II. Responses to Comments

II. Responses to Comments

A. Introduction

Sections 21091(d) and 21092.5 of the Public Resources Code (PRC) and CEQA Guidelines Section 15088 govern the lead agency's responses to comments on a Draft EIR. CEQA Guidelines Section 15088(a) states that "[T]he lead agency shall evaluate comments on environmental issues received from persons who reviewed the draft EIR and shall prepare a written response. The lead agency shall respond to comments that were received during the notice comment period and any extensions and may respond to late comments." In accordance with these requirements, this section of the Final EIR provides the responses prepared by the City of Los Angeles Department of City Planning (City) to each of the written comments received regarding the Draft EIR.

Section II.B, Matrix of Comments Received on the Draft EIR, includes a table that summarizes the environmental issues raised by each commenter regarding the Draft EIR. Section II.C, Responses to Comments, provides the City's responses to each of the written comments raised in the comment letters received on the Draft EIR. Copies of the original comment letters are provided in Appendix FEIR-1 of this Final EIR.

II. Responses to Comments

B. Matrix of Comments Received on the Draft EIR

Table II-1
Matrix of Comments Received on the Draft EIR

Letter No.	Commenter	Executive Summary	Project Description	Environmental Setting	Aesthetics	Air Quality	Biological Resources	Cultural Resources	Energy	Geology and Soils (including Paleontological Resources)	Greenhouse Gas Emissions	Hazards and Hazardous Materials	Hydrology and Water Quality—Hydrology	Hydrology and Water Quality—Water Quality	Land Use	Noise	Population and Housing	Public Services—Fire Protection	Public Services—Police Protection	Public Services—Schools	Public Services—Parks and Recreation	Public Services—Libraries	Transportation	Tribal Cultural Resources	Utilities and Service Systems—Water Supply and Infrastructure	Utilities and Service Systems—Wastewater	Utilities and Service Systems—Solid Waste	Utilities and Service Systems—Energy Infrastructure	Cumulative Impact	Alternatives	General/Other	CEQA	Mitigation Measures	Support
	STATE AND REGIONAL																																	
1	Albert C. Lew, P.E. Wastewater Engineering Services Division LA Sanitation 2714 Media Center Dr. Los Angeles, CA 90065-1733 Rowena Lau Division Manager Wastewater Engineering Services Division LA Sanitation 2714 Media Center Dr. Los Angeles, CA 90065-1733																								X									
2	Jazmin Martin Env. Specialist, Env. Planning and Assessment LADWP 111 N. Hope St., Rm. 1044 Los Angeles, CA 90012-2607																							X									

Table II-1 (Continued)
Matrix of Comments Received on the Draft EIR

Letter No.	Commenter	Executive Summary	Project Description	Environmental Setting	Aesthetics	Air Quality	Biological Resources	Cultural Resources	Energy	Geology and Soils (including Paleontological Resources)	Greenhouse Gas Emissions	Hazards and Hazardous Materials	Hydrology and Water Quality—Hydrology	Hydrology and Water Quality—Water Quality	Land Use	Noise	Population and Housing	Public Services—Fire Protection	Public Services—Police Protection	Public Services—Schools	Public Services—Parks and Recreation	Public Services—Libraries	Transportation	Tribal Cultural Resources	Utilities and Service Systems—Water Supply and Infrastructure	Utilities and Service Systems—Wastewater	Utilities and Service Systems—Solid Waste	Utilities and Service Systems—Energy Infrastructure	Cumulative Impact	Alternatives	General/Other	CEQA	Mitigation Measures	Support
3	Jazmin Martin Env. Specialist, Env. Planning and Assessment LADWP 111 N. Hope St., Rm. 1044 Los Angeles, CA 90012-2607 Charles C. Holloway Manager of Env. Planning and Assessment LADWP 111 N. Hope St., Rm. 1044 Los Angeles, CA 90012-2607																								X									
	ORGANIZATIONS																																	
4	Alisha C. Pember Adams Broadwell Joseph & Cardozo 601 Gateway Blvd., Ste. 1000 South San Francisco, CA 94080-7037 Sheila M. Sannadan Adams Broadwell Joseph & Cardozo 601 Gateway Blvd., Ste. 1000 South San Francisco, CA 94080-7037																															X		
5	Alisha C. Pember Adams Broadwell Joseph & Cardozo 601 Gateway Blvd., Ste. 1000 South San Francisco, CA 94080-7037 Sheila M. Sannadan Adams Broadwell Joseph & Cardozo 601 Gateway Blvd., Ste. 1000 South San Francisco, CA 94080-7037																															X		

Table II-1 (Continued)
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6	Alisha C. Pember Adams Broadwell Joseph & Cardozo 601 Gateway Blvd., Ste. 1000 South San Francisco, CA 94080-7037 Sheila M. Sannadan Adams Broadwell Joseph & Cardozo 601 Gateway Blvd., Ste. 1000 South San Francisco, CA 94080-7037																															X		
7	Alisha C. Pember Adams Broadwell Joseph & Cardozo 601 Gateway Blvd., Ste. 1000 South San Francisco, CA 94080-7037 Darien Key Adams Broadwell Joseph & Cardozo 601 Gateway Blvd., Ste. 1000 South San Francisco, CA 94080-7037 James J.J. Clark Clark & Associates 12405 Venice Blvd., PMB 331 Los Angeles, CA 90066-3803 Deborah A. Jue Wilson Ihrig 5900 Hollis St., Ste. T1 Emeryville, CA 94608-2008		X			X					X				X	X							X							X				
8	Colby Gonzalez Legal Assistant Lozeau Drury LLP 1939 Harrison St., Ste. 150 Oakland, CA 94612-3507 Victoria Yundt Lozeau Drury LLP 1939 Harrison St., Ste. 150 Oakland, CA 94612-3507																														X			

Table II-1 (Continued)
Matrix of Comments Received on the Draft EIR

Letter No.	Commenter	Executive Summary	Project Description	Environmental Setting	Aesthetics	Air Quality	Biological Resources	Cultural Resources	Energy	Geology and Soils (including Paleontological Resources)	Greenhouse Gas Emissions	Hazards and Hazardous Materials	Hydrology and Water Quality—Hydrology	Hydrology and Water Quality—Water Quality	Land Use	Noise	Population and Housing	Public Services—Fire Protection	Public Services—Police Protection	Public Services—Schools	Public Services—Parks and Recreation	Public Services—Libraries	Transportation	Tribal Cultural Resources	Utilities and Service Systems—Water Supply and Infrastructure	Utilities and Service Systems—Wastewater	Utilities and Service Systems—Solid Waste	Utilities and Service Systems—Energy Infrastructure	Cumulative Impact	Alternatives	General/Other	CEQA	Mitigation Measures	Support
9	Mitchell Tsai obo SWRCC Mitchell Tsai, Attorney at Law 139 S. Hudson Ave., Ste. 200 Pasadena, CA 91101-4990																															X		

II. Responses to Comments
C. Comment Letters

Comment Letter No. 1

Albert C. Lew, P.E.
Wastewater Engineering Services Division
LA Sanitation
2714 Media Center Dr.
Los Angeles, CA 90065-1733

Rowena Lau
Division Manager
Wastewater Engineering Services Division
LA Sanitation
2714 Media Center Dr.
Los Angeles, CA 90065-1733

Comment No. 1-1

Please find attached the official response. A hard copy will be sent to your office when normal operations resume.

This is in response to your June 9, 2022 Notice of Completion and Availability of Draft Environmental Impact Report for the proposed mixed-use project located at 1000 Seward Street, Los Angeles, CA 90038. LA Sanitation, Wastewater Engineering Services Division has received and logged the notification. Upon review, it has been determined the project is in the final stages of the California Environmental Quality Act review process and requires no additional hydraulic analysis. Please notify our office in the instance that additional environmental review is necessary for this project.

If you have any questions, please call Christopher DeMonbrun at (323) 342-1567 or email at chris.demonbrun@lacity.org

Response to Comment No. 1-1

This comment stating that no additional hydraulic analysis is required is noted for the record and will be forwarded to the decision-makers for their review and consideration.

Comment Letter No. 2

Jazmin Martin
Env. Specialist, Env. Planning and Assessment
LADWP
111 N. Hope St., Rm. 1044
Los Angeles, CA 90012-2607

Comment No. 2-1

I am sending this note to let you know that the Los Angeles Department of Water and Power (LADWP) has prepared comments on the 1000 Seward Project but the comment letter is still being finalized and routed for signature. We recognize that the Notice requested comments by July 25, 2022 and will be sending you the signed letter just as soon as it is finalized.

Thank you for your understanding,

Response to Comment No. 2-1

This comment informs the City that a comment letter was in process prior to the close of the comment period. Refer to Comment Letter No. 3 for the referenced comment letter submitted by LADWP and associated responses to the letter. This comment does not raise any issues with respect to the content and adequacy of the Draft EIR. Therefore, it is noted for the record and will be forwarded to the decision-makers for their review and consideration.

Comment Letter No. 3

Jazmin Martin
Env. Specialist, Env. Planning and Assessment
LADWP
111 N. Hope St., Rm. 1044
Los Angeles, CA 90012-2607

Charles C. Holloway
Manager of Env. Planning and Assessment
LADWP
111 N. Hope St., Rm. 1044
Los Angeles, CA 90012-2607

Comment No. 3-1

The Los Angeles Department of Water and Power (LADWP) would like to submit the attached comment letter to the project record for the 1000 Seward Project.

Please let me know if you have any questions.

The Los Angeles Department of Water and Power (LADWP) appreciates the opportunity to provide comments on the 1000 Seward Project (Project) located at 1000 and 1006 North Seward Street; 1003, 1007, and 1013 North Hudson Avenue; and 6565 West Romaine Street, Los Angeles, CA 90038. The mission of LADWP is to provide clean, reliable water and power to the City of Los Angeles. Based on our review of the Draft Environmental Impact Report prepared for the Project, we respectfully submit the comments below:

Comments:

Joint:

1. This response shall not be construed as an approval for any project.

Response to Comment No. 3-1

This introductory comment states that this response shall not be construed as an approval for any project. This comment does not raise any issues with respect to the content and adequacy of the Draft EIR. Therefore, it is noted for the record and will be forwarded to the decision-makers for their review and consideration..

Comment No. 3-2

Water System:

IV.J.1 Utilities and Service Systems—Water Supply and Infrastructure

1. Page IV.J.1-12: The bottom of the page includes information on LADWP's 2020 Urban Water Management Plan (UWMP). However, some parts in Section IV.J.1 reference the 2015 UWMP (footnotes 47 and 79). LADWP recommends these parts be revised to reference the 2020 UWMP.

Response to Comment No. 3-2

This comment points out two outdated references to the 2015 LADWP UWMP in the Existing Conditions discussion of Section IV.J.1, Utilities and Service Systems—Water Supply and Infrastructure. Based on the 2020 UWMP, footnote 47 and its corresponding text is no longer accurate, so it will be deleted. The reference in footnote 79 will be corrected. These changes will be reflected in Section III, Revisions, Clarifications, and Corrections to the Draft EIR, of this Final EIR.

Comment No. 3-3

2. Page IV.J.1-38: The second paragraph states that as the proposed project does not include residential uses, it would not represent any of the population growth in the Southern California Association of Governments (SCAG) region. However, the proposed project includes office, retail, and restaurant, which would increase the number of employees.

Response to Comment No. 3-3

This comment points out that while no residential uses are proposed, the Project's commercial uses would increase the number of employees on the Project Site. This omission will be corrected in Section III, Revisions, Clarifications, and Corrections to the Draft EIR, of this Final EIR.

Comment No. 3-4

3. In general, projects that conform to the demographic projection (including employment) from the Regional Transportation Plan/Sustainable Communities Strategy by SCAG, and are currently located in the City of Los Angeles' service area are considered to have been included in LADWP's water supply planning efforts; therefore, the projected water supplies would meet projected demands.

For any questions regarding the above comments, please contact Mr. Marshall Styers of my staff at (213) 367-3541 or Marshall.Styers@ladwp.com.

Response to Comment No. 3-4

This comment states that projects that conform to the demographic projections in SCAG's RTP/SCS are considered to have been included in LADWP's water supply planning efforts and the projected water supplies would meet projected demands. As discussed in Section VI, Other CEQA Considerations, the Project is consistent with the employment projections in the 2020–2045 RTP/SCS. Specifically, the Project's net increase of 584 employees would represent 0.03 percent of the total number of employees in 2025 and 1.18 percent of the growth between 2020 and 2025. This information has also been added to the Water Supply section in Section III, Revisions, Clarifications, and Corrections to the Draft EIR, of this Final EIR.

Comment Letter No. 4

Alisha C. Pember
Adams Broadwell Joseph & Cardozo
601 Gateway Blvd., Ste. 1000
South San Francisco, CA 94080-7037

Sheila M. Sannadan
Adams Broadwell Joseph & Cardozo
601 Gateway Blvd., Ste. 1000
South San Francisco, CA 94080-7037

Comment No. 4-1

Please see the attached correspondence.

If you have any questions, please contact Sheila Sannadan.

We are writing on behalf of Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA") to request mailed notice of the availability of any environmental review document, prepared pursuant to the California Environmental Quality Act, related to the 1000 Seward Project (Case Nos. ENV- 2020-1239-EIR, CPC-2020-1237-VZC-HD-GPA-MCUP-SPR; SCH No. 2020120239) ("Project"), proposed by 39 South, LLC, as well as a copy of the environmental review document when it is made available for public review.

The Project includes demolition of two existing commercial buildings totaling 10,993 square feet (sq ft) and a surface parking lot, and the development of a 10-story commercial building on a 34,152 sq ft (0.78-acre) site located at 1000 and 1006 Seward Street; 1003, 1007, and 1013 Hudson Avenue; and 6565 Romaine Street in the Hollywood Community Plan Area of the City of Los Angeles, California. The Project would include the development of new office, restaurant, and retail uses totaling 150,600 sq ft.

We also request mailed notice of any and all hearings and/or actions related to the Project. These requests are made pursuant to Public Resources Code Sections 21092.2, 21080.4, 21083.9, 21092, 21108, 21152, 21167(f), and Government Code Section 65092, which require local agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency's governing body.

Please send the above requested items by email and U.S. Mail to our South San Francisco Office as follows:

U.S. Mail
Sheila M. Sannadan
Adams Broadwell Joseph & Cardozo
601 Gateway Blvd., Ste. 1000
South San Francisco, CA 94080-7037

Email
ssannadan@adamsbroadwell.com

Please call me at (650) 589-1660 if you have any questions. Thank you for your assistance with this matter.

Response to Comment No. 4-1

The commenter has been added to the City's notification list for this Project as requested. This comment does not raise any issues with respect to the content and adequacy of the Draft EIR. Therefore, it is noted for the record and will be forwarded to the decision-makers for their review and consideration.

Comment Letter No. 5

Alisha C. Pember
Adams Broadwell Joseph & Cardozo
601 Gateway Blvd., Ste. 1000
South San Francisco, CA 94080-7037

Sheila M. Sannadan
Adams Broadwell Joseph & Cardozo
601 Gateway Blvd., Ste. 1000
South San Francisco, CA 94080-7037

Comment No. 5-1

Please see the attached correspondence.

If you have any questions, please contact Sheila Sannadan.

We are writing on behalf of Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA") to request *immediate access* to any and all public records referring or related to the 1000 Seward Project (Case Nos. ENV- 2020-1239-EIR, CPC-2020-1237-VZC-HD-GPA-MCUP-SPR; SCH No. 2020120239) ("Project"), proposed by 39 South, LLC. This request includes, but is not limited to, any and all materials, applications, correspondence, resolutions, memos, notes, analyses, electronic mail messages, files, maps, charts, and/or any other documents related to the Project. This request *does not include* the Draft Environmental Impact Report ("DEIR") or documents referenced or relied upon in the DEIR, which we have requested in a separate letter pursuant to the California Environmental Quality Act.

The Project includes demolition of two existing commercial buildings totaling 10,993 square feet (sq ft) and a surface parking lot, and the development of a 10-story commercial building on a 34,152 sq ft (0.78-acre) site located at 1000 and 1006 Seward Street; 1003, 1007, and 1013 Hudson Avenue; and 6565 Romaine Street in the Hollywood Community Plan Area of the City of Los Angeles, California. The Project would include the development of new office, restaurant, and retail uses totaling 150,600 sq ft.

This request is made pursuant to the California Public Records Act, Government Code §§ 6250, *et seq*. This request is also made pursuant to Article I, section 3(b) of the California Constitution, which provides a constitutional right of access to information concerning the conduct of government. Article I, section 3(b) provides that any statutory right to information shall be broadly construed to provide the greatest access to

government information and further requires that any statute that limits the right of access to information shall be narrowly construed.

We request *immediate access* to review the above documents pursuant to section 6253(a) of the Public Records Act, which requires public records to be "open to inspection at all times during the office hours of the state or local agency" and provides that "every person has a right to inspect any public record." Gov. Code § 6253(a). Therefore, the 10-day response period applicable to a "request for a copy of records" under Section 6253(c) does not apply to this request.

I will be contacting you to arrange for the review/duplication/transmission of the requested records soon. In the interim, if you have any questions or concerns regarding this request, my contact information is:

U.S. Mail
Sheila M. Sannadan
Adams Broadwell Joseph & Cardozo
601 Gateway Blvd., Ste. 1000
South San Francisco, CA 94080-7037

Email
ssannadan@adamsbroadwell.com

Thank you for your assistance with this matter.

Response to Comment No. 5-1

This comment introduces the letter and requests any and all information referring or related to the Project under the Public Records Act. The City responded to the Public Records Act request on June 16, 2022. This comment does not raise any issues with respect to the content and adequacy of the Draft EIR. Therefore, it is noted for the record and will be forwarded to the decision-makers for their review and consideration.

Comment Letter No. 6

Alisha C. Pember
Adams Broadwell Joseph & Cardozo
601 Gateway Blvd., Ste. 1000
South San Francisco, CA 94080-7037

Sheila M. Sannadan
Adams Broadwell Joseph & Cardozo
601 Gateway Blvd., Ste. 1000
South San Francisco, CA 94080-7037

Comment No. 6-1

Please see the attached correspondence.

If you have any questions, please contact Sheila Sannadan.

We are writing on behalf of Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA") to request *immediate access* to any and all documents referenced, incorporated by reference, and relied upon in the Draft Environmental Impact Report ("DEIR") prepared for the 1000 Seward Project (Case Nos. ENV-2020-1239-EIR, CPC-2020-1237-VZC-HD-GPA-MCUP-SPR; SCH No. 2020120239) ("Project"), proposed by 39 South, LLC. *This request excludes a copy of the DEIR and its appendices. This request also excludes any documents that are currently available on the Project's webpage on the City of Los Angeles website, as of today's date*.[1]

The Project includes demolition of two existing commercial buildings totaling 10,993 square feet (sq ft) and a surface parking lot, and the development of a 10-story commercial building on a 34,152 sq ft (0.78-acre) site located at 1000 and 1006 Seward Street; 1003, 1007, and 1013 Hudson Avenue; and 6565 Romaine Street in the Hollywood Community Plan Area of the City of Los Angeles, California. The Project would include the development of new office, restaurant, and retail uses totaling 150,600 sq ft.

Our request for *immediate access* to all documents referenced in the DEIR is made pursuant to the California Environmental Quality Act ("CEQA"), which requires that all documents referenced, incorporated by reference, and relied upon in an environmental review document be made available to the public for the entire comment period.[2]

The Notice of Availability for the DEIR states that the documents referenced in the DEIR are available for public review, by appointment at City Planning offices located at 221 N

Figueroa Street, Suite 1350, Los Angeles, CA 90012. I will be contacting you to arrange for the review/duplication/transmission of the requested records soon. In the interim, if you have any questions or concerns regarding this request, my contact information is:

U.S. Mail
Sheila M. Sannadan
Adams Broadwell Joseph & Cardozo
601 Gateway Blvd., Ste. 1000
South San Francisco, CA 94080-7037

Email
ssannadan@adamsbroadwell.com

Please call me at (650) 589-1660 if you have any questions. Thank you for your assistance with this matter.

[1] Accessed https://planning.lacity.org/development-services/eir/1000-seward-project-0 on June 15, 2022.

[2] See Public Resources Code § 21092(b)(1) (stating that "all documents referenced in the draft environmental impact report" shall be made "available for review"); 14 Cal. Code Reg. § 15087(c)(5) (stating that all documents incorporated by reference in the EIR… shall be readily accessible to the public"); see also *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 442, as modified (Apr. 18, 2007) (EIR must transparently incorporate and describe the reference materials relied on in its analysis); *Santiago County Water District v. County of Orange* (1981) 118 Cal.App.3rd 818, 831 ("[W]hatever is required to be considered in an EIR must be in that formal report…"), internal citations omitted.

Response to Comment No. 6-1

This comment introduces the letter and requests any and all documents referenced, incorporated by reference, and relied upon in the Draft EIR pursuant to CEQA. The City responded to the request on June 16, 2022. This comment does not raise any issues with respect to the content and adequacy of the Draft EIR. Therefore, it is noted for the record and will be forwarded to the decision-makers for their review and consideration

Comment Letter No. 7

Alisha C. Pember
Adams Broadwell Joseph & Cardozo
601 Gateway Blvd., Ste. 1000
South San Francisco, CA 94080-7037

Darien Key
Adams Broadwell Joseph & Cardozo
601 Gateway Blvd., Ste. 1000
South San Francisco, CA 94080-7037

James J.J. Clark
Clark & Associates
12405 Venice Blvd., PMB 331
Los Angeles, CA 90066-3803

Deborah A. Jue
Wilson Ihrig
5900 Hollis St., Ste. T1
Emeryville, CA 94608-2008

Comment No. 7-1

Please find the attached Comments on the Draft Environmental Impact Report—1000 Seward Project (Case Nos. ENV-2020-1239-EIR, CPC-2020-1237-VZC-HD-GPA-MCUP-SPR; SCH No. 2020120239) and Attachments A–B.

We are also providing a Dropbox link containing supporting references: https://www.dropbox.com/sh/fxf20k5wkzoh9r8/AABhk73vGZN_TXs9XfxA0HqBa?dl=0

A hard copy of our Comments and Attachments A-B will be sent out today via overnight delivery.

If you have any questions, please contact Darien Key.

On behalf of the Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA"), we submit these comments on the Draft Environmental Impact Report ("DEIR") for the 1000 Seward Project (Case Nos. ENV-2020-1239-EIR, CPC-2020-1237-VZC-HD-GPA-MCUP-SPR; SCH No. 2020120239) ("Project"), proposed by 39 South, LLC

("Applicant"), and prepared pursuant to the California Environmental Quality Act ("CEQA")[1] by the City of Los Angeles ("the City").

The Project includes the demolition of two existing commercial buildings totaling 10,993 square feet (sq ft) and a surface parking lot, and the development of a 10-story commercial building on a 34,152 sq ft (0.78-acre) site located at 1000 and 1006 Seward Street; 1003, 1007, and 1013 Hudson Avenue; and 6565 Romaine Street in the Hollywood Community Plan Area of the City of Los Angeles, California. The Project includes the development of new office, restaurant, and retail uses totaling 150,600 sq ft.

Our review of the DEIR demonstrates that the DEIR fails to comply with CEQA. As explained more fully below, the DEIR fails to accurately disclose the extent of the Project's potentially significant impacts related to air quality, public health, noise, greenhouse gas ("GHG") emissions, transportation and land use. The DEIR fails to support its significance findings with substantial evidence and fails to mitigate the Project's significant impacts to the greatest extent feasible, in violation of CEQA. As a result of these deficiencies, the City also cannot make the requisite findings to approve the Project under the City's municipal code or to adopt a statement of overriding considerations pursuant to CEQA.[2]

These comments were prepared with the assistance of environmental health, air quality, and GHG expert Dr. James Clark, Ph.D., and noise expert Deborah Jue of Wilson Ihrig. Comments and curriculum vitae of Dr. Clark are attached to this letter as Attachment A.[3] Ms. Jue's comments and curriculum vitae are included as Attachment B.[4] Attachments A and B are fully incorporated herein and submitted to the City herewith. Therefore, the City must separately respond to the technical comments in Attachments A and B.

For the reasons discussed herein, and in the attached expert comments, CREED LA urges the City to remedy the deficiencies in the DEIR by preparing a legally adequate revised DEIR and recirculating it for public review and comment.[5]

Response to Comment No. 7-1

This comment consists of an email transmittal that provides an overview of the Project Description and the commenter's belief that the Draft EIR fails to meet the requirements of CEQA. Specific issues raised by the commenter in their letter and associated exhibits are addressed in Response to Comment Nos. 7-4 through 7-75, below. As demonstrated therein, the Draft EIR meets the standards of CEQA and recirculation is not warranted. Nevertheless, this comment is noted for the record and will be forwarded to the decision-makers for their review and consideration.

With respect to the Project Description, the Project Description identified above has been modified including, but not limited to, a reduction in the proposed square footage, number

of floors, and number of aboveground parking levels. Refer to Section III, Revisions, Clarifications, and Corrections to the Draft EIR, of this Final EIR.

Comment No. 7-2

I. STATEMENT OF INTEREST

CREED LA is an unincorporated association of individuals and labor organizations formed to ensure that the construction of major urban projects in the Los Angeles region proceeds in a manner that minimizes public and worker health and safety risks, avoids or mitigates environmental and public service impacts, and fosters long-term sustainable construction and development opportunities. The association includes the Sheet Metal Workers Local 105, International Brotherhood of Electrical Workers Local 11, Southern California Pipe Trades District Council 16, and District Council of Iron Workers of the State of California, along with their members, their families, and other individuals who live and work in the Los Angeles region.

Individual members of CREED LA include John Ferruccio, Jorge L. Aceves, John P. Bustos, Gerry Kennon, and Chris S. Macias. These individuals live in the City of Los Angeles, and work, recreate, and raise their families in the City and surrounding communities. Accordingly, they would be directly affected by the Project's environmental and health and safety impacts. Individual members may also work on the Project itself. They will be first in line to be exposed to any health and safety hazards that exist on-site.

CREED LA has an interest in enforcing environmental laws that encourage sustainable development and ensure a safe working environment for its members. Environmentally detrimental projects can jeopardize future jobs by making it more difficult and more expensive for businesses and industries to expand in the region, and by making the area less desirable for new businesses and new residents. Continued environmental degradation can, and has, caused construction moratoriums and other restrictions on growth that, in turn, reduce future employment opportunities.

CREED LA supports the development of commercial, mixed use, and residential projects where properly analyzed and carefully planned to minimize impacts on public health, climate change, and the environment. These projects should avoid adverse impacts to air quality, public health, climate change, noise, and traffic, and must incorporate all feasible mitigation to ensure that any remaining adverse impacts are reduced to the maximum extent feasible. Only by maintaining the highest standards can commercial development truly be sustainable.

