting the Auto Show, a noteworthy annual event. Again, with the proposed project, this outdoor space would largely be gone.

L-6 As a Downtown San Diego resident and homeowner for over 15 years, development of this proposal with no apparent public input is extremely troubling. Alternatively, a reconceptualized plan could be developed through a process that reaches out to the surrounding community and other affected interests, and offers a much greater potential for obtaining public support and gaining approval. A location across Harbor Drive could more appropriately accommodate the type of high-rise development currently proposed. Clearly, no objective basis exists to justify a statement of overriding considerations for the multiple adverse impacts that cannot be mitigated to a level of insignificance for the current proposal.

Please provide notification of any subsequent opportunities for public input regarding this proposal, via email to [msdesmtinsea@hotmail.com](mailto:msdesmtinsea@hotmail.com), or sent to the address below. Thank you for your consideration!

Sincerely,

*Mark G. Stephens*

Mark G. Stephens, AICP  
500 W. Harbor Dr., Unit 514  
San Diego, CA 92101

significant and unavoidable aesthetic impact determination in the Draft EIR.

This comment expresses the commenter's opinion about the aesthetic impacts of the project but does not specifically raise issue with the adequacy of the Draft EIR. As noted by the commenter, the Draft EIR analyzes and discloses the proposed project's potential impacts on aesthetics and visual resources, and concludes that a significant and unavoidable impact related to vistas would occur. However, the proposed project would also provide eight additional scenic vistas, some as project features and some required as mitigation. Therefore, no changes to the Final EIR are required and no further response is warranted pursuant to CEQA. However, this comment will be included in the materials presented to the Board for consideration in whether to approve the proposed project.

### Response to Comment L-4

The commenter notes that the PMP Update is underway and suggests that the District continues to consider inconsistent proposals before completion of the update. The commenter suggests that this practice will cause irreversible adverse impacts, as documented in the Draft EIR. The commenter suggests this is contradictory to California Coastal Act policies and would potentially disrupt other land uses, such as the San Diego Symphony's Bayside Performance Park Enhancement Project.

As the commenter notes, the PMP Update is underway. The process has been a multi-year process and will not be complete for at least one more year. The District cannot place a moratorium on all development applications in the meantime and leave tenants without recourse for their tenancies. Rather, the District must provide due process to all applicants and review project proposals as they are submitted with the current regulations and plans in place. Furthermore, the project is analyzed for consistency with the California Coastal Act as document in Section 4.9, *Land Use and Planning*, of the Draft EIR and was found to be fully consistent with the California Coastal Act. Finally, the San Diego Symphony's Bayside Performance Park Enhancement Project was one of the cumulative projects analyzed in the Draft EIR. No specific impacts were identified that would preclude development and the successful operation of the San Diego Symphony's Bayside Performance Park Enhancement Project. Therefore, no changes to the Final EIR are required as a result of this comment.

**Response to Comment L-5**

The commenter mentions recent events at the convention center and the project site and is concerned about the inability to use the promenade for public events and the project site for expanded convention center shows such as the San Diego Auto Show.

The public promenade would remain publicly accessible at all times. Events that the commenter described would continue to be allowed. Regarding the loss of space for the SDCC, the SDCC currently subleases the land from the project applicant on an as-needed basis, subject to the applicant's permission. There is no guarantee in the SDCC lease to use the land adjacent to the SDCC and within the project applicant's tenancy. While it is uncertain how the SDCC may choose to handle future events, there has never been any guarantee that the project site could be used whenever needed by the SDCC. No changes to the Final EIR are required as a result of this comment.

**Response to Comment L-6**

The commenter notes he has been a downtown resident for 15 years and suggests that the project proposal has been developed with no public input. The commenter suggests that a re-conceptualized plan could be developed through a process that reaches out to the surrounding community to gain greater support. The commenter also suggests that a location across Harbor Drive could more appropriately accommodate the type of high-rise development proposed. The commenter suggests that no objective basis exists to justify a statement of overriding considerations for the significant impacts associated with the proposed project. The comment concludes by providing a contact name and information.

This comment expresses opposition to the proposed project and suggests a general alternative location for the proposed project along Harbor Drive. See comment L-1 and the corresponding response, which provides the rationale for an alternative project site being rejected. All potential impacts of the proposed project are analyzed and disclosed in the Draft EIR, as noted by the commenter. Therefore, no changes to the Final EIR are required and no further response is warranted pursuant to CEQA. However, this comment will be included in the materials presented to the Board for consideration in whether to approve the proposed project.



### 6.3.14 Comment Letter M: Spencer Mosher

Comment Letter M

Rhoda Palmer

**From:** Spencer <videoh1@gmail.com>  
**Sent:** Tuesday, January 30, 2018 4:17 PM  
**To:** Dana Sclar  
**Subject:** Draft EIR Comment Fifth Avenue Landing