Response to Comment No. 7-2

This comment includes the commenter's statement of interest and does not raise any issues with respect to the content and adequacy of the Draft EIR. Therefore, it is noted for the record and will be forwarded to the decision-makers for their review and consideration.

Comment No. 7-3

II. LEGAL BACKGROUND

CEQA requires public agencies to analyze the potential environmental impacts of their proposed actions in an EIR.[6] The EIR is a critical informational document, the "heart of CEQA."[7] "The foremost principle under CEQA is that the Legislature intended the act to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language."[8]

CEQA has two primary purposes. First, CEQA is designed to inform decision-makers and the public about the potential, significant environmental effects of a project.[9] "Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR 'protects not only the environment but also informed self-government.'"[10] The EIR has been described as "an environmental 'alarm bell' whose purpose is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return."[11] As the CEQA Guidelines explain, "[t]he EIR serves not only to protect the environment but also to demonstrate to the public that it is being protected."[12]

Second, CEQA requires public agencies to avoid or reduce environmental damage when "feasible" by requiring consideration of environmentally superior alternatives and adoption of all feasible mitigation measures.[13] The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to "identify ways that environmental damage can be avoided or significantly reduced."[14] If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has "eliminated or substantially lessened all significant effects on the environment" to the greatest extent feasible and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns."[15]

While courts review an EIR using an "abuse of discretion" standard, "the reviewing court is not to 'uncritically rely on every study or analysis presented by a project proponent in support of its position. *A clearly inadequate or unsupported study is entitled to no judicial deference*."[16] As the courts have explained, a prejudicial abuse of discretion occurs "if the failure to include relevant information precludes informed decision-making and informed

public participation, thereby thwarting the statutory goals of the EIR process."[17] "The ultimate inquiry, as case law and the CEQA guidelines make clear, is whether the EIR includes enough detail 'to enable who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.'"[18]

[1] Public Resources Code § 21000 *et seq*.; 14 Cal. Code Regs. ("C.C.R.") §§ 15000 *et seq*.

[2] Pub. Res. Code § 21081; *Covington v. Great Basin Unified Air Pollution Control Dist*. (2019) 43 Cal.App.5th 867, 883.

[3] **Attachment A:** Comments on 1000 Seward Project (Case Nos. ENV-2020-1239-EIR, CPC-2020-1237-VZC-HD-GPA-MCUP-SPR; SCH No. 2020120239) ("Clark Comments").

[4] **Attachment B:** 1000 Seward Project (Case Nos. ENV-2020-1239-EIR, CPC-2020-1237-VZC-HD-GPA-MCUP-SPR; SCH No. 2020120239) (July 21, 2022), Comments on Noise Section by Wilson Ihrig ("Jue Comments").

[5] We reserve the right to supplement these comments at later hearings on this Project. Gov. Code § 65009(b); Public Resources Code § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1199–1203; *see Galante Vineyards v. Monterey Water Dist*. (1997) 60

[6] Public Resources Code § 21100.

[7] *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist*. (2016) 1 Cal.5th 937, 944 (citation omitted).

[8] *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 390 (internal quotations omitted).

[9] Public Resources Code § 21061; 14 C.C.R. §§ 15002(a)(1); 15003(b)–(e); *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 517 ("[T]he basic purpose of an EIR is to provide public agencies and the public in general with detailed information about the effect [that] a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project.").

[10] *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564, *quoting Laurel Heights*, 47 Cal.3d at 392.

[11] *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810; see also *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm'rs.* (2001) 91 Cal.App.4th 1344, 1354 ("*Berkeley Jets*") (purpose of EIR is to inform the public and officials of environmental consequences of their decisions before they are made).

[12] 14 C.C.R. § 15003(b).

[13] 14 C.C.R. § 15002(a)(2), (3); *see also Berkeley Jets*, 91 Cal.App.4th at 1354; *Citizens of Goleta Valley*, 52 Cal.3d at 564.

[14] 14 C.C.R. § 15002(a)(2).

[15] Public Resources Code § 21081(a)(3), (b); 14 C.C.R. §§ 15090(a), 15091(a), 15092(b)(2)(A), (B); *Covington v. Great Basin Unified Air Pollution Control Dist*. (2019) 43 Cal.App.5th 867, 883.

Response to Comment No. 7-3

This comment provides the commenter's version of the legal background on the EIR process and does not raise any issues with respect to the content and adequacy of the Draft EIR. Therefore, it is noted for the record and will be forwarded to the decision-makers for their review and consideration.

Comment No. 7-4

III. THE DEIR FAILS TO PROVIDE A COMPLETE AND ACCURATE PROJECT DESCRIPTION

CEQA requires that an EIR "set forth a project description that is sufficient to allow an adequate evaluation and review of the environmental impact."[19] "The scope of the environmental review conducted for the initial study must include the entire project … [A] correct determination of the nature and scope of the project is a critical step in complying with the mandates of CEQA."[20] An accurate and complete project description is necessary for an intelligent evaluation of the potential environmental impacts of the agency's action. Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal… and weigh other alternatives in the balance."[21]

CEQA Guidelines Section 15378 defines "Project" to mean "the whole of an action, which has a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment."[22] The term 'project' refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term does not mean each separate governmental approval.[23] Courts have explained that for a project description to be complete, it must address not only the immediate environmental consequences of going forward with the project but also all "reasonably foreseeable consequence[s] of the initial project."[24]

A. The DEIR Fails to Adequately Describe Project Backup Generator Activities

The DEIR fails to provide a complete and accurate Project description by failing to fully describe operation of the backup generator ("BUG").

Buried in the CalEEMod files in Appendix B of the DEIR list a 500 horsepower BUG which will be used during Project operation:[25]

Equipment Type	Number	Hours/Day	Hours/Year	Horse Power	Load Factor	Fuel Type
Emergency Generator	1	0.25	10	500	0.73	Diesel

This section of the CalEEMod files details operational stationary equipment and shows that the BUG will run for 10 hours a year. Yet, there is no other description of the BUG or its operation in the DEIR. The DEIR fails to adequately describe this aspect of the Project and, therefore, it is impossible for decisionmakers or the public to determine the extent of the Project's impacts from the BUG.

The DEIR must be revised to include a complete and accurate description of the BUG.

[16] *Berkeley Jets*, 91 Cal.App.4th 1344, 1355 (emphasis added), *quoting Laurel Heights*, 47 Cal.3d at 391, 409, fn. 12.

[17] *Berkeley Jets*, 91 Cal.App.4th at 1355; see also *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 722 (error is prejudicial if the failure to include relevant information precludes informed decision making and informed public participation, thereby thwarting the statutory goals of the EIR process); *Galante Vineyards v. Monterey Peninsula Water Management Dist*. (1997) 60 Cal.App.4th 1109, 1117 (decision to approve a project is a nullity if based upon an EIR that does not provide decision-makers and the public with information about the project as required by CEQA); *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 946 (prejudicial abuse of discretion results where agency fails to comply with information disclosure provisions of CEQA).

[18] *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 516, *quoting Laurel Heights*, 47 Cal.3d at 405.

[19] *San Joaquin Raptor Rescue Center v. County of Merced* 149 Cal.App.4th 645, 654 (citing 14 C.C.R. § 15124).

[20] *Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 267 (internal quotations and citations omitted).

[21] *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 406 (internal quotations and citations omitted).

[22] 14 C.C.R. 15378(a).

[23] CEQA Guidelines § 15378.

[24] *Laurel Heights*, 47 Cal.3d at p. 396 (emphasis added); *see also Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449-50.

[25] Appendix B, p. 48.

Response to Comment No. 7-4

This comment claims the Draft EIR fails to fully describe operation of the Project's backup generator. As noted by the commenter, CEQA requires that an EIR "set forth a project description that is sufficient to allow an adequate evaluation and review of the environmental impact." The commenter also notes that CEQA Guidelines Section 15378 defines "Project" to mean "the whole of an action, which has a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment." A Project Description need not include every piece of possible equipment that may be used during construction or operation of a project to meet these requirements and, as the commenter notes, the analysis of the backup generator was included in the Project's air quality analysis (Appendix B of the Draft EIR). Refer to Response to Comment Nos. 7-7 through 7-9, below for a detailed discussion of the backup generator.

It should be noted that subsequent to completion of the Draft EIR, it was determined that the Project would require a 1,000 kw (1,341 hp) emergency generator which is an increase in horsepower in comparison to the 500 hp emergency generator included in the Draft EIR. Appendix FEIR-2 of this Final EIR provides additional details regarding location, annual hours of operations, and health risk impacts related to the emergency generator.

As shown therein, Project-related air quality and health risk impacts would remain less than significant.

Comment No. 7-5

IV. THE CITY LACKS SUBSTANTIAL EVIDENCE TO SUPPORT ITS CONCLUSIONS IN THE DEIR REGARDING THE PROJECT'S POTENTIALLYSIGNIFICANT [sic] **IMPACTS; THE DEIR FAILS TO INCORPORATE ALL FEASIBLE MITIGATION MEASURES NECESSARY TO REDUCE SUCH IMPACTS TO A LEVEL OF INSIGNIFICANCE**

Response to Comment No. 7-5

This comment, consisting of general criticism of the Draft EIR, is noted for the record and will be forwarded to the decision-makers for their review and consideration. Refer to Response to Comment Nos. 7-7 through 7-34, below, for responses to specific claims made by the commenter.

Comment No. 7-6

A. The DEIR Substantially Underestimates Emissions From the On-Site Back Up Generator

According to the DEIR, Project operation would not result in substantial emissions of air pollutants or toxic air contaminants including diesel particulate matter ("DPM"). The DEIR's "analysis" of air quality and health impacts is unsupported by substantial evidence and substantially underestimates emissions from the BUG.

Response to Comment No. 7-6

This comment claims the Draft EIR's air quality analysis is insufficient. Refer to Response to Comment Nos. 7-7 through 7-18, below for detailed responses to the commenter's claims regarding the Project's air quality analysis. As discussed therein, the analysis presented in the Draft EIR is accurate and the commenter has not provided substantial evidence to the contrary.

Comment No. 7-7

First, the DEIR provides no description, let alone detailed analysis, of a BUG except for including the BUG in the CalEEMod files buried in Appendix B. As discussed above, this violates CEQA by failing to provide an adequate Project description, depriving the public and decisionmakers of the full scope of the Project.

Response to Comment No. 7-7

This comment repeats the commenter's claim that the Project Description is insufficient, specifically as it pertains to the backup generator. Refer to Response to Comment No. 7-4. As discussed therein, the Project Description meets the requirements of CEQA.

Comment No. 7-8

Second, the CalEEMod files assume the BUG will be maintained and tested for no more than 10 hours per year. The DEIR provides zero support for this assumption. Indeed, SCAQMD permits backup generators to operate up to 200 hours per year and to maintained and tested no more than 50 hours per year.[26] As Dr. Clark explains, the "City's assumption that the BUG would operate at a substantially reduced rate ignores the legally acceptable threshold outlined" in SCAQMD Rules 1470 and 1110.2.[27] The City has, therefore, significantly underestimated the potential air quality and health impacts from the BUG's DPM and NOx emissions Thus, [sic] the DEIR's conclusion that there will be less than significant impacts from the BUG is not supported by substantial evidence.

[26] SCAQMD Rule 1470; SCAQMD Rule 1110.2; Appendix B, p. 48.

[27] Clark Comments p. 8.

Response to Comment No. 7-8

This comment references Clark's comments that the Draft EIR incorrectly assumes the backup generator would be maintained and tested no more than 10 hours per year. Refer to Response to Comment No. 7-48 below for a detailed discussion of Clark's specific comment. As discussed below, the Draft EIR reasonably estimated, based on the specifics of this Project, that backup generator annual hours would be consistent with infrequent emergency usage, and therefore, significantly below that which is allowed under SCAQMD rules (10 versus 200 hours); just because SCAQMD rules allow for longer annual hours does not mean that this specific Project's estimate is inaccurate and the commenter has provided no substantial evidence establishing otherwise.

While the Draft EIR provided a reasonable estimate of annual hourly usage of the emergency generator for maintenance and testing, a health risk assessment (HRA) was prepared in response to these comments and included as Appendix FEIR-2 of this Final EIR. The HRA conservatively includes use of all SCAQMD allowable 200 hours for a 1,000 kw generator to further demonstrate that health risks from the Project would be a maximum of 7.0 in one million for residences located directly north of the Project Site (for combined construction and operational emissions), which is below the applicable SCAQMD significance threshold of 10 in one million.

As demonstrated in Response to Comment No. 7-10, there are no new or increased impacts and the commenter has not provided any substantial evidence that use of the backup generators would exceed the usage assumptions provided in the Draft EIR.

Comment No. 7-9

Third, the DEIR fails to analyze all uses that stem from the reasonably foreseeable increase of generator use during Public Safety Power Shutoff ("PSPS") events and extreme heat events. The recent rise of extreme heat events ("EHE") in the State has increased the amount of PSPS events and thus increased the amount of time generators are being run.[28] Dr. Clark explains that EHEs "are defined as periods where the temperatures throughout California exceed 100 degrees Fahrenheit."[29] During two EHEs in 2021, backup generator owners were allowed to run their generators for 48 hours and 72 hours, respectively. Dr. Clark explains that these two events "would have increased the calculated DPM emissions by a factor of 5 from the Project."[30]

According to a California Public Utilities Commission ("CPUC") de-energization report[31] in October 2019, there were almost 806 PSPS events that impacted almost 973,000 customers (~7.5% of households in California) of which ~854,000 of them were residential customers, and the rest were commercial/industrial/medical baseline/other customers. CARB's data also indicated that, on average, each of these customers had about 43 hours of power outages in October 2019.[32] Dr. Clark notes that CARB concluded that PSPS events in October of 2019 alone generated 126 tons of NOx, 8.3 tons of particulate matter and 8.3 tons of DPM.[33]

In 2021, Governor Newsom issued an Executive Order highlighting the severity of EHEs and a Proclamation for a State of Emergency to help avoid PSPS events.[34] Further, CARB notes that the number of EHEs (and associated PSPS events) is likely to increase with continued climate change.[35]

Dr. Clark concludes that "power produced [from generators] during PSPS or extreme heat events is expected to come from [diesel] engines" and would result in significantly increased DPM emissions.

The City's analysis of air quality and public health impacts from the BUG is not supported by substantial evidence. Rather, substantial evidence demonstrates that the BUG could result in significantly more DPM emissions. The City must prepare a revised DEIR that adequately analyzes potentially significant impacts from operation and testing of the BUG.

[28] Modern Health Care, California hospitals rely on generators during PG&E power outages, October 2019, https://www.modernhealthcare.com/providers/california-hospitals-rely-generators-during-pge-power-outages

[29] Governor of California. 2021. Proclamation of a state of emergency. June 17, 2021; Clark Comments p. 9.

[30] Clark Comments p. 10.

[31] https://www.cpuc.ca.gov/deenergization/ as cited in CARB, 2020. Potential Emission Impact of Public Safety Power Shutoff (PSPS), Emission Impact: Additional Generator Usage associated With Power Outage.

[32] CARB, 2020. Potential Emission Impact of Public Safety Power Shutoff (PSPS), Emission Impact: Additional Generator Usage associated With Power Outage.

[33] Clark Comments p. 10.

[34] Cal. Governor Executive Order N-11-21, https://www.gov.ca.gov/wp-content/uploads/2021/07/EO-N-11-21-Extreme-Heat-Event-07.10.21.pdf; Cal. Governor Proclamation of a State of Emergency, June 16, 2021, https://www.gov.ca.gov/wp-content/uploads/2021/06/6.17.21-Extreme-Heat-proclamation.pdf.

[35] CARB 2017 Scoping Plan, p. 6, https://ww2.arb.ca.gov/sites/default/files/classic/cc/scopingplan/scoping_plan_2017.pdf

Response to Comment No. 7-9

This comment claims the Draft EIR fails to analyze increased generator usage during PSPS events and EHEs and asserts there is substantial evidence that the backup generator could result in significantly more DPM emissions. While the Draft EIR provided a reasonable estimate of annual hourly usage of the emergency generator for maintenance and testing, the HRA prepared in response to these comments and included as Appendix FEIR-2 of this Final EIR, conservatively includes the use of 200 hours for a 1,000 kw generator to further demonstrate that health risks from Project DPM emissions are less than significant. The 200 hours of operation of the emergency generator would include PSPS.

Refer to Response to Comment No. 7-49 below for a detailed discussion of Clark's specific comment. As demonstrated in the response below, there are no new or increased impacts and the commenter has not provided any substantial evidence that use of the backup generators would exceed the usage assumptions provided in the Draft EIR.

Comment No. 7-10

B. The DEIR Fails to Adequately Disclose or Analyze the Health Risks Posed by the Project's Construction and Operational Emissions; Substantial Evidence Shows the Project Would Result in Significant Health Risks

The DEIR fails to adequately disclose and analyze health risks from construction and operational emissions and lacks a quantitative health risk analysis ("HRA"), in violation of CEQA. An agency must support its findings of a project's potential environmental impacts with concrete evidence, with "sufficient information to foster informed public participation and to enable the decision-makers to consider the environmental factors necessary to make a reasoned decision."[36] In particular, a project's health risks must be 'clearly

identified' and the discussion must include 'relevant specifics' about the environmental changes attributable to the Project and their associated health outcomes."[37]

Courts have held that an environmental review document must disclose a project's potential health risks to a degree of specificity that would allow the public to make the correlation between the project's impacts and adverse effects on human health.[38] In *Bakersfield*, the court found that the EIRs' description of health risks were insufficient and that after reading them, "the public would have no idea of the health consequences that result when more pollutants are added to a nonattainment basin."[39] Likewise in *Sierra Club*, the Supreme Court held that the EIR's discussion of health impacts associated with exposure to the named pollutants was too general and the failure of the EIR to indicate the concentrations at which each pollutant would trigger the identified symptoms rendered the report inadequate.[40] Some connection between air quality impacts and their direct, adverse effects on human health must be made. As the Court explained, "a sufficient discussion of significant impacts requires not merely a determination of whether an impact is significant, but some effort to explain the nature and magnitude of the impact."[41] CEQA mandates discussion, supported by substantial evidence, of the nature and magnitude of impacts of air pollution on public health.[42]

Failing to provide the information required by CEQA makes the meaningful assessment of potentially significant impacts impossible and is presumed to be prejudicial.[43] Challenges to an agency's failure to proceed in the manner required by CEQA, such as the failure to address a subject required to be covered in an EIR or to disclose information about a project's environmental effects or alternatives, are subject to a less deferential standard than challenges to an agency's factual conclusions.[44] Courts reviewing challenges to an agency's approval of a CEQA document based on a lack of substantial evidence will "determine de novo whether the agency has employed the correct procedures, scrupulously enforcing all legislatively mandated CEQA requirements."[45]

36 *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 516.

37 *Id.* at 518.

38 *Id.* at 518–520; *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184.

39 *Id.* at 1220.

40 *Sierra Club*, at 521.

41 *Id.* at 519, citing *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 514–515.

42 *Sierra Club*, 6 Cal.5th at 518–522.

43 *Sierra Club v. State Bd. Of Forestry* (1994) 7 Cal.4th 1215, 1236–1237.

44 *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435.

45 *Id.* (internal quotations omitted).

Response to Comment No. 7-10

The commenter contends that the Draft EIR "lacks a quantitative health risk analysis ("HRA"), in violation of CEQA." The City as the Lead Agency has the discretion to select the appropriate thresholds of significance and methodologies for evaluating a project's impacts including potential impacts related to health risk. This comment does not provide substantial evidence to demonstrate that a quantified HRA related to any potential on-site sources of toxic air contaminants (TACs) is required under CEQA or that the City abused its discretion in not requiring one in the Draft EIR.

The Draft EIR correctly identified that proposed construction activities would be limited in duration and considered a short-term source of TAC emissions. SCAQMD's CEQA Air Quality Handbook does not recommend analysis of TACs from short-term construction activities associated with land use development projects. The rationale for not requiring a health risk assessment for construction activities is the limited duration of exposure. According to SCAQMD methodology, health effects from carcinogenic air toxics are usually described in terms of individual cancer risk. Specifically, "Individual Cancer Risk" is the likelihood that a person continuously exposed to concentrations of TACs over a 70-year lifetime will contract cancer based on the use of standard risk assessment methodology. The California Office of Environmental Health Hazard Assessment (OEHHA) guidance evaluates residential exposure over a 30-year duration.

Because the construction schedule for the Project estimates that the overall construction schedule would be limited to approximately two years, construction of the Project would not result in a substantial, long-term (i.e., 70-year) source of TAC emissions. No residual emissions and corresponding individual cancer risk are anticipated after construction as the Project does not include any substantial operational sources of TAC emissions (e.g., warehouse distribution facility). Because there is such a short-term exposure period (2 out of a 70-year lifetime), further evaluation of construction TAC emissions within the Draft EIR was not warranted. This supporting information is consistent with the *L.A. CEQA Thresholds Guide* in making a case-by-case determination of significance. As such, the Draft EIR correctly concluded that Project-related TAC emission impacts during construction would be less than significant and would not result in a potential health risk impact.

From an operational standpoint, the Draft EIR correctly identified that the Project would not support any land uses or activities that would involve the use, storage, or processing of carcinogenic TACs. In addition, the proposed land uses would not generally involve the use of heavy-duty diesel trucks with the exception of occasional moving trucks, trash trucks or delivery trucks. The commenter is referred to SCAQMD guidance below that provides clarification as to when an HRA may be warranted:

> *The SCAQMD published and adopted the* Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*, which provides recommendations regarding the siting of new sensitive land uses near potential sources of air toxic emissions (e.g., freeways, distribution centers, rail yards, ports, refineries, chrome plating facilities, dry cleaners, and gasoline dispensing facilities).*[1] *The SCAQMD recommends that HRAs be conducted for substantial sources of DPM (e.g., truck stops and warehouse distribution facilities that generate more than 100 trucks per day or more than 40 trucks with operating transport refrigeration units).*

As discussed above, the Project includes the development of 136,200 square feet of office uses, 12,200 square feet of restaurant uses (of which 6,100 square feet may be used for an entertainment use), and 2,200 square feet of retail uses. A conservative estimate of the number of daily truck trips is provided below based on the National Cooperative Highway Research Program (NCHRP) Truck Trip Generation Data.[2]

- Table D-2c of the NCHRP data (Trip Generation Summary—Daily Commercial Vehicle Trips per 1,000 sf of Building Space for Retail (includes restaurants)) provides an average of 0.324 truck trips per 1,000 sf or 4.7 truck trips per day ((14,400 sf/1,000 sf) x 0.324 trips/1,000 sf/day) for the Project's retail/restaurant uses. This assumes that all trucks would be diesel even though many retail//restaurant truck deliveries are from smaller gasoline trucks (e.g., UPS or FedEx). The NCHRP data did not provide the percentage of trucks that would be equipped with a transportation refrigeration unit (TRU). For the purposes of this analysis, it was estimated that one of the trucks per day would be equipped with a TRU related to restaurant use.

- Table D-2d of the NCHRP data (Trip Generation Summary—Daily Commercial Vehicle Trips per 1,000 sf of Building Space for Office and Services (Office uses)) provides an average of 0.039 truck trips per 1,000 sf or approximately 5.3 truck trips per day ((136,200 sf/1,000 sf) x 0.039 trips/1,000 sf/day) for the Project's office uses. Once again, this assumes that all trucks would be diesel even though many office truck deliveries are from smaller gasoline trucks (e.g., UPS or FedEx).

As shown above, the Project is conservatively estimated to generate approximately ten trucks per day of which one would be equipped with a TRU. Based on SCAQMD

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

[2] *National Cooperative Highway Research Program (NCHRP) Synthesis 298 Truck Trip Generation Data, 2001, http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_syn_298.pdf.*

guidance, a quantitative analysis is not required for future cancer risk within the vicinity of the Project as the Project is consistent with the recommendations regarding the siting of new sensitive land uses near potential sources of TAC emissions provided in the SCAQMD *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*. Specifically, the Project is not considered to be a substantial source of DPM warranting a refined HRA since daily truck trips to the Project Site would not exceed 100 trucks per day or more than 40 trucks with operating TRUs.

An HRA is not required by SCAQMD or the *L.A. CEQA Thresholds Guide*, and no guidance for HRAs for construction has been adopted by SCAQMD or the City. Based on the above information, the Draft EIR correctly concluded that an operational HRA was not warranted.

Nonetheless, a combined construction and operational HRA has been prepared pursuant to the California Air Pollution Control Officers Association (CAPCOA) Guidance Document for Health Risk Assessments for Proposed Land Use Projects in response to this comment letter to confirm, as the Draft EIR concludes, that no significant health risk impacts would occur from the Project. The HRA is provided as Appendix FEIR-2 of this Final EIR. As discussed on Page 1 of Appendix FEIR-2, the HRA demonstrates that health risks from the Project (combined construction and operation) would be a maximum of 7.0 in one million for residences located directly north of the Project Site (for combined construction and operational emissions), which is below the applicable SCAQMD significance threshold of 10 in one million.

Comment No. 7-11

The DEIR's analysis of health impacts fails to satisfy CEQA's requirements. The DEIR concludes, without substantial evidence, that the Project's emissions of toxic air contaminants ("TACs") will be less than significant. But the DEIR fails to include a detailed or quantitative HRA which discloses the adverse health impacts from exposure to TACs from the Project's construction and operational emissions. As a result, the DEIR fails to disclose the potentially significant health risks posed to nearby residents and children from TACs, and fails to mitigate those risks. Because the DEIR fails to include the necessary analysis disclosing the extent and severity of the Project's health risks, and fails to compare the Project's TAC emissions to applicable significance thresholds, the DEIR lacks substantial evidence to support its conclusion that the Project will not have significant health impacts from human exposure to DPM emissions generated during Project construction and operation.

Response to Comment No. 7-11

This comment claims the Draft EIR conclusion that the Project's TAC emissions are less than significant is not supported with substantial evidence. Further, the commenter contends that "the DEIR analysis of health impacts fails to satisfy CEQA's requirements." As discussed above in Response to Comment No. 7-10, the City as the Lead Agency has the discretion to select the appropriate thresholds of significance and methodologies for evaluating a project's impacts including potential impacts related to health risk. This comment does not provide substantial evidence to demonstrate that a quantified HRA related to any potential on-site sources of TACs is required under CEQA or that the City abused its discretion in not requiring one in the Draft EIR.

An HRA is not required by SCAQMD or the *L.A. CEQA Thresholds Guide*, and no guidance for HRAs for construction has been adopted by SCAQMD or the City. Nonetheless, a combined construction and operational HRA has been prepared pursuant to CAPCOA Guidance Document for Health Risk Assessments for Proposed Land Use Projects in response to this comment letter to confirm, as the Draft EIR concludes, that no significant health risk impacts would occur from the Project. The HRA is provided as Appendix FEIR-2 of this Final EIR. As discussed on Page 1 of Appendix FEIR-2, the HRA demonstrates that health risks from the Project (combined construction and operation) would be a maximum of 7.0 in one million for residences located directly north of the Project Site (for combined construction and operational emissions), which is below the applicable SCAQMD significance threshold of 10 in one million.

Comment No. 7-12

Dr. Clark explains that one of the primary emissions of concern regarding the health effects of land development projects is DPM, which can be released during Project construction and operation. However, the DEIR failed to perform a quantitative assessment of the Project's DPM emissions, instead concluding based on the Project's criteria pollutant emissions, that the Project's cancer risk from exposure to DPM would be less than significant.[46] When assessing the impact of criteria pollution concentrations on sensitive receptors, the SCAQMD has developed localized significance thresholds ("LST") that are based on the number of pounds of emissions per day that can be generated by a project that would cause or contribute to adverse localized air quality impacts. For TACs though, there are no LSTs, nor levels of significance based on the pounds per day of emissions. Instead, significance must be determined based on a quantitative risk analysis that requires the City to perform a multistep, quantitative health risk analysis. No such analysis was included in the DEIR.

[46] Clark Comments, pp. 5-7.; DEIR, p. IV.A-45.

Response to Comment No. 7-12

Similar to Comment No. 7-10, the commenter contends that "the DEIR failed to perform a quantitative assessment of the Project's DPM emissions." As stated above, the City as the Lead Agency has the discretion to select the appropriate thresholds of significance and methodologies for evaluating a project's impacts including potential impacts related to health risk. This comment does not provide substantial evidence to demonstrate that a quantified HRA related to any potential on-site sources of TACs is required under CEQA or that the City abused its discretion in not requiring one in the Draft EIR.

An HRA is not required by SCAQMD or the *L.A. CEQA Thresholds Guide*, and no guidance for HRAs for construction has been adopted by SCAQMD or the City. Nonetheless, a combined construction and operational HRA has been prepared pursuant to CAPCOA Guidance Document for Health Risk Assessments for Proposed Land Use Projects in response to this comment letter to confirm, as the Draft EIR concludes, that no significant health risk impacts would occur from the Project. The HRA is provided as Appendix FEIR-2 of this Final EIR. As discussed on Page 1 of Appendix FEIR-2, the HRA demonstrates that health risks from the Project (combined construction and operation) would be a maximum of 7.0 in one million for residences located directly north of the Project Site (for combined construction and operational emissions), which is below the applicable SCAQMD significance threshold of 10 in one million.

Comment No. 7-13

Further, the DEIR concludes there will be no significant construction health risk because construction will only last from 2022 to 2025, and cancer risk is calculated based on a 70-year exposure.[47] As Dr. Clark explains, this is an incorrect assumption because exposure to TACs has acute health impacts and contributes to increased cancer risk from even short-duration exposures. OEHHA[48] guidance sets a recommended threshold for preparing an HRA for a construction period of ***two months or more***.[49] Construction of the Project will last at least 24 months.[50] Human exposure to construction TACs during that time period may result in a significant, increased cancer risk.

47 DEIR, IV.A-44.

48 OEHHA is the organization responsible for providing recommendations and guidance on how to conduct health risk assessments in California. See OEHHA organization description, available at http://oehha.ca.gov/about/program.html.

49 See "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: http://oehha.ca.gov/air/hot_spots/hotspots2015.html ("OEHHA Guidance"), p. 8-18.

50 DEIR, p. IV.A-52

Response to Comment No. 7-13

This comment misconstrues information in the 2015 OEHHA Guidance regarding applicability of preparing an HRA for a construction period of two months or more. In addition, this comment incorrectly claims that the Draft EIR was required to conduct an HRA based on this guidance. As a point of clarification, this comment incorrectly refers to acute health impacts because of exposure to TACs from the Project. According to OEHHA, diesel exhaust does not have an "acute" inhalation risk exposure level (https://oehha.ca.gov/chemicals/diesel-exhaust-particulate).

The purpose of the OEHHA guidance cited in this comment is not applicable to the Project. OEHHA adopted the Air Toxics Hot Spots Program Guidance Manual for the Preparation of Risk Assessments (2003 Guidance Manual) in October of 2003. The Guidance Manual was developed by OEHHA, in conjunction with the California Air Resources Board (CARB), for use in implementing the Air Toxics "Hot Spots" Program (Health and Safety Code Section 44360 et. seq.). The Air Toxics "Hot Spots" Program requires certain stationary sources to report the types and quantities of certain substances routinely released into the air. The goals of the Air Toxics "Hot Spots" Program are to collect emission data, to identify facilities having localized impacts, to ascertain health risks, to notify nearby residents of significant risks, and to reduce those significant risks to acceptable levels.

OEHHA adopted a new version of the *Air Toxics Hot Spots Program Guidance Manual for the Preparation of Risk Assessments* (2015 Guidance Manual) in March of 2015.[3] CARB acknowledges that the Guidance Manual does not include guidance for projects prepared under the auspices of CEQA and that it would be "handled by individual [Air Pollution Control] Districts."[4] As noted by CARB,

> *The Air Toxics "Hot Spots" Information and Assessment Act (AB 2588, 1987, Connelly) was enacted in September 1987. Under this, stationary sources are required to report the types and quantities of certain substances their facilities routinely release into the air. Emissions of interest are those that result from the routine operation of a facility or that are predictable, including but not limited to continuous and intermittent releases and process upsets or leaks…*

[3] Office of Environmental Health Hazard Assessment, Air Toxicology and Epidemiology, Adoption of Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments. March 6, 2015, https://oehha.ca.gov/air/crnr/notice-adoption-air-toxics-hot-spots-program-guidance-manual-preparation-health-risk-0.

[4] CARB, Risk Management Guidance for Stationary Sources of Air Toxics, July 23, 2015, www.arb.ca.gov/toxics/rma/rmgssat.pdf, p. 19.

> *The Act requires that toxic air emissions from stationary sources (facilities) be quantified and compiled into an inventory according to criteria and guidelines developed by the ARB, that each facility be prioritized to determine whether a risk assessment must be conducted, that the risk assessments be conducted according to methods developed by OEHHA….*[5]

There are two broad classes of facilities subject to the AB 2588 Program: Core facilities and facilities identified within discrete industry-wide source categories. Core facilities subject to AB 2588 compliance are sources whose criteria pollutant emissions (particulate matter, oxides of sulfur, oxides of nitrogen, and volatile organic compounds) are 25 tons per year or more as well as those facilities whose criteria pollutant emissions are 10 tons per year or more but less than 25 tons per year. Industry-wide source facilities are classified as smaller operations with relatively similar emission profiles (e.g., auto body shops, gas stations, and dry cleaners using perchloroethylene). It is apparent that the emissions generated from the construction and subsequent occupancy of a mixed-use development project are not classified as core operations nor subject to industry-wide source evaluation.

The intent in developing the 2015 Guidance Manual was to provide HRA procedures for use in the Air Toxics Hot Spots Program or for the permitting of new or modified stationary sources. As noted above, the Project is not a new or modified stationary source that requires air quality permits to construct or operate. Air districts are to determine which facilities will prepare an HRA based on a prioritization process. The 2015 Guidance Manual provides recommendations related to cancer risk evaluation of short-term projects regarding certain stationary sources. As discussed in Section 8.2.10 of the 2015 Guidance Manual, "[t]he local air pollution control districts sometimes use the risk assessment guidelines for the Hot Spots program in permitting decisions for short-term projects such as construction or waste site remediation." Short-term projects that would require a permitting decision by SCAQMD typically would be limited to site remediation (e.g., stationary soil vapor extractors) and would not be applicable to the Project. The 2015 Guidance Manual does not provide specific recommendations for evaluation of short-term use of mobile sources (e.g., heavy-duty diesel construction equipment). OEHHA's recommended threshold for preparing an HRA for a construction period of two months or more does not apply to this project.

As discussed above in Response to Comment No. 7-10, a quantified HRA is not required and the City as the Lead Agency has the discretion, as the commenter admits, to select the appropriate thresholds of significance and methodologies based on the above

[5] CARB, Overview of the Air Toxics "Hot Spots" Information and Assessment Act, ww2.arb.ca.gov/overview-air-toxics-hot-spots-information-and-assessment-act.

supporting evidence for evaluating a project's impacts, including potential impacts related to health risk.

An HRA is not required by SCAQMD or the *L.A. CEQA Thresholds Guide*, and no guidance for HRAs for construction has been adopted by SCAQMD or the City. Nonetheless, a combined construction and operational HRA has been prepared pursuant to CAPCOA Guidance Document for Health Risk Assessments for Proposed Land Use Projects in response to this comment letter to confirm, as the Draft EIR concludes, that no significant health risk impacts would occur from the Project. The HRA is provided as Appendix FEIR-2 of this Final EIR. As discussed on Page 1 of Appendix FEIR-2, the HRA demonstrates that health risks from the Project (combined construction and operation) would be a maximum of 7.0 in one million for residences located directly north of the Project Site (for combined construction and operational emissions), which is below the applicable SCAQMD significance threshold of 10 in one million.

Comment No. 7-14

The nearest sensitive receptors to the Project site are residences just north and east of the site. According to the DEIR, these residences would experience the highest levels of Project emissions.[51] As Dr. Clark explains, these receptors would be exposed to TACs, including DPM, during Project construction and operation. The DEIR completely fails to quantify the potential health impacts on these sensitive receptors.

[51] DEIR, p. I-2.

Response to Comment No. 7-14

Similar to Comment No. 7-10, the commenter contends that "the DEIR completely fails to quantify the potential health impacts" from DPM generated by construction or operational activities for nearby sensitive receptors. As stated above, the City as the Lead Agency has the discretion to select the appropriate thresholds of significance and methodologies for evaluating a project's impacts, including potential impacts related to health risk. As discussed above in Response to Comment No. 7-10, a quantitative HRA to evaluate potential health risk impacts to nearby sensitive receptors is not required by SCAQMD or the *L.A. CEQA Thresholds Guide*, and no guidance for HRAs for construction has been adopted by SCAQMD or the City. As discussed on Page IV.A-59 of the Draft EIR, "Given the short-term construction schedule of approximately two years, the Project would not result in a long-term (i.e., 70-year) source of TAC emissions." Furthermore, based on SCAQMD guidance, a quantitative analysis is not required for future cancer risk within the vicinity of the Project as the Project is consistent with the recommendations regarding the siting of new sensitive land uses near potential sources of TAC emissions provided in the SCAQMD *Guidance Document for Addressing Air Quality Issues in General*

Plans and Local Planning. Specifically, the Project is not considered to be a substantial source of diesel particulate matter warranting a refined HRA since daily truck trips to the Project Site would not exceed 100 trucks per day or more than 40 trucks with operating TRUs. This comment does not provide substantial evidence to demonstrate that a quantified HRA related to any potential on-site sources of TACs is required under CEQA or that the City abused its discretion in not requiring one in the Draft EIR.

An HRA is not required by SCAQMD or the *L.A. CEQA Thresholds Guide*, and no guidance for HRAs for construction has been adopted by SCAQMD or the City. Nonetheless, a combined construction and operational HRA has been prepared pursuant to CAPCOA Guidance Document for Health Risk Assessments for Proposed Land Use Projects in response to this comment letter to confirm, as the Draft EIR concludes, that no significant health risk impacts would occur from the Project. The HRA is provided as Appendix FEIR-2 of this Final EIR. As discussed on Page 1 of Appendix FEIR-2, the HRA demonstrates that health risks from the Project (combined construction and operation) would be a maximum of 7.0 in one million for residences located directly north of the Project Site (for combined construction and operational emissions), which is below the applicable SCAQMD significance threshold of 10 in one million.

Comment No. 7-15

Dr. Clark conducted his own analysis and found that, given the proximity of sensitive receptors to the site and the nature of the TACs emitted, the operational emissions from the backup generator alone would cause a significant health risk to receptors near the Project site.[52]

The City must prepare a revised DEIR that fully analyzes and discloses the Project's potentially significant health impacts from construction and operational emissions.

[52] Clark Comments, p. 8.

Response to Comment No. 7-15

This comment reiterates that the Draft EIR must fully analyze and disclose the Project's health risk impacts and also summarizes the findings of Dr. Clark's analysis. As discussed above in Response to Comment No. 7-10, a quantitative HRA to evaluate potential health risk impacts to nearby sensitive receptors is not required by SCAQMD or the *L.A. CEQA Thresholds Guide*, and no guidance for HRAs for construction has been adopted by SCAQMD or the City. As discussed on Page IV.A-59 of the Draft EIR, "Given the short-term construction schedule of approximately two years, the Project would not result in a long-term (i.e., 70-year) source of TAC emissions." Furthermore, based on SCAQMD guidance, a quantitative analysis is not required for future cancer risk within the

vicinity of the Project as the Project is consistent with the recommendations regarding the siting of new sensitive land uses near potential sources of TAC emissions provided in the SCAQMD *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*. Specifically, the Project is not considered to be a substantial source of diesel particulate matter warranting a refined HRA since daily truck trips to the Project Site would not exceed 100 trucks per day or more than 40 trucks with operating TRUs. This comment does not provide substantial evidence to demonstrate that a quantified HRA related to potential on-site sources of TACs is required under CEQA or that the City abused its discretion in not requiring one in the Draft EIR.

Refer to Response to Comment No. 7-47 below for a detailed discussion of Clark's analysis. Clark's SCAQMD's RiskTool screening spreadsheet calculation of health risks related to the diesel emergency generator was provided as Exhibit B of Clark's analysis. Clark incorrectly used the SCAQMD's RiskTool. Some outputs from the SCAQMD RiskTool were provided, but the summary sheet which contains the input parameters was omitted. In addition, the diesel generator was entered in as a non-combustion source even though a diesel generator is clearly a combustion source. The SCAQMD RiskTool spreadsheet has separate dispersion parameters for both combustion and non-combustion sources, which are only displayed on the summary sheet containing input parameters. As a result of entering the diesel generator as a non-combustion source, concentrations and health risk calculated are overestimated by a factor of 10 in comparison to a combustion source. Please refer to SCAQMD Rule 1401, Permit Application Package "N" guidance, Table 6.1A. Upon further review of the Exhibit B, the diesel generator emission rate was 3.24 lbs. of PM_{10} per year (10 hours per year of operation for routine testing and maintenance). This is approximately 40 times the annual emission rate based on compliance with SCAQMD Rule 1470 for a 500 hp emergency generator. Clark provides no citation for this incorrect value. Furthermore, Clark compounds the error by citing that their calculations assumed compliance with T-BACT controls for the generator, but no control efficiency is provided. It also appears that Clark assumed a load factor of 90 percent instead of the CalEEMod default value of 73 percent. Clark provides no supporting documentation for these changes and emission factors. As the summary sheet with input parameters was omitted from Clark's health risk analysis, and no supporting evidence was provided to characterize the source as non-combustion or to justify the emission rate used, the health risk calculations provided by Clark are erroneous and should not be considered further.

Comment No. 7-16

C. The DEIR Fails to Adequately Disclose and Mitigate Potentially Significant Impacts from GHG emissions

CEQA requires the lead agency to use scientific data to evaluate impacts from GHG emissions directly and indirectly associated with a project.[53] The analysis must "reasonably

reflect evolving scientific knowledge and state regulatory schemes."[54] In determining the significance of impacts from GHG emissions, the agency must consider the extent to which the project may increase GHG emissions compared to the existing environmental setting and the "extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions."[55]

The City has not adopted a numerical significance threshold for assessing impacts from GHG emissions nor has the City formally adopted a local plan for reducing GHG emissions. Instead, the DEIR concludes that impacts from GHG emissions will be less than significant because the Project is consistent with the goals and actions to reduce GHG emissions found in the City's Green New Deal, the 2017 California Climate Change Scoping Plan and the implementation of project design features.[56] The analysis is flawed.

[53] See 14 C.C.R. § 15064.4(a) (lead agencies "shall make a good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project); 14 C.C.R. § 15064(d) (evaluating significance of the environmental effect of a project requires consideration of reasonably foreseeable indirect physical changes caused by the project); 14 C.C.R. § 15358(a)(2) (defining "effects" or "impacts" to include indirect or secondary effects caused by the project and are "later in time or farther removed in distance, but are still reasonably foreseeable" including "effects on air"); CEQA Guidelines, Appendix G, § VIII: Greenhouse Gas Emissions (stating agencies should consider whether the project would "generate greenhouse gas emissions, ***either directly or indirectly***, that may have a significant impact on the environment.") (emphasis added).

[54] 14 C.C.R. § 15064.4(b); see also *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 504 (holding that lead agencies have an obligation to track shifting regulations and to prepare EIRs in a fashion that keeps "in step with evolving scientific knowledge and state regulatory schemes").

[55] 14 C.C.R. § 15064.4(b)(1), (3).

[56] DEIR, p. IV.C-48

Response to Comment No. 7-16

This comment asserts that the City has not adopted a numerical significance threshold for assessing impacts from GHG emissions nor has the City formally adopted a local plan for reducing GHG emissions. Instead, the DEIR incorrectly concludes that impacts from GHG emissions will be less than significant because the Project is consistent with the goals and actions to reduce GHG emissions found in the City's Green New Deal, the 2017 California Climate Change Scoping Plan and the implementation of project design features.[56] First, CEQA Guidelines Section 15064.4(a)(2) allows, in determining the significance of a project's impacts, a "qualitative" or "performance based" standard. Section 15064.4(b)(3) states that "[i]n determining the significance of impacts, the lead agency may consider a project's consistency with the State's long-term climate goals or strategies, provided that substantial evidence supports the agency's analysis of how those goals or

strategies address the project's incremental contribution to climate change and its conclusion that the project's incremental contribution is not cumulatively considerable."

CEQA Guidelines Section 15064(h)(3) states, in relevant part, that a:

> *…lead agency may determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program… that provides specific requirements that will avoid or substantially lessen the cumulative problem within the geographic area in which the project is located. Such plans or programs must be specified in law or adopted by the public agency with jurisdiction over the affected resources through a public review process to implement, interpret, or make specific the law enforced or administered by the public agency. When relying on a plan, regulation or program, the lead agency should explain how implementing the particular requirements in the plan, regulation or program ensure that the project's incremental contribution to the cumulative effect is not cumulatively considerable.*

As discussed above, State of California Governor's Office of Planning and Research (OPR) encourages lead agencies to make use of programmatic mitigation plans and programs from which to tier when they perform individual project analyses. On a statewide level, the 2008 Climate Change Scoping Plan and subsequent updates provide measures to achieve AB 32 and SB 32 targets. On a regional level, SCAG's 2020–2045 RTP/SCS contains measures to achieve vehicle miles traveled (VMT) and GHG reductions required under SB 375. The City does not have a programmatic mitigation plan to tier from, such as a Greenhouse Gas Emissions Reduction Plan as recommended in the relevant amendments to the CEQA Guidelines. The City's Green New Deal is not an adopted plan or directly applicable to private development projects. However, the City's Green New Deal, a mayoral initiative, includes short-term and long-term aspirations pertaining to climate change and the Draft EIR analysis addressed consistency with these strategies and goals. The City's Green New Deal would support state regulations for reducing GHG, with established targets such as 100 percent renewable energy by 2045, diversion of 100 percent of waste by 2050, and recycling 100 percent of wastewater by 2035. Thus, if the Project is designed in accordance with these policies and regulations, the Project would result in a less than significant impact, because it would be consistent with the overarching state regulations on GHG reduction (e.g., AB 32 ,SB 32, and SB 375).

In the Draft EIR, the Project's GHG impacts are analyzed in Section IV.D and in Appendix B, the Project's Air Quality and GHG Emissions technical report. The analysis includes a quantified assessment of the Project's GHG emissions utilizing CalEEMod 2020.4.0 modeling software. As discussed therein, the Project includes characteristics that

have been identified to reduce GHG emissions through reductions of VMT in accordance with the Los Angeles Department of Transportation (LADOT) VMT Calculator, which include the densification, location, and measures incorporated into the Project that are demonstrated through quantitative analysis to result in a 40-percent reduction in overall VMT and resultant GHG emissions in comparison to a project without VMT reducing characteristics (e.g., availability of transit). (See Draft EIR, at p. IV.D-60.)

The Draft EIR includes a detailed point-by-point analysis of the Project's consistency with SCAG's 2020–2045 RTP/SCS, the *Climate Change Scoping Plan* and related regulations adopted to reduce GHG emissions, and the City's Green New Deal. The analysis concludes that the Project is consistent with the key GHG reducing goals and requirements in these plans. Refer to pages IV.D-50 through IV.D-68 of the Draft EIR.

In particular, the Project represents an infill development within an existing urbanized area that would introduce new retail, restaurant, and office uses in close proximity to public transportation, with multiple local bus lines provided by the Los Angeles County Metropolitan Transportation Authority (Metro) and LADOT. Specifically, transit options in the vicinity of the Project Site include the Hollywood/Vine station of the Metro B Line (Red) located approximately one-mile northeast of the Project Site; Metro bus line 4 located approximately 0.2 mile northeast of the Project Site; and DASH Hollywood located approximately 0.4 mile north of the Project Site. Based on the Project's location, use, design features, and regulatory compliance measures, the Project was determined to be overall consistent with key GHG reduction goals and requirements of the analyzed plans (i.e., SCAG's 2020–2045 RTP/SCS, the *Climate Change Scoping Plan* and related regulations adopted to reduce GHG emissions, and the City's Green New Deal). The effectiveness of this compliance is further demonstrated through a quantitative analysis provided for informational and demonstrative purposes (refer to pages IV.D-68 through IV.D-78 of the Draft EIR). Based on these factors, the Draft EIR concluded the Project would result in a less than significant impact with respect to GHG emissions. This determination is well supported by substantial evidence.

Comment No. 7-17

Project design features are not enforceable, verifiable mitigation measures. Mitigation measures must be enforceable through conditions of approval, contracts or other means that are legally binding. This ensures that mitigation measures will actually be implemented. The DEIR's reliance on the Applicant's voluntary project design features is incorrect because the measures are not incorporated as binding mitigation measures and are, therefore, unenforceable. The project design features described in the DEIR are little more than wishful thinking, and the DEIR's conclusion that the Project's impacts from GHG emissions will be less than significant because of these measures is unsupported. If the City wishes to rely on project design features for its analysis, they must be incorporated

into the Project's Mitigation Monitoring and Reporting Program ("MMRP") and Conditions of Approval.

Response to Comment No. 7-17

This comment conflates project design features and mitigation measures. The project design features are all appropriate components of the Project and not mitigation measures. The Draft EIR analyzed the impacts of the Project with the project design features as Project components incorporated into the Project. Pursuant to CEQA, mitigation measures are not part of the original project design, but instead are actions taken by the lead agency to reduce impacts to the environment resulting from the original project design. (CEQA Guidelines Sections 15126.4(a) and 15370.) Mitigation measures are identified by the lead agency while a project is undergoing environmental review, and not finalized until the end of the environmental review process, and are above-and-beyond existing laws, regulations, and requirements that would reduce environmental impacts. Moreover, CEQA encourages the incorporation of project elements that would reduce or avoid any potential significant impacts. Accordingly, most projects include avoidance and minimization measures or environmental commitments into the project design as part of the project description.

Nevertheless, all of the Project's mitigation measures and project design features are included in Section IV, Mitigation Monitoring Plan (MMP), of this Final EIR. The MMP was prepared in compliance with the requirements of CEQA Section 21081.6 and CEQA Guidelines Section 15097, and includes the enforcement agency, monitoring agency, monitoring phase, monitoring frequency, and action indicating compliance for each of the Project's mitigation measures and project design features. Compliance with the MMP will be a Condition of Approval by the City.

Comment No. 7-18

D. The DEIR Fails to Analyze the Project's Impacts on Air Quality and from GHG Emissions During Summer Months

Appendix D to the DEIR includes the CalEEMod files for the air quality GHG analyses. But the files only include analyses for the Project's operation during winter months. There are no output files for the Project's operation during summer months. This is a significant and fatal flaw since the City's conclusions in the DEIR regarding the Project's air quality and GHG emissions are not supported by substantial evidence. Moreover, decisionmakers and the public cannot meaningfully analyze the full extent of the Project's impacts related to air quality and GHG emissions. The City must prepare a revised DEIR that includes the Project's emissions during summer months.

Response to Comment No. 7-18

This comment claims that no analysis of GHG emissions during summer months was provided as part of the Draft EIR. It should first be noted that the annual GHG emissions were provided in Appendix B-3.2. As SCAQMD air quality significance thresholds are in terms of pounds per day and not tons per year, it was unnecessary to provide CalEEMod output files for annual air pollutant emissions in Appendix B-2.2. Regarding summer versus winter seasonal daily air pollutant emissions, it is important to note that CalEEMod emission calculations for construction on-site equipment (e.g., excavator) and operation sources (area, energy, and stationary (i.e., emergency generator)) are the same for both summer and winter. Project-related mobile source (construction and operational vehicular trips) summer emissions in comparison to winter emissions increase slightly for ROG and CO, decrease slightly for NO_X, and remain unchanged for PM_{10} and $PM_{2.5}$. When using CalEEMod, typical land use development projects within the City would trigger a regional operational NO_X impact well before exceeding any of the other pollutant thresholds. Given that the Project is well below the regional operational NO_X significance threshold (Project results in 5 pounds per day and the significance threshold is 55 pounds per day) and that mobile source NO_X emissions decrease for summer, winter (worst-case daily) emissions were provided in the Appendix B-2-2. However, in response to this comment, CalEEMod output files for daily summer air pollutant emissions are provided as Appendix FEIR-3 of this Final EIR. A comparison summary of winter versus summer regional daily construction and operational emissions are provided below.

Estimate of Maximum Regional Project Daily Construction Emissions (pounds per day)
(Summer versus Winter Comparison)

Construction Year	VOC	NO_X	CO	SO_X	PM_{10}	$PM_{2.5}$
Regional Construction Emissions (Winter)[a]						
Maximum Unmitigated Construction Emissions[a]	17.0	79.8	41.8	0.3	9.0	3.2
Regional Construction Emissions (Summer)[b]						
Maximum Unmitigated Construction Emissions[a]	16.9	77.4	42.9	0.3	9.0	3.2
Increase/(Decrease) in Comparison to Winter Daily	(0.1)	(2.4)	1.1	---	---	---
SCAQMD Daily Significance Thresholds	**75**	**100**	**550**	**150**	**150**	**55**
Exceed Threshold?	**No**	**No**	**No**	**No**	**No**	**No**

[a] *The CalEEMod model printout sheets and/or calculation worksheets are presented in Appendix B (CalEEMod Output) of the Draft EIR.*

[b] *The CalEEMod model printout sheets and/or calculation worksheets are presented in Appendix FEIR-3 of this Final EIR.*

Source: Eyestone Environmental, 2022.

Estimate of Maximum Regional Project Daily Operational Emissions—At Project Buildout (Summer versus Winter Comparison)

Emission Source	Pollutant Emissions (pounds per day)					
	VOC	**NO_X**	**CO**	**SO_X**	**PM_{10}**	**$PM_{2.5}$**
Project (Winter)[a]	7.2	7.0	34.9	0.1	8.0	2.2
Project (Summer)[b]	7.3	6.8	35.4	0.1	8.0	2.2
Increase/(Decrease) in Comparison to Winter Daily	0.1	(0.2)	0.5	---	---	---
SCAQMD Significance Threshold	55	55	550	150	150	55
Exceed Threshold?	**No**	**No**	**No**	**No**	**No**	**No**

Numbers may not add up exactly due to rounding.

[a] *The CalEEMod model printout sheets and/or calculation worksheets are presented in Appendix B (CalEEMod Output) of the Draft EIR.*

[b] *The CalEEMod model printout sheets and/or calculation worksheets are presented in Appendix FEIR-3 of this Final EIR.*

Source: Eyestone Environmental, 2022.

As shown above, Project related winter and summer daily pollutant emissions are similar and well below SCAQMD daily significance thresholds under both scenarios.

Comment No. 7-19

E. The DEIR Fails to Adequately Disclose and Mitigate Significant Noise Impacts

The CEQA Guidelines require a DEIR to consider "whether a project would result in… [g]eneration of a substantial temporary or periodic increase in ambient noise levels in the vicinity of the project….."[57] The DEIR's noise analysis fails to accurately disclose the Project's noise impacts for several reasons.

[57] CEQA Guidelines, Appendix G, Sec. XII(d).

Response to Comment No. 7-19

This comment stating the commenter's belief that the Draft EIR's noise analysis is inaccurate is noted for the record and will be forwarded to the decision-makers for their review and consideration. Specific issues raised by the commenter are addressed in Response to Comment Nos. 7-21 through 7-31, below. As discussed therein, the analysis presented in the Draft EIR is accurate and the commenter has not provided substantial evidence to the contrary.

Comment No. 7-20

1. **The DEIR Fails to Disclose and Analyze the Extent of Noise Impacts During Both Construction and Operation**

Response to Comment No. 7-20

This comment, consisting of general criticism of the Draft EIR's noise analysis, is noted for the record and will be forwarded to the decision-makers for their review and consideration. Refer to Response to Comment Nos. 7-21 through 7-31, below, for responses to specific claims made by the commenter.

Comment No. 7-21

a) The DEIR's Quantitative Analysis Fails to Accurately Establish Baseline Noise Conditions

CEQA does not set a numeric threshold for determining the significance of ambient noise increases. Lead agencies may select their own thresholds. The agency's selection of a threshold of significance must be supported by substantial evidence.[58]

The DEIR underestimates the existing ambient noise levels by performing baseline readings that were impermissibly narrow to establish a representative baseline. As explained by noise expert Jue, the 15-minute measurements taken only accounted for 2% of the total daytime period and 3% of the nighttime period, and were taken at the nosiest times of both periods.[59] As a result, the DEIR underestimates the Project's noise impacts. Ms. Jue further notes that "by using Type 2 sound level meters, which are accurate within +/- 1.5 dBA, relying on these limited time results to characterize the ambient noise within tenths of a decibel is misleading because it implies a level of precision that is not supported by the instrumentation."[60] Ms. Jue concludes that "it appears probable that the true daytime ambient lies closer to 50dBA [sic] at some locations."[61]

The DEIR's failure to disclose the existing ambient noise, and as a result, the extent of the Projects noise impacts violates CEQA. By failing to disclose the full extent of noise impacts, the DEIR also fails to include all feasible mitigation to reduce the Project's significant noise impacts to a less than significant level.

58 14 C.C.R § 15064(b); *King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 884.

59 Jue Comments, pp. 1-2.

60 Jue Comments, p. 2.

61 Jue Comments, p. 2.

Response to Comment No. 7-21

This comment claims the Draft EIR underestimates the baseline noise conditions. As discussed in Section IV.F, Noise, of the Draft EIR (Page IV.F-27), the thresholds of significance for the Project's noise impacts analysis are based on the City's *L.A. CEQA Thresholds Guide*.

As also discussed in Section IV.F, Noise, of the Draft EIR (Page IV.F-20), the ambient noise measurements were conducted in accordance with the LAMC Section 111.01, which requires a period of at least 15 minutes (four of the five receptor locations were measured for a 15-minute period during the daytime and nighttime hours, 7 A.M. to 10 P.M. and 10 P.M. to 7 A.M., respectively). In addition, a 24-hour ambient noise measurement was performed at one of the receptor location (Receptor R1). As provided in the Draft EIR (Table IV.F-7), the measured daytime and nighttime ambient noise levels at Receptor R1 were 56.6 dBA L_{eq} (averaged between 7 A.M. and 10 P.M.) and 51.5 dBA L_{eq} (averaged between 10 P.M. and 7 A.M.), which are within 1 dBA of the 24-hour measured noise levels between 10 A.M. and 11 A.M. (55.9 dBA L_{eq}) and between 11 P.M. and 12 A.M. (51.4 dBA L_{eq}). Therefore, the measured daytime (between 10 A.M. and 11 A.M.) and nighttime (between 11 P.M. and 12 A.M.) at receptors R2 through R5 are also representative of the averaged daytime and nighttime ambient noise levels. Furthermore, the 15-minute ambient noise measurement is a standard practice to define ambient for projects in the City. Therefore, additional ambient noise measurements are not warranted.

As also noted in the Draft EIR (Page IV.F-20), the sound level meter device used for the noise analysis meets the requirements specified in Section 111.01(I) of the LAMC. In addition, the sound level meter was calibrated and operated according to the manufacturer's written specifications. As indicated by the 24-hour ambient noise measurements at receptor location R1, the daytime ambient noise levels are above 50 dBA. Since receptor R1 is located further from the roadways (which is the main noise source in the Project vicinity) than the receptors R2, R3, and R4, the ambient noise levels at the receptors R2, R3, and R4 would be higher than 50 dBA. Based on the above, the existing ambient noise in the vicinity of the Project Site, as represented by receptors R1 through R5, were correctly established in accordance with the LAMC and as required by CEQA.

Comment No. 7-22

b) The DEIR Fails to Disclose and Mitigate Potentially Significant Noise Impacts from Project Construction

The DEIR completely fails to analyze or disclose the Project's impacts on nearby studios from ground borne vibration.[62] Ms. Jue notes how:

> It is customary for noise studios to use room-within-room configurations to isolate the recording sessions from ambient noise within the control room and other parts of the studio and from airborne noise at the exterior. However, many ***such facilities are not designed for ground borne vibration that can radiate sound into the interior***.[63]

Ms. Jue explains that the FTA guidance cited by the DEIR for ground borne vibration includes a threshold of 25 dBA for recording studios. Based on the "General Vibration" assessment method in the FTA guidance, Ms. Jue concludes that the ground borne noise at Receptor R5 would be greater than 25 dBA and, therefore, would be significant.[64] The DEIR must be revised to disclose this significant impact.

62 Jue Comments, pp. 3-4.

63 Jue Comments, p. 3 (emphasis added).

64 Jue Comments, p. 4.

Response to Comment No. 7-22

This comment claims the Draft EIR fails to analyze or disclose the Project's impacts on nearby studios from ground borne vibration. Contrary to the claims of commenter, the Project evaluated the potential ground borne vibration impacts associated with the Project construction, including the recording studio (represented by receptor R5). As concluded in the Section IV.F, Noise, of the Draft EIR (Table IV.F-21), on-site construction would result in a less than significant impacts at receptor R5.

As also indicated in the Draft EIR (Page IV.F-20), studio uses are not defined as noise sensitive receptors by the *L.A. CEQA Thresholds Guide*. Nevertheless, with respect to groundborne noise, the commenter assumed a -20 to -30 dB conversion factor from groundborne vibration (VdB) to groundborne noise (GBN). However, this is not an appropriate conversion factor. Per FTA guidance, the conversion from VdB to GBN range from -20 VdB (high frequency, applicable to subway system) to -35 VdB (mid frequency, applicable to surface track when the soil is very stiff with high clay content) to -50 VdB (low frequency, most surface track). Therefore, based on FTA guidelines, the -35 to -50 VdB conversion factor would be more appropriate to the Project's surface construction activities. As referenced by the commenter in Comment No. 7-67, the Metro Regional Connector Transit Corridor Final EIR/EIS used the -35 VdB conversion factor to calculate the GBN level, as a conservative analysis. In addition, a 10 dBA reduction in vibration for coupling to building foundation was used for the GBN noise analysis by Metro. As discussed in the Draft EIR (Table IV.F-21), the maximum ground borne vibration levels due to Project construction at the nearest recording studio (represented by receptor R5) would be 63 VdB. The estimated GBN inside the recording studio, taking into account the -35 VdB conversion factor (a conservative analysis) and a 10-dBA reduction due to coupling to building, would

be 18 dBA, which would be well below the FTA 25 dBA ground borne noise limit for recording studios. In addition, Mitigation Measure NOI-MM-2, which limits the vibration level at the Seward Film Vaults (located between the Project Site and the recording studio) would further reduce the vibration levels at the recording studio. Therefore, vibration impacts associated with the on-site construction at the nearest recording studio would be less than significant.

Comment No. 7-23

The DEIR must also be revised to incorporate all feasible mitigation to reduce this impact to a less than significant level. Ms. Jue recommends the following mitigation measures:

Response to Comment No. 7-23

This comment states the commenter's belief that additional mitigation measures are feasible and required. Refer to Response to Comment Nos. 7-21 through 7-22, above, for a detailed discussion of why the commenter's reasoning is flawed. As such, the specific mitigation measures suggested by the commenter in Comment Nos. 7-24 through 7-27 are not required to avoid or minimize adverse noise impacts and the mitigation measures included in the Draft EIR are sufficient.

Comment No. 7-24

1. Prior to construction, measure the ambient noise environment on a 1/3 octave band basis within the recording studio(s) under normal recording conditions. The measurement period shall correspond to the quietest time of day that recordings are done (during construction hours) and shall have a duration of not less than 60 minutes. Statistical metrics should be determined in addition to the Leq. Noise measurement equipment shall conform to Type 1 or Class 1 sound level meters with professional quality recording devices such as a Sony PCM-D50 or better, or a digital data recorder such as a Rion DA-20 or equivalent.

Response to Comment No. 7-24

This comment suggests mitigation for noise at the recording studio represented by receptor R5. However, as analyzed Section IV.F, Noise, of the Draft EIR (Table IV.F-11), the Project's on-site noise impacts during construction at the recording studio (i.e., Receptor R5) would be less than significant. Therefore, the mitigation measure suggested by the commenter is not warranted.

Comment No. 7-25

2. Characterize the Project-vicinity vibration propagation to determine how on-site vibration will transmit to the recording studio. If it can be shown that all

construction activities would not exceed the background noise levels (L90) measured in the studio(s) based on corresponding ground borne noise calculation to the interior of the studio spaces, then one construction-phase noise measurement will be required to confirm this result.

Response to Comment No. 7-25

This comment suggests mitigation for vibration at the recording studio represented by receptor R5. However, as analyzed Section IV.F, Noise, of the Draft EIR (Table IV.F-21), and as provided in Response to Comment No. 7-22, the Project's on-site vibration impacts during construction at the recording studio (i.e., Receptor R5) would be less than significant. Therefore, the mitigation measure suggested by the commenter is not warranted.

Comment No. 7-26

3. If any construction activities would exceed the existing ambient (e.g., Leq, and basic statistical metrics such as L90, L50, L10 and L1), then the contractor must provide a vibration control plan that demonstrates how they will use their vibration-generating equipment and/or schedule their activities in collaboration with the recording studio(s) to avoid interfering with each studio's normal recording activities.

Response to Comment No. 7-26

This comment suggests mitigation for vibration at the recording studio represented by receptor R5. However, as analyzed Section IV.F, Noise, of the Draft EIR (Table IV.F-21), and as provided in Response to Comment No. 7-22, the Project's on-site vibration impacts during construction at the recording studio (i.e., Receptor R5) would be less than significant. Therefore, the mitigation measure suggested by the commenter is not warranted.

Comment No. 7-27

4. This analysis and the vibration control plan will be subject to review and approval by the City of Los Angeles, and the affected sound recording studio operators will also have ample opportunity to review and resolve comments.

Response to Comment No. 7-27

This comment suggests mitigation for vibration at the recording studio represented by receptor R5. However, as analyzed Section IV.F, Noise, of the Draft EIR (Table IV.F-21), and as provided in Response to Comment No. 7-22, the Project's on-site vibration impacts during construction at the recording studio (i.e., Receptor R5) would be less than

significant. Therefore, the mitigation measure suggested by the commenter is not warranted.

Comment No. 7-28

c) The DEIR Fails to Disclose and Mitigate Potentially Significant Noise Impacts from Project Operation

Response to Comment No. 7-28

This comment states the commenter's belief that the Draft EIR's operational noise analysis is incorrect. Specific issues raised by the commenter are addressed in Response to Comment Nos. 7-29 through 7-30, below. This comment does not raise any specific issues with respect to the content and adequacy of the Draft EIR. Therefore, it is noted for the record and will be forwarded to the decision-makers for their review and consideration.

Comment No. 7-29

The DEIR's operational noise analysis suffers two serious flaws: (1) the Project contains a ground-level bar/lounge, but completely fails to analyze any noise stemming from these uses, such as from amplified sound systems;

Response to Comment No. 7-29

This comment claims the Draft EIR did not analyze impacts associated with the ground-level restaurant uses. This is incorrect. As described in Section II, Project Description, of the Draft EIR (Page II-7), the Project includes restaurant with outdoor dining at the ground level. The ground-level restaurant would be fully enclosed, which would contain noise sources associated with the restaurant use (e.g., guests speaking and amplified sound) to the exterior. Noise levels associated with the outdoor dining area and other outdoor spaces were fully analyzed in Section IV.F, Noise, of the Draft EIR (Tables IV.F-14 and IV.F-15). As provided in Table IV.F-15 of the Draft EIR, the estimated noise levels from the outdoor uses, which includes both people talking and amplified sound) would be below the significance threshold. Therefore, contrary to the commenter, the Project has fully analyzed the operation noise impacts associated with amplified sound systems and impacts were determined to be less than significant.

Comment No. 7-30

and (2) the described HVAC equipment is not nearly large enough to serve the entire building. Ms. Jue notes that "a building this size often includes a water tower or air-cooled condenser fan with a typical sound rating of 85 PWL, and several make-up air fans as large as 40,000 CFM (90 PWL)." According to Ms. Jue, a combination of four fans would

generate a noise level of 59 dBA or more to a distance of 50 ft and 55 dBA at a distance of 80 ft. "If this equipment operates continuously, the resulting CNEL would be 62 dBA, which alone would cause the future noise environment to increase by 4 dBA."[65.66] The DEIR fails to describe or analyze the noise generating activities that these Project components will cause.

The DEIR's incomplete operational noise analysis fails to disclose the extent of the Project's operational noise impacts. The City must revise the DEIR to include a complete operational noise analysis and all feasible mitigation measures to reduce potentially significant operational noise impacts.

[65] Jue Comments, p. 5.

[66] Jue Comments, p. 4.

Response to Comment No. 7-30

This comment questions the adequacy of the Project's HVAC equipment and suggests including additional operational equipment. As provided in the Noise Calculation Worksheets included as Appendix G of the Draft EIR (Page 83 of the appendix), the operational noise analysis assumed six pieces of mechanical equipment with sound rating of 90 PWL (sound power level), which is within the range of the sound rating of 85 PWL to 90 PWL as indicated by the commenter. In addition, as stated in Section IV.F, Noise, of the Draft EIR (Page IV.F-37), the Project would comply with LAMC Section 112.02, which prohibits noise from air conditioning, refrigeration, heating, pumping, and filtering equipment from exceeding the ambient noise on the premises of other occupied properties by more than 5 dBA. As such, the Draft EIR adequately evaluated potential noise impacts associated with Project operation and impacts were determined to be less than significant. The additional noise analysis and mitigation measures suggested by the commenter are not warranted.

Comment No. 7-31

d) The DEIR Fails to Require All Feasible Mitigation Before Concluding Impacts from Construction Noise Will be Significant and Unavoidable

The DEIR concludes that even with mitigation measures NOI-MM-1 and NOI-MM-2, construction noise impacts will remain significant and unavoidable.[67] CEQA requires all feasible mitigation to be applied before a significant and unavoidable impact finding can be made. Yet, the DEIR fails to require all feasible mitigation measures for construction noise impacts. As described above, there are four additional mitigation measures for construction noise that should be included in the DEIR.

The DEIR's failure to require all feasible mitigation measures to reduce construction noise impacts before declaring them significant and unavoidable is a separate CEQA violation. The City should revise and recirculate the DEIR to include a complete noise analysis, and to require all feasible mitigation to reduce potentially significant operational noise impacts to the greatest extent feasible.

67 DEIR, p. IV.I-52.

Response to Comment No. 7-31

This comment claims the Draft EIR must include the additional mitigation measures suggested by the commenter. As discussed in Section IV.F, Noise, of the Draft EIR, Mitigation Measures NOI-MM-1 and NOI-MM-2 will be implemented to reduce potential noise and vibration impacts to the extent feasible. However, there are no other measures that would reduce the impacts at receptors R1 through R3 to a less than significant level. In addition, as concluded in the Draft EIR, the construction noise and vibration impacts (due to on-site construction activities) would be less than significant at the Line 204 studios (as represented by receptor R5). Therefore, as discussed in Response to Comment Nos. 7-24 through 7-27 above, the suggested four additional mitigation measures related to vibration are not warranted.

Comment No. 7-32

E. The DEIR Fails to Adequately Disclose and Mitigate Significant Transportation Impacts

The DEIR's Transportation section states that the Los Angeles Department of Transportation ("LADOT") Vehicle Miles Traveled ("VMT") Calculator estimates that the Project would generate a Project work VMT per employee of 7.5 miles.[68] This is barely below the applicable significance threshold for the Central APC Area of 7.6 miles per employee, and any level above 7.6 would be considered a significant impact.[69] The City's conclusion of 7.5 employee VMT, however, is incorrect. The City's conclusion is based on a presumed reduction in parking spaces, from 403 to 310 parking spaces..[70] But according to the DEIR Traffic Study, only 301 parking spaces are required pursuant to the LAMC.[71] Therefore, the Project actually includes an increased number of parking spaces beyond those required by LAMC Section 12.21.A.4.

The DEIR's erroneous analysis regarding VMT must be revised based on the actual number of Project parking spots. Under CEQA Guidelines section 15064.3(b)(1), a reduction in VMT as a result of reduced parking spots can be presumed to create a less than significant transportation impact. But that is not the case here where the Project includes 9 additional parking spots beyond those required under the City's code.

[68] DEIR, IV.H-34; Appendix J, p. 128.

[69] *Id.*

[70] *Id.*

[71] *Id.*

Response to Comment No. 7-32

The comment claims that the VMT impact conclusion in the Draft EIR is incorrect and that the reduced parking Transportation Demand Management (TDM) strategy was erroneously applied. As detailed below, this is incorrect.

The VMT analysis in the approved Transportation Assessment included as Appendix J of the Draft EIR was performed in accordance with the City's adopted policies, procedures, methodologies and standards as outlined in LADOT's *Transportation Assessment Guidelines* (July 2020) (TAG). In connection with the preparation of environmental impact reports prepared by the City, LADOT is responsible for the identification of potential traffic impacts of the project and any recommended transportation improvement measures. The analysis conducted pursuant to the Memorandum of Understanding executed with LADOT and the findings of the Transportation Assessment contained in the Draft EIR, were also affirmed in the LADOT letter dated August 12, 2021, also included in Appendix J of the Draft EIR.

CEQA Guidelines Section 15064.3, subdivision (b)(1) states that (for land use projects) "vehicle miles travelled exceeding an applicable threshold of significance may indicate a significant impact." This subdivision also states that a lead agency has discretion to choose the most appropriate method to evaluate the project's VMT. The TAG was adopted to conform to the requirements of SB 743, incorporate updates to the CEQA Guidelines with guidance provided in OPR's *Technical Advisory on Evaluating Transportation Impacts in CEQA*[6], and be consistent with and implement the City's *L.A. CEQA Thresholds Guide*. Further, as stipulated in the Transportation Assessment, the VMT analysis was performed using the City VMT Calculator Tool and adhering to the methodologies prescribed in the *City of Los Angeles VMT Calculator Documentation*.[7]

The City as the Lead Agency has the discretion to select the appropriate thresholds of significance and methodologies for evaluating a project's VMT, including whether or not to express the change in absolute terms, per capita, per household or in another measure. The City VMT thresholds were developed based on household VMT per capita and work

[6] *OPR, Technical Advisory on Evaluating Transportation Impacts in CEQA, December 2018.*

[7] *LADOT and the Department of City Planning, VMT Calculator Documentation, May 2020.*

VMT per employee and were established using the City's Travel Demand Forecasting Model, which is further described in Chapter 3 of the *City of Los Angeles VMT Calculator Documentation*. Table 2.2-1 of the TAG identifies the VMT impact criteria for residential and office projects based on the area planning commission (APC) in which a development project is located. As detailed in the TAG, office projects in the Central APC (e.g., the Project) that generate daily work VMT per employee exceeding 7.6 would be considered a significant impact. Conversely, office projects in the Central APC that generate daily work VMT per employee of 7.6 or less would be considered less than significant. Thus, the Project's work VMT per capita of 7.5 would fall below the significance threshold for the Central APC, and the Project's VMT would be less than significant.

The TDM strategies considered in the VMT analysis were applied in accordance with the guidelines outlined in LADOT's *Attachment G Transportation Demand Management Strategies in LA VMT Calculator* (TDM Strategies).[8] Based on the guidelines in TDM Strategies, the reduced parking supply strategy compares a project's proposed parking supply with the amount of parking requirement by "direct application of the Los Angeles Municipal Code, without consideration of parking reduction mechanisms permitted in the code", such as allowable parking reductions for developments seeking Transit Oriented Communities and Density Bonus incentives, bicycle parking replacements, or reduced parking rates for developments within Enterprise Zones or Specific Plan areas. The code parking requirement of 301 spaces, as identified by the commenter and detailed in Section 5E of the Transportation Assessment Report, was based on application of the reduced parking rate of 2.0 spaces per 1,000 square feet for commercial uses located within a designated State Enterprise Zone, per Section 12.21.A4(x) of the Los Angeles Municipal Code. In comparison, the Project's parking requirement for the proposed uses with direct application of the code parking rates identified in Section 12.21.A4 of the Los Angeles Municipal Code (i.e., without application of any parking reduction mechanisms) (2.0 spaces per 1,000 sf of office uses, 4.0 spaces per 1,000 square feet of retail uses, and 10 spaces per 1,000 sf of restaurant uses greater than 1,000 square feet) would be 396 spaces.[9] Thus, the comparison of the Project's parking supply of 310 spaces with the 396 parking space requirement without the consideration of parking reduction mechanisms is the appropriate application of the reduced parking supply strategy in the VMT analysis. Therefore, the work VMT per employee conclusion in the VMT analysis is valid, and no further analysis or mitigation is required.

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[8] *LADOT, Attachment G, Transportation Demand Management Strategies in LA VMT Calculator, November 2019.*

[9] *The Project's VMT analysis identified 403 code-required parking spaces based on the Project's original configuration. The 396 required spaces reflects the revisions to the Project Description included in Section III, Revisions, Clarifications, and Corrections to the Draft EIR, of this Final EIR.*

Comment No. 7-33

V. THE DEIR FAILS TO ADEQUATELY ANALYZE THE PROJECT'S CUMULATIVE IMPACTS

CEQA requires the lead agency to include a reasonable and good faith analysis of cumulative impacts in an EIR. Cumulative impacts are defined as "two or more individual effects which, when considered together, are considerable."[72] Such impacts may "result from individually minor but collectively significant projects taking place over a period of time." Cumulatively considerable means that "the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."[73] CEQA Guidelines section 15130(b)(1) provides two options for analyzing cumulative impacts: (A) list "past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency, or" (B) summarize "projection contained in an adopted local, regional or statewide plan, or related planning document that describes or evaluates conditions contributing to the cumulative effect." "When relying on a plan, regulation or program, the lead agency should explain how implementing the particular requirements in the plan, regulation or program ensure that the project's incremental contribution to the cumulative effect is not cumulatively considerable."[74] A cumulative impact analysis must be sufficiently detailed to correspond to the severity of the impact and the likelihood that it will occur. While an EIR may provide less detail in its cumulative impact analysis than for project-specific effects, the discussion must provide sufficient specificity to enable the agency to make findings that a project will, or will not, have a significant cumulative impact where the possible effects of the project are "individually limited but cumulatively considerable."[75]

[72] 14 C.C.R. § 15355.

[73] 14 C.C.R. § 15355(b).

[74] 14 C.C.R. § 15130(b)(1); See also § 15130(a) (stating that the lead agency shall describe its basis for concluding that an incremental effect is not cumulatively considerable).

[75] *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692.

Response to Comment No. 7-33

This comment consists of the commenter's interpretation of the CEQA requirements related to cumulative analysis. This comment does not raise any specific issues with respect to the content and adequacy of the Draft EIR. Therefore, it is noted for the record and will be forwarded to the decision-makers for their review and consideration.

Comment No. 7-34

A. The DEIR Fails to Evaluate Cumulative Air Quality Impacts

The DEIR fails to consider the amount of emissions associated with the cumulative projects in the vicinity of the Project. As a result, the DEIR fails to evaluate or disclose the extent of the Project's cumulative air quality impacts. This omission is particularly glaring given that the DEIR itself identified 17 other related cumulative projects near the Project site.

The law is clear that individually insignificant incremental contributions to air pollution are part of a cumulatively considerable impact requiring analysis in an EIR. In *Kings County Farm Bureau v. City of Hanford*, the City of Hanford prepared an EIR for a 26.4-megawatt coal-fired cogeneration plant. Notwithstanding the fact that the EIR found that the project region was out of attainment for PM10 and ozone, the City failed to incorporate mitigations for the project's cumulative air quality impacts from project emissions because it concluded that the Project would contribute "less than one percent of area emissions for all criteria pollutants." The Court held that it was an error for the City to not take into account the nonattainment with air quality standards. Regarding ozone, the Court reasoned that "[t]he relevant question to be addressed in the EIR is not the relative amount of [ozone] precursors emitted by the project when compared with preexisting emissions, but whether any additional amount of precursor emissions should be considered significant in light of the serious nature of the ozone problems in this air basin." In addition, the Court generally held that the EIR improperly sidestepped the cumulative impacts analysis when it "focused on the individual project's relative effects and omitted facts relevant to an analysis of the collective effect this and other sources will have upon air quality."

Here, the DEIR acknowledges that the SCAQMD is in nonattainment for state air quality standards for O3, PM2.5 and PM10. Given these background conditions, even marginal contributions of O3, PM2.5, and PM10 from the Project and other projects in the vicinity can have a significant cumulative effect of exacerbating the already serious nonattainment of air quality standards. Under Kings County, the Project's incremental contribution to air pollution in the SCAB must be understood in the context of poor air quality that currently exists. Yet, the DEIR does not even mention O3, PM2.5 or PM10 in its discussion of cumulative impacts. The DEIR must be revised to consider the circumstances of the O3, PM2.5 and PM10 problem in the region in conjunction with the cumulatively considerable air quality impacts from the Project, which is a new and additional source of O3, PM2.5 and PM10 emissions in the SCAB.

Response to Comment No. 7-34

This comment claims the Draft EIR did not adequately analyze cumulative air quality impacts. The Draft EIR includes the definition of cumulative impacts on pages III-4 and III-5 of Section III, Environmental Setting, of the Draft EIR. The Draft EIR appropriately uses

specific analyses for each cumulative analysis impact category. Air quality cumulative impact methodology is explained below and provided on Page IV.A-37 of the Draft EIR. The SCAQMD shares responsibility with CARB for ensuring that all federal and state ambient air quality standards are achieved and maintained throughout all of Orange County and the urban portions of Los Angeles, Riverside, and San Bernardino counties. SCAQMD has developed methodologies and thresholds of significance that are widely used by lead agencies throughout the air basin. As set forth in the *LA CEQA Thresholds Guide,* the City adopted the SCAQMD thresholds to assess the significance of a project's project-specific and cumulative air quality impacts. SCAQMD's White Paper on Potential Control Strategies to Address Cumulative Impacts From Air Pollution prepared in August 2003 specifically states:

> *As Lead Agency, the AQMD uses the same significance thresholds for project specific and cumulative impacts for all environmental topics analyzed in an Environmental Assessment or EIR…. Projects that exceed the project-specific significance thresholds are considered by the SCAQMD to be cumulatively considerable. This is the reason project-specific and cumulative significance thresholds are the same. Conversely, projects that do not exceed the project-specific thresholds are generally not considered to be cumulatively significant.*[10]

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

As discussed in Section IV.A, Air Quality, of the Draft EIR, the Project's construction and operational-related regional air quality emissions, localized emissions, and emissions of TACs would be less than significant. Based on SCAQMD guidance, individual projects that exceed SCAQMD's recommended daily thresholds for project-specific impacts would cause a cumulatively considerable increase in emissions for those pollutants for which the air basin is in non-attainment.[11] However, those projects that do not exceed the thresholds would not be cumulatively considerable. Therefore, since the Project would not exceed the

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

[11] *SCAQMD, White Paper on Potential Control Strategies to Address Cumulative Impacts from Air Pollution, August 2003, Appendix D.*

threshold for air quality pollutants, the Project's contribution to cumulative air quality impacts was concluded not to be cumulatively considerable.

Comment No. 7-35

VI. THE CITY LACKS SUBSTANTIAL EVIDENCE TO APPROVE THE PROJECT'S LOCAL LAND USE PERMITS AND THE VESTING TENTATIVE MAP

The Project requires a number of discretionary entitlements and related approvals under local City plans and code sections, including a General Plan Amendment to change a portion of the Hollywood Community Plan from Medium Residential to Limited Manufacturing pursuant to Section 555 of the City Charter and LAMC section 11.5.6; a Vesting Zone Change from R3 and MR1 to M1 Zone pursuant to LAMC section 12.32 F and Q; a Height District change from the existing Height District 1 to Height District 2 with a D limitation, pursuant to LAMC § 12.32F; a Conditional Use Permit for the sale of full line alcoholic beverages, up to three suites, pursuant to LAMC § 12.21 W.1; and a Site Plan Review for a project that results in an increase of 50,000 gross square feet or more of nonresidential uses, pursuant to LAMC § 16.05.

Each approval requires the City to make findings regarding land use consistencies and/or environmental factors. As discussed herein, the City's conclusions regarding the Project's impacts related to air quality, GHG emissions, noise and transportation are not supported by substantial evidence and substantial evidence shows that the Project may result in significant, unmitigated impacts. These unmitigated impacts create inconsistencies with several of the permits required for the Project.

Where a local or regional policy of general applicability, such as an ordinance, is adopted to avoid or mitigate environmental effects, a conflict with that policy constitutes a significant land use impact and, in itself, indicates a potentially significant impact on the environment.[76] A project's inconsistencies with local plans and policies also constitute significant impacts under CEQA.[77] The City must recirculate the DEIR to adequately disclose and mitigate the significant land use impacts discussed below.

[76] *See*, *Pocket Protectors v. Sacramento* (2005) 124 Cal.App.4th 903.

[77] *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 783-4, 32 Cal.Rptr.3d 177; *see also*, *County of El Dorado v. Dept. of Transp*. (2005) 133 Cal.App.4th 1376.

Response to Comment No. 7-35

This comment incorrectly states there is substantial evidence showing that the Project has unmitigated impacts related to air quality, GHG emissions, noise, and transportation, and suggests these unmitigated impacts would be inconsistent with the Project's required permits. As the environmental review process for the Project has not yet

been concluded, the preparation of such permit findings is not yet timely. Entitlement requests are the purview of the City as part of the land use entitlement process, not as part of the CEQA process. In accordance with Section 15091 of the CEQA Guidelines, findings (for the Project's significant effects) are made following certification of the Final EIR. Per Section 15092 and 15093 of the CEQA Guidelines, after considering the Final EIR and in conjunction with making findings, the Lead Agency will then decide whether or how to approve or carry out the Project, and will also determine that any remaining significant effects on the environment found to be unavoidable under Section 15091 are acceptable due to overriding concerns. As described in Section 15093 of the CEQA Guidelines, the decision-making agency is required to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project (i.e., prepares a statement of overriding considerations). This comment does not raise any issues with respect to the content and adequacy of the Draft EIR. Therefore, it is noted for the record and will be forwarded to the decision-makers for their review and consideration.

Comment No. 7-36

A. General Plan Amendment, Vesting Zone Change and Height District Change

The Project Applicant is seeking: (1) a General Plan Amendment to change a portion of the Hollywood Community Plan from Medium Residential to Limited Manufacturing;[78] (2) a Vesting Zone Change from M3 Zone to C2 Zone pursuant to LAMC section 12.32 F and Q; and (3) a change from Height District No. 1 to Height District 2 with a D limitation.

With the approval of the Height District Change, the allowable FAR would increase from 1.5:1 to 4.5:1 resulting in a massive increase in potential FAR. The Project would create approximately 150,600 new square feet of developed floor area using all allowed space resulting in a total FAR of 4.4:1.[79]

The General Plan Amendment would result in a permanent change that impacts the entire Community Plan Area and is not limited to the Project site. The General Plan Amendment would result in a higher FAR allowed in the Hollywood Community Plan with a greater Height District Change than is currently allowed. Higher floor area ratios result in denser construction. Additionally, the change from Medium Residential to Limited Manufacturing reduces areas where additional residences can be built, when California is already in dire need of additional housing. The DEIR lacks analysis of the impacts that the General Plan Amendment would have from increased development density and associated environmental and public health impacts that would result in the Hollywood Community Plan Area from a higher FAR and change from Medium Residential to Limited Manufacturing.

The DEIR also lacks substantial evidence to demonstrate that the Project satisfies the mandatory requirements for approving a General Plan Amendment. Under Section 556 of the City Charter, in order to amend the General Plan, the "City Planning Commission and the Council shall make findings showing that the action is in substantial conformance with the purposes, intent, and provisions of the General Plan."[80] "Once a general plan is in place, it is the province of elected city officials to examine the specifics of a proposed project to determine whether it would be 'in harmony' with the policies stated in the plan."[81] It is the role of the City to determine the Project's consistency with the General Plan, not to make the General Plan consistent with the Project.

Here, the proposed Project violates the existing General Plan, thus necessitating a General Plan Amendment to allow the Project to proceed. The DEIR lacks a detailed analysis of the impacts associated with the increased density that would be authorized by the Project's increased FAR, and lacks an analysis of the impacts associated with the incremental increases in density that could later be authorized under subsequent Height District Changes in the Hollywood Community Plan. Impacts associated with an increased residential and commercial density that should have been analyzed in the Project's CEQA document include increased air quality impacts, noise, transportation impacts, and impacts on public services, to name a few. A recirculated DEIR is required to analyze and mitigate the full extent of the Project's impacts from the proposed General Plan Amendment.

Finally, the DEIR fails to include evidence that would support the approval of a General Plan amendment pursuant to LAMC Section 11.5.6(B). Pursuant to this section, the LAMC would not restrict the adoption of a General Plan Amendment which provides for an exclusively local workforce at the prevailing wage and provides affordable housing.[82] Since the DEIR lacks evidence demonstrating that these factors will be met, the General Plan amendment is not eligible for approval under the LAMC.

The City failed to adequately analyze and mitigate the impacts associated with nonconformance with the existing General Plan and the City failed to analyze potentially significant impacts associated with this General Plan Amendment, in violation of CEQA. The City must revise the DEIR to adequately analyze and mitigate all impacts associated with the General Plan Amendment and Height District Change.

78 DEIR, p. II-12.

79 DEIR, p. II-7.

80 City of Los Angeles Charter § 556.

81 *California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 638.

82 LAMC § 11.5.6(B)(2), (3).

Response to Comment No. 7-36

This comment summarizes the Project's entitlement requests and claims the Draft EIR does not include evidence to support approving the general plan amendment. The comment also claims the Draft EIR does not adequately analyze impacts associated with the requested general plan amendment, vesting zone change and height district change. As noted in Response to Comment No. 7-35, the environmental review process for the Project has not yet been concluded and preparation of findings by the City to show that the Project's discretionary actions would be in substantial conformance with the General Plan is not yet timely. Entitlement requests are the purview of the City as part of the land use entitlement process, not as part of the CEQA process. Nevertheless, the Project's potential impacts are analyzed in Chapter IV, Environmental Impact Analysis, of the Draft EIR. The Draft EIR's impact analysis evaluates the Project's requested height, land use, and density under the discretionary entitlement requests. Section IV.E, Land Use, of the Draft EIR evaluates the Project's consistency with the General Plan and other local and regional plans that were adopted to mitigate or avoid an environmental effect. The Draft EIR does not identify any significant land use impacts and the commenter has not provided any evidence to the contrary. This comment does not raise any issues with respect to the content and adequacy of the Draft EIR. Therefore, it is noted for the record and will be forwarded to the decision-makers for their review and consideration.

Comment No. 7-37

B. Conditional Use Permit Approval for the Sale of Alcohol

The Project must secure approval pursuant to LAMC Section 12.24-W,1 for the sale and dispensing of alcoholic beverages for on-site consumption for up to three suites.[83] Section 12.24-W,1, however, requires the Zoning Administrator to find, among other things, that that the proposed use "will not adversely affect the welfare of the pertinent community."[84]

Response to Comment No. 7-37

This comment notes that the Project's entitlements include a conditional use permit for the sale and dispensing of alcoholic beverages. This comment does not raise any issues with respect to the content and adequacy of the Draft EIR. Therefore, it is noted for the record and will be forwarded to the decision-makers for their review and consideration.

Comment No. 7-38

The potential impacts of noise on neighboring residences from establishments serving alcohol can be significant. Noise from boisterous patrons and amplified music being played on the Project site will likely have an impact on the nearby residences directly north of the Project, the multi-family residences east of the Project on Hudson Ave and other sensitive

receptors. The Project noise could impact residences' interiors since windows have poor low-frequency attenuation. The resulting noise from these activities may require mitigation to reduce adverse impacts on neighboring residents.

Response to Comment No. 7-38

This comment speculates that there could be a significant impact to nearby residences because the Project would include an establishment serving alcohol. Operational noise impacts, including those associated with the tenant terraces and outdoor dining areas, are analyzed in Section IV.F, Noise, of the Draft EIR. Refer to pages IV.F-37 through IV.F-46. The analysis conservatively assumes full occupancy and operational hours of 7 A.M. to 10 P.M. As discussed therein, operational noise impacts would be less than significant and no mitigation is required. The commenter has provided no evidence to the contrary.

Comment No. 7-39

The DEIR fails to disclose whether the Project anticipates the use of sound systems, alcohol on balconies and other sources of significant noise impacts, and fails to analyze whether the establishments serving alcohol will adversely affect the welfare of the pertinent community. The DEIR thus does not provide substantial evidence to support the required findings that must be made for approval of a Conditional Use Permit for the sale and dispensing of alcohol to be consumed at the site. The City must revise the DEIR so that it adequately discloses, analyzes and mitigates impacts associated with alcohol sales on the Project site.

[83] DEIR, II-13.

[84] LAMC Section 12.24.W.1(a)(1).

Response to Comment No. 7-39

This comment incorrectly claims the DEIR fails to provide substantial evidence to support the required findings for the Project's requested alcohol conditional use permit. Operational noise impacts, including those associated with the tenant terraces and outdoor dining areas, are analyzed in Section IV.F, Noise, of the Draft EIR. Refer to pages IV.F-37 through IV.F-46. The analysis conservatively assumes full occupancy and operational hours of 7 A.M. to 2 A.M., with the exception of the outdoor terrace at Level 4, which would be from 7:00 A.M. to 10:00 P.M. Outdoor amplified sound systems would be limited to the levels set in Project Design Feature NOI-PDF-4 and the hours of operation for the outdoor terrace at Level 4 would be limited by Project Design Feature NOI-PDF-5. As discussed in Section IV.F, operational noise impacts would be less than significant and no mitigation is required.

Comment No. 7-40

VII. CONCLUSION

For the reasons discussed above, the DEIR is wholly inadequate under CEQA. It must be thoroughly revised to provide legally adequate analyses of, and mitigation for, all of the Project's potentially significant impacts. These revisions will necessarily require that the DEIR be recirculated for public review. Until the DEIR has been revised and recirculated, as described herein, the City may not lawfully approve the Project.

Thank you for your attention to these comments. Please include them in the record of proceedings for the Project.

Response to Comment No. 7-40

This comment concludes the letter and reiterates the commenter's belief that the Draft EIR fails to meet the requirements of CEQA. Specific issues raised by the commenter in their letter and associated exhibits are addressed in Response to Comment Nos. 7-4 through 7-39, above, and 7-42 through 7-74, below. For all the reasons set forth therein, the Draft EIR adequately analyzes the Project's potential environmental impacts as required by CEQA. The comment letter does not provide any substantial evidence demonstrating a deficiency in the Draft EIR analysis; therefore, nothing in the comment letter or the responses thereto constitute new information pursuant to CEQA Guideline 15088.5 that warrants recirculation of the Draft EIR. Nevertheless, this comment is noted for the record and will be forwarded to the decision-makers for their review and consideration.

Comment No. 7-41

At the request of Adams Broadwell Joseph & Cardozo (ABJC), Clark and Associates (Clark) has reviewed materials related to the June 2022 City of Los Angeles' (the City's) DEIR of the above referenced project.

Clark's review of the materials in no way constitutes a validation of the conclusions or materials contained within the plan. If we do not comment on a specific item this does not constitute acceptance of the item.

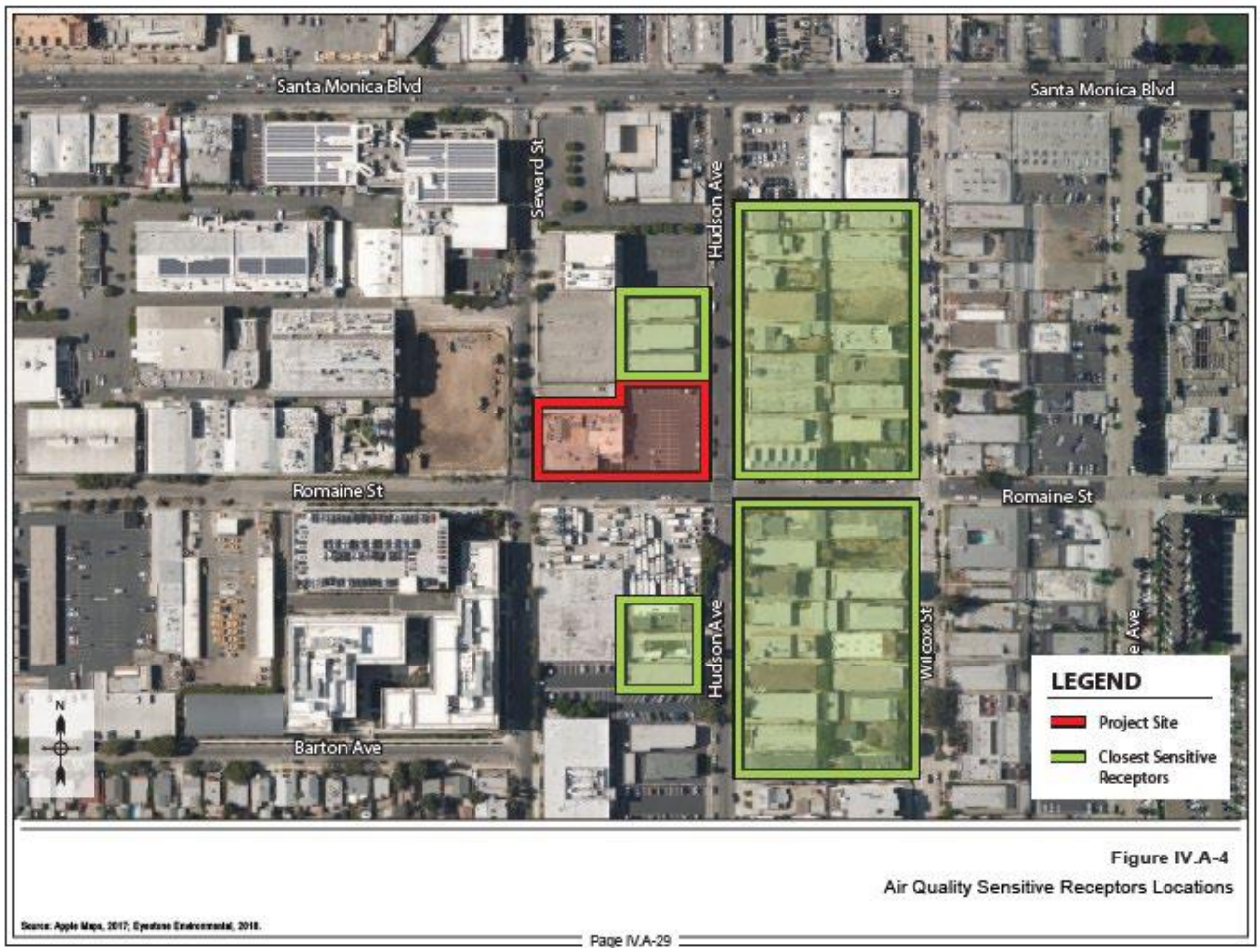
Response to Comment No. 7-41

This introductory comment is noted for the record and will be forwarded to the decision-makers for their review and consideration. Specific issues raised by the commenter are addressed in Response to Comment Nos. 7-42 through 7-54, below.

Comment No. 7-42

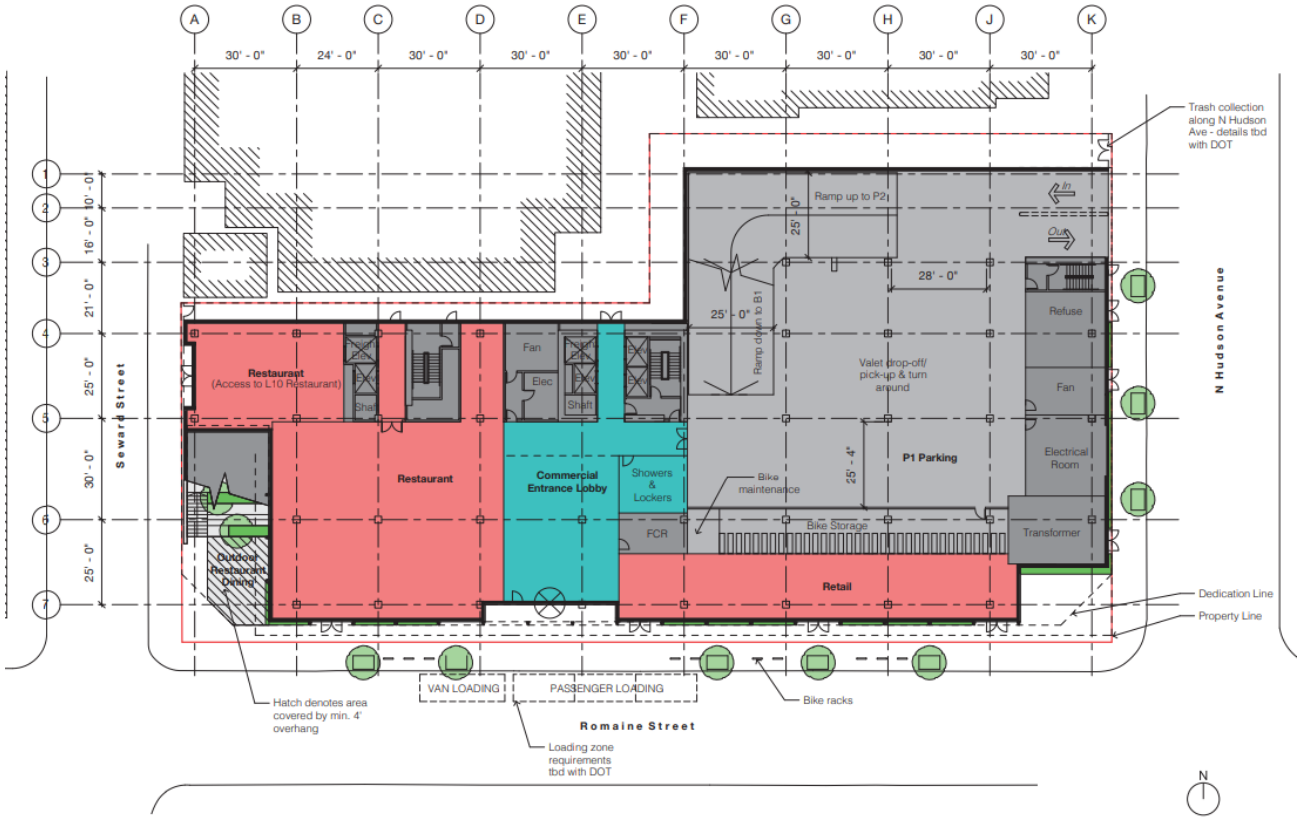
Project Description:

According to the DEIR the 1000 Seward Project includes demolition of two existing commercial buildings totaling 10,993 square feet and a surface parking lot, and the development of a 10-story commercial building on a 34,152 square-foot (0.78-acre) site located at 1000 and 1006 Seward Street; 1003, 1007, and 1013 Hudson Avenue; and 6565 Romaine Street (Project Site) in the Hollywood Community Plan Area of the City.[1] The Project would include the development of new office, restaurant, and retail uses totaling 150,600 square feet. Specifically, the Project would develop 136,200 square feet of office uses, 12,200 square feet of restaurant uses (of which 6,100 square feet may be used for an entertainment use), and 2,200 square feet of retail uses. The proposed uses would be located within a single 10-story building (with an additional rooftop level for mechanical equipment and an outdoor entertainment/tenant terrace) with a maximum height of 133 feet to the top of the highest occupiable level and a maximum height of 155 feet to the top of the mechanical equipment level. In accordance with the Los Angeles Municipal Code (LAMC), the Project would provide 310 vehicular parking spaces and 58 bicycle parking spaces (36 long-term and 22 short-term) within four subterranean parking levels, one at-grade level, and three fully enclosed and mechanically ventilated above grade parking levels.[2]



The Project site is currently developed with two one-story buildings totaling 10,993 square feet, comprosed [sic] of a 2,551 square foot restaurant and 8,442 square foot studio and production space, along with surface parking areas. Exisiting [sic] landscaping within the Project Site includes one tree and other landscaping within small planted areas.

The proposed building's ground floor would include the retail and restaurant uses including an outdoor dining area, a lobby for the office use, and parking, as well as an electrical room, transformer, fan, and trash room. A necesasry [sic] feature to the building not called out in the description is the 500 horse-power (hp) emergency back-up generator (BUG) that will be installed on site. The location of the BUG is not clearly marked in site plan but is assumed to be placed on the ground floor. Above the ground level, Levels 2 and 3 would include additional parking and additional office uses. Levels 4 through 9 would include office uses and several outdoor terraces and Level 10 would feature restaurant/hospitality/ entertainment uses, office uses, and an outdoor dining terrace. The roof would house the building's mechanincal [sic] equipment as well as an outdoor tennant [sic] terrace.



1 City of Los Angeles. 2022. 1000 Seward Project. https://planning.lacity.org/development-services/eir/1000-sewardproject-0

2 City of Los Angeles. 2022. 1000 Seward Project. https://planning.lacity.org/development-services/eir/1000-sewardproject-0

Response to Comment No. 7-42

This comment summarizes the project description and does not raise any project-specific significant environmental issue that requires a written response under CEQA Guidelines Section 15088. This comment does not raise any issues with respect to the content and adequacy of the Draft EIR. Therefore, it is noted for the record and will be forwarded to the decision-makers for their review and consideration.

It should be noted that subsequent to completion of the Draft EIR, it was determined that the Project would require a 1,000 kw (1,341 hp) emergency generator, which is an increase in horsepower in comparison to the 500 hp emergency generator included in the Draft EIR. Appendix FEIR-2 of this Final EIR provides additional details regarding location (northwest corner of building's roof), annual hours of operations, and health risk impacts related to the emergency generator. As shown therein, Project-related air quality and health risk impacts would remain less than significant.

Comment No. 7-43

Significant Impacts

The City[3] determined through the Initial Study the potential for significant impacts in:

- Air Quality
- Cultural Resources
- Energy
- Greenhouse Gas Emissions
- Land Use and Planning
- Noise
- Public Services
- Transportation
- Tribal Cultural Resources
- Utilities and Service Systems

According to the City's DEIR of the Project, the potentially significant impacts identified in the DEIR will be mitigated to less than significant levels or are significant and unavoidable. The conclusion from the City that the significant impacts can be mitigated is not supported by the facts of the Project. There are substantial impacts that are not addressed in the City's analysis that must be addressed in a revised environmental draft impact report (R-DEIR).

[3] City of Los Angeles. 2022. 1000 Seward Project Draft Environmental Impact Report. Page I-2

Response to Comment No. 7-43

This comment correctly summarizes the findings of the Project's Initial Study. With respect to the commenter's claim that there are unidentified significant impacts, refer to Response to Comment Nos. 7-44 through 7-54, below. As discussed therein, the analysis presented in the Draft EIR is accurate and meets the requirements of CEQA. This comment does not raise any issues with respect to the content and adequacy of the Draft EIR. Therefore, it is noted for the record and will be forwarded to the decision-makers for their review and consideration.

Comment No. 7-44

Specific Comments:

1. **The City's Air Quality Analysis Fails To Include A Quantitative Health Risk Analysis Of The Impacts Of Toxic Air Contaminants From The Construction Phase And Operational Phase Of The Project For The Nearest Sensitive Receptor(s)**

The City has failed to conduct a numerical health risk analysis (HRA) for the Project. The DEIR states that, for the purposes of assessing pollution concentrations upon sensitive receptors, the SCAQMD has developed LSTs that are based on the number of pounds of emissions per day that can be generated by a project that would cause or contribute to adverse localized air quality impacts. For the Criteria Pollutants assessed under CEQA, this is correct. For toxic air contaminants (TACs), there are no LSTs, nor levels of significance based on the pounds per day. According to the City of Los Angeles' 2019 Air Quality And Health Effects Guidance airborne pollutants that may be expected to result in an increase in mortality or serious illness or which may pose a present or potential hazard to human health, and include both carcinogens and non-carcinogens are defined as toxic air contaminants.[4] Diesel exhaust, in particular diesel particulate matter, is classified by the State of California as a toxic air contaminant. Instead, the determination of a significance threshold is based on a *quantitative risk analysis* that requires the City to perform a multistep, quantitative health risk analysis for TACs.[5]

TACs, including diesel particulate matter (DPM)[6], contribute to a host of respiratory impacts and may lead to the development of various cancers. Failing to quantify those impacts places the community at risk for unwanted adverse health impacts. *Even brief exposures to the TACs could lead to the development of adverse health impacts over the life of an individual.*

Diesel exhaust contains nearly 40 toxic substances, including TACs and may pose a serious public health risk for residents in the vicinity of the facility. TACs are airborne substances that are capable of causing short-term (acute) and/or long-term (chronic or carcinogenic, i.e., cancer causing) adverse human health effects (i.e., injury or illness). TACs include both organic and inorganic chemical substances. The current California list of TACs includes approximately 200 compounds, including particulate emissions from diesel-fueled engines.

Diesel exhaust has been linked to a range of serious health problems including an increase in respiratory disease, lung damage, cancer, and premature death.[7,8,9] Fine DPM is deposited deep in the lungs in the smallest airways and can result in increased respiratory symptoms and disease; decreased lung function, particularly in children and individuals with asthma; alterations in lung tissue and respiratory tract defense mechanisms; and

premature death.[10] Exposure to DPM increases the risk of lung cancer. It also causes non-cancer effects including chronic bronchitis, inflammation of lung tissue, thickening of the alveolar walls, immunological allergic reactions, and airway constriction.[11] DPM is a TAC that is recognized by state and federal agencies as causing severe health risk because it contains toxic materials, unlike $PM_{2.5}$ and PM_{10}.[12]

The inherent toxicity of the TACs requires the City to first quantify the concentration released into the environment at each of the sensitive receptor locations through air dispersion modeling, calculate the dose of each TAC at that location, and quantify the cancer risk and hazard index for each of the chemicals of concern. Following that analysis, then the City can make a determination of the relative significance of the emissions.

4 City of Los Angeles. 2019. Air Quality and Health Effects Guidance. Pg 6.

5 City of Los Angeles. 2019. Air Quality and Health Effects Guidance. Pg 9, pg 36.

6 Because DPM is a TAC, it is a different air pollutant than criteria particulate matter (PM) emissions such as PM_{10}, $PM_{2.5}$, and fugitive dust. DPM exposure causes acute health effects that are different from the effects of exposure to PM alone.

7 California Air Resources Board, Initial Statement of Reasons for Rulemaking, Proposed Identification of Diesel Exhaust as a Toxic Air Contaminant, Staff Report, June 1998; see also California Air Resources Board, Overview: Diesel Exhaust & Health, https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health#:~:text=Diesel%20Particulate%20Matter%20and%20Health&text=In%201998%2C%20CARB%20identified%2 0DPM,and%20other%20adverse%20health%20effects.

8 U.S. EPA, Health Assessment Document for Diesel Engine Exhaust, Report EPA/600/8-90/057F, May 2002.

9 Environmental Defense Fund, Cleaner Diesel Handbook, Bring Cleaner Fuel and Diesel Retrofits into Your Neighborhood, April 2005; http://www.edf.org/documents/4941_cleanerdieselhandbook.pdf, accessed July 5, 2020.

10 California Air Resources Board, Initial Statement of Reasons for Rulemaking, Proposed Identification of Diesel Exhaust as a Toxic Air Contaminant, Staff Report, June 1998.

11 Findings of the Scientific Review Panel on The Report on Diesel Exhaust as adopted at the Panel's April 22, 1998 Meeting.

12 Health & Safety Code § 39655(a) (defining "toxic air contaminant" as air pollutants "which may cause or contribute to an increase in mortality or in serious illness, or which may pose a present or potential hazard to human health. A substance that is listed as a hazardous air pollutant pursuant to subsection (b) of Section 112 of the federal act (42 U.S.C. Sec. 7412 (b)) is a toxic air contaminant.")

Response to Comment No. 7-44

The commenter contends that the "the City has failed to conduct a numerical health risk analysis (HRA) for the Project." The City as the Lead Agency has the discretion to select the appropriate thresholds of significance and methodologies for evaluating a project's impacts including potential impacts related to health risk. This comment does not provide substantial evidence to demonstrate that a quantified HRA related to any potential on-site sources of TACs is required under CEQA or that the City abused its discretion in not requiring one in the Draft EIR.

This comment cites language from the City's guidance document (Air Quality and Health Effects), but fails to disclose when the City recommends that a quantitative HRA is warranted. The guidance states the following:

> *Potential TAC impacts are evaluated by conducting a qualitative analysis consistent with CARB and SCAQMD guidance, and may be followed by a more detailed analysis utilizing CARB's Hotspots Analysis and Reporting Program (HARP model) where the project results in a substantial source of TACs or if a project would site sensitive land uses in proximity to TAC sources. However, although CARB and SCAQMD provide guidance for TAC analysis, most land use projects analyzed in City EIRs do not contain substantial on-site sources of TACs, and siting new sensitive uses near existing TAC sources is generally not considered a CEQA impact.*

This methodology is precisely what was done in the Draft EIR.

The Draft EIR correctly identified that proposed construction activities would be limited in duration and considered a short-term source of TAC emissions. SCAQMD's CEQA Air Quality Handbook does not recommend analysis of TACs from short-term construction activities associated with land use development projects. The rationale for not requiring an HRA for construction activities is the limited duration of exposure. According to SCAQMD methodology, health effects from carcinogenic air toxics are usually described in terms of individual cancer risk. Specifically, "Individual Cancer Risk" is the likelihood that a person continuously exposed to concentrations of TACs over a 70-year lifetime will contract cancer based on the use of standard risk assessment methodology. OEHHA guidance evaluates residential exposure over a 30-year duration.

Because the construction schedule for the Project estimates that the overall construction schedule would be limited to approximately two years, construction of the Project would not result in a substantial, long-term (i.e., 70-year) source of TAC emissions. No residual emissions and corresponding individual cancer risk are anticipated after construction as the Project does not include any substantial operational sources of TAC emissions (e.g., warehouse distribution facility). Because there is such a short-term exposure period (2 out of a 70-year lifetime), further evaluation of construction TAC emissions within the Draft EIR was not warranted. This supporting information is consistent with the *L.A. CEQA Thresholds Guide* in making a case-by-case determination of significance. As such, the Draft EIR correctly concluded that Project-related TAC emission impacts during construction would be less than significant and would not result in a potential health risk impact.

From an operational standpoint, the Draft EIR correctly identified that the Project would not support any land uses or activities that would involve the use, storage, or

processing of carcinogenic toxic air contaminants. In addition, the proposed land uses would not generally involve the use of heavy-duty diesel trucks with the exception of occasional moving trucks, trash trucks or delivery trucks. The commenter is referred to SCAQMD guidance below that provides clarification as to when an HRA may be warranted:

> *The SCAQMD published and adopted the* Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*, which provides recommendations regarding the siting of new sensitive land uses near potential sources of air toxic emissions (e.g., freeways, distribution centers, rail yards, ports, refineries, chrome plating facilities, dry cleaners, and gasoline dispensing facilities).*[12] *The SCAQMD recommends that HRAs be conducted for substantial sources of DPM (e.g., truck stops and warehouse distribution facilities that generate more than 100 trucks per day or more than 40 trucks with operating transport refrigeration units).*

As discussed above, the Project includes the development of 136,200 square feet of office uses, 12,200 square feet of restaurant uses (of which 6,100 square feet may be used for an entertainment use), and 2,200 square feet of retail uses. A conservative estimate of the number of daily truck trips is provided below based on the NCHRP Truck Trip Generation Data.[13]

- Table D-2c of the NCHRP data (Trip Generation Summary—Daily Commercial Vehicle Trips per 1,000 sf of Building Space for Retail (includes restaurants)) provides an average of 0.324 truck trips per 1,000 sf or 4.7 truck trips per day ((14,400 sf/1,000 sf) x 0.324 trips/1,000 sf/day) for the Project's retail/restaurant uses. This assumes that all trucks would be diesel even though many retail//restaurant truck deliveries are from smaller gasoline trucks (e.g., UPS or FedEx). The NCHRP data did not provide the percentage of trucks that would be equipped with a TRUs. For the purposes of this analysis, it was estimated that one of the trucks per day would be equipped with a TRU related to restaurant use.

- Table D-2d of the NCHRP data (Trip Generation Summary—Daily Commercial Vehicle Trips per 1,000 sf of Building Space for Office and Services (Office uses)) provides an average of 0.039 truck trips per 1,000 sf or approximately 5.3 truck trips per day ((136,200 sf/1,000 sf) x 0.039 trips/1,000 sf/day) for the Project's office uses. Once again, this assumes that all trucks would be diesel

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

[13] *National Cooperative Highway Research Program (NCHRP) Synthesis 298 Truck Trip Generation Data, 2001, http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_syn_298.pdf.*

even though many office truck deliveries are from smaller gasoline trucks (e.g., UPS or FedEx).

As shown above, the Project is conservatively estimated to generate approximately ten trucks per day of which one would be equipped with a TRU. Based on SCAQMD guidance, a quantitative analysis is not required for future cancer risk within the vicinity of the Project as the Project is consistent with the recommendations regarding the siting of new sensitive land uses near potential sources of TAC emissions provided in the SCAQMD *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*. Specifically, the Project is not considered to be a substantial source of DPM warranting a refined HRA since daily truck trips to the Project Site would not exceed 100 trucks per day or more than 40 trucks with operating TRUs.

An HRA is not required by SCAQMD or the *L.A. CEQA Thresholds Guide*, and no guidance for HRAs for construction has been adopted by SCAQMD or the City. Based on the above information, the Draft EIR correctly concluded that an operational HRA was not warranted.

Nonetheless, a combined construction and operational HRA has been prepared pursuant to CAPCOA Guidance Document for Health Risk Assessments for Proposed Land Use Projects in response to this comment letter to confirm, as the Draft EIR concludes, that no significant health risk impacts would occur from the Project. The HRA is provided as Appendix FEIR-2 of this Final EIR. As discussed on Page 1 of Appendix FEIR-2, the HRA demonstrates that health risks from the Project (combined construction and operation) would be a maximum of 7.0 in one million for residences located directly north of the Project Site (for combined construction and operational emissions), which is below the applicable SCAQMD significance threshold of 10 in one million.

Comment No. 7-45

The nearest sensitive receptors reside just north of the Project Site and east of the Project Site across Hudson Avenue. According to the DEIR, these residences would experience the highest levels of Project emissions.[13]

These receptors would be exposed to TACs released during Project construction and operation, including DPM. No effort is made in the DEIR to quantify the potential health impacts from DPM generated by construction activities or operational activities from the Project on these sensitive receptors. The City's failure to perform such an analysis is clearly a major flaw in the DEIR and may be placing the residents of the adjacent structures at risk from the construction and operational phases of the Project.

[13] City of Los Angeles. 2022. 1000 Seward Project Draft Environmental Impact Report.

Response to Comment No. 7-45

Similar to Comment No. 7-44, the commenter contends that "the City has failed to quantify the potential health impacts from DPM generated by construction or operational activities. As stated above, the City as the Lead Agency has the discretion to select the appropriate thresholds of significance and methodologies for evaluating a project's impacts including potential impacts related to health risk. A quantitative HRA that would evaluate potential health risk impacts to nearby sensitive receptors is not required by SCAQMD or the *L.A. CEQA Thresholds Guide*, and no guidance for HRAs for construction has been adopted by SCAQMD or the City. As discussed on Page IV.A-59 of the Draft EIR, "Given the short-term construction schedule of approximately two years, the Project would not result in a long-term (i.e., 70-year) source of TAC emissions." Furthermore, based on SCAQMD guidance, a no quantitative analysis is not required for future cancer risk within the vicinity of the Project as the Project is consistent with the recommendations regarding the siting of new sensitive land uses near potential sources of TAC emissions provided in the SCAQMD *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*. Specifically, the Project is not considered to be a substantial source of DPM warranting a refined HRA since daily truck trips to the Project Site would not exceed 100 trucks per day or more than 40 trucks with operating TRUs. This comment does not provide substantial evidence to demonstrate that a quantified HRA related to any potential on-site sources of TACs is required under CEQA or that the City abused its discretion in not requiring one in the Draft EIR.

An HRA is not required by SCAQMD or the *L.A. CEQA Thresholds Guide*, and no guidance for HRAs for construction has been adopted by SCAQMD or the City. Nonetheless, a combined construction and operational HRA has been prepared pursuant to CAPCOA Guidance Document for Health Risk Assessments for Proposed Land Use Projects in response to this comment letter to confirm, as the Draft EIR concludes, that no significant health risk impacts would occur from the Project. The HRA is provided as Appendix FEIR-2 of this Final EIR. As discussed on Page 1 of Appendix FEIR-2, the HRA demonstrates that health risks from the Project (combined construction and operation) would be a maximum of 7.0 in one million for residences located directly north of the Project Site (for combined construction and operational emissions), which is below the applicable SCAQMD significance threshold of 10 in one million.

Comment No. 7-46

2. Given The Proximity Of Sensitive Receptors To The Site And The Nature of The Toxic Air Contaminants Emitted, The Operational Emissions From The Back Up Generator Will Cause A Significant Health Risk To Residents Near The Project Site.

According to the DEIR[14], the proposed project would not result in non-permitted stationary sources that would emit substantial air pollutants or TACs. Routine testing and maintenance of the diesel emergency generator would result in emissions of DPM. However, the applicant would be required to work with the SCAQMD in order to obtain permits to operate. As part of the permit process, the SCAQMD will evaluate compliance with Rule 1401, New Source Review of Toxic Air Contaminants, and Rule 1401.1, Requirements for New and Relocated Facilities Near Schools. Rule 1401.1 identifies acceptable risk levels and emissions control requirements for new and modified facilities that may emit additional TACs. Under Rule 1401, permits to operate may not be issued when emissions of TACs result in a maximum incremental cancer risk greater than 1 in 1 million without application of best available control technology for toxics (TBACT), or a maximum incremental cancer risk greater than 10 in 1 million with application of T-BACT, or if the cumulative cancer burden (i.e., increase in cancer cases in the population) from all TACs emitted from a single piece of equipment exceeds 0.5, or a health hazard index (chronic and acute) greater than 1.0 (SCAQMD 2017b).

[14] City of Los Angeles. 2022. 1000 Seward Project Draft Environmental Impact Report. Page I-2

Response to Comment No. 7-46

The comment asserts that the operational emissions from the BUG will cause significant health risk to residents near the project site and implies that the DEIR's conclusion that the project would not include stationary sources that would emit substantial TACs is incorrect. Consistent with the *L.A. City CEQA Thresholds Guide*, the Draft EIR provided supporting information to make a case-by-case determination of significance and an HRA was not warranted. There was no operational quantitative analysis required for future cancer risk within the vicinity of the Project as the Project is consistent with the recommendations regarding the siting of new sensitive land uses near potential sources of TAC emissions provided in the SCAQMD *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*. Regarding the proposed emergency diesel generator (referred to as "BUG" in this comment letter), it is acknowledged that the unit would be subject to SCAQMD Rule 1401 (New Source Review of Toxic Air Contaminants) as a regulatory requirement. Emergency diesel generator emissions were included in the Draft EIR. Specifically, Table IV.A-9 provides the emissions under "Stationary" in which PM_{10} emissions would represent DPM emissions. Also, refer to Appendix B of the Draft EIR (on Page 49 of the CalEEMod output file) which shows 0.0302 pounds per day of

exhaust PM_{10}/DPM and would represent the limited emissions on a routine testing day. Performance of a quantitative HRA was not warranted consistent with SCAQMD's *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning.*

The CARB and SCAQMD guidance documents do not consider emergency diesel generators (again referred to as BUGs in this comment letter) as a substantial source of air toxic emissions warranting a detailed HRA. Nonetheless, a combined construction and operational HRA has been prepared pursuant to CAPCOA Guidance Document for Health Risk Assessments for Proposed Land Use Projects in response to this comment letter to confirm, as the Draft EIR concludes, that no significant health risk impacts would occur from the Project. The HRA is provided as Appendix FEIR-2 of this Final EIR. As discussed on Page 1 of Appendix FEIR-2, the HRA demonstrates that health risks from the Project (combined construction and operation) would be a maximum of 7.0 in one million for residences located directly north of the Project Site (for combined construction and operational emissions), which is below the applicable SCAQMD significance threshold of 10 in one million.

Comment No. 7-47

According to the CALEEMOD analysis presented in Appendix B of the DEIR, the proposed 500 hp emergency back-up generator (BUG) would be operated for a limited time (10 hours or less per year for testing and maintenance). Using the SCAQMD's Rule 1401 Risk Assessment Programs Risk Tool V1.103 software, it is possible to generate a site-specific screening level HRA for emissions from the back-up generator (BUG). Assuming the system is restricted to maintenance and testing for 10 hours per year or less, that the efficiency of the emission controls of the BUG are at least 85% effective, the model calculates emissions of DPM of approximately 0.5 lbs per year.

Based on the emission of 0.5 lbs per year of DPM, the SCAQMD Risk Tool calculates a risk of 54.7 in 1,000,000 for residents living within 83 feet (25 meters) of the Project Site. Commercial workers located within 80 feet (25 meters) of the site face a potential health risk of 18.9 in 1,000,000. The model was set to assume T-BACT controls were in place for the generator. All of the results for this analysis are presented in Exhibit B to this letter. The City must address this significant error in their air quality analysis in a revised EIR.

Response to Comment No. 7-47

This comment summarizes the commenter's analysis of the backup generator. SCAQMD requires a Permit to Construct/Operate before installing an emergency generator on the Project Site. The internal combustion engine will be required to meet SCAQMD Best Available Control Technology (BACT) requirements. Allowable hours of operation and

specific permitting conditions will be determined by SCAQMD at permit issuance. The Draft EIR analysis made appropriate assumptions regarding how many hours annually the emergency generator would operate. Newer generators are typically tested every week, all year round for approximately 10 minutes at a time (equates to approximately nine hours per year). This weekly activity is often programmed for automatic run time. Therefore, use of 10 hours per year in the Draft EIR for routine testing and maintenance of the emergency generator was an appropriate estimate. Specific operating hours for routine testing and maintenance will be conducted consistent with manufacturer's specifications and will be determined at the time of SCAQMD permitting.

This comment misconstrues the emissions data presented in the Draft EIR regarding the emergency generator. The CalEEMod output file for Project operational emissions (Page 49 of the CalEEMod output file in Appendix B of the Draft EIR) showed that the 500 hp diesel generator would emit 0.0302 lbs. of PM_{10} per day (conservatively assumed to operate 0.25 hour for routine testing and maintenance). This is based on a CalEEMod default emission factor of 0.15 g/bhp-hr of PM_{10}. This equates to 0.302 lbs. of PM_{10} per year (10 hours per year of operation for routine testing and maintenance). Please note that SCAQMD Rule 1470 was amended on October 1, 2021 and provides a new PM_{10} emission standard for emergency generators located at sensitive receptors (e.g., residences) or within 50 meters from a sensitive receptor with a limit of 0.01 g/bhp-hr of PM_{10} (engines between 175 hp and 750 hp) and 0.02 g/bhp-hr of PM_{10} (engines greater than 750 hp) (See Table 1 of SCAQMD Rule 1470). Residential uses are located just north of the Project Site and east of the Project Site across Hudson Avenue within 50 meters of the proposed location of the emergency generator (see Figure II-11 of the Draft EIR and Figure 1 of Appendix FEIR-2 of this Final EIR). Thus, use of 0.01 g/bhp-hr for PM_{10} emissions is the appropriate standard or approximately 0.08 lbs of PM_{10} per year (10 hours per year of operation for routine testing and maintenance) for a 500 hp emergency generator analyzed in the Draft EIR. Please note that subsequent to completing the Draft EIR, it was determined that a 1,000 kW (1,341 hp) emergency generator is necessary for the Project and would be subject to the 0.02 g/bhp-hr for PM_{10} standard or approximately 0.43 lbs of PM_{10} per year (10 hours per year of operation for routine testing and maintenance). This omission will be corrected in Section III, Revisions, Clarifications, and Corrections to the Draft EIR, of this Final EIR.

It is not clear how Clark calculated 0.5 pounds per year (cited in this comment) as this value is not the same as the amount reported in the Draft EIR nor is it the same value included in Exhibit B used to calculate a risk of 54.7 in 1,000,000 for residents living within 83 feet (25 meters) of the Project Site. Upon further review of the health risk analysis performed by Clark, the diesel generator emission rate was 3.24 lbs. of PM_{10} per year (10 hours per year of operation for routine testing and maintenance). This is approximately 40 times the annual emission rate based on compliance with SCAQMD Rule 1470 for a 500 hp generator. Clark provides no citation in the Draft EIR for this incorrect value.

Furthermore, Clark compounds the error by citing that their calculations assumed compliance with T-BACT controls for the generator, but no control efficiency is provided. It also appears that Clark assumed a load factor of 90 percent instead of the CalEEMod default value of 73 percent. Clark provides no supporting documentation for these changes and emission factors.

Clark also incorrectly used the SCAQMD's RiskTool screening spreadsheet for calculating potential health risk impacts. Some outputs from the SCAQMD RiskTool were provided, but the summary sheet which contains the input parameters was omitted. In addition, the diesel generator was entered in as a non-combustion source. The SCAQMD RiskTool spreadsheet has separate dispersion parameters for both combustion and non-combustion sources, which are only displayed on the summary sheet containing input parameters. As a result of entering the diesel generator as a non-combustion source, concentrations and health risk calculated are overestimated by a factor of 10 in comparison to a combustion source. Please refer to SCAQMD Rule 1401, Permit Application Package "N" guidance, Table 6.1A. As the summary sheet with input parameters was omitted from Clark's health risk analysis, and no supporting evidence was provided to characterize the source as non-combustion or to justify the emission rate used, the health risk calculations provided by Clark are erroneous and should not be considered further.

Comment No. 7-48

3. The City's CalEEMOD Analysis Of Emissions From The Back Up Generator (BUG) On-Site Must Include The Testing And Non-Testing (Operational) Impacts Of The BUG

According to SCAQMD Rules 1110.2, 1470, back-up generators (BUGs) are allowed to operate for up to 200 hours per year and maintenance cannot exceed more than 50 hours per year. The assumption by the City that maintenance and testing of the BUG would not exceed 10 hours per year is unsupported. The City must revise its air quality analysis to include the use of BUGs onsite in a revised EIR.

Response to Comment No. 7-48

This comment incorrectly claims the Draft EIR's assumptions regarding the backup generator are unsupported. Regulatory limits may be established by various agencies but are not a required CEQA analytical assumption or a significance threshold per se. The commenter has not provided any substantial evidence that use of the backup generators would exceed SCAQMD limits and to assume otherwise is speculation which CEQA does not permit. (CEQA Guidelines Section 15145.) Moreover, the Draft EIR reasonably estimated, based on the specifics of this Project, that backup generator annual hours would be consistent with infrequent emergency usage, and therefore, significantly below that which is allowed under SCAQMD rules (10 versus 200 hours); just because the SCAQMD

rules allow for longer annual hours does not mean that this specific Project's estimate is inaccurate and the commenter has provided no substantial evidence establishing otherwise.

While the Draft EIR provided a reasonable estimate of annual hourly usage of the emergency generator for maintenance and testing, the HRA prepared in response to these comments and included as Appendix FEIR-2 of this Final EIR, conservatively includes use of all 200 hours for a 1,000 kW emergency generator to further demonstrate that health risks from the Project would be a maximum of 7.0 in one million for residences located directly north of the Project Site (for combined construction and operational emissions), which is below the applicable SCAQMD significance threshold of 10 in one million. It is noted that this risk assumes an outdoor exposure for the entire length of construction and does not account for any reductions from the time spent indoors, where air quality tends to be better.

Comment No. 7-49

In addition to the testing emissions, the air quality analysis must include the substantial increase in operational emissions from BUGs in the Air Basin due to unscheduled events, including but not limited to Public Safety Power Shutoff (PSPS) events and extreme heat events. Extreme heat events are defined as periods where in the temperatures throughout California exceed 100 degrees Fahrenheit.[15] From January, 2019 through December, 2019, Southern California Edison reported 158 of their circuits underwent a PSP event[16]. In Los Angeles County, two circuits had 4 PSPS events during that period lasting an average of 35 to 38 hours. The total duration of the PSPS events lasted between 141 hours to 154 hours in 2019. In 2021, the Governor of California declared that, during extreme heat events, the use of stationary generators shall be deemed an emergency use under California Code of Regulations (CCR), title 17, section 93115.4 sub. (a) (30) (A)(2). The number of Extreme Heat Events is likely to increase in California with the continuing change in climate the State is currently undergoing.

Power produced during PSPS or extreme heat events is expected to come from engines regulated by CARB and California's 35 air pollution control and air quality management districts (air districts).[17] Of particular concern are health effects related to emissions from diesel back-up engines. Diesel particulate matter (DPM) has been identified as a toxic air contaminant, composed of carbon particles and numerous organic compounds, including over forty known cancer-causing organic substances. The majority of DPM is small enough to be inhaled deep into the lungs and make them more susceptible to injury.

According to the California Public Utilities Commission (CPUC) de-energization report[18] in October 2019, there were almost 806 PSPS events (emphasis added) that impacted almost 973,000 customers (~7.5% of households in California) of which ~854,000 of them

were residential customers, and the rest were commercial/industrial/medical baseline/other customers. CARB's data also indicated that, on average, each of these customers had about 43 hours of power outage in October 2019.[19] Using the actual emission factors for each diesel BUG engines in the air district's stationary BUGs database, CARB staff calculated that the 1,810 additional stationary generators (like those proposed for the Project) running during a PSPS in October 2019 generated 126 tons of NOx, 8.3 tons or particulate matter, and 8.3 tons of DPM.

For every PSPS or Extreme Heat Event (EHE) triggered during the operational phase of the project, significant concentrations of DPM will be released that are not accounted for in the City's analysis. In 2021, two EHEs have been declared so far. For the June 17, 2021 Extreme Heat Event, the period for which stationary generator owners were allowed to use their BUGs lasted 48 hours. For the July 9, 2021 EHE, the period for which stationary generator owners were allowed to use their BUGs lasted 72 hours. These two events would have increased the calculated DPM emissions by a factor of 5 from the Project if only the 10 hours of testing that is allowed were quantified for the Project's operational emissions. A revised EIR must be written for the Project that includes an analysis of the additional operation of the BUG that will occur at the project site that is not accounted for in the current air quality analysis.

[15] Governor of California. 2021. Proclamation of a state of emergency. June 17, 2021.

[16] SCAQMD. 2020. Proposed Amendment To Rules (PARS) 1110.2, 1470, and 1472. Dated December 10, 2020. http://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/1110.2/1110-2_1470_1472/par1110-2_1470_wgm_121020.pdf?sfvrsn=6.

[17] CARB. 2019. Use of Back-up Engines For Electricity Generation During Public Safety Power Shutoff Events. October 25, 2019.

[18] https://www.cpuc.ca.gov/deenergization/ as cited in CARB, 2020. Potential Emission Impact of Public Safety Power Shutoff (PSPS), Emission Impact: Additional Generator Usage associated With Power Outage.. [sic]

[19] CARB, 2020. Potential Emission Impact of Public Safety Power Shutoff (PSPS), Emission Impact: Additional Generator Usage associated With Power Outage.

Response to Comment No. 7-49

This comment claims the analysis of the backup generator needs to account for power safety shutoff events. As discussed above in Response to Comment No. 7-48, regulatory limits may be established by various agencies but are not a required CEQA analytical assumption or a significance threshold per se. In addition, the data provided in this comment from CARB indicated power outages on a statewide basis for a single month with varying assumptions on emergency generator usage. The commenter has not provided any substantial evidence that use of the backup emergency generators would exceed SCAQMD limits and to assume otherwise is speculation which CEQA does not permit. (CEQA Guidelines Section 15145.) Moreover, the Draft EIR reasonably estimated,

based on the specifics of this Project, that backup emergency generator annual hours would be consistent with infrequent emergency usage, and therefore, significantly below that which is allowed under SCAQMD rules (10 versus 200 hours of which 50 hours could be used for routine maintenance); just because the SCAQMD rules allow for longer annual hours does not mean that this specific Project's estimate is inaccurate, and the commenter has provided no substantial evidence establishing otherwise. While the Draft EIR provided a reasonable estimate of annual hourly usage of the emergency generator for maintenance and testing, the HRA prepared in response to these comments and included as Appendix FEIR-2 of this Final EIR, conservatively includes use of all 200 hours for a 1,000 kw generator to further demonstrate that health risks from Project DPM emissions are less than significant. The 200 hours of operation of the emergency generator would include PSPS.

Comment No. 7-50

4. The City's Air Quality And Greenhouse Gas (GHG) Analyses Are Incomplete

Appendix B of the DEIR includes the CalEEMOD outputs for the air quality and GHG analyses. The outputs provided in Appendix B-2.2 and Appendix B-3.2 are incomplete. In the appendices the City has included analyses of the operational phase of the Project for Winter months, but has not included the analyses for Summer months or the annual emissions analysis. Emissions produced during summer months may have a greater impact on air quality than winter months.

Historically summer emissions have a greater impact on the formation of smog within the South California Air Basin. This oversight must be addressed in a revised EIR which includes all periods for which the emissions can be calculated.

Response to Comment No. 7-50

This comment claims that no analysis of GHG emissions during summer months was provided as part of the Draft EIR. Refer to Response to Comment No. 7-18, above. As discussed therein, summer months were accounted for as part of the annual air pollutant modeling. Regardless, standalone modeling for summer months was completed and the results are provided in Appendix FEIR-3 of this Final EIR. As shown above, Project related winter and summer daily pollutant emissions are similar and well below SCAQMD daily significance thresholds under both scenarios.

Comment No. 7-51

5. The City's Greenhouse Gas Analysis Relies On An Unsupported Threshold

The City has not adopted a numerical significance threshold for assessing impacts related to GHG emissions and has not formally adopted a local plan for reducing GHG emissions. The DEIR concludes that the Project's GHG impacts would be less than significant based on the Project's consistency with the goals and actions to reduce GHG emissions found in the City's Green New Deal, the 2017 California Climate Change Scoping Plan, and the implementation of project design features (PDFs—voluntary features which are not enforceable).

Table IV.D-11
Annual Project GHG Emissions Summary (Buildout Year)[a]
(metric tons of carbon dioxide equivalent [$MTCO_2e$])

Scope	Project without Project Features	Project with Project Features	Reduction from Project Features
Area[b]	<1	<1	0
Energy[c]	945	887	(59)
Mobile[d]	1,933	1,075	(858)
EV Chargers[e]	(32)	(32)	0
Stationary[f]	2	2	0
Solid Waste[g]	28	28	0
Water/Wastewater[h]	174	136	(38)
Construction	124	124	0
Total Emissions	**3,174**	**2,219**	**(955)**

Claims by the City that the compliance by third parties (those they are reliant on for energy) to reduce GHG emissions will reduce the Project's GHG emissions are unsupported and cannot be viewed as a reliable mitigation measure. The City must correct these assumptions regarding the GHG analysis in a revised EIR.

Response to Comment No. 7-51

This comment asserts that the City doesn't have an adopted threshold or plan and concluded less than significant in the DEIR because of consistency with Green New Deal and the Scoping Plan and with implementation of PDFs. First, CEQA Guidelines Section 15064.4(a)(2) allows, in determining the significance of a project's impacts, a "qualitative" or "performance based" standard. Section 15064.4(b)(3) states that "[i]n determining the significance of impacts, the lead agency may consider a project's consistency with the State's long-term climate goals or strategies, provided that substantial evidence supports the agency's analysis of how those goals or strategies address the project's incremental

contribution to climate change and its conclusion that the project's incremental contribution is not cumulatively considerable."

CEQA Guidelines Section 15064(h)(3) states, in relevant part, that a:

> *…lead agency may determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program… that provides specific requirements that will avoid or substantially lessen the cumulative problem within the geographic area in which the project is located. Such plans or programs must be specified in law or adopted by the public agency with jurisdiction over the affected resources through a public review process to implement, interpret, or make specific the law enforced or administered by the public agency. When relying on a plan, regulation or program, the lead agency should explain how implementing the particular requirements in the plan, regulation or program ensure that the project's incremental contribution to the cumulative effect is not cumulatively considerable.*

As discussed above, OPR encourages lead agencies to make use of programmatic mitigation plans and programs from which to tier when they perform individual project analyses. On a statewide level, the 2008 Climate Change Scoping Plan and subsequent updates provide measures to achieve AB 32 and SB 32 targets. On a regional level, SCAG's 2020–2045 RTP/SCS contains measures to achieve VMT and GHG reductions required under SB 375. The City does not have a programmatic mitigation plan to tier from, such as a Greenhouse Gas Emissions Reduction Plan as recommended in the relevant amendments to the CEQA Guidelines. The City's Green New Deal is not an adopted plan or directly applicable to private development projects. However, the City's Green New Deal, a mayoral initiative, includes short-term and long-term aspirations pertaining to climate change and the Draft EIR analysis addressed consistency with these strategies and goals. The City's Green New Deal would support state regulations for reducing GHG, with established targets such as 100 percent renewable energy by 2045, diversion of 100 percent of waste by 2050, and recycling 100 percent of wastewater by 2035. Thus, if the Project is designed in accordance with these policies and regulations, the Project would result in a less than significant impact, because it would be consistent with the overarching state regulations on GHG reduction (e.g., AB 32 ,SB 32, and SB 375).

In the Draft EIR, the Project's GHG impacts are analyzed in Section IV.D and in Appendix B, the Project's Air Quality and GHG Emissions technical report. The analysis includes a quantified assessment of the Project's GHG emissions utilizing CalEEMod 2020.4.0 modeling software. As discussed therein, the Project includes characteristics that have been identified to reduce GHG emissions through reductions of VMT in accordance

with the LADOT VMT Calculator, which include the densification, location, and measures incorporated into the Project that are demonstrated through quantitative analysis to result in a 40-percent reduction in overall VMT and resultant GHG emissions in comparison to a project without VMT reducing characteristics (e.g., availability of transit). (See Draft EIR, at p. IV.D-60.)

The Draft EIR includes a detailed point-by-point analysis of the Project's consistency with SCAG's 2020–2045 RTP/SCS, the *Climate Change Scoping Plan* and related regulations adopted to reduce GHG emissions and the City's Green New Deal. The analysis concludes that the Project is consistent with the key GHG reducing goals and requirements in these plans. Refer to pages IV.D-50 through IV.D-68 of the Draft EIR.

In particular, the Project represents an infill development within an existing urbanized area that would introduce new retail, restaurant, and office uses in close proximity public transportation, with multiple local bus lines provided by Metro and LADOT. Specifically, transit options in the vicinity of the Project Site include the Hollywood/Vine station of the Metro B Line (Red) located approximately one-mile northeast of the Project Site; Metro bus line 4 located approximately 0.2 mile northeast of the Project Site; and DASH Hollywood located approximately 0.4 mile north of the Project Site. Based on the Project's location, use, design features, and regulatory compliance measures, the Project was determined to be overall consistent with key GHG reduction goals and requirements of the analyzed plans. The effectiveness of this compliance is further demonstrated through a quantitative analysis provided for informational and demonstrative purposes. Based on these factors, the Draft EIR concluded the Project would result in a less than significant impact with respect to GHG emissions. This determination is well supported by substantial evidence.

This comment incorrectly states that the proposed Project Design Features are unenforceable. The proposed Project Design Features are included in Section IV, Mitigation Monitoring Program, of this Final EIR, along with details about the enforcement and monitoring agencies, timing, and action indicating compliance.

This comment also incorrectly claims that the City cannot rely on compliance by third parties (those they are reliant on for energy) to reduce Project-related GHG emissions and are unsupported and cannot be viewed as a reliable mitigation measure. The commentor misconstrues regulatory requirements and mitigation measures. LADWP's carbon intensity projections account for compliance with SB 100 and SB 350 RPS requirements for renewable energy. The Project incorporates the reductions in GHG emissions associated with use of future LADWP generated energy similar to how CalEEMod incorporates future reductions in GHG emission factors for mobile sources in future years (accounts for federal state regulations to reduce vehicular emissions). The analysis presented in the Draft EIR is accurate and the commenter has not provided substantial evidence to the contrary.

Comment No. 7-52

Conclusion

The facts identified and referenced in this comment letter lead me to reasonably conclude that the Project could result in significant unmitigated impacts if the DEIR is approved. The City must re-evaluate the significant impacts identified in this letter by requiring the preparation of a revised draft environmental impact report.

Response to Comment No. 7-52

This comment concludes the letter. Refer to Response to Comment Nos. 7-41 through 7-51, above. As discussed therein, the analysis presented in the Draft EIR is accurate and meets the requirements of CEQA. This comment does not raise any issues with respect to the content and adequacy of the Draft EIR. Therefore, it is noted for the record and will be forwarded to the decision-makers for their review and consideration.

Comment No. 7-53

Exhibit A: CV [9 pages]

Response to Comment No. 7-53

This comment attaches the commenter's resume and does not raise any issues with respect to the content and adequacy of the Draft EIR. Therefore, it is noted for the record and will be forwarded to the decision-makers for their review and consideration.

Comment No. 7-54

Exhibit B: SCAQMD Screening Health Risk Analysis of BUG [15 pages]

Response to Comment No. 7-54

Exhibit B provides Clark's SCAQMD's RiskTool screening spreadsheet calculation of health risks related to the diesel emergency generator. As discussed above in Response to Comment No. 7-47, Clark incorrectly used the SCAQMD's RiskTool. Some outputs from the SCAQMD RiskTool were provided, but the summary sheet which contains the input parameters was omitted. In addition, the diesel generator was entered in as a non-combustion source. The SCAQMD RiskTool spreadsheet has separate dispersion parameters for both combustion and non-combustion sources, which are only displayed on the summary sheet containing input parameters. As a result of entering the diesel generator as a non-combustion source, concentrations and health risk calculated are overestimated by a factor of 10 in comparison to a combustion source. Please refer to

SCAQMD Rule 1401, Permit Application Package "N" guidance, Table 6.1A. Upon further review of the Exhibit B, the diesel generator emission rate was 3.24 lbs. of PM_{10} per year (10 hours per year of operation for routine testing and maintenance). This is approximately 40 times the annual emission rate based on compliance with SCAQMD Rule 1470. Clark provides no citation in the Draft EIR for this incorrect value. Furthermore, Clark compounds the error by citing that their calculations assumed compliance with T-BACT controls for the generator, but no control efficiency is provided. It also appears that Clark assumed a load factor of 90 percent instead of the CalEEMod default value of 73 percent. Clark provides no supporting documentation for these changes and emission factors. As the summary sheet with input parameters was omitted from Clark's health risk analysis, and no supporting evidence was provided to characterize the source as non-combustion or to justify the emission rate used, health risk calculations provided by Clark are erroneous and should not be considered further.

Comment No. 7-55

Per your request, we have reviewed portions of the above referenced document, in particular Section II—Project Description and Section IV.F—Noise sections of the Draft EIR, as well as Appendix G. We have generated the following comments. The project includes the development of a 10-story mixed use office building in the Hollywood Community Plan area of LA. Demolition of existing structures will be required.

Response to Comment No. 7-55

This introductory comment does not raise any issues with respect to the content and adequacy of the Draft EIR. Therefore, it is noted for the record and will be forwarded to the decision-makers for their review and consideration.

Comment No. 7-56

Existing Ambient Noise

The DEIR provides documentation for noise measured at five (5) receptor locations within 500 ft of the project site. At one location (R1) 24-hour measurements were made, and the hourly values are reported in Appendix G (page 4 of the PDF). These values are plotted in Figure 1. Based on these data, the average hourly Leq during typical construction hours (7 AM to 5 PM) was 57.0 dBA at R1—slightly less than the full daytime Leq of 56.4 dBA, and the standard deviation was 2.8 dBA over the course of the full daytime period (7 AM to 10 PM). The DEIR acknowledges that the noise environment measured at R1 might be unusually low to the different traffic patterns at that time due to the COVID-19 pandemic (DEIR p. IV-F.22); there is no mention of how the change in volume from COVID-affected conditions to normal conditions could affect the noise environment. The DEIR also indicates that 15-minute ambient measurements were made at the other locations (R2-R5)

between 10 AM and 12 PM, and 11PM [sic] and 1 AM, and these data are included in Appendix G.

Response to Comment No. 7-56

This comment implies that the existing noise levels were improperly measured. The existing daytime ambient noise level of 56.6 dBA (L_{eq}) at receptor location R1 was based on the average noise level measured for the full daytime hours (7 A.M. to 10 P.M.). The average daytime ambient noise during the commenter's assumed construction hours (7 A.M. to 5 P.M.) would be 57.7 dBA (L_{eq}), which would be higher than the 56.6 dBA (L_{eq}). Thus, the construction noise impacts, based on the full daytime ambient noise level, would be more conservative. As discussed in Section IV.F, Noise, of the Draft EIR (Page IV.F-22), the ambient noise levels were measured during the COVID-19 pandemic, which would be lower than typical normal conditions due to the reduction of general ambient noise in an urban environment that is mainly controlled by vehicle traffic on the roadways. Since the ambient noise measurements were conducted in August 11, 2020 (during the COVID-19 pandemic), the traffic volumes would be lower than typical normal conditions, as people were working remotely and students were studying from home. As such, the Project noise impacts are conservative because they are based on the lower baseline ambient noise levels.

Comment No. 7-57

It is notable that 15-minute samples over the daytime hours (7 AM to 10 PM) is only 2% of the total daytime period; based on the results measured over a 24-hour period at Location R1 plotted in Figure 1, it appears that the daytime short-term measurements correspond to the noisiest time of the daytime period. Similarly, for the nighttime hours (10 PM to 7 AM), at 15-minute constitutes only 3% of the nighttime period, and based on the results measured at Location R1, it appears that the nighttime short-term measurements correspond to the noisiest time of the nighttime period. The standard deviation at Location R1 was 2.5 dBA over the course of the full nighttime period.

Response to Comment No. 7-57

This comment claims that the 15-minute noise measurements used in the Draft EIR analysis are not representative of the baseline noise conditions. Refer to Response to Comment No. 7-21, above. As discussed therein, the noise analysis was conducted based on the City's L.A. CEQA Thresholds Guide and the baseline noise measurements were conducted in accordance with the LAMC. Therefore, additional ambient noise measurements are not warranted.

Comment No. 7-58

Furthermore, by using Type 2 sound level meters, which are accurate within +/- 1.5 dBA[1], relying on these limited time results to characterize the ambient noise within tenths of a decibel is misleading because it implies a level of precision that is not supported by the instrumentation. Since the DEIR relies on this data to determine the significance thresholds, it is imperative that the DEIR provide additional justification for using the short-term measurement results since it appears probable that the true daytime ambient lies closer to 50 dBA at some locations (R2, R3 and R4).

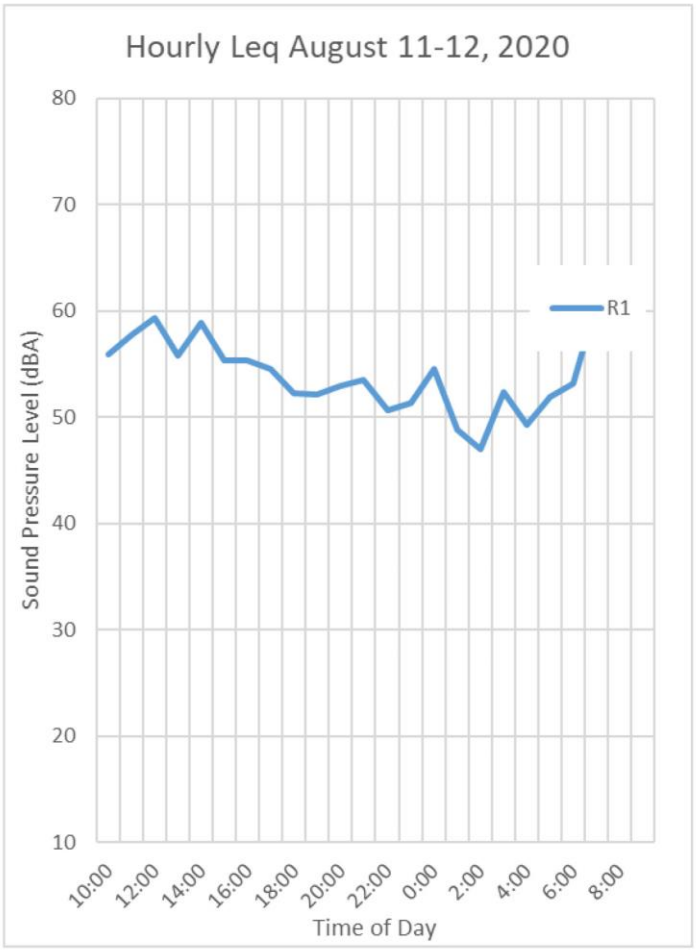

Figure 1 Long-Term noise measured in 2020 (source: Appendix G)

[1] ANSI/ASA S1.43 Integrating Sound Level meters states that the tolerance limits for time averaging meters is +/- 1.5 dBA for Type 2 meters (Table 7) https://law.resource.org/pub/us/cfr/ibr/002/ansi.s1.43.1997.pdf

Response to Comment No. 7-58

This comment claims that the short-term noise measurements used in the Draft EIR are inaccurate and not representative of the baseline noise conditions. Refer to Response to Comment No. 7-21, above. As discussed therein, the sound level meter device used for the noise analysis meets the requirements specified in Section 111.01(I) of the LAMC. In addition, the sound level meter was calibrated and operated according to the manufacturer's written specifications.

Comment No. 7-59

The DEIR uses the subsection header "Ambient Noise Levels" for the discussion of traffic noise that has been modeled using the Federal Highway (FHWA) Traffic Noise Model (TNM). There are no validation measurements provided in Appendix G that verify that the model is accurate within industry expectations. Caltrans acknowledges that a validated model may fall within +/- 3 dBA of the measured result[2], which undermines attempts to use modeled-only results from TNM for absolute noise characterization of the ambient condition. In the cases of urban environments, TNM does not take into account sound amplification from traffic noise reflecting off nearby buildings which occurred here.

[2] Caltrans Technical Noise Supplement (2013). Page 4-8: "TNM cannot account for all the variables present in the real world. It uses relatively simple algorithms to approximate physical processes that are complex in nature. TNM for projects involving existing roadways should always be validated for accuracy by comparing measured sound levels to modeled sound levels using traffic data collected during the measurement.

If modeled sound levels do not match measured sound levels within ±3 dB the model parameters should be reviewed and adjusted if necessary to ensure that they accurately represent actual site conditions. If the measurements and model results are still not in agreement, the model should be calibrated." https://dot.ca.gov/-/media/dot-media/programs/environmental-analysis/documents/env/tens-sep2013-a11y.pdf

Response to Comment No. 7-59

This comment claims traffic noise levels were improperly measured. The calculated traffic noise levels as provided in Table IV.F-9 are within the ± 3dB Caltrans guideline for modeled and the actual measured levels. Specifically, the measured noise levels were 56.1 dBA CNEL along Hudson Avenue (at receptor R2) and 60.9 dBA CNEL along Seward Avenue (at receptor R5), which are within ± 3dB of the modeled traffic noise levels of 58.1 dBA CNEL along Hudson Avenue (+2.0 dBA) and 59.3 dBA CNEL along Seward Avenue (-1.6 dBA). The modeled traffic noise levels are within the allowable model validation per Caltrans guidelines. Therefore, additional validation including reflection from buildings are not warranted.

Comment No. 7-60

Table IV.F-8 of the DEIR shows the traffic vehicle mix used for the traffic noise model, but the source of this information is not listed. The transportation study is included in Appendix J of the DEIR, and 24-hour traffic counts are included in its Appendix B. Calculating the traffic percentages only on Seward at Willoughby results in a distribution of 1412 vehicles between 7 AM and 7PM, [sic] 201 vehicles between 7 PM and 10 PM, and 151 vehicles during the nighttime (10 PM to 7 AM), resulting in percentages of 80%, 11%, and 9%, respectively. These are similar to the percentages shown in Table IV.F-8, however more discussion is required to explain how the noise analysis derived their values and vehicle mix from the transportation study, and why it is appropriate to apply the same percentages to all roads modeled in TNM.

Response to Comment No. 7-60

This comment claims that the source and explanation for the vehicle mix analyzed in the Draft EIR is required. The traffic vehicle mix provided in Table IV.F-8 of the Draft EIR is based on typical percentage in the urban environment. The vehicle mix has been reviewed and approved by traffic consultants and similar traffic volume breakdowns have been used on previous projects for the City. As indicated by the commenter, the calculated traffic percentages for Seward at Willoughby are 80 percent, 11 percent, and 9 percent during the daytime, evening, and nighttime hours, which are similar to the Project analysis; i.e., 80 percent, 10 percent, 10 percent. As analyzed in Section IV.F, Noise, of the Draft EIR (Table IV.F-18), the estimated traffic noise increase due to the Project would be maximum 1.5 dBA along Hudson Avenue (between Santa Monica Boulevard and Romaine Street), which would be well below the applicable 5 dBA significance threshold. Traffic noise impacts are based on the incremental changes in noise levels, which are based on the changes in traffic volume. As such, changes in the traffic vehicle mix would not change the results in the noise impacts (i.e., change in noise levels). Furthermore, it is a standard practice to use the same traffic vehicle mix for project noise analysis for the City. Therefore, the assumption used in the noise analysis is appropriate and additional analysis is not warranted.

Comment No. 7-61

It may be necessary to re-measure the ambient environment now that traffic patterns have largely returned to pre-pandemic conditions in many cities to update both the construction noise thresholds and the existing land use compatibility information.

Response to Comment No. 7-61

This comment suggests revised baseline noise measurements may be warranted. Refer to Response to Comment Nos. 7-56 through 7-60, above. As discussed therein, no revisions to the baseline measurements or analysis are required.

Comment No. 7-62

Construction Noise and Mitigation

The DEIR foreshadows that on-site construction noise will cause a significant noise impact by including two provisions in the Project Design Features (PDFs) that are intended to reduce noise. These are:

1. Use mufflers and/or shielding in proper working condition
2. Prohibit the use of impact pile drivers

[DEIR at p. IV.F-32]

Response to Comment No. 7-62

This comment assumes that the Project's two noise project design features necessarily constitute "foreshadowing" of potential impacts. The noise analysis as provided in the Draft EIR does not include any noise reduction for NOI-PDF-1. In addition, NOI-PDF-2 is a construction assumption guaranteeing that driven (impact) pile systems will not be used for the Project construction. Therefore, the two project design features noted by the commenter do not affect the noise analysis.

Comment No. 7-63

Despite these provisions and the addition of a temporary construction noise barrier that will purportedly provide 15-dBA of noise reduction [DEIR at p. IV.F-46], the DEIR nonetheless concludes that on-site construction noise will be significant and unavoidable [DEIR at p. IV.F-48].

Response to Comment No. 7-63

This comment incorrectly states that Project Design Feature NOI-PDF-1 affects the analysis in the Draft EIR. As stated above in Response to Comment No. 7-62, the Draft EIR does not include any noise reduction for NOI-PDF-1. The noise impact associated with Project construction is based on the anticipated construction equipment to be used and mitigation measure NOI-MM-1 which would provide the 15-dBA noise reduction.

Although, the 15-dBA noise reduction is a substantial reduction, construction noise impacts would remain significant and unavoidable.

Comment No. 7-64

With this determination comes the obligation to incorporate all feasible mitigation measures, which should include the following:

- Make NOI-PDF-1 (mufflers) and NOI-PDF-2 (no pile drivers) *bona fide* mitigation measures so that they are included in the Mitigation Monitoring and Reporting Program (MMRP) and are, hence, legally enforceable.

Response to Comment No. 7-64

This comment implies Project Design Features NOI-PDF-1 and NOI-PDF-2 need to be mitigation measures. The proposed project design features are included in Section IV, Mitigation Monitoring Program, of this Final EIR, along with details about the enforcement and monitoring agencies, timing, and action indicating compliance. In addition, as stated in Response to Comment No. 7-62, above, the Draft EIR does not include any noise reduction for NOI-PDF-1 and NOI-PDF-2 is a construction assumption.

Comment No. 7-65

- Include in NOI-MM-1 a commitment to monitor noise continuously during construction and to halt construction if noise levels exceed 74 dBA Leq at R1, 65 dBA Leq at R2, and/or 57 dBA Leq at R3 (these are the highest predicted levels in DEIR Table IV.F-11 less 15 dBA, the noise attenuation to be provided by the temporary noise barrier, rounded to the nearest decibel).

Table IV.F-11
Construction Noise Impacts

Off-Site Receptor Location	Approximate Distance from Receptor to Project Construction Area (feet)	Estimated Construction Noise Levels by Construction Phases (L_{eq} (dBA))					
		Demo	Grading/ Excavation	Mat Foundation	Foundation	Building Construction	Paving
R1	15	89.3	89.3	85.9	88.2	87.3	88.3
R2	70	79.2	80.2	76.4	77.7	79.5	77.3
R3	210	70.4	71.8	68.1	69.3	71.1	68.3
R4	500	53.1	54.7	51.1	52.1	54.1	50.9
R5	160	57.6	59.0	55.3	56.4	58.3	55.5

Excerpt of Table IV.F-11 [DEIR at p. IV.F-36]

Response to Comment No. 7-65

This comment requests revisions to Mitigation Measure NOI-MM-1. Mitigation Measure NOI-MM-1 has been revised as requested to include a noise monitoring component as follows:

"The Applicant shall install a noise monitoring system on the Project site near noise receptor location R1. The noise monitoring system shall be located 5 feet above grade and behind the construction noise barrier. The noise monitoring system shall have the following capabilities:

a) The noise monitoring system shall be programmed to measure and store, during the Project construction hours, the ambient noise levels in the unit of dBA averaged over a one-hour period (hourly L_{eq}).

b) The noise monitoring system shall be programmed with a noise limit of 74 dBA (hourly L_{eq}).

c) The noise monitoring system shall provide an alert if the ambient noise levels exceed the 74 dBA (hourly L_{eq}) noise limit.

d) In the event the noise limit is triggered, the designated Construction Manager (CM) will be notified via an electronic text message. If the measured noise level is determined to be from the Project construction, the CM shall identify the source of construction noise, and take feasible and reasonable efforts to reduce the construction-related noise levels below the 74 dBA limit."

Refer to Section III, Revisions, Clarifications, and Corrections to the Draft EIR, of this Final EIR.

Comment No. 7-66

- Given that construction of the project is anticipated to last from 2022 to 2025 [DEIR at p. II-12], another feasible mitigation measure for the immediate neighboring receptor R1 would be to offer to upgrade windows that face the site from what look like single-pane, aluminum sliders to double-pane, acoustically rated windows (Sound Transmission Class > 30).

Response to Comment No. 7-66

This comment suggests additional mitigation for receptor R1. The Project's construction noise impact analysis provided in the Draft EIR was performed based on the

quantified significance thresholds in the City's noise limits and the L.A. CEQA Thresholds Guide, which are based on noise levels applicable at the exterior of the noise sensitive receptors, not at the interior of the buildings. Therefore, the focus of the analysis is exterior noise levels, with the understanding that whether a significant construction noise impact would occur in the interior of a residence depends on whether a significant construction noised impact would occur at the exterior of the residence.

In addition, while the Project's construction noise impact would be significant and unavoidable after mitigation at receptor location R1, the impact would be temporary and would cease upon completion of construction and permanent improvements to nearby properties is not warranted. It is not considered feasible or reasonable to double-pane all of the windows in multiple multi-family buildings to address a temporary significant construction noise impact. Moreover, with the implementation of Mitigation Measure NOI-MM-1 in the Draft EIR, the maximum exceedance at receptor location R1 would be significantly reduced from 27.7 to 12.7 Leq (dBA). Lastly, as requested by the commenter, Mitigation Measure NOI-MM-1 has been revised to include a noise monitoring component as follows:

"The Applicant shall install a noise monitoring system on the Project site near noise receptor location R1. The noise monitoring system shall be located 5 feet above grade and behind the construction noise barrier. The noise monitoring system shall have the following capabilities:

a) The noise monitoring system shall be programmed to measure and store, during the Project construction hours, the ambient noise levels in the unit of dBA averaged over a one-hour period (hourly Leq).

b) The noise monitoring system shall be programmed with a noise limit of 74 dBA (hourly Leq).

c) The noise monitoring system shall provide an alert if the ambient noise levels exceed the 74 dBA (hourly Leq) noise limit.

d) In the event the noise limit is triggered, the designated Construction Manager (CM) will be notified via an electronic text message. If the measured noise level is determined to be from the Project construction, the CM shall identify the source of construction noise, and take feasible and reasonable efforts to reduce the construction-related noise levels below the 74 dBA limit."

Refer to Section III, Revisions, Clarifications, and Corrections to the Draft EIR, of this Final EIR.

Comment No. 7-67

In addition to the lack of construction noise mitigation measures, the DEIR lacks any analysis of potential groundborne noise impacts at nearby recording studios. It is customary for studios to use room-within-room configurations to isolate the recording sessions from ambient noise within the control room and other parts of the studio and from airborne noise at the exterior. However, many such facilities are not designed for groundborne vibration that can radiate sound into the interior.

The FTA guidance cited by the DEIR for groundborne vibration also includes a threshold of 25 dBA for recording studios. (FTA Table 6-4) See Figure 2. Based on the "General Vibration" assessment method outlined in the FTA guidance, the groundborne noise can be estimated from the ground vibration levels. In this case would be adjusted by -20 to -35 dBA to account for the type of soil and characteristics of the vibration source[3]. Thus, the vibration values shown in Table IV.F-21 of the DEIR would result in the groundborne noise levels shown in Table 1 at Receptor R5. Other recording studios that are further away could also be significantly impacted.

Table 6-4 Indoor Ground-Borne Vibration and Noise Impact Criteria for Special Buildings

Type of Building or Room	Ground-Borne Vibration Impact Levels (VdB re 1 micro-inch/sec)		Ground-Borne Noise Impact Levels (dBA re 20 micro-Pascals)	
	Frequent Events	Occasional or Infrequent Events	Frequent Events	Occasional or Infrequent Events
Concert halls	65 VdB	65 VdB	25 dBA	25 dBA
TV studios	65 VdB	65 VdB	25 dBA	25 dBA
Recording studios	65 VdB	65 VdB	25 dBA	25 dBA
Auditoriums	72 VdB	80 VdB	30 dBA	38 dBA
Theaters	72 VdB	80 VdB	35 dBA	43 dBA

Figure 2 FTA Guidance for Special Buildings, including recording studios (from FTA 2018)

Table 1 Construction Groundborne Noise Impacts

Off-site Receptor Location	Estimated Groundborne Noise at the Off-Site Receptor R5 (dBA)					Significance Criteria (dBA)	Significant Impact?
	Large Bulldozer	Caisson Drilling	Loaded Trucks	Jackhammer	Small Bulldozer		
R5	28-43	28-43	27-42	20-35	≤1	25	**Yes**
Adapted from Table IV.F-21 of the DEIR							

As shown in Table 1, several construction activities would generate significant groundborne noise impact, requiring mitigation.

[3] The LA Metro Regional Connector Final EIS-EIR analysis used a conversion factor of -35 dB; construction activity generally has higher frequency vibration than rail vehicles; thus a range of -20 to -30 dB is appropriate for this analysis. Volume F-1 Final EIS-EIR Main Document—Dropbox

Response to Comment No. 7-67

This comment claims the Draft EIR fails to analyze or disclose the Project's impacts on nearby studios from groundborne vibration. Refer to Response to Comment No. 7-22, above. As discussed therein, studio uses are not defined as noise sensitive receptors by the L.A. CEQA Thresholds Guide and vibration impacts at the nearest studio (represented by receptor R5) would be less than significant.

Comment No. 7-68

Mitigation Measure NOI-MM-2 identifies vibration monitoring program; to mitigate this groundborne noise impact, but the following additional measures are required to reduce the impacts to non-significant levels:

Response to Comment No. 7-68

This comment states the commenter's belief that additional vibration mitigation measures are feasible and required. Specific mitigation measures suggested by the commenter are addressed in Response to Comment Nos. 7-24 through 7-27, above. As discussed therein and as analyzed Section IV.F, Noise, of the Draft EIR (Table IV.F-21), the Project's on-site vibration impacts during construction at the recording studio (i.e., Receptor R5) would be less than significant. Therefore, the mitigation measures suggested by the commenter are not warranted.

Comment No. 7-69

1. Prior to construction, measure the ambient noise environment on a 1/3 octave band basis within the recording studio(s) under normal recording conditions. The measurement period shall correspond to the quietest time of day that recordings are done (during construction hours) and shall have a duration of not less than 60 minutes. Statistical metrics should be determined in addition to the Leq. Noise measurement equipment shall conform to Type 1 or Class 1 sound level meters with professional quality recording devices such as a Sony PCM-D50 or better or a digital data recorder such as a Rion DA-20 or equivalent.

Response to Comment No. 7-69

This comment suggests mitigation for noise at the recording studio represented by receptor R5. Refer to Response to Comment Nos. 7-24 and 7-68, above. As discussed therein and as analyzed Section IV.F, Noise, of the Draft EIR (Table IV.F-21), the Project's on-site vibration impacts during construction at the recording studio (i.e., Receptor R5) would be less than significant. Therefore, the mitigation measures suggested by the commenter are not warranted.

Comment No. 7-70

2. Characterize the project-vicinity vibration propagation to determine how on-site vibration will transmit to recording studio. If it can be shown that all of the construction activities would not exceed the background noise levels (L90) measured in the studio(s) based on corresponding groundborne noise calculation to the interior of the studio spaces, then one construction-phase noise measurement will be required to confirm this result.

Response to Comment No. 7-70

This comment suggests mitigation for vibration at the recording studio represented by receptor R5. Refer to Response to Comment Nos. 7-25 and 7-68, above. As discussed therein and as analyzed Section IV.F, Noise, of the Draft EIR (Table IV.F-21), the Project's on-site vibration impacts during construction at the recording studio (i.e., Receptor R5) would be less than significant. Therefore, the mitigation measures suggested by the commenter are not warranted.

Comment No. 7-71

3. If any construction activities would exceed the existing ambient (e.g., Leq, and basic statistical metrics such as L90, L50, L10 and L1), then the contractor must provide a vibration control plan that demonstrates how they will use their vibration-generating equipment and/or schedule their activities in collaboration with the recording studio(s) to avoid interfering with each studio's normal recording activities.

Response to Comment No. 7-71

This comment suggests mitigation for vibration at the recording studio represented by receptor R5. Refer to Response to Comment Nos. 7-26 and 7-68, above. As discussed therein and as analyzed Section IV.F, Noise, of the Draft EIR (Table IV.F-21), the Project's on-site vibration impacts during construction at the recording studio (i.e., Receptor R5) would be less than significant. Therefore, the mitigation measures suggested by the commenter are not warranted.

Comment No. 7-72

4. This analysis and the vibration control plan will be subject to review and approval by the City of Los Angeles, and the affected sound recording studio operators will also have ample opportunity to review and resolve comments.

Response to Comment No. 7-72

This comment suggests mitigation for vibration at the recording studio represented by receptor R5. Refer to Response to Comment Nos. 7-27 and 7-68, above. As discussed therein and as analyzed Section IV.F, Noise, of the Draft EIR (Table IV.F-21), the Project's on-site vibration impacts during construction at the recording studio (i.e., Receptor R5) would be less than significant. Therefore, the mitigation measures suggested by the commenter are not warranted.

Comment No. 7-73

Operational Noise and Mitigation

The DEIR noise analysis provides very little information to explain its methodology regarding how the traffic noises estimated from TNM were combined with the on-site noise sources (rooftop, loading noise, etc.). The short paragraphs in the Methodology section (3b) of Section IV.F and the technical Appendix G omit much detail and evidence to inform the reader of the model inputs. A 10-story building will require substantial mechanical equipment to ventilate and cool the spaces. There is no evidence provided regarding the size or quantity of the equipment. Based on our experience, rooftop equipment for a building this size often includes a water tower or air cooled condenser fans with a typical sound rating of 85 decibel sound power level (PWL), and several make up air fans as large as 40,000 cubic feet per minute (CFM) (90 dBA PWL). A combination of four or more fans would generate a noise level on the order of 59 dBA or more using spherical divergence (spreading) in a free-field (no ground reflections) to a distance of 50 ft or 55 dBA at a distance of 80 ft. If this equipment operates continuously, the resulting CNEL would be 62 dBA, which alone would cause the future noise environment to increase by 4 dBA.

Response to Comment No. 7-73

This comment incorrectly claims the Draft EIR does not provide adequate information regarding the noise analysis inputs. The composite noise impacts, which include all on-site and off-site (traffic) noise sources, are provided in the Section IV.F, Noise, of the Draft EIR (Page IV.F-43) with detail calculations provided in Appendix G (Noise Calculation Worksheets) of the Draft EIR. As described therein, the composite noise levels were calculated based on the CNEL noise metrics, in accordance with the *L.A. CEQA Thresholds Guide*. The detailed calculations are provided on pages 79 to 82 of Appendix G.

Refer to Response to Comment No. 7-30, above regarding the building mechanical equipment noise analysis.

Comment No. 7-74

The DEIR does not contain any analysis of the potential impact of music from outdoor amplified sound systems. Project Design Feature NOI-PDF-4 limits the noise emitted from each sound system but the DEIR does not appear to include the aggregate effect of sound systems complying with the PDF into its composite noise analysis. Compliance with the PDF and municipal codes notwithstanding the noise from music and elevated human voice from active life celebrations are potentially significant. Therefore, the DEIR must include mitigation that certifies that the operation of outdoor amplified sound systems would be in compliance with the applicable code to be declared a less than significant noise impact.

Please feel free to contact me with any questions on this information.

Response to Comment No. 7-74

This comment incorrectly states the Draft EIR does not analyze the impacts associated with the proposed outdoor amplified sound system. As discussed in Section IV.F, Noise, of the Draft EIR (Page IV.F-40), the noise analysis included an outdoor amplified sound system as part of the outdoor spaces. Specifically, the noise analysis included the amplified sound system with the sound level limits as specified by the Project Design Feature NOI-PDF-4. This project design features is included in Section IV, Mitigation Monitoring Program, of this Final EIR, along with details about the enforcement and monitoring agencies, timing, and action indicating compliance. Therefore, the suggested additional mitigation by the commenter is not warranted.

Comment No. 7-75

Attachment: Deborah Jue CV [1 page]

Response to Comment No. 7-75

This comment attaches the commenter's resume and does not raise any issues with respect to the content and adequacy of the Draft EIR. Therefore, it is noted for the record and will be forwarded to the decision-makers for their review and consideration.

Comment Letter No. 8

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Comment No. 8-1

I had attempted to send comments on the DEIR for 1000 Seward Project yesterday but accidentally used the wrong email address. Please see below.

Please find attached a comment submitted on behalf of Supporters Alliance for Environmental Responsibility ("SAFER") regarding the Draft Environmental Impact Report ("DEIR") prepared for the 1000 Seward Project.

If you would please confirm receipt of this letter, it would be greatly appreciated.

I am writing on behalf of Supporters Alliance for Environmental Responsibility ("SAFER") regarding the Draft Environmental Impact Report ("DEIR") prepared for the 1000 Seward Project, including all actions related or referring to the proposed construction of a 10-story, 150,600 sf mixed use office building located at 1000/1006 North Seward Street; 1003/1007/ 1013 North Hudson Avenue; 6565 West Romaine Street in the City of Los Angeles ("Project").

After reviewing the DEIR, we conclude that the DEIR fails as an informational document and fails to impose all feasible mitigation measures to reduce the Project's impacts. SAFER requests that the Planning Division address these shortcomings in a revised draft environmental impact report ("RDEIR") and recirculate the RDEIR prior to considering approvals for the Project.

We reserve the right to supplement these comments during review of the Final EIR for the Project and at public hearings concerning the Project. *Galante Vineyards v. Monterey Peninsula Water Management Dist*., 60 Cal. App. 4th 1109, 1121 (1997).

Response to Comment No. 8-1

This comment states the commenter's belief that the Draft EIR fails as an informational document and fails to impose all feasible mitigation measures to reduce the Project's impact but provides no specific evidence to support these claims. This comment further requests the City address the shortcomings in a revised Draft EIR and recirculate prior to approval. Lastly, this comment states it reserves the right to supplement the comments during the review of the Final EIR for the Project and at the public hearings. The comment does not identify any specific shortcomings of the Draft EIR analysis or mitigation measures, and no specific response is therefore required. Furthermore, the Draft EIR complied fully with all of CEQA's mandates and the comment presents no information or substantial evidence about any specific impact area, and as such, would not meet any of the criteria for recirculation of the Draft EIR. This comment is noted for the record and will be forwarded to the decision-makers for review and consideration.

Comment Letter No. 9

Mitchell Tsai
o/b/o SWRCC
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Comment No. 9-1

On behalf of Southwest Regional Council of Carpenters ("**SWRCC**" or "**Southwest Carpenters**") and its members, this Office requests that the City of Los Angeles ("**City**") provide any and all information referring or related to the 1000 Seward Project (SCH#:2020120239) ("**Project**") pursuant to the California Public Records Act ("**PRA**"), Cal. Government ("**Gov't**") Code §§ 6250–6270 (collectively "**PRA Request**").

Moreover, SWRCC requests that City provide notice for any and all notices referring or related to the Project issued under the California Environmental Quality Act ("**CEQA**"), Cal Public Resources Code ("**PRC**") § 21000 et seq, and the California Planning and Zoning Law ("**Planning and Zoning Law**"), Cal. Gov't Code §§ 65000–65010. California Public Resources Code Sections 21092.2, and 21167(f) and Government Code Section 65092 require agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency's governing body.

The Southwest Regional Council of Carpenters is a labor union representing more than 50,000 union carpenters in six states, including California, and has a strong interest in well-ordered land use planning and addressing the environmental impacts of development projects, such as the Project.

I. PUBLIC RECORDS ACT REQUEST.

Southwest Carpenters is requesting any and all information referring or related to the Project.

The Public Records Act defines the term "public record" broadly as "any writing containing information relating to the conduct of the public's business… regardless of physical form and characteristics." Gov't Code § 6252(d). "Records" includes all communications relating to public business regardless of physical form or characteristics, including but not limited to any writing, picture, sound, or symbol, whether paper, magnetic, electronic, text, other media, or written verification of any oral communication. Included in this request are any references in any appointment calendars and applications, phone records, or text records. These "records" are to include, but are not limited to correspondences, e-mails,

reports, letters, memorandums, and communications by any employee or elected official of City concerning the Project.

Please include in your response to this request the following examples of "records," as well as any similar physical or electronic forms of communication: any form of writing such as correspondence, electronic mail records ("email"), legal and factual memoranda, facsimiles, photographs, maps, videotapes, film, data, reports, notes, audiotapes, or drawings. Cal. Government Code § 6252(g) (defining a writing to including "any record thereby created, regardless of the manner in which the record has been stored"). Responsive correspondence should include, inter alia, emails, text messages, or any other form of communication regardless of whether they were sent or received on public or privately-owned electronic devices "relating to the conduct of the public's business." Cal. Government Code § 6252(e); *Citizens for Ceres v. Super. Ct*. ("*Ceres*") (2013) 217 Cal. App. 4th 889, 909; *Citizens for Open Gov't v. City of Lodi* ("*Lodi*") (2012) 205 Cal.App.4th 296, 307, 311; *City of San Jose v. Superior Court* (2017) 2 Cal. 5th 608, 625 (finding that a public employee or officer's "writings about public business are not excluded" from the California Public Records Act "simply because they have been sent, received, or stored in a personal account.") . [sic]

This Office requests any and all information referring or related to the Project, including but not limited to:

(1) All Project application materials;

(2) All staff reports and related documents prepared by the City with respect to its compliance with the substantive and procedural requirements of the California Environmental Quality Act, Public Resources Code § 21000 et seq., and the CEQA Guidelines, title 14, California Code of Regulations, § 15000 et seq. (collectively "**CEQA**") and with respect to the action on the Project;

(3) All staff reports and related documents prepared by the City and written testimony or documents submitted by any person relevant to any findings or statement of overriding considerations adopted by the agency pursuant to CEQA;

(4) Any transcript or minutes of the proceedings at which the decisionmaking body of the City heard testimony on, or considered any environmental document on, the Project, and any transcript or minutes of proceedings before any advisory body to the public agency that were presented to the decisionmaking body prior to action on the environmental documents or on the Project;

(5) All notices issued by the City to comply with CEQA or with any other law governing the processing and approval of the Project;

(6) All written comments received in response to, or in connection with, environmental documents prepared for the Project, including responses to the notice of preparation;

(7) All written evidence or correspondence submitted to, or transferred from, the City with respect to compliance with CEQA or with respect to the Project;

(8) Any proposed decisions or findings submitted to the decisionmaking body of the City by its staff, or the Project proponent, Project opponents, or other persons;

(9) The documentation of the final City decision and approvals, including the final environmental impact report, mitigated negative declaration, negative declaration, or notice of exemption, and all documents, in addition to those referenced in paragraph (3), cited or relied on in the findings or in a statement of overriding considerations adopted pursuant to CEQA;

(10) Any other written materials relevant to the public agency's compliance with CEQA or to its decision on the merits of the Project, including the initial study, any drafts of any environmental document, or portions thereof, that have been released for public review, and copies of studies or other documents relied upon in any environmental document prepared for the Project and either made available to the public during the public review period or included in the City 's files on the Project, and all internal agency communications, including staff notes and memoranda related to the Project or to compliance with CEQA; and

(11) The full written record before any inferior administrative decisionmaking body whose decision was appealed to a superior administrative decisionmaking body prior to the filing of any litigation.

Please respond within 10 days from the date you receive this request as to whether this request specifies identifiable records not exempt from disclosure under the PRA or otherwise privileged or confidential, and are therefore subject to disclosure. This Office understands that this time may be extended up to 14 days for unusual circumstances as provided by Cal. Government Code § 6253(c), and that we will be notified of any extension and the reasons justifying it.

We request that you provide all documents in electronic format and waive any and all fees associated with this Request. SWRCC is a community-based organization. Please notify and obtain express approval from this Office before incurring any duplication costs.

<u>If any of the above requested documents are available online, please provide us with the URL web address at which the documents may be downloaded. If any of the requested documents are retained by the City in electronic computer-readable format such as PDF (portable document format), please provide us with pdf copies of the documents via email, or inform us of the location at which we can copy these documents electronically.</u>

In preparing your response, please bear in mind that you have an obligation under Government Code section 6253.1 to (1) identify all records and information responsive to our request or the purpose of our request; (2) describe the information technology and physical location in which the records exist; and (3) provide suggestions for overcoming any practical basis for denying access to the records or information sought.

In responding to this request, please bear in mind that any exemptions from disclosure you may believe to be applicable are to be narrowly construed. *Marken v. Santa Monica–Malibu Unif. Sch. Dist*. (2012) 202 Cal. App. 4th 1250,1262; and may be further narrowed or eliminated by the adoption of Proposition 59, which amended article I, section 3(b)(2) of the California Constitution to direct that any "statute… or other authority… [that] limits the right of access" to "information concerning the conduct of the people's business" must be "narrowly construed."

As for any records that you nonetheless decline to produce on the grounds of an exemption, please bear in mind that the case law under the Public Records Act imposes a duty on you to distinguish between the exempt and the non-exempt portion of any such records, and to attempt in good faith to redact the exempt portion and to disclose the balance of such documents.

Please bear in mind further that should you choose to withhold any document from disclosure, you have a duty under Government Code section 6255, subd. (a) to "justify withholding any record by demonstrating that the record in question is exempt under express provisions" of the Public Records Act or that "the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record."

Finally, please note that you must retain and not destroy any and all records, notwithstanding any local record retention or document destruction policies. As the Court noted in *Golden Door Properties, LLC v. Superior Court of San Diego County* (2020) 53 Cal.App.5th 733 that a public agency "must retain '[a]ll written evidence or correspondence submitted to, or transferred from'… with respect to" CEQA compliance or "with respect to the project."

Response to Comment No. 9-1

This comment introduces the letter and requests any and all information referring or related to the Project under the Public Records Act. The City responded to the Public Records Act request on June 9, 2022. This comment does not raise any issues with respect to the content and adequacy of the Draft EIR. Therefore, it is noted for the record and will be forwarded to the decision-makers for their review and consideration.

Comment No. 9-2

II. NOTICE LIST REQUEST.

We also ask that you put this Office on its notice list for any and all notices issued under the CEQA and the Planning and Zoning Law.

In particular, we request that City send by mail or electronic mail notice of any and all actions or hearings related to activities undertaken, authorized, approved, permitted, licensed, or certified by the City and any of its subdivision for the Project, or supported, in whole or in part, through permits, contracts, grants, subsidies, loans, or other forms of approvals, actions or assistance, including but not limited to the following:

- Notices of any public hearing held in connection with the Project; as well as
- Any and all notices prepared pursuant to CEQA, including but not limited to:
- Notices of determination that an Environmental Impact Report ("EIR") or supplemental EIR is required for a project, prepared pursuant to Public Resources Code Section 21080.4;
- Notices of availability of an EIR or a negative declaration for a project prepared pursuant to Public Resources Code Section 21152 and Section 15087 of Title 14 of the California Code of Regulations;
- Notices of approval or determination to carry out a project, prepared pursuant to Public Resources Code Section 21152 or any other provision of law;
- Notice of approval or certification of any EIR or negative declaration prepared pursuant to Public Resources Code Section 21152 or any other provision of law;
- Notice of exemption from CEQA prepared pursuant to Public Resources Code section 21152 or any other provision of law; and
- Notice of any Final EIR prepared pursuant to CEQA.

This Office is requesting notices of any approvals or public hearings under CEQA and the California Planning and Zoning Law. This request is filed pursuant to California Public Resources Code Sections 21092.2, and 21167(f) and Government Code Section 65092 requiring agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency's governing body.

Please send notice by regular and electronic mail to:

Mitchell M. Tsai, Attorney At Law
139 South Hudson Avenue
Suite 200
Pasadena, California 91101
Em: mitch@mitchtsailaw.com
Em: brandon@mitchtsailaw.com
Em: rebekah@mitchtsailaw.com
Em: maria@mitchtsailaw.com
Em: hind@mitchtsailaw.com
Em: malou@mitchtsailaw.com
Em: steven@mitchtsailaw.com
Em: info@mitchtsailaw.com

We look forward to working with you. If you have any questions or concerns, please do not hesitate to contact our Office.

Response to Comment No. 9-2

The commenter has been added to the City's notification list for this Project as requested. This comment does not raise any issues with respect to the content and adequacy of the Draft EIR. Therefore, it is noted for the record and will be forwarded to the decision-makers for their review and consideration.