RECEIVED  
 JAN 30 2018  
 SAN DIEGO UNIFIED  
 PORT DISTRICT  
 REAL ESTATE

Hi Dana,

M-1

As someone who supports the best interest San Diego, the taxpayer, and the continued growth of our city, I want to show my support for Alternative 2. Alternative 2 of the EIR being the original lease agreement with the Fifth Avenue Landing, which would have allowed the Phase 3 Convention Center Expansion Project to continue and for the Robert Green Company to build their hotel on the smaller parcel next to Joe's Crab Shack. We desperately need to expand our Convention Center to keep conventions like Comic-Con and all the big-name medical conventions, etc... that our city hosts. By allowing the Robert Green company to build outside the confines of the original lease agreement, the port could run into more legal challenges from CEQA attorneys, such as Briggs. Considering that the Phase 3 project is already approved by the Coastal Commission, it would be prudent for the port to select Alternative 2. This could force the Robert Green Company to renegotiate with the Convention Center and build to the original lease agreement. Also due to the fact that a citizens initiative is being circulated to expand the Convention Center, it would be easier to go with Alternative 2 since there will be less red tape this way. Also one concern that could be raised with CEQA is the sediment cap that would be impacted by the Robert Green Company's current proposal for the property. Although I believe adding more docks would be good at some point, I believe that section of the property could be handled at a later date. Also with the new professional lacrosse team coming to San Diego, I believe some of the surrounding area, including but not limited to where the sediment cap is located, could be used for an arena. This arena would be attached to the Convention Center as a Phase 4 or Phase 5 expansion of the Convention Center. Imagine similar to the Staples Center in downtown L.A. See attached link, from my 2011 plan for a new stadium/ Convadium, as an idea of potential future development. Note this was the original Convadium plan before the Chargers went with their East Village plan.

<http://civicplanner.com/index.php/projects/county-of-san-diego/3-stadium-option-a>  
<http://civicplanner.com/index.php/projects/county-of-san-diego/5-phase-4-stadium-option-b>

Thanks again for reviewing my comments and I urge the port to go with the original lease agreement and the Phase 3 Convention Center Expansion Project.

Sincerely,  
 Spencer

#### Response to Comment M-1

The commenter expresses support for Alternative 2, which would allow the Phase 3 Convention Center Expansion Project and the development of a hotel on the smaller parcel next to Joe's Crab Shack. The commenter expresses concern regarding the sediment cap that would be affected by the current proposal for the property and suggests adding the docks at a later date. The commenter suggests that some of the surrounding area, including but not limited to where the sediment cap is located, could be used for an arena that would be attached to the SDCC as a Phase 4 or Phase 5 expansion. The comment provides two links to the commenter's 2011 plan for a new stadium/Convadium. The plans have been printed out and are included at the end of the comment letter. The comment letter concludes by supporting the original lease agreement and the Phase 3 Convention Center Expansion Project.

This comment expresses support for one of the alternatives identified in the Draft EIR. However, the comment does not specifically raise issue with the adequacy of the Draft EIR and the environmental analysis contained therein. Therefore, no changes to the Final EIR are required and no further response is required pursuant to CEQA. However, this comment will be included in the materials presented to the Board for consideration in whether to approve the proposed project.

## CIVICPLANNER

We strive to bring smart Urban Planning principles to the public which will improve quality of life.

[Learn More](http://civicplanner.com/index.php/about-us)  
(<http://civicplanner.com/index.php/about-us>)

### Phase 4 Stadium Option A



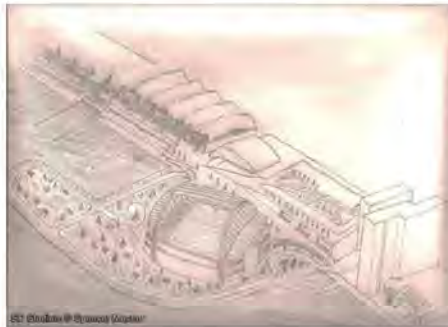
Option A was the original plan I presented to the Mayors office.

This plan is more constrained in land usage and does not expand the Phase 1 building initially. A Phase 5 expansion would be optional.



- Option A would landfill the area around the 5th Avenue Pier.
  - The stadium would be built on top of this reclaimed land.
- This plan will work with the new Convention Center Expansion Project (Phase 3).
  - The Stadium project will be Phase 4 of expansion.
  - The design will not interfere with Phase 3 expansion.
- This design is contiguous and would add convention hall and conference room space for the convention center.
- You would still be able to tailgate at the Stadium.
  - Tailgate parking is roughly 0.3 mi from the facility.
- The Trolley and other means of mass-transit are available nearby including the Coronado Ferry.

See pictures below:



## About Us:

We strive to bring smart Urban Planning principles to the public to create great urban plans which will improve quality of life.

### OFFICE HOURS

 MON - FRI  
**08:00 - 18:00**

 SAT - SUN  
**18:00 - 22:00**

COPYRIGHT © 2007 - 2018 [CIVICPLANNER \(/\)](#)



<http://civicplanner.com/index.php/projects/county-of-san-diego/3-stadium-option-a>

3/3

Search...

## CIVICPLANNER

We strive to bring smart Urban Planning principles to the public which will improve quality of life.

Learn More

(<http://civicplanner.com/index.php/about-us>)

### Phase 4 Stadium Option B



Option B is slightly different than option A.

Option B is more proactive in expanding the Convention Center and allows for a greater increase in exhibit hall and conference room space. This is my preferred plan.

- This plan continues the Phase 3 theme of a rooftop park with the original (Phase 1) building.
  - The Stadium will be built behind the Marriott and Hyatt hotels.
    - The docks will be relocated to make room for the facility.
    - An expanded rooftop park should help with getting approval from the Coastal Commission.
  - This design will not interfere with the Phase 3 expansion.
- Option B is more proactive in expanding the Convention Center as opposed to Option A.
  - This allows for San Diego to attract bigger conventions such as E3 or CES.
  - Plus this ensures that Comic Con and other big conventions stay in San Diego.
- There are more transportation options available.
  - This includes more parking options and access points to the stadium.
  - Santa Fe depot is a half mile away from the proposed facility making it easier for people visiting from out of town to reach the stadium.
- The Marriott and Hyatt would be prime accommodations for visitors during game days.

You will notice on the map I label the site where the Skytower / Spire or Ferris Wheel will go. I prefer the Skyspire plan since it has the option of a restaurant on the top floor which will be a cool tourist attraction. Not only will it attract tourists, but it would provide a nice place to go out to dinner with a significant other, family, friends, etc..., due to the great views of the bay and stadium.

See pictures below:



