II RESPONSES TO COMMENTS

Pursuant to Section 15132 of the State CEQA Guidelines the following table identifies the persons, organizations, and public agencies who commented on the Draft EIR. The Notice of Availability/Completion (NOA/NOC) for the Draft EIR was published on February 11, 2021 initiating a 45-day public review period beginning on February 11, 2021 and ending on March 29, 2021. A total of 19 comment letters were received in response to the Draft EIR during the 45-day public review period, and one comment letter was received after the close of the public review period. Table II-1, below, provides a summary of the comment letters submitted on the Draft EIR.

In addition, Sections 21091(d) and 21092.5 of the Public Resources Code (PRC) and State 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 raising significant environmental issues received during the noticed 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 Department of City Planning (DCP) to the written comments received during the comment period for the Draft EIR and also to one comment letter (and attachments) received after the close of the public review period.

For purposes of reviewing and providing detailed responses to the comments received, each comment letter was transcribed and responded to below. Copies of the original comment letters, with annotated brackets identifying the comments with the corresponding responses, are provided in Appendix A to this Final EIR.

Table II-1
Summary of Comment Letters on the Draft EIR

Letter No.	Commenter	A. Air Quality	B. Energy	C. Greenhouse Gas Emissions	D. Hazardous Materials	E. Land Use and Planning	F. Noise	G. Population and Housing	H.1 Fire Protection	H.2 Police Protection	H.3 Schools	H.4 Parks and Recreation	I. Transportation	J. Tribal Cultural Resources	K.1 Water	K.2 Wastewater	K.3 Solid Waste	K.4 Energy Infrastructure	Cumulative Impacts	Project Alternatives	General/Other	Support
STATE AGENCIES																						
1	State of California, California State Department of Transportation District 7 – Office of Regional Planning Miya Edmonson, IGR/CEQA Branch Chief 100 S. Main Street, Suite 100 Los Angeles, CA 90012 02-25-2021												■									
LOCAL AGENCIES																						
2	Los Angeles Unified School District Office of Environmental Health and Safety Christy Wong, Assistant CEQA Project Manager/Contract Professional 333 S. Beaudry Avenue, 21st Floor Los Angeles, CA 90017 03-17-2021										■											

Letter No.	Commenter	A. Air Quality	B. Energy	C. Greenhouse Gas Emissions	D. Hazardous Materials	E. Land Use and Planning	F. Noise	G. Population and Housing	H.1 Fire Protection	H.2 Police Protection	H.3 Schools	H.4 Parks and Recreation	I. Transportation	J. Tribal Cultural Resources	K.1 Water	K.2 Wastewater	K.3 Solid Waste	K.4 Energy Infrastructure	Cumulative Impacts	Project Alternatives	General/Other	Support
3	Mashael Majid, Planning Director to Councilmember Nithya Raman 4th District 200 N. Spring Street, Room 415 Los Angeles, CA 90012 03-29-2021																				■	
4	Mid City West Community Council Mehmet Berker, Mid City West Community Council 543 N. Fairfax Avenue, Suite 106 Los Angeles, CA 90036 03-24-2021										■		■									■
ORGANIZATIONS																						
5	Gabrieleno Band of Mission Indians – Kizh Nation Andrew Salas, Chairman P.O. Box 393 Covina, CA 91723 02-12-2021													■								
6	Friends of Hancock Park School to Los Angeles Dept. City Planning Shanon Dawn Trygstad, President 408 S. Fairfax Avenue Los Angeles, CA 90036 03-29-2021																					■

Letter No.	Commenter	A. Air Quality	B. Energy	C. Greenhouse Gas Emissions	D. Hazardous Materials	E. Land Use and Planning	F. Noise	G. Population and Housing	H.1 Fire Protection	H.2 Police Protection	H.3 Schools	H.4 Parks and Recreation	I. Transportation	J. Tribal Cultural Resources	K.1 Water	K.2 Wastewater	K.3 Solid Waste	K.4 Energy Infrastructure	Cumulative Impacts	Project Alternatives	General/Other	Support
6A	Friends of Hancock Park School to Councilmember Raman Shanon Dawn Trygstad, President 408 S. Fairfax Avenue Los Angeles, CA 90036 03-29-2021																					■
7	Park La Brea Impacted Residents Group (PLBIRG) Barbara Gallen 502 S. Orange Grove Avenue Los Angeles, CA 90036 03-29-2021	■		■	■	■	■						■						■			
8	Supporters Alliance for Environmental Responsibility (SAFER) Lozeau Drury, LLP Bryan Flynn 1939 Harrison Street, Ste. 150 Oakland, CA 94612 03-29-2021																				■	
9	A.F. Gilmore Company Peter Hayden, Director/Construction & Development 6301 W. 3rd Street Los Angeles, CA 90036 03-29-2021						■						■									

Letter No.	Commenter	A. Air Quality	B. Energy	C. Greenhouse Gas Emissions	D. Hazardous Materials	E. Land Use and Planning	F. Noise	G. Population and Housing	H.1 Fire Protection	H.2 Police Protection	H.3 Schools	H.4 Parks and Recreation	I. Transportation	J. Tribal Cultural Resources	K.1 Water	K.2 Wastewater	K.3 Solid Waste	K.4 Energy Infrastructure	Cumulative Impacts	Project Alternatives	General/Other	Support
INDIVIDUALS																						
10	Balces, Mayra 569 S. Orange Grove Avenue Los Angeles, CA 90036 Mayra_CJ05@yahoo.com 02-24-2021																					■
11	Dean, Matthew 570 S. Orange Grove Avenue Los Angeles, CA 90036 02-24-2021																					■
12	Gysi, Ajani Bryant 560 S. Orange Grove Avenue Los Angeles, CA 90036 ajanibryantgysi@gmail.com 02-24-2021																					■
13	Hours, Chris 575 S. Orange Grove Avenue Los Angeles, CA 90036 Nyc7monaco@gmail.com 02-24-2021																					■
14	Khadeni, Casey 563 S. Ogden Drive Los Angeles, CA 90036 02-24-2021																					■

Letter No.	Commenter	A. Air Quality	B. Energy	C. Greenhouse Gas Emissions	D. Hazardous Materials	E. Land Use and Planning	F. Noise	G. Population and Housing	H.1 Fire Protection	H.2 Police Protection	H.3 Schools	H.4 Parks and Recreation	I. Transportation	J. Tribal Cultural Resources	K.1 Water	K.2 Wastewater	K.3 Solid Waste	K.4 Energy Infrastructure	Cumulative Impacts	Project Alternatives	General/Other	Support
15	Khan, Faizal 555 S. Ogden Drive Los Angeles, CA 90036 02-24-2021																					■
16	Levy, Shlomo 589 S. Orange Grove Avenue Los Angeles, CA 90036 02-22-2021																					■
17	Palms, J. 511 S. Ogden Drive Los Angeles, CA 90036 02-24-2021																					■
18	Name Illegible (from 6039 S. Orange Grove Avenue) 6039 S. Orange Grove Avenue Los Angeles, CA 90036 02-24-2021																					■
19	Williams, Annabella 507 S. Ogden Drive Los Angeles, CA 90036 02-24-2021																					■

Letter No.	Commenter	A. Air Quality	B. Energy	C. Greenhouse Gas Emissions	D. Hazardous Materials	E. Land Use and Planning	F. Noise	G. Population and Housing	H.1 Fire Protection	H.2 Police Protection	H.3 Schools	H.4 Parks and Recreation	I. Transportation	J. Tribal Cultural Resources	K.1 Water	K.2 Wastewater	K.3 Solid Waste	K.4 Energy Infrastructure	Cumulative Impacts	Project Alternatives	General/Other	Support
20	Southwest Regional Council of Carpenters Mitchell M. Tsai, Attorney at Law 155 South El Molino Avenue, Suite 104 Pasadena, CA 91101 04-19-2021	■		■	■	■															■	
20A	Soil Water Air Protection Enterprise (SWAPE) Matt Hagemann, P.G., C.Hg.; Paul Rosenfeld, Ph.D 2656 29th Street, Suite 201 Santa Monica, CA 90405 03-08-2021			■																		
20B	Soil Water Air Protection Enterprise (SWAPE) Matt Hagemann, P.G., C.Hg.; Paul Rosenfeld, Ph.D 2656 29th Street, Suite 201 Santa Monica, CA 90405 03-26-2021	■		■																		

COMMENT LETTER NO. 1

State of California, California State Transportation Agency
District 7 – Office of Regional Planning
Miya Edmonson, IGR/CEQA Branch Chief
100 S. Main Street, Suite 100
Los Angeles, CA 90012
February 25, 2021

COMMENT 1.1

Dear Cesar Moreno:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above referenced project. The Proposed Project would involve the construction and operation of a new mixed-use development within the eastern portion of the existing Town & Country Shopping Center (Center or Project Site) that is currently developed with retail and commercial uses. The proposed development activities would be limited to the eastern portion of the Center (referred to as the Development Site in the Draft EIR) and would include the demolition of 151,048 square feet of existing retail uses and the construction of a mid-rise, eight-story mixed-use structure with two levels of subterranean parking, for a maximum height of 100 feet. The residential component of the Proposed Project would include up to 331 multi-family dwelling units and 83,994 square feet of newly developed commercial space for a total new floor area of 426,994 square feet. The western portion of the Project Site would remain and is not proposed to be demolished, altered, or developed as part of the Proposed Project.

RESPONSE TO COMMENT 1.1

This comment introduces the commenter and presents an understanding of the Proposed Project. No response is required.

COMMENT 1.2

The nearest State facility to the proposed project is SR-2. After reviewing the DEIR, Caltrans has the following comments:

Caltrans acknowledges and supports infill development that provides a mix of land uses which allow a neighborhood to meet their needs for housing, work, and services, like the proposed Project aims to facilitate. Caltrans also concurs with Mitigation Measure

MM-TRAFFIC-1, which unbundles car parking and provides additional bike infrastructure. While this is a step in the right direction, Caltrans recommends increasing the amount of bike parking to provide at least one long-term bicycle parking space per residential unit. Currently the Project provides approximately 1.5 car parking spaces per residential unit, but less than 0.48 long-term bike parking spaces per residential unit. Since the intention of MM-TRAFFIC-1 is to reduce car dependency and lower Vehicle Miles Travelled (VMT), Caltrans also recommends reducing the amount of car parking to the fewest number of spaces possible. Research looking at the relationship between land-use, parking, and transportation indicates that car parking prioritizes driving above all other travel modes and undermines a community's ability to choose public transit and active modes of transportation.

If the car parking must be built, it should be designed in a way that is conducive to adaptive reuse. They should contain flat floors with ramps on the exterior edge, so that they can be more easily converted to beneficial uses in the future.

RESPONSE TO COMMENT 1.2

As summarized in Table II-5, Summary of Required and Proposed Bicycle Parking Spaces, provided in Section II, Project Description, of the Draft EIR, the Los Angeles Municipal Code (LAMC) requires 258 bicycle parking spaces for the Proposed Project. The Proposed Project provides 258 bicycle parking spaces, which is consistent with the requirements of the LAMC.

As mentioned in the Draft EIR, the parking ratio for the Proposed Project's residential and commercial uses is based on the LAMC Section 12.21 A.4. The parking ratio for the Proposed Project's residential uses is based on the LAMC Section 12.21.A.4, which requires one (1) parking space per dwelling unit with less than three habitable rooms; 1.5 parking spaces for each dwelling unit with three habitable rooms; and two (2) spaces for each dwelling units with more than three habitable rooms. Based on the proposed unit mix, the Proposed Project is required to provide 511 residential vehicle parking spaces. With respect to commercial parking, pursuant to LAMC Section 12.21.A.4.(c), the Proposed Project is required to provide four (4) spaces for every 1,000 square feet of general retail commercial uses and one space per 100 square feet of restaurant use, which results in 381 commercial/retail spaces. Thus, the Proposed Project is required to provide a total of 892 parking spaces, which includes 511 residential parking spaces and 381 commercial parking spaces. The Proposed Project would provide a total of 996 parking spaces within the parking garage on the Development Site, including 511 residential spaces and 485 commercial spaces. Therefore, the Proposed Project's parking supply is consistent with LAMC requirements. Accordingly, pursuant to the LAMC, the total amount

of parking required on the Project Site after the Proposed Project is developed is 1,110 parking spaces (636 commercial spaces and 511 residential spaces), which also accounts for the required parking that would serve the 63,688 square feet of existing commercial/retail spaces that is to remain on the western portion of the Project Site. The total amount of parking provided within the Project Site after development of the Proposed Project would be 1,146 spaces, which includes 996 parking spaces on the Development Site plus 150 restriped parking spaces on the western portion of the Project Site. Therefore, the Proposed Project would comply with the minimum parking requirements of the LAMC and would provide an excess of 36 parking spaces for the Project Site. This minor excess is reasonable to accommodate the demands of a mixed-use shopping center and ensure adequate parking spaces for retail and residential uses. The Proposed Project is substantially consistent with the Mobility Plan 2035 and would provide specific Transportation Demand Management (TDM) measures, such as unbundled parking and promotions/marking that would reduce the total vehicle miles traveled, as well as provide bicycle and electric vehicle infrastructure.

Additionally, it is important to note as discussed on Page II-13 of the Draft EIR, the Project Site is an infill site within a Transit Priority Areas as defined under SB 743. Therefore, parking for the Proposed Project shall not be considered a significant impact on the environment. Nevertheless, all recommendations are noted for the record and will be forwarded to the decision makers for their consideration.

COMMENT 1.3

Caltrans does not expect project approval to result in a direct adverse impact to the existing State transportation facilities. Additionally, any transportation of heavy construction equipment and/or materials which requires use of oversized-transport vehicles on State highways will need a Caltrans transportation permit. We recommend large size truck trips be limited to off-peak commute periods.

If you have any questions, please contact project coordinator Anthony Higgins, at anthony.higgins@dot.ca.gov and refer to GTS# 07-LA-2019-03497.

RESPONSE TO COMMENT 1.3

The transportation of heavy construction equipment and/or materials which requires use of oversized-transport vehicles on State highways will obtain all necessary permits, as applicable. Large haul trucks would be utilized during the demolition phase and excavation/grading phase to export demolition debris and inert waste off-site. As stated on Page II-41 and II-42 of the Draft EIR, during the demolition and excavation/grading

phases, the Proposed Project would limit hauling activities to weekdays between 9:00 A.M. and 3:00 P.M., which would avoid the A.M. peak hour (6:00 to 9:00 A.M.) and P.M. peak hour (3:30 to 7:00 P.M.). Additional large truck trips would occur from vendor trips during the building construction phase. Correspondence with LADOT (page 4 of Appendix H.1(A) of the Draft EIR) also recommends that the Proposed Project's construction-related truck traffic be restricted to off-peak hours to the extent feasible. Therefore, large truck trips, except haul trips which would be required to avoid peak hours, would avoid trips during on-peak hours to the maximum extent feasible. This comment is noted for the record and will be forwarded to the decision makers for their consideration.

COMMENT LETTER NO. 2

Los Angeles Unified School District
Office of Environmental Health and Safety
Christy Wong, Assistant CEQA Project Manager/Contract Professional
333 S. Beaudry Avenue, 21st Floor
Los Angeles, CA 90017

COMMENT 2.1

Dear Cesar Moreno:

Thank you for the opportunity to comment on the 3rd and Fairfax Mixed-Use Project (ENV-2018-2771-EIR). The Los Angeles Unified School District (LAUSD) previously submitted a comment letter, dated March 22, 2019, regarding the Initial Study that the City prepared for the Project. A copy of the previously submitted letter is attached. LAUSD understands that the proposed Project has not significantly changed since March 22, 2019 and as with the previous letter, asks that the City continue to consider the neighboring school in its development to ensure that the potential environmental impacts associated with the Project are substantially minimized, reduced, avoided, or otherwise mitigated.

LAUSD's Hancock Park Elementary School bounds the Project site to the south. In large part as a result of a year's plus long process that engaged representatives from all major stakeholder groups, LAUSD's previously provided comments regarding the Project have been addressed in the Draft Environmental Impact Report (Draft EIR). LAUSD commented on environmental factors relating to air quality; noise (construction and

operation related noise); transportation and traffic; and pedestrian safety. LAUSD does not have any additional comments at this time.

LAUSD's Office of Environmental Health & Safety's charge is to protect students, faculty, staff, and the integrity of the learning environment. LAUSD will continue to coordinate with the City and developer regarding this Project. If any issues are identified by LAUSD, we will bring them to the attention of the City. Please feel free to contact me at (213) 241-3394 should you require any additional information.

Sincerely,
Christy Wong
Assistant CEQA Project Manager/Contract Professional

c: Ashley Parker, Principal, Hancock Park Elementary School Project File

Attachment: Comment Letter - 3rd and Fairfax Mixed-Use Project (ENV-2018-2771-EIR)

RESPONSE TO COMMENT 2.1

This comment letter acknowledges that LAUSD's comments submitted in response to the Proposed Project have been addressed in the Draft EIR and that the LAUSD does not have any additional comments. The NOP Comment letter, which was appended to this comment letter on the Draft EIR is provided in Appendix A to this Final EIR. The NOP comment letter was also provided in Appendix G.3 to the Draft EIR. This comment is noted for the record and will be forwarded to the decision makers for their consideration. No further response is required.

COMMENT LETTER NO. 3

Mashael Majid, Planning Director to Councilmember Nithya Raman
4th District
200 N. Spring Street, Room 415
Los Angeles, CA 90012
March 29, 2021

COMMENT 3.1

Dear Mr. Moreno,

We are reaching out on behalf of Councilmember Nithya Raman and Council District 4 to provide our comments for the proposed 300-370 S. Fairfax Ave. Project, otherwise known

as “Town & Country Shopping Center.” In addition to 147,682 square feet of commercial uses, the proposed development seeks to construct 331 housing units in an area well served by transit and other neighborhood-serving amenities.

It is our understanding that there was an active and very involved working group convened by the previous administration, which included the Mid City West Community Council, Hancock Park Elementary School, residents, and the developer to discuss the specificities of this Project. In October 2018, the Mid City West Community Council produced a comprehensive Vision & Goals statement for the Project which uplifts the protection of legacy businesses, construction mitigation strategies, human scale design elements, better circulation than currently exists on this expansive site, and a vision for mixed-income housing that can serve the local workforce.

In March 2021, the Mid City West Community Council Board of Directors solidified their exciting and important community-rooted vision through a benefits agreement and approved the Project with the following conditions: better frontage and open space design for an enhanced public realm, mobility and circulation improvements, and greening requirements where feasible, among several additional items. We deeply appreciate and would like to commend the high level of engagement by community stakeholders to help shape this development, most notably by the Mid City West Community Council.

Our office would also encourage the Project to include a meaningful affordable housing component, given the incredible need to provide affordable housing near transit and jobs.

We understand that we are stepping in as a new office at the end of a multi-year process. We also recognize that this request is outside the scope of the EIR for the project, but we would be remiss to ignore the responsibility of our stakeholders, developers included, from meeting our affordable housing goal at a time when the housing crisis remains unabated.

RESPONSE TO COMMENT 3.1

This comment letter acknowledges that the Office of Councilmember Nithya Raman and Council District 4 has received and reviewed the Draft EIR for the Proposed Project. The commenter states their acknowledgement and appreciation of the community engagement related to the Proposed Project’s frontage and open space design for an enhanced public realm, mobility and circulation improvements, and greening requirements where feasible, among several additional items. Additionally, while the commenter encourages affordable housing units, no zoning requirements or land use policies mandate the inclusion of affordable housing on the Project Site. The commenter

further notes that their request for on-site affordable housing is outside of the scope of the EIR. As discussed in Table 2 of Appendix M, Land Use Consistency Analysis Tables, of the Draft EIR, under Goal 3C, 4A, and 7G, the Proposed Project's dwelling units would be of different sizes and configurations (studios, one-bedroom, two-bedroom, and three-bedroom units) that would diversify the housing stock for both families and individuals, and would promote individual choice in type, quality, price, and location. As such, the Proposed Project would provide a range of housing opportunities.

This comment is noted for the record and will be forwarded to the decision makers for their consideration.

COMMENT LETTER NO. 4

Mid City West Community Council
Mehmet Berker, Mid City West Community Council
543 N. Fairfax Avenue
Los Angeles, CA 90036
March 24, 2021

COMMENT 4.1

Dear Cesar,

We appreciate the opportunity to comment on this application as the certified neighborhood council serving the area in which the project is located.

The Mid City West Community Council (MCW) Board of Directors **approved** the following motion (22 yeas, 4 nay, 1 abstention) at the Tuesday, March 9th, 2020 board meeting:

Mid City West Community Council supports the project with the agreed-to commitments referred to in "Attachment A: ENV-2018-2771-EIR_Project Site and Community Benefits" as conditions for approval for construction.

(Those conditions are listed below for reference)

I. Form/Open Space/Design

A. The Project will be a Mid-rise structure of 8 stories;
B. The applicant (Holland) is committed to continuing to pursue removal of

existing ficus trees that impede visibility on Fairfax and 3rd and replacement at a 2:1 ratio with mature shade trees after the CEQA process is complete;

C. 15' sidewalks on Fairfax and 3rd Street where possible due to existing buildings and 12' sidewalks on Ogden;
D. New shade trees will be planted on Fairfax, 3rd, and Ogden;
E. Site greening and water capture where feasible per the required LID requirements of the City of Los Angeles;
F. Creation of public open space on the northwest corner of the new building, which will include shade trees, outdooring, dining, and lounge opportunities and will be open for the general public;

II. Residential

- No short-term leases from operator and a condition of no short-term leases in residential leases

III. Circulation

- Pending final approval from the Los Angeles Dept. of Transportation (LADOT), the installation of missing marked crosswalk leg at intersection of 3rd/Ogden (west leg) and ancillary improvements required (signal heads, signal timing, etc);

A. Pending final approval from LADOT, the iInstallation [sic] of marked crosswalk with HAWK/PHB (Pedestrian activated beacon) control across Fairfax Avenue anywhere at or between Blackburn Ave and 4th St;
B. A North-South pedestrian pathway on the site including landscaped open space between the new building and the existing Whole Foods building that will be accessible to the public;
C. Publicly accessible East-West pedestrian paseo to connect the existing shopping center (Whole Foods and CVS) to Ogden Dr;
D. Raised Crosswalks and or Intersections on Colgate Ave and Ogden Dr to slow traffic and make the streets safer for kids. Locations include:

1. A re-sited raised crosswalk across Colgate Ave or the improvement of the existing crosswalk across Colgate Ave to a raised crosswalk;
2. The improvement of the two crosswalks across Ogden Dr at the intersection with the Palzzo [sic] access driveway into raised crosswalks or into a raised intersection;

E. The prohibition of Right Turns from the Project exiting on Ogden Dr to minimize traffic towards the Hancock Park Elementary School and Park La Brea;
F. Ride share pickup/drop off located in the ground floor garage of the new Project;
G. Cut back of façade at the southwest corner of 3rd/Ogden to increase visibility

of people on foot;

H. A location for scooter or dockless vehicle parking in the Project Area (not in the surface parking lot, for which a separate location for scooter or dockless vehicle parking is sought from the Ownership/Regency Centers);

I. An expanded-width raised crosswalk from the North-South pedestrian walkway to the East-West pedestrian paseo and pathway;

J. Short-term loading curb space on Ogden Dr to preclude double-parking;

K. Pending the approval of LADOT, the implementation of a Class III Bike Route on Ogden Dr/Colgate Ave with applicant installing:

1. Class III Bike Route signage;
2. In-pavement markings (sharrows).

IV. Construction

- Conduct most demolition activities on existing K-Mart building in summer if feasible;

A. Use intensive mitigation measures during construction to reduce dust, noise, and other externalities of construction;

B. A commitment to maintain a continuous and open path of pedestrian travel at all times around the site;

V. Hancock Park Elementary

- [The owner of the shopping center has built a permanent 10 foot CMU wall on the south side of 4th St Alley along the Hancock Park Elementary campus in response to input received during the working group meetings.] During construction, the applicant will install an additional five foot sound wall on top of the 10 foot permanent wall to add further acoustic barriers;

A. The applicant has voluntarily donated $65,000 to Hancock Park Elementary School to purchase and configure new computer hardware necessary to facilitate remote learning during the COVID crisis;

B. Site reconfiguration of campus according to “Option 3A” including the moving of a parking lot to the northeast corner of the school campus and the construction of new basketball courts and a new U-8 size soccer field in the southeast corner. Developer will also provide two new shade structures on the campus;

C. Methane monitoring and alarms on Hancock Park Elementary campus as feasible;

D. Modification of Colgate Ave striping plan to allow for an airport style drop off lane for parents and students to increase safety of pick up and drop off activities;

E. The above improvements are part of a community benefits package totaling

> $3.5 million that the applicant is negotiating with the Friends of Hancock Park School. Additional benefits are being discussed with board members from the Friends of Hancock Park School, which could expand the specific contributions that are part of this package within the applicant's $3.5 million commitment.

Thank you for your attention to this matter. Please feel free to contact me via email at mberker@midcitywest until April 1, 2021 or at mehmetikberker@gmail.com after April 1, 2021.

RESPONSE TO COMMENT 4.1

This comment letter acknowledges that the Mid City West Community Council (MCW) Board of Directors has received and reviewed the Draft EIR for the Proposed Project. This comment letter states that MCW has approved a motion to conditionally support the Proposed Project. The recommended conditions listed in the MCW letter are not mandatory project design features or required mitigation measures analyzed in the Draft EIR. The recommended conditions contain several voluntary items to be considered by the Applicant and are provided for the administrative record. As this comment letter does not raise any specific environmental issues related to the analysis in the Draft EIR, no further analysis is required. This comment is noted for the record and will be forwarded to the decision makers for their consideration.

COMMENT LETTER NO. 5

Gabrieleño Band of Mission Indians – Kizh Nation
Andres Salas, Chairman
P.O. Box 393
Covina, CA 91723
February 12, 2021

COMMENT 5.1

Dear Cesar Moreno,

Thank you for your letter dated February 11, 2020 regarding AB52 consultation. The above proposed project location is within our Ancestral Tribal Territory; therefore, our

Tribal Government requests to schedule a consultation with you as the lead agency, to discuss the project and the surrounding location in further detail.

Please contact us at your earliest convenience. ***Please Note: AB 52, "consultation" shall have the same meaning as provided in SB 18 (Govt. Code Section 65352.4).***

RESPONSE TO COMMENT 5.1

This comment letter requests consultation with the lead agency to discuss the Proposed Project. However, as summarized below, the Lead Agency has already initiated and has concluded consultation with the Gabrieleño Band of Mission Indians – Kizh Nation, as required by applicable laws.

As discussed on Page IV.J-14 of Section IV.J, Tribal Cultural Resources, of the Draft EIR, the DCP mailed letters on June 26, 2018, to the 10 listed Native American tribes on the City's AB 52 notification list, which consists of the tribes that requested to receive notice from the City under PRC Section 21080.3.1(d), included on the City's AB 52 notification list pursuant to PRC Section 21082.3. The City received a response from Andrew Salas, Chairman of the Gabrieleño Band of Mission Indians-Kizh Nation, on July 6, 2018, which provided general information on tribal history and traditional land use practices, and noted that the Project Site is within a sensitive area and tribal cultural resources may be present below existing developments. Chairman Salas requested formal consultation with the City. On December 13, 2018, the City mailed letters to the Tribe with updated information about the Proposed Project, including the projected depth of grading activities, and existing Project Site conditions, including existing on-site structures. An initial AB 52 consultation call was held on January 16, 2019 with City Planning staff and representatives of the Gabrieleño Band of Mission Indians – Kizh Nation. Following the call, the City received follow-up information in the form of attachments which included five historical maps, a document titled *Gabrieleño Band of Mission Indians – Kizh Nation: Protection of Tribal Cultural Resources (TCRs)* which included the Gabrieleño Band of Mission Indians – Kizh Nation Tribal Government's recommended mitigation measures, an entry from a knowledge-sharing platform titled, *What was there in California before the cities were founded and occupied?*, and the following two articles, *Ancient America: American Indians at Rancho La Brea,* and *A Recent Discovery Of Ancient Human Remains In Los Angeles, California*. Also, on July 2, 2020, the City requested any additional information regarding the potential for tribal cultural resources in the Project area and/or on the Project Site. The City received additional information from the Gabrieleño Band of Mission Indians – Kizh Nation on July 3, 2020, including weblinks to the *Ancient America: American Indians at Rancho La Brea* article and to the Archaeological Resources section of the Academy Museum of Motion Pictures Project's Draft Environmental Impact Report, prepared by the

DCP Environmental review section in August 2014. On January 6 and January 7, 2021, the Gabrieleño Band of Mission Indians – Kizh Nation provided additional information regarding the mitigation measures, and proposed revisions to the proposed mitigation measures.

The information submitted during the tribal consultation was considered in the Tribal Cultural Resources Assessment, contained in Appendix I to the Draft EIR. The City considered the Gabrieleño Band of Mission Indians – Kizh Nation's comments, along with the additional information provided, and incorporated mitigation measures into the Draft EIR as MM-TRC-1 through MM-TRC-4 (see Draft EIR at pages IV.J-22 – IV.J-25). As analyzed on Page IV.J-22 of the Draft EIR, with implementation of these required mitigation measures, impacts to tribal cultural resources would be less than significant. Based on the evidence in the record, the City concluded consultation on January 28, 2021. A letter dated January 28, 2021 was sent to Chairman Salas summarizing the City's efforts to engage in meaningful and good faith consultation and stating the conclusion of the AB 52 consultation process. DCP's notification letters, the response letter, and close of consultation letter are included in Appendix I to the Draft EIR.

COMMENT LETTER NO. 6

Friends of Hancock Park School
Shanon Dawn Trygstad, President
408 S. Fairfax Avenue
Los Angeles, CA 90036
March 29, 2021

COMMENT 6.1

Dear Mr. Lamborn:

On March 14, 2019, the Friends of Hancock Park School submitted a comment letter on the Initial Study/Notice of Preparation prepared by the City for the 3rd & Fairfax project located on a portion of the existing Town & County Shopping Center, adjacent to the Hancock Park Elementary School campus. That letter included: (1) a letter from Shanon Trygstad as President of the Friends of Hancock Park School; (2) a petition signed by

teachers and staff from Hancock Park Elementary School listing their concerns; and (3) numerous comments from parents of children that attend the school.

Since our letter, the applicant has modified the project design to be more compatible with our campus. The applicant has engaged us in a meaningful way to ensure the project is constructed and operated in manner sensitive to our school and its children. In addition, the City prepared an Environmental Impact Report for the project, which we believe adequately analyzes the potential impacts of the project. And, the applicant has worked directly with us to resolve all of our concerns, and to fund improvements and/or programs that better our campus and improve the learning environment for our students and teachers. We appreciate these efforts by the applicant.

Accordingly, on behalf of the Friends of Hancock Park School, we hereby retract all our prior comment letters on the project, including without limitation all the prior comments, petitions, letters, and any other correspondence submitted in connection with our initial comment letter.

Also, please note that we have communicated our support of the project to the local council district office.

Our concerns have been addressed. We support the 3rd & Fairfax project. We urge the City to approve the project. Please add this letter to the administrative record for the project.

RESPONSE TO COMMENT 6.1

This comment states that the Friends of Hancock Park School believes that the Draft EIR adequately analyzes the impacts of the Proposed Project. The Friends of Hancock Park School also retracted all of its prior comments submitted on the administrative record and now supports the Proposed Project. This comment is noted for the record and will be forwarded to the decision makers for their consideration. No further response is required.

COMMENT LETTER NO. 6A

Friends of Hancock Park School
Shanon Dawn Trygstad, President
408 S. Fairfax Avenue
Los Angeles, CA 90036
March 29, 2021

COMMENT 6A.1

Dear Councilmember Raman:

The Friends of the Hancock Park Elementary School are writing to express our strong support for the 3rd & Fairfax project. As you know, the project site located at 6330 W. 3rd Street, on a portion of the existing Town & County Shopping Center, adjacent to the Hancock Park Elementary School campus. We have worked collaboratively with the project applicant for many months. The applicant has resolved the concerns that we initially expressed. Thus, we now support the project without hesitation.

For background, we submitted a letter dated February 26, 2019 to the prior administration outlining our concerns with the project. We also submitted a letter dated March 13, 2019 to the prior administration, Council member Koretz, and several members of the Los Angeles Unified School District (LAUSD) Board of Directors. Similarly, we submitted a letter dated March 14, 2019 to the Department of City Planning. In addition, we coordinated petitions and letters on the project to submit during the initial study phase of environmental review. The applicant has worked with us to address all of the concerns we raised in these correspondences.

The applicant has modified the project design to be more compatible with our campus. The applicant has engaged us (and the community) in a meaningful way to ensure the project is constructed and operated in manner sensitive to our school and its children. In addition, the City prepared an Environmental Impact Report for the project, which we believe adequately analyzes the potential impacts of the project. Also, the applicant has worked with us, to resolve all of our concerns and fund improvements and/or programs that better our campus and improve the learning environment for our students and teachers. This is a strong commitment from the applicant and a major benefit to our school and the community.

Therefore, we now offer our support for the project. We hope that you also will support the project in its current form considering the applicant's meaningful efforts to address our

concerns. This is a project that will improve the project site, improve the school and its programs, and generally improve the community. Our prior comments on the project's administrative record are retracted. And, going forward we will work with our stakeholders to further support the project as it completes the approval process. We urge the City to approve the project.

We look forward to the continuing collaboration with the applicant to conclude the administrative review process and make this project a reality.

RESPONSE TO COMMENT 6A.1

This comment letter acknowledges that the Friends of Hancock Park School has received and reviewed the Draft EIR for the Proposed Project. The commenter states the Draft EIR adequately analyzes the potential impacts of the Proposed Project. It also notes that Friends of Hancock Park School supports the Proposed Project and retracts prior comments on the administrative record. This comment is noted for the record and will be forwarded to the decision makers for their consideration. No further response is required.

COMMENT LETTER NO. 7

Park La Brea Impacted Residents Group
502 S. Orange Grove Avenue
Los Angeles, CA 90036
Barbara Gallen
March 29, 2021

COMMENT 7.1

Dear Cesar:

I represented Park La Brea residents from the five blocks adjacent to the Proposed Project Site on the Town & Country “Working Group” panel. I was appointed to the Working Group by the former councilmember in the spring of 2019 after 220 verified Park La Brea tenants calling themselves the Park La Brea Impacted Residents Group (“PLBIRG”) petitioned the former councilmember to correct his omission of Park La Brea residents from the panel. In March 2019 I submitted five pages of comments into the DEIR “Scoping” process on behalf of PLBIRG.

I have reviewed the DEIR for the Town and Country "3rd and Fairfax Mixed Use" Project. My comments are below.

Sincerely,

Barbara Gallen

RESPONSE TO COMMENT 7.1

This comment provides the commenter's statement of interest with respect to representing several Park La Brea residents. This comment represents a preface to specific comments raised below. Detailed responses to issues presented under are addressed below.

COMMENT 7.2

3RD AND FAIRFAX MIXED USE PROJECT

DEIR COMMENTS

The DEIR is deficient in many respects and fails in numerous ways to address the Project's impacts and its compliance with the California Environmental Quality Act.

Air Quality

The analysis regarding diesel emissions, particulate matter and fugitive dust during the construction phase is deficient. The project is in close proximity to a school, and these pollutants are known to cause higher risk of cardiopulmonary disease in young people. The proposed mitigation measures are insufficient.

RESPONSE TO COMMENT 7.2

The commenter makes a general assertion that the Proposed Project's air quality analysis was deficient regarding diesel emissions, particulate matter and fugitive dust, but does not provide any substantial evidence to support their claim. The Proposed Project's construction emissions were quantified utilizing the California Emissions Estimator Model *(CalEEMod Version 2016.3.2)*, which is the South Coast Air Quality Management District's (SCAQMD) recommended methodology for addressing construction impacts for land use development projects subject to CEQA review.

The CalEEMod program collectively quantifies the amount of emissions from both diesel and gasoline powered engines for off-road construction equipment and on-highway motor

vehicles. As shown in Table IV.A-7 through Table IV.A-10, of the Draft EIR, the Proposed Project's construction emissions and operational emissions, which include diesel emissions, would not exceed any SCAQMD regional threshold of significance for any of the criteria pollutants or recommended localized thresholds of significance. Therefore, the Proposed Project's air quality emissions would not result in a significant air quality impact.

Regarding particulate matter, the CalEEMod emissions analysis found that the Proposed Project's peak daily construction emissions for PM_{10} (particulate matter equal to or less than 10 microns in diameter) and $PM_{2.5}$ (particulate matter equal to or less than 2.5 microns in diameter) would be 9.57 lbs/day and 4.41 lbs/day, respectively. Comparably, the thresholds of significance for PM_{10} and $PM_{2.5}$ emissions are 150 and 55 lbs/day, respectively. Thus, the Proposed Project's PM_{10} and $PM_{2.5}$ emissions are substantially below the thresholds of significance. Furthermore, because diesel particulate matter (DPM) is a subset of both PM_{10} and $PM_{2.5}$, (i.e., approximately 94 percent of these particles are less than 2.5 microns in diameter)[1] the Proposed Project's diesel emissions would represent only a fraction of the total PM_{10} and $PM_{2.5}$ emissions generated during construction. As such, the amount of DPM emitted from construction would be less than the thresholds of significance for PM_{10} and $PM_{2.5}$ emissions. In addition, as explained in Response to Comment 20.16, below, the City prepared a health risk assessment (even though not required to by law) that further confirmed that DPM emissions are less than significant on all surrounding sensitive receptors. The Proposed Project's particular matter and DPM emissions would not result in a significant air quality impact.

Regarding fugitive dust, the Proposed Project would be required to comply with SCAQMD Rule 403 (Fugitive Dust) as detailed on Page IV.A-19 of the Draft EIR. The purpose of Rule 403 is to reduce the amount of particulate matter entrained in the ambient air as a result of man-made fugitive dust sources. Thus, Rule 403 specifies best available control measures that apply to the construction activities of the Proposed Project, especially the grading/excavation phase. As shown in Table IV.A-7, Estimated Peak Daily Regional Construction Emissions, and Table IV.A-9, Localized On-Site Maximum Daily Construction Emissions, of the Draft EIR, the Proposed Project's PM_{10} and $PM_{2.5}$ emissions would not exceed SCAQMD's regional threshold of significance or the recommended localized thresholds of significance. Therefore, fugitive dust from the Proposed Project's construction activities would not result in a significant air quality impact.

[1] *Scientific Review Panel Findings for the Proposed Identification of Diesel Exhaust as a Toxic Air Contaminant Report, May 27, 1998, https://www.arb.ca.gov/srp/findings/4-22-98.pdf.*

Additionally, it should be noted that the Draft EIR includes PDF-AQ-1 that would further reduce potential air quality impacts during construction. Where power poles are available, PDF-AQ-1 requires the use of electricity from power poles and/or solar-powered generators rather than temporary diesel or gasoline generators. The Proposed Project's air quality impacts have been determined to be less than significant assuming all regulatory compliance measures and project design features are implemented. As such, no mitigation measures are warranted.

COMMENT 7.3

Greenhouse Gas (GHG) Emissions

The Greenhouse Gas emissions analysis is deficient and doesn't adequately assess actual GHG emissions related to the construction and operational phases.

Among its many deficiencies:

1. The analysis does not address the impacts of ride hailing which will be a significant factor in Vehicle Miles traveled (VMT) to and from the Proposed Project. Numerous published studies of "rideshare" impacts on VMT in urban cities as well as suburban communities have concluded that not only have such services **not** reduced VMT as was originally theorized, but has been seen to significantly **increase** VMT.

RESPONSE TO COMMENT 7.3

The commenter states that the Draft EIR failed to discuss the impacts of ride hailing, which may result in an increase in VMT and an increase in GHG emissions. However, no further information has been presented to substantiate the claim that ride hailing increases VMT or that as a result the Proposed Project would result in a significant impact.

The Proposed Project's construction and operational GHG emissions were addressed in Section IV.C, Greenhouse Gas Emissions of the Draft EIR. The Governor's Office of Planning and Research (OPR) has noted that "lead agencies shall make a good-faith effort, based on available information, to describe, evaluate, calculate, or estimate the amount of CO_2 and other greenhouse gas emissions from a project, including, but not limited to, the emissions associated with vehicle use, energy consumption, water usage and construction activities, and the impact on natural environments that sequester carbon. Lead agencies have the discretion to use a model or methodology to analyze greenhouse gas emissions that is appropriate for the project."[2] GHG emissions quantified

[2] *State of California, Office of Planning and Research, Discussion Draft, CEQA and Climate Change Advisory, pg. 8, December 2018.*

in Section IV.C Greenhouse Gas Emissions of the Draft EIR are consistent with OPR guidelines. Methodologies to address GHG impacts do not specifically require projects to provide a ride-hailing analysis nor do VMT analyses prepared for CEQA purposes discuss requiring a ride-hailing analysis. The following information is provided explaining why a ride-hailing analysis is not required, and why the Proposed Project would not result in a significant number of ride-hailing trips that would result in a significant increase GHG emissions and VMT.

The use of Transportation Network Companies (TNC)[3] services, particularly those offered by Uber and Lyft, has grown and the TNC business model continues to evolve. The Proposed Project would generate new VMT whether someone drives their own car or hails a ride. To date, research data into mode shares for TNC use is limited, and the Los Angeles Department of Transportation (LADOT) has not established a methodology for considering their use. Anecdotal evidence suggests that TNCs are used more for occasional discretionary trips (such as to restaurants) rather than for daily trips (such as most trips generated by residential or supermarket uses) due to their higher cost. While the Proposed Project does contain some restaurant uses, the majority of the Proposed Project is residential and general commercial/supermarket uses. The overall effects of these types of services have yet to fully identified or quantified and likely to change over time and thus, would be speculative to analyze at this time.

Further, as noted in the Draft EIR, the VMT analysis focuses to the residential component of the Proposed Project as the commercial component is considered within the VMT Calculator published by LADOT to be local serving, and therefore would reduce, and not increase VMT because it brings retail and restaurant services closer to nearby residents. With respect to residential VMT, the primary contributor to the calculation of residential VMT are commutes to work which are typically greater distances and occur more frequently than trips to retail or restaurant uses. It is reasonable to anticipate that a project resident would not utilize TNC on a regular basis due to the cost involved. Therefore, the availability of TNC would not change the calculation of VMT for the residential component of the Proposed Project as provided in the Draft EIR.

LADOT's VMT Calculator was developed based on the City's travel demand forecasting model,[4] which itself is based on the Southern California Association of Government's (SCAG) Regional Transportation Plan/Sustainable Communities Plan (RTP/SCS)

[3] *Transportation Network Companies – This is the technical term for ride-hailing companies used by the California Public Utilities Commission in order to create a new class of mobility provider distinguished from taxi companies and limousines (Source: Connect SoCal, 2020).*

[4] *LADOT, City of Los Angeles VMT Calculator Documentation, Version 1.2, Appendix F, Updates to the Los Angeles VMT Calculator Version 1.3, May 2020.*

regional travel demand model. Although the City and SCAG travel demand models both state-of-the-practice models, as of the time of their development, such models have not yet been calibrated to explicitly account for TNC trips as a separate travel mode due to insufficient research. The VMT Calculator uses daily trip rates from ITE *Trip Generation Manual,* and the corresponding trip generation rates were derived based on actual driveway traffic counts conducted at similar sites; and the counts included all vehicle types, including cars, trucks, vans, taxis, vanpools, paratransit, motorcycles, and motorized delivery vehicles.[5],[6] TNC trips are, therefore, captured in the traffic counts used to calibrate the models. Therefore, the introduction of TNC vehicles is not expected to affect the overall rates of trip generation, as any additional trips generated by TNC vehicle trips since the publication of the ITE *Trip Generation Manual* have likely replaced taxi trips.

Furthermore, the Proposed Project would include 331 residential dwelling units and 83,994 square feet of new commercial space, including restaurant and retail spaces, which are considered local serving commercial land uses.[7] Typically, ride hailing is associated with larger event spaces, such as nightclubs, convention centers, and sports arenas with designated drop-off and loading areas. LADOT has recognized that TNC use has grown substantially since their introduction to Los Angeles in 2012.[8] Due to a lack of curb space and parking space, the use of TNC activity is most prevalent in the Downtown Los Angeles (DTLA) area. LADOT is working collaboratively with Uber and Lyft to identify DTLA locations with the heaviest TNC activity in order to implement loading zone programs. Such areas include Staples Center/Microsoft Theater/L.A. Live/Convention Center, Grand Central Market, Financial District, and Little Tokyo.[9] The Proposed Project

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[5] *LADOT, City of Los Angeles VMT Calculator Documentation, Section 3.2.1 MXD Methodology, pg. 11-12, May 2020.*

[6] *California Smart-Growth Trip Generation Rates Study, University of California, Davis for the California Department of Transportation, March 2013 (See Appendix A at pages 50-52 and footnote 23)*

[7] *As indicated in the TAG, retail projects that fall under 50,000 square feet are considered local-serving. The retail and restaurant components of the project are considered local-serving because their net total floor area is less than 50,000 square feet. Per LADOT, when a supermarket is part of a mixed-use project, it is not reflected in the VMT Calculator so as to reflect the synergy of trip-making between the supermarket and residential components. This internal trip-making yields the less than significant VMT impact. See e-mail correspondence from Eddie Guerrero, Senior Transportation Engineer, LADOT, to Jason Shender, Transportation Planner II, Linscott Law and Greenspan Engineers, dated February 11, 2020 (included in Appendix H.1(C) of the Draft EIR). LADOT, City of Los Angeles, Transportation Assessment Guidelines, Section 2.2.2 Screening Criteria, footnote 14 at page 2-6, May 2020.*

[8] *City of Los Angeles Los Angeles Department of Transportation, Feasibility of Implementing a Pilot Loading Zone Program for Transportation Network Companies in Downtown Los Angeles, April 4, 2019, website: http://clkrep.lacity.org/onlinedocs/2018/18-0718_rpt_DOT_04-04-2019.pdf.*

[9] *City of Los Angeles Los Angeles Department of Transportation, Feasibility of Implementing a Pilot Loading Zone Program for Transportation Network Companies in Downtown Los Angeles, April 4, 2019, website: http://clkrep.lacity.org/onlinedocs/2018/18-0718_rpt_DOT_04-04-2019.pdf.*

is not located within these heavy TNC activity areas. Thus, based on the land uses proposed and the Project Site location, the Proposed Project would not be anticipated to substantially increase ride-hailing demand that would warrant a significant increase in VMT or ride-hailing trips.

COMMENT 7.4

2. The DEIR also fails to acknowledge that the City of Los Angeles has performed no studies and published no data of its own regarding Vehicle Miles Traveled, and has published no data to contradict the findings of major research institutions that have documented that high income Angelenos like those the 3rd and Fairfax developer is targeting for the Project's well-above-market rental rates are **inversely correlated to transit use** in Los Angeles.

RESPONSE TO COMMENT 7.4

The commenter does not raise a specific issue with respect to CEQA or the analysis in the Draft EIR. The commenter asserts that the City has performed no studies or published any data regarding VMT. The City has in fact produced background studies addressing VMT and the LADOT VMT Calculator, including the Transportation Assessment Guidelines (July 2020), the City of Los Angeles VMT Calculator User Guide Version 1.3 and Documentation (May 2020), the Transportation Demand Management Strategies in LA VMT Calculator (November 2019), and the Travel Demand Forecast Model Development Report (February 2018).[10] The Proposed Project's Supplemental Traffic Analysis, which consists of the VMT Analysis, (included as Appendix H.1(B)) is consistent with LADOT's TAG and is based on considerable City background studies. The Transportation Assessment Guidelines (TAG) establishes criteria for project review objectives and requirements, provides instructions and sets standards for preparation of a transportation assessment in the City of Los Angeles. As part of the preparation of the City's TAG, the City updated its Travel Demand Forecasting (TDF) Model and transportation impact thresholds to be consistent with the VMT impact methodology. In addition, the City of Los Angeles VMT Calculator was developed to estimate project-specific daily household VMT per capita and daily work VMT per employee metrics for land use development projects. The Proposed Project's VMT Analysis is consistent with the TAG and utilizes the VMT Calculator, which are both based on considerable background studies published by LADOT. Therefore, the City's TAG and VMT Calculator properly evaluate the Proposed Project impacts from daily trips and daily VMT, as provided in Section IV.I, Transportation of the Draft EIR. As concluded on Page IV.I-46 of

[10] *LADOT Documents, website: https://ladot.lacity.org/documents/transportation-assessment.*

the Draft EIR, the Proposed Project would have a less than significant VMT impact with the implementation of the TDM strategies detailed in mitigation measure MM-TRAFFIC-1.

COMMENT 7.5

3. The City has ignored published data from established research institutions that demonstrates the failure of its policies. See, for example, "Falling Transit Ridership," UCLA Institute of Transportation Studies, January 2018.

RESPONSE TO COMMENT 7.5

The commenter claims that the City ignored published data from research institutions. This comment does not raise significant environmental issues in the Draft EIR. In addition, pursuant to Section 15204 of the State CEQA Guidelines, "CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR."

The study referenced by the commenter, Falling Transit Ridership: California and Southern California (January 2018), was prepared by the UCLA Institute of Transportation Studies for SCAG. The disclaimer within this report states that "contents [of this report] do not necessarily reflect the official views or policies of any of the funding agencies, including SCAG and the DOT." The report also "does not constitute a standard, specification or regulation." Therefore, the Draft EIR is not required to base its analysis or discuss the findings in this report. Nevertheless, this report investigates the falling transit use in Southern California resulting from, but not limited to: declining transit service levels, eroding transit service quality, rising fares, falling fuel prices, the growth of Lyft and Uber, the migration of frequent transit users to outlying neighborhoods with less transit service, and rising vehicle ownership. However, as discussed in more detail below, the Project Site is adequately served by transit options that would be conveniently provided for patrons, residents, and employees of the Proposed Project as an option to choose transit over driving.

As discussed on page II-13 of the Draft EIR, major transit stops that serve the Project Site include the Metro Rapid bus line 780, located on S. Fairfax Avenue; and Metro local bus lines 16 and 316, located on W. 3rd Street, and Metro local bus line 14, located on Beverly Boulevard. Other Metro local bus lines not defined as a major transit stops include: Metro

Lines 217, 218, and 17. Additionally, the Project Site is served by LADOT DASH Fairfax bus route, which includes a stop adjacent to the Project Site and provides service throughout the Mid-City West community. The Project Site is also located less than 0.5 mile north of the planned Metro Purple Line Wilshire/Fairfax Station, which is currently under construction and anticipated to be operational by 2024.[11] Thus, the Project Site is well served by transit options for future residents, employees, and patrons of the Proposed Project.

COMMENT 7.6

4. The analysis cites a plethora of existing bus routes as if proximity to bus routes will result in its affluent occupants foregoing car ownership and ride hailing services to use the bus system. This reasoning is akin to "Wishcycling."

RESPONSE TO COMMENT 7.6

The commenter claims that residents and patrons would most likely forego car ownership and utilize ride-hailing services over using the bus system. As discussed in Response to Comment 7.5, above, the Project Site is located in proximity to multiple major transit stops that provide stops every 15 minutes or less during peak hours. Additionally, the bus lines and future rail lines within 0.5-mile of the Project Site connect to other parts of the City and to the greater Los Angeles metropolitan area. Thus, by design, the Proposed Project provides opportunities for residents and visitors to utilize transit.

COMMENT 7.7

5. As another example, the analysis cites 200 "long term" bike spaces in the Project but offers no data that the existence of any number of bike spaces in a luxury housing project has any impact on VMT or GHG.

RESPONSE TO COMMENT 7.7

The commenter claims that the Draft EIR provides no data that the proposed bicycle parking would reduce VMT or GHG. As summarized in Table II-5, Summary of Required and Proposed Bicycle Parking Spaces, provided in Section II, Project Description, of the Draft EIR, the LAMC requires 258 bicycle parking spaces for the Proposed Project. The Proposed Project provides 258 bicycle parking spaces, which is consistent with the requirements of the Los Angeles Municipal Code (LAMC). Mitigation Measure MM-TRAFFIC-1, detailed on page IV.I-45 of Section IV.I, Transportation, of the Draft EIR

[11] *Metro, Purple Line Extension Transit Project, website: https://www.metro.net/projects/westside/, accessed July 2021.*

requires that the Proposed Project incorporate "Bike Parking" as part of the Transportation Demand Management strategies that would reduce the Proposed Project's VMT. The Proposed Project would also provide secure ancillary bike facilities such as indoor bicycle parking/lockers, showers and repair stations. The Proposed Project is taking a 0.625% VMT reduction for providing bike parking, which is consistent with the maximum reduction permitted by the VMT Calculator approved by LADOT and is the maximum allowable percentage documented by LADOT's TDM Strategy Appendix.[12] Therefore, these measures would encourage residents and patrons to utilize bicycle as a mode of transportation in order to reduce overall VMT.

COMMENT 7.8

Hazards and Hazardous Materials

The analysis has not sufficiently addressed these risks and impacts to the community. While the EIR acknowledges the risks from sub-surface methane, its analysis is incomplete.

RESPONSE TO COMMENT 7.8

Here, the commenter states the Draft EIR's analysis of hazards and hazardous materials is incomplete, but does not discuss where the Draft EIR falls short of analysis.

Section IV.D, Hazards Materials/Risk of Upset, of the Draft EIR, adequately addresses impacts from subsurface methane. As discussed on Page IV.D-51 of the Draft EIR, the Methane Report (included as Appendix A-F-5 of the Draft EIR) assessed the risks of developing the Proposed Project on the Development Site and provided specific design recommendations for structures to reduce the risk of methane-related upset or accident conditions. The Methane Report concluded that based on the historic ground water table, the elevated methane readings produced on the Development Site, and the applicable Los Angeles Department of Building and Safety (LADBS) action levels, the Development Site is deemed a "Methane Zone – Level V, All Pressures." Therefore, the Proposed Project must comply with the design recommendations in the Methane Report and construct structures on the Development Site in compliance with applicable regulations to the satisfaction of LADBS. The Proposed Project would be built with a methane system that would incorporate all components listed for a Design Level V passive system from Table 71 of LAMC Section 91.7109, including: an impervious membrane, dewatering

[12] *Transportation Demand Management Strategies in LA VMT Calculator Appendix, November 2019, page 21, website: https://ladot.lacity.org/sites/default/files/documents/tdm_strategy_appendixb.pdf, accessed July 2021.*

system, perforated horizontal vent pipe system, four-inch gravel thickness beneath the membrane, vent risers, and mechanical gas extraction (blowers), and a gas detection/alarm system and mechanical ventilation system shall in the lowest occupied level of the building. Based on the Development Site conditions, a "V-Bottom" foundation with a minimum one percent slope towards the building perimeter designed to withstand hydrostatic pressures would be acceptable. The "V-Bottom" foundation and Methane Zone Level V system will be in compliance with LADBS requirements. These design features, which exceed the minimum regulatory requirements, are also included as project design feature PDF-HAZ-1 (Methane), detailed on page IV.D-44 of the Draft EIR. Thus, the Proposed Project would incorporate PDF-HAZ-1 to monitor and prevent methane gas intrusion in the building and would be design and constructed to the satisfaction of the LADBS. The Draft EIR's analysis is adequate and is based on substantial evidence.

COMMENT 7.9

Noise

Noise during construction will be considerable and will adversely impact instructional time at the school both during the school year and during on site programs contracted by the school to provide supervised activities for youth during school breaks. It will also impact the ability of adjacent residents to work from home.

RESPONSE TO COMMENT 7.9

The commenter makes a general claim that the construction noise would impact the nearby Hancock Park Elementary School and the adjacent residents working from home.

Section IV.F, Noise, of the Draft EIR, addressed construction noise impacts to the identified sensitive receptors, which include Hancock Park Elementary School and the nearby residential land uses at the La Brea Park Apartments. Short-term and long-term ambient noise levels were measured at Hancock Park Elementary School and at the residential sensitive receptors, as shown in Table IV.F-7 on Page IV.F-17, and Table IV.F-8 on Page IV.F-18. The Draft EIR quantified the construction noise levels from the Proposed Project's construction activities. As stated on Page IV.F-44, the Draft EIR concluded the Proposed Project's construction noise activities would not produce noise levels at off-site noise-sensitive receptors that exceed existing ambient levels by more than 5 dBA L_{eq} during the construction of the Proposed Project with the implementation of mitigation measures. The Proposed Project would include Mitigation Measures MM-NOI-1 and MM-NOI-2, detailed on Page IV.F-43, which would include installing a 10-foot

high temporary sound blanket on top of the existing concrete wall located along the Development Site's southern property line and a temporary 10-foot high noise barrier along Ogden Drive. With implementation of these Mitigation Measures, the construction noise levels would not exceed the 5-dBA increase threshold at the school property line and at the La Brea Park Apartments, as shown in Table IV.F-19 on Page IV.F-45. Therefore, with mitigation, the Proposed Project would not result in a significant construction noise impacts for Hancock Park Elementary School and the La Brea Park Apartments.

Additionally, please see Response to Comment 2.1, and Response to Comment 6.1.

COMMENT 7.10

Transportation

The analysis in this section is seriously deficient in a great many respects and understates and misstates the Proposed Project's impacts.

To mention just two of the myriad deficiencies, among many others:

1. **The Household VMT** calculations are deficient and fail to address the abundance of studies documenting the increase in vehicle trips associated with ride hailing. The analysis also ignores the explosion of vehicle trips associated with delivery of goods and services purchased online, particularly by higher income individuals, in a trend and new norm accelerated by COVID. The City has not provided any data or studies to show that the Proposed Mitigation Measures of Unbundling, Education about Alternative Transportation Options, and oversupply of Bike Parking Spaces will have any impact on Household VMTs. Saying it's so doesn't make it so.

RESPONSE TO COMMENT 7.10

With respect to the comment regarding increased vehicle trips attributed to ride hailing, see Response to Comment 7.3, above.

The commenter's claim that the analysis of Household VMT ignores delivery of goods and services purchased online is not correct. The significance thresholds developed by the City for VMT impacts were developed from the City's TAG using the City's travel demand forecasting model, which itself is based on the Southern California Association of Government's (SCAG) Regional Transportation Plan/Sustainable Communities Plan (RTP/SCS) regional travel demand model. SCAG's Regional Travel Demand Model and 2012 Model Validation, states that "households in the region generate a high number of

trip ends, especially for Light HDT.[13] This is mostly due to the fact that land uses such as transportation and warehousing, utilities, service and retail deliver goods and provide services to residential neighborhoods.[14] Additionally, the VMT Calculator uses daily trip rates from ITE *Trip Generation Manual,* and the corresponding trip generation rates were derived based on actual driveway traffic counts conducted at similar sites; and the counts included all vehicle types, including goods and services.[15], [16] Thus, the household trip generation calculations that are factored into the VMT analysis do account for goods and services. Therefore, the Proposed Project's VMT Analysis, consistent with the TAG, utilizes the VMT Calculator and incorporates trip generation and VMT from goods and services.

The commenter further states that the City has not provided any data or studies to show that the proposed mitigation measures of unbundling, education about alternative transportation options, and oversupply of bike parking spaces will have any impact on Household VMTs. This comment is incorrect. The LADOT has provided the effectiveness of these TDM Strategies in the City of Los Angeles VMT Calculation Documentation, Version 1.3 (May 2020). As stated on page 17 of this documentation, "the effectiveness of each of the TDM strategies included in the VMT Calculator is based primarily on research documented in the 2010 California Air Pollution Control Officers Association (CAPCOA) publication, *Quantifying Greenhouse Gas Mitigation Measures* (CAPCOA, 2010). CAPCOA offers methodology based on preferred literature, along with methodology based on alternative literature, for each strategy. The strategies used in the VMT Calculator follow CAPCOA guidance by either directly applying the CAPCOA methodology, applying the alternative literature methodology, or adjusting the methodology offered by CAPCOA to account for local needs and departmental goals. Where more recent research (since 2010) or local empirical data are available, those methods have been used in place of the methodology outlined by CAPCOA."[17] Additionally, the percentage reductions of the 23 TDM strategies are individually provided in the TDM Strategies in LA VMT Calculator Appendix, which are based on CAPCOA's

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13 *SCAG, SCAG Regional Travel Demand Model and 2012 Model Validation, March 2016 (at page 7-5).*

14 *Ibid.*

15 *LADOT, City of Los Angeles VMT Calculator Documentation, Section 3.2.1 MXD Methodology, pg. 11-12, May 2020.*

16 *California Smart-Growth Trip Generation Rates Study, University of California, Davis for the California Department of Transportation, March 2013 (See Appendix A at pages 50-52 and footnote 23)*

17 *LADOT and DCP, City of City of Los Angeles VMT Calculation Documentation, Version 1.2, page 17, May 2020, website: https://ladot.lacity.org/sites/default/files/documents/vmt_calculator_documentation-2020.05.18.pdf, accessed May 2021.*

research and with individual levels of effectiveness identified.[18] The Proposed Project's TDM strategies (unbundled parking, promotion and marketing of travel options, and bike infrastructure) apply these percentage reductions. As such, the City has provided studies to show the effectiveness of the TDM strategies, which are implemented into the Proposed Project, to reduce VMT impacts to a less than significant level.

COMMENT 7.11

2. **Emergency Response**.

   The analysis is deficient in addressing the Project's impact on emergency response times— both during construction and during operation-- to the school and to the Park La Brea and Palazzo residents whose homes are only accessible via Ogden due to the surrounding land masses.

RESPONSE TO COMMENT 7.11

The commenter makes a general claim that the Draft EIR's analysis on emergency response was deficient. The Proposed Project's impacts to emergency access was discussed on page IV.I-49 through IV.I-50 of Section IV.I Transportation. As discussed in the Draft EIR, the Proposed Project would include project design feature PDF-TRAFFIC-1 to ensure adequate circulation and emergency access by implementing a Construction Traffic Control/Management Plan (CTM Plan) that will be approved by LADOT. The CTM Plan would minimize the effects of construction on vehicular and pedestrian circulation and assist in the orderly flow of vehicular and pedestrian circulation in the area of the Proposed Project. If lane closures are necessary, the remaining travel lanes would be maintained in accordance with the LADOT-approved CTM Plan. Therefore, the Proposed Project would not cause permanent alterations to vehicular circulation routes and patterns or impede public access or travel upon public rights-of-way.

The operation of the Proposed Project would satisfy the emergency response requirements of the Los Angeles Fire Department (LAFD). There are no hazardous design features included in the proposed vehicular design or site plan for the Proposed Project that could impede emergency access. The Proposed Project does not propose the permanent closure of any local public streets and primary access to the Project Site would continue to be provided from S. Fairfax Avenue, W. 3rd Street and S. Ogden Drive. Furthermore, the Proposed Project would be subject to the plan review requirements of

[18] *Transportation Demand Management Strategies in LA VMT Calculator Appendix, November 2019, website: https://ladot.lacity.org/sites/default/files/documents/tdm_strategy_appendixb.pdf, accessed July 2021.*

the LAFD pursuant to Section 118 of the Fire Code to ensure that all access roads, driveways and parking areas would remain accessible to emergency service vehicles. Additionally, the drivers of emergency vehicles normally have a variety of options for avoiding traffic, such as using sirens to clear a path of travel or driving in the lanes of opposing traffic. Therefore, the Proposed Project would not result in any significant impacts to emergency response and would not result in inadequate emergency access.

COMMENT 7.12

> The analysis fails to take into account the City's intention to install a new crosswalk connecting the Project with Farmers Market and The Grove at Gilmore Lane. The existing "Ross crosswalk" on the east side of Ogden would no longer serve any useful purpose and the City's plan to retain it will promote dysfunction putting even more pressure on vehicles trying the clear the Third / Ogden intersection, including emergency vehicles.
>
> The Gilmore Lane and Ogden signals can't be synchronized because they won't have the same number of phases.

RESPONSE TO COMMENT 7.12

Installation of a potential future crosswalk connecting Gilmore Lane to the south side of W. 3rd Street is not a part of the Proposed Project as described in the Draft EIR. Thus, this comment does not raise an issue germane to the Draft EIR impact analysis. Also, if the City implemented a crosswalk, or the Project applicant includes such a feature as a voluntary benefit, those actions would not add new significant information to the EIR or create new or more severe impacts. For example, from a CEQA standpoint, transportation projects (such as additions of new or enhanced bike or pedestrian facilities on existing streets/highways) that are deemed to enhance mobility for pedestrians and bicyclists are not likely to lead to substantial or measurable increase in vehicle travel and are presumed to have a less than significant transportation impact (see Table 2.3-1 on page 2-16 of the City's TAG).

Regarding synchronization of the traffic signals, there would be no need to change the existing traffic signal phasing or operation of the traffic signals at Gilmore Lane/W. 3rd Street and Ogden Drive/W. 3rd Street intersections with the installation of the crosswalk (e.g., the signal would operate on the same existing phase as when the crosswalk on the east leg of the Ogden Drive/W. 3rd Street intersection is activated in order to allow minimal vehicular stops and queuing and to promote through traffic). Further, as discussed on page 7 of the July 2019 Non-CEQA Traffic Analysis in Appendix H.2 of the Draft EIR, the

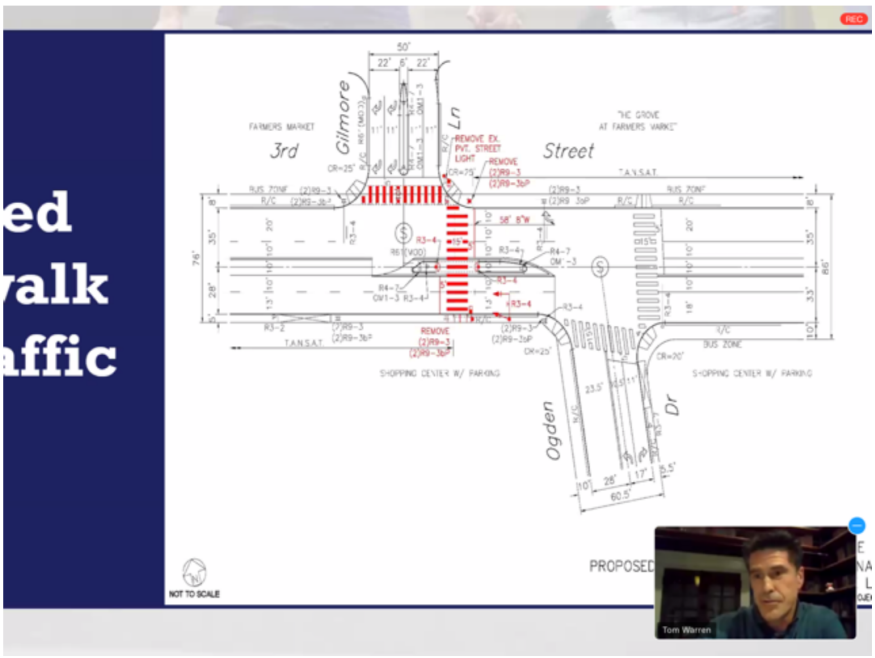
two intersections are currently operated by a single traffic signal controller, which means traffic signal operations at the two intersections are already coordinated, contrary to the statement in the comment. Overall, the proposed crosswalk will not change or affect access or maneuvering by emergency vehicles through the intersections. Further, as discussed above in Response to Comment 7.11, the Proposed Project would not result in any significant impacts related to emergency response.

COMMENT 7.13

The analysis also fails to account for the impacts of requiring all vehicles to stop to take a ticket to enter the Proposed Project, or the volume of traffic coming off Third onto Ogden (pre COVID) on weekends trying to turn into Ross's lot, or commercial vehicles and moving in each direction.

Nor does it take into account the presence of stopped DASH buses and Ross dumpsters on the east side of Ogden or the impact of 100 per cent [sic] of all vehicle traffic exiting the residential structure and the lion's share of those exiting the retail structure needing to traverse the Southbound lane to access the northbound lane to reach Third Street at the intersection.

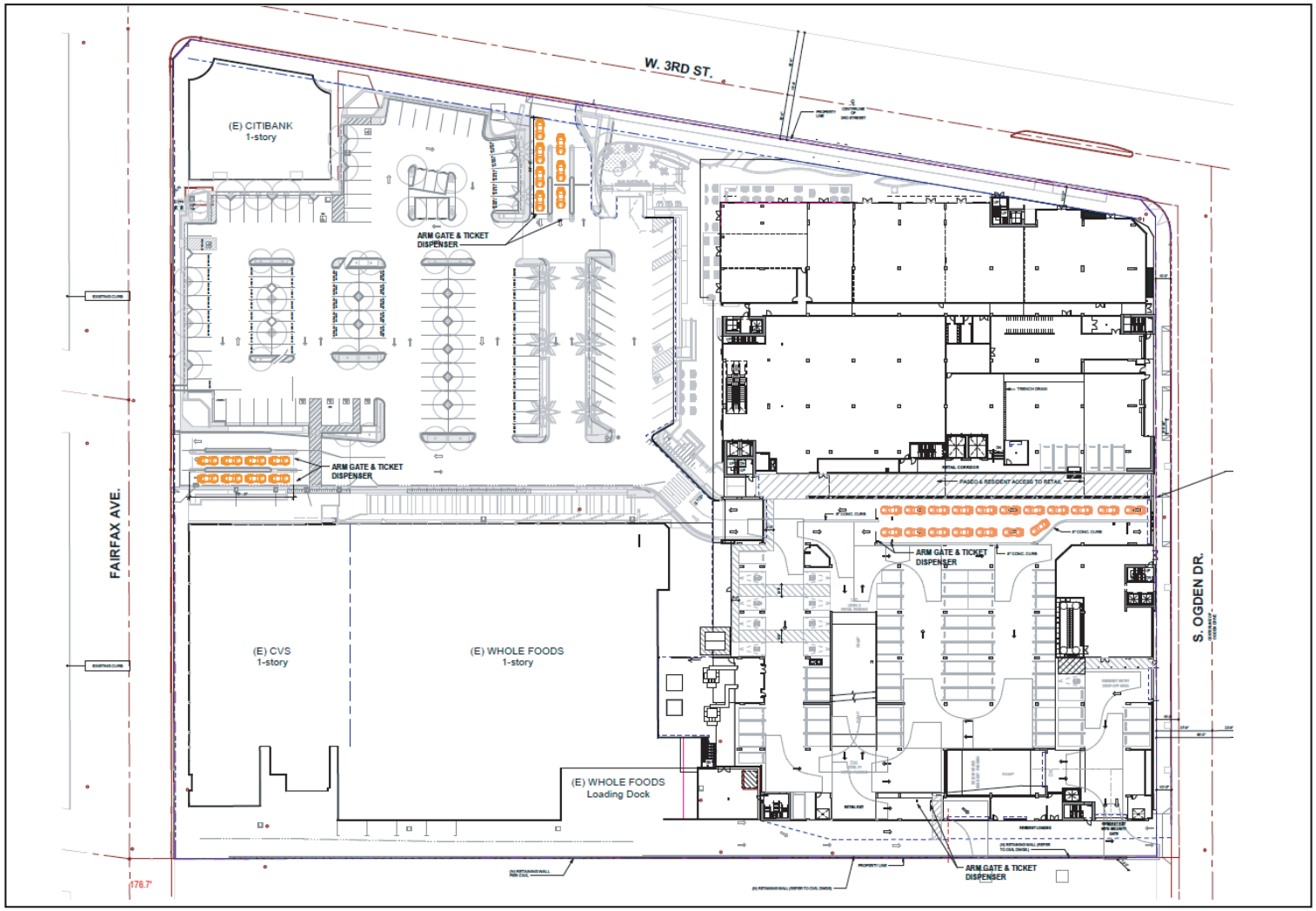
These dynamics will all be happening at the same time, on a local street with just 1 lane in each direction. It would be disingenuous to claim emergency response will not be affected.



RESPONSE TO COMMENT 7.13

The commenter is concerned with spillover traffic from the Proposed Project's parking areas to W. 3rd Street and Ogden Drive. The State of California Office of Planning and Research updated Appendix G of the State CEQA Thresholds, to establish new criteria for analyzing traffic impacts based on vehicle miles traveled (VMT) in lieu of the level of service (LOS) methodology in January 2019. The City Council adopted the LADOT Transportation Assessment Guidelines (TAG), which includes the updated CEQA methodology and significance thresholds as directed under SB 743 on July 30, 2019, (and as amended in 2020). Accordingly, the analysis in Section IV.I, Traffic/Transportation of the Draft EIR addresses the Proposed Project's traffic impacts utilizing VMT methodology in compliance with CEQA. Therefore, impacts on area streets, including those along W. 3rd Street and Ogden Drive, from traffic congestion is no longer considered to be a CEQA issue pursuant to the TAG, and as approved by LADOT. Notwithstanding, it should be noted that the July 2019 Non-CEQA Traffic Analysis, provided in Appendix H.2(A) of the Draft EIR, applies the LOS analysis, which includes vehicle queuing and traffic congestion from visitor trips and delivery vehicles, for informational purposes.

With respect to vehicles queuing while drivers obtain a parking ticket when arriving at the Project Site, Figure II-10, Level 1 Floor Plan, in Section II. Project Description, of the Draft EIR, shows the vehicle access driveways provided at the Project Site and within the Proposed Project. For purposes of demonstrating the vehicle queuing capacity at all of the entry points to the Project Site and Development Site, a supplemental detailed vehicle queuing plan is provided in Figure II-1 – Car Queuing Exhibit, below. As shown in Figure II-1, below, vehicle access to the existing surface parking lot would continue to be provided along S. Fairfax Avenue and W. 3rd Street. At the time of Proposed Project operation, S. Fairfax Avenue would provide a queuing driveway of up to four car lengths with two ingress drive isles prior to the ticket booth for a total queuing capacity of eight cars. W. 3rd Street would include a two-lane queuing driveway that would allow up to seven cars prior to the ticket booth. It is important to note that these two queuing driveways are not a part of the Development Site and are beyond the scope of the Draft EIR. Nevertheless, these queuing driveways would help remove spillover traffic along S. Fairfax Avenue and W. 3rd Street. In addition, the queuing driveway inside of the Proposed Project's parking structure would be located off Ogden Drive. As shown in Figure II-1, the two-lane queuing driveway could accommodate up to 18 cars prior to the ticket booth. Additionally, a resident drop-off would be located within the parking structure to avoid vehicle queuing along Ogden Drive. Furthermore, LADOT's Manual of Policies and Procedures (Section No. 321) for driveway design require a 60 foot set back from the



Source: MVE+ Partners, July 30, 2021.

Figure II-1
Car Queuing Exhibit

back of the sidewalk and the ticket dispenser for parking structures with more than 300 cars to ensure that entering or existing vehicles will not block the sidewalk, signalized crosswalks, or extend into the street. The Proposed Project would be required to comply with the required driveway design policies and procedures of LADOT for reservoir or maneuvering space. Therefore, these queuing driveways located throughout the Project Site would be designed to meet LADOT requirements and would accommodate the vehicles entering the Project Site to reduce the number of vehicles queuing along the area streets, such as S. Fairfax Avenue and W. 3rd Street, before reaching the ticket booth.

As discussed in the Non-CEQA Traffic Analysis in Table 9-1 of Appendix H.2(A), at the intersection of Ogden Drive and 3rd Street, the Proposed Project would not significantly increase volume/capacity ratios during the Future Year (2023) scenario that may result in an adverse queuing condition during the AM or PM peak hours. The vehicles accounted for in the traffic counts included all vehicular turning movements (see page 3 of Appendix H.2(A) of the Draft EIR), which would also include commercial vehicles and transit buses. As such, the Non-CEQA Traffic Analysis accounted for commercial vehicles and transit buses when analyzing traffic volumes. Additionally, the non-CEQA LOS analysis at the intersection of Ogden Drive and 3rd Street for the Future Year (2023) scenario accounts for the AM and PM peak hours, when most vehicles would be entering and exiting the Proposed Project and utilizing this intersection. As shown in Table 9-1 of Appendix H.2(A), this intersection would continue to operate at LOS A during the AM and PM peak hours. Therefore, with respect to the non-CEQA LOS methodology, the Proposed Project would not result in increased vehicle queuing and spillover traffic along W. 3rd Street or Ogden Drive.

The commenter's concerns have been noted for the record and will be forwarded to the decision makers for their consideration.

COMMENT 7.14

Cumulative Impacts

The analysis also fails to take into account the inevitable redevelopment of the eastern portion of the Town & Country shopping center to replace the outdated retail and commercial structures which the developer has described as an eyesore and a blight, yet at the same time they would have us believe the current retail / commercial tenants wouldn't agree to being provided with beautiful new facilities so the entire property could be redeveloped in a holistic manner that could allow it to be a harmonious neighbor for the surrounding community rather than the burden it is shaping up to be.

RESPONSE TO COMMENT 7.14

The commenter implies that the Draft EIR should have analyzed the redevelopment of other areas (outside of the Development Site) on the Town and Country Shopping Center (the Center) because it is inevitable redevelopment of those areas would occur. The comment provides no evidence to support this claim. The Draft EIR clearly identified the boundaries of the Development Site and the totality of the Proposed Project. The Draft EIR analyzed all impacts related to the scope of development set forth in Section II, Project Description. Numerous figures in the project description illustrate, and differentiate, the Project Site from the west side of the Center, which is not proposed to be altered or redeveloped as part of the Proposed Project. There are no current plans to redevelop the existing retail and commercial structures on the western portion of the Project Site and those retail spaces are currently operational. The Proposed Project would utilize the available development potential of the Project Site under the requested entitlements, and any future development plans for the western portion of the Project Site would be subject to new entitlements and new environmental clearance under CEQA. The remainder of the comment does not address any significant environmental issue under CEQA, and therefore no further response is required.

COMMENT LETTER NO. 8

Supporters Alliance For Environmental Responsibility (SAFER)
Lozeau Drury, LLP
Brian Flynn
1939 Harrison Street, Ste. 150
Oakland, CA 94612
March 29, 2021

COMMENT 8.1

Dear Mr. Moreno, Ms. Webber, Ms. Wolcott, and Planning Commission Secretary:

I am writing on behalf of the Supporters Alliance For Environmental Responsibility ("SAFER") regarding the Draft Environmental Impact Report ("DEIR") prepared for the Project known as 3rd & Fairfax Mixed Use Project, including all actions related or referring to the proposed construction and operation of a new mixed-use development that would

include demolition of 151,048 square feet of existing retail uses and construction of a mid-rise, eight-story mixed use structure with two levels of subterranean parking located at 300-370 South Fairfax Avenue; 6300- 6370 West 3rd Street; and 347 South Ogden Drive in the City of Los Angeles ("Project").

RESPONSE TO COMMENT 8.1

This comment introduces the commenter and restates the Proposed Project location and description. No further response is required.

COMMENT 8.2

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 request that the City Planning Department 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*. (1997) 60 Cal. App. 4th 1109, 1121.)

RESPONSE TO COMMENT 8.2

This commenter states that they believe the Draft EIR fails as an informational document and fails to impose all feasible mitigation measures. The commenter claims the Planning Department should recirculate the Draft EIR on this basis. The comment does not include any specificity, cite any evidence, or otherwise raise a significant environmental issue.

This general comment does not otherwise address a significant environmental issue in the Draft EIR and thus no further response is required.

COMMENT LETTER NO. 9

A.F. Gilmore Company
Peter Hayden, Director/Construction & Development
6301 W. 3rd Street
Los Angeles, CA 90036
March 29, 2021

COMMENT 9.1

Dear Mr. Moreno -

Thank you for the opportunity to comment upon the above-referenced Draft Environmental Impact Report (Case No.ENV-2018-2771-EIR). Our comments are as follows:

1. The EIR excluded detailed analyses for The Original Farmers Market's access points (i.e., the intersection of Gilmore Lane with 3rd Street, and the intersection of Farmers Market Place with S. Fairfax Avenue). The EIR's mitigation measures are geared towards the vehicle miles traveled (VMT) analysis results, which are area-wide measures and not targeted to any specific intersections. Please provide additional information that will help us to evaluate how the proposed development would impact access and operations for The Original Farmers Market.

RESPONSE TO COMMENT 9.1

The commenter claims the Draft EIR did not analyze the intersection of Gilmore Lane with 3rd Street, and the intersection of Farmers Market Place with S. Fairfax Avenue, which are near access points for The Original Farmers Market. The State of California Office of Planning and Research updated Appendix G of the State CEQA Thresholds, to establish new criteria for analyzing traffic impacts based on vehicle miles traveled (VMT) in lieu of the level of service (LOS) methodology in January 2019. The City Council adopted the LADOT Transportation Assessment Guidelines (TAG), which includes the updated CEQA methodology and significance thresholds as directed under SB 743, on July 30, 2019 (and as amended in 2020). Based on the new State and City requirements, a VMT analysis was conducted in November 2019 for the Proposed Project (Appendix H.1(B) of the Draft EIR). Accordingly, the analysis in Section IV.I, Traffic/Transportation of the Draft EIR addresses the Proposed Project's traffic impacts utilizing VMT methodology in compliance with CEQA. Therefore, impacts on local streets from traffic congestion is no longer considered to be a CEQA issue. Notwithstanding, the July 2019 Non-CEQA Traffic Analysis is provided in Appendix H.2(A) of the Draft EIR for informational purposes as a non-CEQA traffic analysis that addresses traffic volumes.

In Section 1.1 on page 3 the Non-CEQA Traffic Analysis, upon coordination with LADOT staff, 10 study intersections were identified for evaluation. The two access points referenced by the commenter, the intersection of Gilmore Lane and 3rd Street and the intersection of Farmers Market Place and S. Fairfax Avenue, were not analyzed in the Non-CEQA Traffic Analysis for the following reasons.

The traffic analysis study area is generally comprised of locations, which have the greatest potential to experience significant traffic impacts due to the Proposed Project as defined by the Lead Agency. In the traffic engineering practice, the study area generally includes those intersections that are:

a. Immediately adjacent or in close proximity to the Project Site;
b. In the vicinity of the Project Site that are documented to have current or projected future adverse operational issues; and
c. In the vicinity of the Project Site that are forecast to experience a relatively greater percentage of Project-related vehicular turning movements (e.g., at freeway ramp intersections).

Therefore, the intersections selected for the for the Non-CEQA Traffic Analysis were based on the above criteria, the peak-hour vehicle trip generation associated with the Proposed Project, the anticipated distribution of Project vehicular trips, and existing intersection/corridor operations. As such, the access points of Gilmore Lane and W. 3rd Street and Farmers Market Place and S. Fairfax Avenue were not analyzed in the Non-CEQA Traffic Analysis because these intersections did not meet all of the above criteria. The trips that would utilize these two access points would also drive along the intersections evaluated in the Non-CEQA Traffic Analysis. For example, vehicle trips that would utilize the Gilmore Lane with 3rd Street access point would either drive through the intersection of W. 3rd Street and S. Fairfax Avenue or the intersection of W. 3rd Street and Ogden Drive. These nearby intersections were evaluated in the Non-CEQA Traffic Analysis (See study intersection Nos. 4 and 7, respectively) and were found to not result in a significant volume-to-capacity ratio during the Future Year (2023) scenario with respect to the LOS methodology, as shown in Table 9-1 of the Non-CEQA Traffic Analysis. In addition, the vehicle trips that would utilize the Farmers Market Place and S. Fairfax Avenue access point would either drive through the intersections of Beverly Boulevard and S. Fairfax Avenue or the intersection of W. 3rd Street and S. Fairfax Avenue. These intersections (see study intersections Nos. 3 and 4, respectively, in the Non-CEQA Traffic Analysis) would not significantly increase volume/capacity ratios during the Future Year (2023) scenario, as shown in Table 9-1, and would therefore not result in a significant impact with respect to the Non-CEQA LOS methodology. As such, the Non-CEQA Traffic Analysis concluded the Proposed Project would not increase traffic impacts for the surrounding intersections, which would also not significantly increase traffic for the access points between the evaluated intersections.

Furthermore, although CEQA transportation impacts are now evaluated under VMT criteria pursuant to State and LADOT requirements, LADOT continues to require and review a project's site access, circulation, and operational plan to determine if any access

enhancements, transit amenities, intersection improvements, traffic signal upgrades, neighborhood traffic calming, or other improvements are needed. Correspondence with LADOT (Appendix H.1(A) of the Draft EIR) concludes that the Proposed Project has completed a circulation analysis using a LOS screening methodology that indicates that the trips generated by the Proposed Project will not result in adverse circulation conditions at any locations. DOT has reviewed the LOS analysis and determined that it adequately discloses operational concerns. Therefore, LADOT does not require any improvements on surrounding access points.

COMMENT 9.2

2. The EIR indicates that access to the existing surface parking areas within the western portion of the Project Site would continue to be provided via one driveway each along S. Fairfax Avenue and W. 3rd Street. However, the EIR does not provide specific information regarding how these driveways will operate or whether the surface parking lot will be paid and controlled parking. Please provide additional information regarding how these driveways will be operated and / or controlled to minimize congestion due to queuing of vehicles arriving and departing from the existing shopping center on the western half of the site, including location of ticket entry columns, location of ticket exit columns and/or booths, etc.

RESPONSE TO COMMENT 9.2

As noted in the Draft EIR, the western portion of the Project Site is not proposed to be redeveloped as part of the Proposed Project. Currently, the existing driveways to the Center's surface parking lot located along S. Fairfax Avenue and W. 3rd Street are uncontrolled and parking is free of charge. The Proposed Project does not include any changes to these access points. Modifications to the surface parking lot within the western portion of the Project Site are beyond the scope of the Draft EIR. Thus, no further response is required.

It should also be noted that, the Proposed Project's driveway configurations and vehicular access points to the Development Site were evaluated in conformance with the LADOT's TAG in Section IV.I, Transportation. As noted in Table IV.I-2 on Page IV.I-28, and corresponding analysis on the following pages within Section IV.I, Transportation, the Proposed Project would not conflict with any city policy or standards related to driveway design standards, vehicular access, passenger loading and unloading, and/or loading access needs.

COMMENT 9.3

3. Project-specific mitigation measures proposed in the EIR aim to minimize residential car ownership (through parking costs) and encourage alternate travel modes such as transit and bicycling (through education and bike parking). However, the EIR states that the development would be providing more parking supply than is required by zoning. This appears to be in conflict with the overall mitigation strategy to discourage residential car ownership through parking pricing. Please clarify.

RESPONSE TO COMMENT 9.3

As set forth in Table II-5 of the Draft EIR, the LAMC requires 892 new parking spaces to accommodate the new uses associated with the Proposed Project. A new parking garage would be constructed on the Development Site to accommodate the need for new parking spaces. The Development Site would provide 996 new parking spaces. This equates to a theoretical surplus of 104 parking spaces on the Development Site (996 provided – 892 required). As discussed in the Draft EIR, the Development Site occupies a portion of the defined Project Site, which is an operating commercial center. Approximately one-half of the existing surface parking lot and 63,688 square feet of existing commercial floor area that is located within the western portion of the Project Site is outside the Development Site and will remain operational.

The Draft EIR discussed this holistic parking scenario in Section II, Project Description, on Page II-36, stating that "the total amount of parking required on the Project Site after the Project is developed pursuant to the LAMC is 1,110 parking spaces (636 commercial spaces and 511 residential spaces). The total amount of parking provided within the Project Site after development of the Project would be 1,146 spaces." That means that, overall, there will only be 36 excess parking spaces provided at the Center. This minor excess is reasonable to accommodate the demands of a mixed-use shopping center and ensure adequate parking spaces for retail and residential uses.

In addition, as noted by the comment, the Draft EIR includes mitigation measure MM-TRAFFIC-1, which includes a TDM program with unbundled parking and marketing and promotion of alternative transportation options around the Project Site. Note that this mitigation is not related to parking impacts. In fact, CEQA does not require the Draft EIR to analyze parking impacts. Instead, the mitigation relates to VMT impacts that were concluded to be less than significant. Therefore, there is no conflict (as asserted in the comment) between parking supply and proposed mitigation discussed in Draft EIR.

COMMENT 9.4

4. Please amend the EIR to include a requirement that construction activities must be coordinated in advance with adjacent property owners. Specifically, lane closures on 3rd Street must be prohibited during the peak retail season (Thanksgiving through early January), as well as summer holiday periods i.e. Memorial Day, July 4, Labor Day.

RESPONSE TO COMMENT 9.4

This comment requests that the City amend the EIR to require construction activities be coordinated in advance with adjacent property owners; and specifically request that the City prohibit lane closures on 3rd Street during from Thanksgiving through early January, and during the summer holiday periods of Memorial Day, July 4th and Labor Day. This commenter does not provide any evidence to indicate that the Proposed Project would have significant traffic impacts during these times. Further, pursuant to California Senate Bill 743 (SB 743), which went into effect in January 2014, the analysis of traffic impacts shifted from driver delay, which is typically measured by traffic level of service (LOS), to a new measurement, vehicle miles traveled (VMT) that addresses the state's goals on reduction of greenhouse gas (GHG). On July 30, 2019, the City of Los Angeles adopted VMT as a criteria in determining transportation impacts under CEQA, as required by Senate Bill (SB) 743 and the provisions set forth in Section 15064.3 of the CEQA Guidelines. Thus, temporary traffic delays during construction, and also operation, are not considered an environmental impact pursuant to CEQA.

Moreover, the Draft EIR includes PDF-TRAFFIC-1, which would develop a Construction Traffic Control/Management Plan approved by LADOT to minimize the effects of construction on vehicular and pedestrian circulation and assist in the orderly flow of vehicular and pedestrian circulation in the area of the Proposed Project. The plan would identify the location of any roadway closures, traffic detours, haul routes, hours of operation, protective devices, warning signs and access to abutting properties. Therefore, implementation of PDF-TRAFFIC-1 would ensure that the Proposed Project would minimize the effects of construction on vehicular and pedestrian circulation and would not preclude pedestrian or vehicular access to surrounding properties.

The recommendations in this comment are noted for the record and will be forwarded to the decision makers for their consideration.

COMMENT 9.5

5. Please describe pedestrian safety measures (i.e., protection from potential theft and similar issues), such as cameras, security staff, etc. that will be designed into the Pedestrian Portal proposed to be located on the ground level of the new parking structure.

RESPONSE TO COMMENT 9.5

Pedestrian access to the private residential, parking, and open space areas would be accessible via secured entry points for residents and controlled visitor access only. As discussed in Section IV.H.2, Public Services - Police Protection of the Draft EIR, the Proposed Project would also include strategically positioned low-level and security lighting to enhance public safety (See Project Design Feature PDF-POL-3, above). Visually obstructed and infrequently accessed "dead zones" will be limited and, where possible, security systems will be installed to limit public access. As provided in Project Design Feature PDF-POL-3, the Proposed Project will also include nighttime security lighting of building entries and walkways, private on-site security patrols, a closed circuit security camera system, and secure parking facilities with sufficient lighting to maximize visibility and reduce areas of concealment. As noted in Project Design Feature PDF-POL-2, the Applicant will also submit a diagram of the Project Site to the Los Angeles Police Department's (LAPD) Wilshire Area Commanding Officer that includes access routes and any additional information that might facilitate police response. The Proposed Project's parking areas would be safely designed and approved by the necessary agencies, including the LAPD, LAFD, LADBS, and the LADOT to ensure pedestrian safety within the parking structure.

COMMENT 9.6

6. Please describe where the mechanical ventilation units for the proposed new retail and residential units will be located, how they will be screened from public view, and how potential noise impacts will be mitigated.

RESPONSE TO COMMENT 9.6

The Proposed Project's mechanical and heating, ventilation, and air conditioning (HVAC) equipment would be located at the rooftop of the proposed structure (see Figure II-14 in Section II. Project Description). As shown in Figure II-14, the mechanical equipment would be located towards the center of the rooftop. The setback of the mechanical equipment from the building's edge and the installation of mechanical screens or solar

panels would effectively block the line of sight to/from the buildings mechanical equipment.

Additionally, regarding noise, as discussed on Page IV.F-37 of the Draft EIR, the HVAC equipment would not result in significantly increased ambient noise levels to any nearby sensitive receptors. The Draft EIR explains that operation of this equipment would generate noise, but the design of HVAC units and exhaust fans must comply with Section 112.02 of the LAMC, which prohibits noise from air conditioning, refrigeration, heating, pumping, and filtering equipment from exceeding the ambient noise level on the premises of other occupied properties by more than five decibels. Thus, the on-site equipment would be designed such that they would be shielded, and appropriate noise muffling devices would be installed on the equipment to reduce noise levels that affect nearby uses. This regulatory compliance reduces noise impacts from HVAC equipment to less than significant levels. Accordingly, no mitigation measures are required for this noise source.

COMMENT LETTER NO. 10

Mayra Balces
569 S. Orange Grove Avenue
Los Angeles, CA 90036
Mayra_CJ05@yahoo.com
February 24, 2021

COMMENT 10.1

Dear Mr. Lamborn,

I support Town & Country project at 3rd and Fairfax. It is about time that property is redeveloped into something that is new, exciting, and up to date. I support the mixed use of housing units, new retail, and tiered parking in the new design. The City of Los Angeles desperately needs new housing units, and this project will create 331 new market rate units for our community.

The Draft Environmental Impact Report (DEIR) has confirmed that no significant impacts under the California Environmental Quality Act are present in the project. I think this project is a win-win for the community, the City of Los Angeles and for the project

developer. I support the Town and Country project and ask that the City of Los Angeles approve this project.

RESPONSE TO COMMENT 10.1

This comment states its support for the Proposed Project. This comment has been included in the record and will be forwarded to the decision maker for their consideration. No further response is required.

COMMENT LETTER NO. 11

Matt Dean
570 S. Orange Grove Avenue
Los Angeles, CA 90036
February 24, 2021

COMMENT 11.1

Dear Mr. Lamborn,

I am in full support of the Town and Country project at 3rd and Fairfax. Increased traffic and difficult access to the current shopping center have been troublesome and made it very difficult to enjoy the space. The redesigned project will improve the parking configuration and traffic circulation as well as enhance access and mobility throughout the property with new entrances and exits ensuring pedestrians, bikes and cars can better enjoy all it has to offer.

The recently released Draft Environmental Impact Report also found that the redevelopment will have no significant impacts on the surrounding environment, giving us no reason to be in opposition of an improved project that will better serve our community. For these reasons I urge your support as well.

RESPONSE TO COMMENT 11.1

This comment states its support for the Proposed Project. This comment has been included in the record and will be forwarded to the decision maker for their consideration. No further response is required.

COMMENT LETTER NO. 12

Ajani Byrant Gysi
560 S. Orange Grove Avenue
Los Angeles, CA 90036
ajanibryantgysi@gmail.com
February 24, 2021

COMMENT 12.1

Dear Mr. Lamborn,

I'm reaching out to express my support for the re-envisioning of the Town & Country project at 3rd and Fairfax. The project recognizes the unique needs of the entire community- especially the nearby elementary school. The project team has worked with school leadership, teachers and parents to address concerns and meet all core school needs while creating a plan for voluntary investments that will provide long-term benefits to the students, campus and neighborhood.

The recent Draft Environmental Impact Report (DEIR) also found no significant impacts on the surrounding area including any impact on air quality, traffic, hazardous materials or noise. With a strong collaboration within the community, and considering the results from the DEIR, I urge you to support and move this project forward.

RESPONSE TO COMMENT 12.1

This comment states its support for the Proposed Project. This comment has been included in the record and will be forwarded to the decision maker for their consideration. No further response is required.

COMMENT LETTER NO. 13

Chris Hours
575 S. Orange Grove Avenue
Los Angeles, CA 90036
nyc7monaco@gmail.com
February 24, 2021

COMMENT 13.1

Dear Mr. Lamborn,

I am writing to express my support for the redevelopment of Town and Country at 3rd and Fairfax. The plans for Town & Country reflect input gained through a proactive outreach effort that included consistent meetings with local residents, business owners and the council office. This collaborative and transparent approach ensures the final project is reflective of our neighborhood's wants and needs.

With strong and transparent partnerships throughout the community, I fully support this new development and urge you to do the same.

RESPONSE TO COMMENT 13.1

This comment states its support for the Proposed Project. This comment has been included in the record and will be forwarded to the decision maker for their consideration. No further response is required.

COMMENT LETTER NO. 14

Casey Khadeni
563 S. Ogden Drive
Los Angeles, CA 90036
February 24, 2021

COMMENT 14.1

Dear Mr. Lamborn,

I would like to express my support of the Town and Country project at 3rd and Fairfax. The new design of the property is attractive, well planned, and much needed at the intersection. I believe the new parking configuration and traffic flow inside of the project will enhance the experience of shopping at the newly designed property.

The Draft Environmental Impact Report also found virtually no impacts on the surrounding community and will not affect traffic in a negative manner. Please accept my letter of support for this wonderful project.

RESPONSE TO COMMENT 14.1

This comment states its support for the Proposed Project. This comment has been included in the record and will be forwarded to the decision maker for their consideration. No further response is required.

COMMENT LETTER NO. 15

Faizal Khan
555 S. Ogden Drive
Los Angeles, CA 90036
February 24, 2021

COMMENT 15.1

Dear Mr. Lamborn,

I am writing to express my support for the Town & Country project at 3rd and Fairfax, which will re-envision an outdated shopping center with new housing, retail and open public space, all designed around a community-oriented approach. As a local resident, I am excited to see the property redesigned to better fit our community.

Along with providing much-needed new housing and community-serving retail options, the reimagining of Town & Country will greatly improve the property, by creating open-air spaces with new landscaping, wider sidewalks and easier access for visitors and residents.

The plans for Town & Country reflect input gained through a proactive outreach effort that included consistent meetings with local community members, business owners and the council office. Throughout the planning process, Holland Partner Group and Regency Centers have taken a collaborative and transparent approach to engaging neighborhood stakeholders to ensure the final project is reflective of our community's priorities.

The recently released Draft Environmental Impact Report (DEIR) confirms no significant impacts under the California Environmental Quality Act. Nonetheless, the project will be investing in the community through a generous benefits package that was greatly informed by the development team's engagement with the local community.

With the opportunity to improve our community and modernize 3rd and Fairfax before us- and do so with no significant impacts reported from the DEIR - I fully support Town & Country.

RESPONSE TO COMMENT 15.1

This comment states its support for the Proposed Project. This comment has been included in the record and will be forwarded to the decision maker for their consideration. No further response is required.

COMMENT LETTER NO. 16

Shlomo Levy
589 S. Orange Grove Avenue
Los Angeles, CA 90036
February 22, 2021

COMMENT 16.1

Dear Mr. Lamborn,

I am writing to express my full support for the re-envisioned Town & Country project at 3rd and Fairfax. The thoughtfully planned development will create a new mix of much-needed retail – bringing neighborhood-focused shops to the property that will better fit the needs and wants of our community. Improved walkways, open spaces and landscaping will also enhance the retail experience for residents and provide a new gathering space for the entire neighborhood.

With recent findings from the Draft Environmental Impact Report showing no significant impacts to the surrounding area from the development, I urge you to advance this project.

RESPONSE TO COMMENT 16.1

This comment states its support for the Proposed Project. This comment has been included in the record and will be forwarded to the decision maker for their consideration. No further response is required.

COMMENT LETTER NO. 17

J. Palms
511 S. Ogden Drive
Los Angeles, CA 90036
February 24, 2021

COMMENT 17.1

Dear Mr. Lamborn,

I am writing to express my support for the Town & Country project at 3rd and Fairfax, which will re-envision an outdated shopping center with new housing, retail and open public space, all designed around a community-oriented approach. As a local resident, I am excited to see the property redesigned to better fit our community. Throughout the project's planning process, Holland Partner Group and Regency Centers have taken a collaborative and transparent approach to ensure the final project is reflective of our priorities.

This project will provide much-needed new housing in the community, which is experiencing a significant increase in residential demand as new employers move into the region. The development also reflects community feedback, which prioritized market-rate housing and a mid-sized building that better fits with our neighborhood over a much larger structure with affordable units. We believe this is an important distinction that balances our community's needs by increasing the supply of housing while also improving the existing center to make the Third and Fairfax corridor a true hub for our neighborhood.

The plans for Town & Country reflect input gained through a proactive outreach effort that included consistent meetings with a project working group comprised of local residents, neighborhood council representatives, business owners and local elected officials/staff. Given the proximity, regular and ongoing meetings with Hancock Park Elementary School

stakeholders, including LAUSD, parents and teachers also continue to guide the project's progress in an effort to proactively address concerns, meet the school's core needs, limit impacts to the school and plan for voluntary campus investments that will provide long-term benefits to the students, campus and surrounding community.

Furthermore, the recently released Draft Environmental Impact Report (DEIR) confirms no significant impacts under the California Environmental Quality Act. Nonetheless, the project will be investing in the community through a generous benefits package that was greatly informed by the development team's engagement with the local community.

With the opportunity to improve our community and modernize 3rd and Fairfax before us - and do so with no significant impacts reported from the DEIR - I fully support Town & Country.

RESPONSE TO COMMENT 17.1

This comment states its support for the Proposed Project. This comment has been included in the record and will be forwarded to the decision maker for their consideration. No further response is required.

COMMENT LETTER NO. 18

[Name Illegible]
6039 S. Orange Avenue
Los Angeles, CA 90036
February 24, 2021

COMMENT 18.1

Dear Mr. Lamborn,

I am fully supportive of the Town and Country project at 3rd and Fairfax. The project creates a design for the future of our City. We need projects that have mixed use components of housing, retail, and open space. Currently, the property is a sea of asphalt with little landscaping and no open space for the community to use. The new design will allow members of the public to visit, shop and enjoy the open space at the site. More importantly, the project will create 331 new units of housing that is very much needed in our community.

The Draft Environmental Impact Report also found that the redevelopment will have no significant impacts on the surrounding environment, thus creating a wonderful opportunity to get this project approved and built. Thank you for your time.

RESPONSE TO COMMENT 18.1

This comment states its support for the Proposed Project. This comment has been included in the record and will be forwarded to the decision maker for their consideration. No further response is required.

COMMENT LETTER NO. 19

Anabella Williams
507 S. Ogden Drive
Los Angeles, CA 90036
February 24, 2021

COMMENT 19.1

Dear Mr. Lamborn,

I am writing to express my support for the redevelopment of Town and Country at 3rd and Fairfax. The project team has worked closely with the local school to ensure that any potential impacts were discussed and remedied to the best of their ability. I find it admirable that the developer worked closely with school leaders and parents to address the needs of the school. This is a great example of planning a project with community input.

I support the Town and Country project because it is a thoughtfully designed project that includes 331 units of housing, new retail, better traffic flow and parking configurations. As such, I ask the City of Los Angeles to accept my support for this project and please approve the Town and Country project.

RESPONSE TO COMMENT 19.1

This comment states its support for the Proposed Project. This comment has been included in the record and will be forwarded to the decision maker for their consideration. No further response is required.

COMMENT LETTER NO. 20

Southwest Regional Council of Carpenters
Mitchell M. Tsai, Attorney at Law
155 South El Molino Avenue, Suite 104
Pasadena, CA 91101
April 19, 2021

COMMENT 20.1

Dear Mr. Moreno,

On behalf of the Southwest Regional Council of Carpenters ("**Commenter**" or "**Carpenter**"), my Office is submitting these comments on the City of Los Angeles' ("**City**" or "**Lead Agency**") Draft Environmental Impact Report ("**DEIR**") (SCH No. 2019029111) for the 3rd and Fairfax Mixed-Use Project which would involve the construction and operation of a new mixed-use development within the eastern portion of the existing Town & Country Shopping Center (Center or Project Site) that is currently developed with retail and commercial uses. ("**Project**").

The Southwest Carpenters is a labor union representing 50,000 union carpenters in six states and has a strong interest in well ordered land use planning and addressing the environmental impacts of development projects.

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

RESPONSE TO COMMENT 20.1

This comment letter was submitted on April 19, 2021, 20 days after the conclusion of the public review period. The statutory public review period ended on March 29, 2021. Public Resources Code, Section 21091(d)(1) states that the lead agency shall consider comments it receives on a draft environmental impact report if those comments are received within the public review period. Furthermore, pursuant to Public Resources Code Section 21091(d)(1), the Lead Agency does not have to consider or respond to comments received after the public review period. Similarly, CEQA Guidelines, Section 15088

provides that the lead agency shall respond to comments raising significant environmental issues received during the noticed comment period and may respond to late comments.

Nonetheless, without waiving the rights of the Lead Agency, and to inform the decision makers, below are good-faith responses to late comments received.

This comment introduces the commenter. Responses to specific comments are provided below.

COMMENT 20.2

Commenters expressly reserves the right to supplement these comments at or prior to hearings on the Project, and at any later hearings and proceedings related to this Project. Cal. Gov. Code § 65009(b); Cal. Pub. Res. 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 Cal. App. 4th 1109, 1121.

Commenters expressly reserves the right to supplement these comments at or prior to hearings on the Project, and at any later hearings and proceedings related to this Project. Cal. Gov. Code § 65009(b); Cal. Pub. Res. 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 Cal. App. 4th 1109, 1121.

Commenters [sic] incorporates by reference all comments raising issues regarding the EIR submitted prior to certification of the EIR for the Project. *Citizens for Clean Energy v City of Woodland* (2014) 225 Cal. App. 4th 173, 191 (finding that any party who has objected to the Project's environmental documentation may assert any issue timely raised by other parties).

Moreover, Commenter requests that the Lead Agency 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.

RESPONSE TO COMMENT 20.2

The commenter cites PRC Section 21177(a) and states that it reserves the right to supplement its late comments on the Draft EIR at or prior to hearings on the Proposed Project.

The commenter also requests legally-required notices related to the Lead Agency's actions on the Proposed Project. The comment is noted and the Lead Agency will add the commenter to the list of individuals and organizations receiving future notices related to the Proposed Project.

COMMENT 20.3

The City should require the Applicant provide additional community benefits such as requiring local hire and use of a skilled and trained workforce to build the Project. The City should require the use of workers who have graduated from a Joint Labor Management apprenticeship training program approved by the State of California, or have at least as many hours of on-the-job experience in the applicable craft which would be required to graduate from such a state approved apprenticeship training program or who are registered apprentices in an apprenticeship training program approved by the State of California.

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

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

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

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

> …labor should be considered an investment rather than a cost – and investments in growing, diversifying, and upskilling California's workforce can positively affect returns on climate mitigation efforts. In other words, well trained workers are key to delivering emissions reductions and moving California closer to its climate targets.[19]

RESPONSE TO COMMENT 20.3

The commenter raises several claims that are either unrelated to significant environmental issues analyzed in the Draft EIR or are inaccurately categorized as applying to the Proposed Project.

First, the commenter states that the Applicant should include additional community benefits such as requiring local hire and use of a skilled and trained workforce to build the Proposed Project.

Pursuant to LAMC Section 12.14, the proposed building with mixed-use multi-family and commercial land uses are explicitly permitted uses in the C2 zone. The Applicant has complied with all applicable zoning and land use requirements, and will pay all development impact fees required by local and state law. There are no additional zoning requirements, ordinances or land use policies that mandate additional community benefits for the Project.

Second, the commenter claims that the hiring of local workforce for the Proposed Project's construction would reduce environmental impacts and increase the economic impact of the Proposed Project As discussed in Section IV.C Greenhouse Gas Emissions, the Proposed Project would not result in significant GHG impacts, and no mitigation measures are required. As this comment does not raise a specific CEQA issue, no further response is required.

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

COMMENT 20.4

The City should also require the Project to be built to standards exceeding the current 2019 California Green Building Code to mitigate the Project's environmental impacts and to advance progress towards the State of California's environmental goals.

RESPONSE TO COMMENT 20.4

The commenter states that the Proposed Project should exceed the current 2019 California Green (CALGreen) Building Code to mitigate the Proposed Project's environmental impacts. This comment does not state which environmental impacts warrant mitigation. The Draft EIR analyzes in detail all potential impacts caused by the Proposed Project and found that there are no significant impacts that require mitigation, including impacts related to air quality, energy, and greenhouse gas emissions. Therefore, no mitigation measures are required, nor can mitigation be imposed by the Lead Agency as there are no significant impacts. Additionally, as stated on Page IV.B-19 of Section IV.B Energy, of the Draft EIR, the Proposed Project would be required to meet the 2019 CALGreen Building Code (Title 24) standards, as well as the 2020 L.A. Green Building Code's development standards, which are more stringent than the 2019 CALGreen Building Code. The Proposed Project would also incorporate PDF-GHG-1 in Section IV.C, Greenhouse Gas Emissions, which prohibits installation of hearths/fireplaces in the residential units and PDF-AQ-1, in Section IV.A, Air Quality, which would require the use of electricity from power poles or solar-powered generators during construction, where power poles are available. Therefore, the Proposed Project would be built to exceed some standards of the 2019 CALGreen Building Code.

COMMENT 20.5

I. EXPERTS

This comment letter includes comments from air quality and greenhouse gas experts Matt Hagemann, P.G., C.Hg. and Paul Rosenfeld, Ph.D. concerning the DEIR. Their comments, attachments, and Curriculum Vitae ("CV") are attached hereto and are incorporated herein by reference.

Matt Hagemann, P.G., C.Hg. ("Mr. Hagemann") has over 30 years of experience in environmental policy, contaminant assessment and remediation, stormwater compliance, and CEQA review. He spent nine years with the U.S. EPA in the RCRA and Superfund programs and served as EPA's Senior Science Policy Advisor in the Western Regional Office where he identified emerging threats to groundwater from perchlorate and MTBE. While with EPA, Mr. Hagemann also served as Senior Hydrogeologist in the oversight of

the assessment of seven major military facilities undergoing base closer. He led numerous enforcement actions under provisions of the Resource Conservation and Recovery Act (RCRA) and directed efforts to improve hydrogeologic characterization and water quality monitoring.

For the past 15 years, Mr. Hagemann has worked as a founding partner with SWAPE (Soil/Water/Air Protection Enterprise). At SWAPE, Mr. Hagemann has developed extensive client relationships and has managed complex projects that include consultation as an expert witness and a regulatory specialist, and a manager of projects ranging from industrial stormwater compliance to CEQA review of impacts from hazardous waste, air quality, and greenhouse gas emissions.

Mr. Hagemann has a Bachelor of Arts degree in geology from Humboldt State University in California and a Masters in Science degree from California State University Los Angeles in California.

Paul Rosenfeld, Ph.D. ("Dr. Rosenfeld") is a principal environmental chemist at SWAPE. Dr. Rosenfeld has over 25 years' experience conducting environmental investigations and risk assessments for evaluating impacts on human health, property, and ecological receptors. His expertise focuses on the fate and transport of environmental contaminants, human health risks, exposure assessment, and ecological restoration. Dr. Rosenfeld has evaluated and modeled emissions from unconventional oil drilling operations, oil spills, landfills, boilers and incinerators, process stacks, storage tanks, confined animal feeding operations, and many other industrial and agricultural sources. His project experience ranges from monitoring and modeling of pollution sources to evaluating impacts of pollution on workers at industrial facilities and residents in surrounding communities.

Dr. Rosenfeld has investigated and designed remediation programs and risk assessments for contaminated sites containing lead, heavy metals, mold, bacteria, particular matter, petroleum hydrocarbons, chlorinated solvents, pesticides, radioactive waste, dioxins and furans, semi- and volatile organic compounds, PCBs, PAHs, perchlorate, asbestos, per- and poly-fluoroalkyl substances (PFOA/PFOS), unusual polymers, fuel oxygenates (MTBE), among other pollutants, Dr. Rosenfeld also has experience evaluating greenhouse gas emissions from various projects and is an expert on the assessment of odors from industrial and agricultural sites, as well as the evaluation of odor nuisance impacts and technologies for abatement of odorous emissions. As a principal scientist at SWAPE, Dr. Rosenfeld directs air dispersion modeling and exposure assessments. He has served as an expert witness and testified about pollution sources causing nuisance and/or personal injury at dozens of sites and has testified as an expert

witness on more than ten cases involving exposure to air contaminants from industrial sources.

Dr. Rosenfeld has a Ph.D. in soil chemistry from the University of Washington, M.S. in environmental science from U.C. Berkeley, and B.A. in environmental studies from U.C. Santa Barbara.

RESPONSE TO COMMENT 20.5

The comment lists the preparers involved in the preparation of this comment letter, as well as their expertise and qualifications. The Soil/Water/Air Protection Enterprise (SWAPE) was retained to provide comments regarding the Draft EIR. Additionally, SWAPE's comments, provided in Exhibit A and Exhibit D to the Mitchell M. Tsai letter, are incorporated and addressed separately as Comment Letter No. 20A and Comment Letter No. 20B, respectively. As this comment does not raise a specific CEQA issue, no further response is required.

COMMENT 20.6

II. THE PROJECT WOULD BE APPROVED IN VIOLATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

A. Background Concerning the California Environmental Quality Act

CEQA has two basic purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. 14 California Code of Regulations ("**CCR**" or "**CEQA Guidelines**") § 15002(a)(1).[20] "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.' [Citation.]" *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 564. The EIR has been described as "an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm'rs.* (2001) 91 Cal. App. 4th 1344, 1354 ("*Berkeley Jets")*; *County of Inyo v. Yorty* (1973) 32 Cal. App. 3d 795, 810.

[20] *The CEQA Guidelines, codified in Title 14 of the California Code of Regulations, section 15000 et seq, are regulatory guidelines promulgated by the state Natural Resources Agency for the implementation of CEQA. (Cal. Pub. Res. Code § 21083.) The CEQA Guidelines are given "great weight in interpreting CEQA except when . . . clearly unauthorized or erroneous." Center for Biological Diversity v. Department of Fish & Wildlife (2015) 62 Cal. 4th 204, 217.*

Second, CEQA directs public agencies to avoid or reduce environmental damage when possible by requiring alternatives or mitigation measures. CEQA Guidelines § 15002(a)(2) and (3). *See also, Berkeley Jets,* 91 Cal. App. 4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; *Laurel Heights Improvement Ass'n v. Regents of the University of California* (1988) 47 Cal. 3d 376, 400. The EIR serves to provide public agencies and the public in general with information about the effect that a proposed project is likely to have on the environment and to "identify ways that environmental damage can be avoided or significantly reduced." CEQA Guidelines § 15002(a)(2). If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has "eliminated or substantially lessened all significant effects on the environment where feasible" and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns" specified in CEQA section 21081. CEQA Guidelines § 15092(b)(2)(A–B).

While the courts review an EIR using an "abuse of discretion" standard, "the reviewing court is not to 'uncritically rely on every study or analysis presented by a project proponent in support of its position.' A 'clearly inadequate or unsupported study is entitled to no judicial deference.'" *Berkeley Jets*, 91 Cal.App.4th 1344, 1355 (emphasis added) (quoting *Laurel Heights,* 47 Cal.3d at 391, 409 fn. 12). Drawing this line and determining whether the EIR complies with CEQA's information disclosure requirements presents a question of law subject to independent review by the courts. *Sierra Club v. Cnty. of Fresno* (2018) 6 Cal. 5th 502, 515; *Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal. App. 4th 48, 102, 131. As the court stated in *Berkeley Jets*, 91 Cal. App. 4th at 1355:

> 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.

The preparation and circulation of an EIR is more than a set of technical hurdles for agencies and developers to overcome. The EIR's function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences and, equally important, that the public is assured those consequences have been considered. For the EIR to serve these goals it must present information so that the foreseeable impacts of pursuing the project can be understood and weighed, and the public must be given an adequate opportunity to comment on that presentation before the decision to go forward is made. *Communities for a Better Environment v. Richmond* (2010) 184 Cal. App. 4th 70, 80 (quoting *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449–450).

B. CEQA Requires Revision and Recirculation of an Environmental Impact Report When Substantial Changes or New Information Comes to Light

Section 21092.1 of the California Public Resources Code requires that "[w]hen significant new information is added to an environmental impact report after notice has been given pursuant to Section 21092 … but prior to certification, the public agency shall give notice again pursuant to Section 21092, and consult again pursuant to Sections 21104 and 21153 before certifying the environmental impact report" in order to give the public a chance to review and comment upon the information. CEQA Guidelines § 15088.5.

Significant new information includes "changes in the project or environmental setting as well as additional data or other information" that "deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative)." CEQA Guidelines § 15088.5(a). Examples of significant new information requiring recirculation include "new significant environmental impacts from the project or from a new mitigation measure," "substantial increase in the severity of an environmental impact," "feasible project alternative or mitigation measure considerably different from others previously analyzed" as well as when "the draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded." *Id.*

An agency has an obligation to recirculate an environmental impact report for public notice and comment due to "significant new information" regardless of whether the agency opts to include it in a project's environmental impact report. *Cadiz Land Co. v. Rail Cycle* (2000) 83 Cal.App.4th 74, 95 [finding that in light of a new expert report disclosing potentially significant impacts to groundwater supply "the EIR should have been revised and recirculated for purposes of informing the public and governmental agencies of the volume of groundwater at risk and to allow the public and governmental agencies to respond to such information."]. If significant new information was brought to the attention of an agency prior to certification, an agency is required to revise and recirculate that information as part of the environmental impact report.

RESPONSE TO COMMENT 20.6

The above comment provides information from case law and the State CEQA Guidelines regarding the basic purpose of CEQA and EIRs. As this comment does not raise any CEQA issues related to the Proposed Project, no further response is required.

COMMENT 20.7

C. Due to the COVID-19 Crisis, the City Must Adopt a Mandatory Finding of Significance that the Project May Cause a Substantial Adverse Effect on Human Beings and Mitigate COVID-19 Impacts

CEQA requires that an agency make a finding of significance when a Project may cause a significant adverse effect on human beings. PRC § 21083(b)(3); CEQA Guidelines § 15065(a)(4).

Public health risks related to construction work requires a mandatory finding of significance under CEQA. Construction work has been defined as a Lower to High-risk activity for COVID-19 spread by the Occupations Safety and Health Administration. Recently, several construction sites have been identified as sources of community spread of COVID-19.[21]

SWRCC recommends that the Lead Agency adopt additional CEQA mitigation measures to mitigate public health risks from the Project's construction activities. SWRCC requests that the Lead Agency require safe on-site construction work practices as well as training and certification for any construction workers on the Project Site.

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

Construction Site Design:

- The Project Site will be limited to two controlled entry points.
- Entry points will have temperature screening technicians taking temperature readings when the entry point is open.
- The Temperature Screening Site Plan shows details regarding access to the Project Site and Project Site logistics for conducting temperature screening.
- A 48-hour advance notice will be provided to all trades prior to the first day of temperature screening.
- The perimeter fence directly adjacent to the entry points will be clearly marked indicating the appropriate 6-foot social distancing position for when you

[21] *Santa Clara County Public Health (June 12, 2020) COVID-19 CASES AT CONSTRUCTION SITES HIGHLIGHT NEED FOR CONTINUED VIGILANCE IN SECTORS THAT HAVE REOPENED, available at https://covid19.sccgov.org/news/news-releases-english/covid-19-cases-construction-sites-highlight-need-continued-vigilance.*

approach the screening area. Please reference the Apex temperature screening site map for additional details.
- There will be clear signage posted at the project site directing you through temperature screening.
- Provide hand washing stations throughout the construction site.

Testing Procedures:

- The temperature screening being used are non-contact devices.
- Temperature readings will not be recorded.
- Personnel will be screened upon entering the testing center and should only take 1-2 seconds per individual.
- Hard hats, head coverings, sweat, dirt, sunscreen or any other cosmetics must be removed on the forehead before temperature screening.
- Anyone who refuses to submit to a temperature screening or does not answer the health screening questions will be refused access to the Project Site.
- Screening will be performed at both entrances from 5:30 am to 7:30 am.; main gate [ZONE 1] and personnel gate [ZONE 2]
- After 7:30 am only the main gate entrance [ZONE 1] will continue to be used for temperature testing for anybody gaining entry to the project site such as returning personnel, deliveries, and visitors.
- If the digital thermometer displays a temperature reading above 100.0 degrees Fahrenheit, a second reading will be taken to verify an accurate reading.
- If the second reading confirms an elevated temperature, DHS will instruct the individual that he/she will not be allowed to enter the Project Site. DHS will also instruct the individual to promptly notify his/her supervisor and his/her human resources (HR) representative and provide them with a copy of Annex A.

Planning

- Require the development of an Infectious Disease Preparedness and Response Plan that will include basic infection prevention measures (requiring the use of personal protection equipment), policies and procedures for prompt identification and isolation of sick individuals, social distancing (prohibiting gatherings of no more than 10 people including all-hands meetings and all-hands lunches) communication and training and workplace controls that meet standards that may be promulgated by the Center for Disease Control,

> Occupational Safety and Health Administration, Cal/OSHA, California Department of Public Health or applicable local public health agencies.[22]

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

RESPONSE TO COMMENT 20.7

This comment states that the Draft EIR should include mitigation measures to address public health concerns related to a potential risk of COVID-19 spread during construction of the Project. The commenter incorrectly identifies public health risks associated with construction (like a pandemic) as requiring a mandatory finding of significance under CEQA. This is incorrect. COVID-19, not the Proposed Project, is an existing environmental condition that is causing substantial public health-related concerns. Under Section 15065 of the CEQA Statute and Guidelines, public health risks from existing environmental conditions are not considered mandatory findings of significance and do not fall under any of the conditions defined as having a significant effect on the environment. The commenter does not provide any evidence to defend this claim.

Additionally, any workers who are employed for the construction of the Proposed Project would be protected by existing Occupational Safety and Health Administration (OSHA) laws and regulations, which are required to address the potential spread of COVID-19 and to ensure worker safety during construction. OSHA is required to update policies to reflect standard operating procedures that follow the Centers for Disease Control (CDC), OSHA, State/territorial, and local guidelines for preventing the spread of COVID-19 infection, including providing training for employees on the spread of the disease in the geographic areas in which they work, and screening calls when scheduling indoor construction work to assess potential exposures and circumstances in the work environment, before worker entry.[23] As such, the Proposed Project's compliance with updated OSHA regulations during construction would not exacerbate existing conditions related to COVID-19.

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

[23] *OSHA, COVID-19 Control and Prevention, Construction Work, website: https://www.osha.gov/coronavirus/control-prevention/construction.*

The commenter also provides resources from the County of Santa Clara, dated June 2020, to support their claim that construction sites are sources of COVID-19 cases. The City and County of Los Angeles establish strict protocols and differ from the County of Santa Clara. The number of cases and safety measures have also changed since the release of this resource. The commenter speculates that COVID-19 would still be a relevant consideration at the time the Proposed Project's construction commences. However, these conditions are based on external factors and changing conditions that are outside the scope of the Proposed Project. Therefore, the commenter has not established a connection between the Proposed Project and the spread of COVID-19, and has not provided any evidence demonstrating that the Proposed Project would cause significant environmental impacts from public health risks, or exacerbate existing public health risks related to COVID-19, during construction of the Proposed Project. Mitigation measures are only required for effects which are found to be significant. See CEQA Guidelines § 15126.4(a)(3). As such, no mitigation measures are required here. The commenter's concerns have been noted for the record and will be forwarded to the decision makers for their consideration.

COMMENT 20.8

D. The DEIR's Mitigation Measures for Hazards and Hazardous Materials are Impermissibly Vague and Defer Critical Details

The DEIR improperly defers critical details of mitigation measures. Feasible mitigation measures for significant environmental effects must be set forth in an EIR for consideration by the lead agency's decision makers and the public before certification of the EIR and approval of a project. The formulation of mitigation measures generally cannot be deferred until after certification of the EIR and approval of a project. CEQA Guidelines § 15126.4(a)(1)(B) ("…[f]ormulation of mitigation measures should not be deferred until some future time.").

Deferring critical details of mitigation measures undermines CEQA's purpose as a public information and decision-making statute. "[R]eliance on tentative plans for future mitigation after completion of the CEQA process significantly undermines CEQA's goals of full disclosure and informed decisionmaking; and[,] consequently, these mitigation plans have been overturned on judicial review as constituting improper deferral of environmental assessment." *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal. App. 4th 70, 92 ("*Communities"*). As the Court noted in *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 307, "[a] study conducted after approval of a project will inevitably have a diminished influence on decisionmaking. Even if the study is subject to administrative approval, it is analogous to the sort of post hoc

rationalization of agency actions that has been repeatedly condemned in decisions construing CEQA."

A lead agency's adoption of an EIR's proposed mitigation measure for a significant environmental effect that merely states a "generalized goal" to mitigate a significant effect without committing to any specific criteria or standard of performance violates CEQA by improperly deferring the formulation and adoption of enforceable mitigation measures. *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 670; *Communities*, 184 Cal.App.4th at 93 ("EIR merely proposes a generalized goal of no net increase in greenhouse gas emissions and then sets out a handful of cursorily described mitigation measures for future consideration that might serve to mitigate the [project's significant environmental effects."); cf. *Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1028-1029 (upheld EIR that set forth a range of mitigation measures to offset significant traffic impacts where performance criteria would have to be met, even though further study was needed and EIR did not specify which measures had to be adopted by city).].

The DEIR notes that Hancock Park Elementary School is located immediately south of the Project site at 408 S. Fairfax Ave., and "[t]here have been numerous technical reports prepared to analyze hazardous materials that are present in the existing structures and the soil conditions on the Development site." (DEIR, I-25.) Additionally, the proposed Project would demolish structures that contain asbestos and lead-based paints. (*Id*.) However, *MM-HAZ-1* is vague and defers crucial details for that mitigation measures until after such time the Project has been approved. Specifically, *MM-HAZ-1* calls for the development of a Soil Management Plan (SMP) to address the aforementioned issues. The DEIR does not contain any such plan and only includes preliminary guidelines for a SMP and impacted soils mitigation.

The DEIR needs to be revised and recirculated to include a SMP and detailed mitigation measures for addressing impacted soils in and around the Project site.

RESPONSE TO COMMENT 20.8

The commenter incorrectly states that the Draft EIR defers critical details of mitigation measures with respect to hazards and hazardous materials, particularly with respect to asbestos/lead-based paints and contaminated soil conditions on the Development Site. Section IV.D Hazardous Materials/Risk of Upset discusses in great detail the impacts from asbestos, lead-based paints, and soil/groundwater contamination from numerous studies, including a Limited Asbestos and Lead Report, Hazardous Materials Inventory Report, Methane Report, three Phase I ESAs, and a Phase II ESA.

The Draft EIR directly addresses the impacts from potential asbestos-containing materials (ACMs) and lead-based paints (LBP) from the existing buildings proposed for demolition. Based on the findings of the Limited Asbestos and Lead Report, some of the materials surveyed and sampled in the buildings proposed for demolition contain ACM and LBP that require special handling and disposal prior to demolition activities. ACMs would be removed and disposed with compliance to SCAQMD Rule 1403. The removal and clean up procedures under Rule 1403 include, but are not limited to, total enclosure with HEPA filtrations to provide negative pressure, glove bag for small projects, and adequate wetting for non-friable ACM. LBP would be identified and handled pursuant to applicable CAL-OSHA regulations. As described on Page IV.D-45 and Page IV.D-46 of Section IV.D Hazardous Materials/Risk of Upset of the Draft EIR, the Proposed Project would be required to fully comply with mandatory state and federal regulations and would ensure that the potential ACMs and LBP would be handled properly. Therefore, the Proposed Project would be subject to strict regulatory compliance measures when handling ACMs and LBP during construction. Compliance with applicable regulations is not deferred mitigation.

Additionally, the commenter incorrectly states that Mitigation Measure MM-HAZ-1 Soil Management Plan (SMP) impermissibly defers critical details and the Draft EIR does not include information to adequately address soil contamination. Page IV.D-50 of Section IV.D Hazardous Materials/Risk of Upset of the Draft EIR provides details of the exact performance standards and procedures for addressing contaminated soils through MM-HAZ-1, including providing guidance to contractors for appropriate handling, screening, and management of potentially impacted or impacted soils. The requirements include training for construction personnel on the appropriate procedures for identification of suspected impacted soils with TPH concentrations that exceed the RWQCB soil screening level for protection of groundwater of 100 mg/kg and the US EPA residential screening level of 110 mg/kg for residential development, requirements for testing and collection of potentially contaminated soils; segregation of potentially impacted soils; and applicable soil handling and disposal procedures. The procedures defined in the Draft EIR address the specific contaminants identified by the multiple Phase I and Phase II ESAs cited in Section IV.D Hazardous Materials/Risk of Upset. The SMP will be finalized after project approval during the design and pre-construction phase, but will follow the specific performance standards provided in the Draft EIR. It is not feasible or practical to include the specific details of the SMP at this time. The specific details of the SMP will be determined with Los Angeles Department of Building and Safety (LADBS) during the pre-construction plan check phase. This type of mitigation measure is permitted under CEQA Guidelines Section 15126.4(a)(1)(A) when the agency (1) commits itself to the mitigation: (2) adopts specific performance standards the mitigation will achieve; and (3) identifies the

type(s) of potential action(s) that can feasibly achieve that performance standard and that will be considered, analyzed, and potentially incorporated in the mitigation measures. The Draft EIR and Section IV. Mitigation Monitoring Program of the Final EIR provide this information and clarify that the MM-HAZ-1 will ensure impacts would be less than significant. LADBS would be the agency with authority to approve, enforce, and monitor implementation of the SMP. Therefore, the Draft EIR does not defer mitigation, and the commenter's claim that the SMP contains only preliminary guidelines is erroneous and based on speculative assumptions.

COMMENT 20.9

E. The DEIR Fails to Support Its Findings with Substantial Evidence

When new information is brought to light showing that an impact previously discussed in the DEIR but found to be insignificant with or without mitigation in the DEIR's analysis has the potential for a significant environmental impact supported by substantial evidence, the EIR must consider and resolve the conflict in the evidence. See *Visalia Retail, L.P. v. City of Visalia* (2018) 20 Cal. App. 5th 1, 13, 17; see also *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal. App. 4th 1099, 1109. While a lead agency has discretion to formulate standards for determining significance and the need for mitigation measures—the choice of any standards or thresholds of significance must be "based to the extent possible on scientific and factual data and an exercise of reasoned judgment based on substantial evidence. CEQA Guidelines § 15064(b); *Cleveland Nat'l Forest Found. v. San Diego Ass'n of Gov'ts* (2017) 3 Cal. App. 5th 497, 515; *Mission Bay Alliance v. Office of Community Inv. & Infrastructure* (2016) 6 Cal. App. 5th 160, 206. And when there is evidence that an impact could be significant, an EIR cannot adopt a contrary finding without providing an adequate explanation along with supporting evidence*. East Sacramento Partnership for a Livable City v. City of Sacramento* (2016) 5 Cal. App. 5th 281, 302.

In addition, a determination that regulatory compliance will be sufficient to prevent significant adverse impacts must be based on a project-specific analysis of potential impacts and the effect of regulatory compliance. In *Californians for Alternatives to Toxics v. Department of Food & Agric.* (2005) 136 Cal. App. 4th 1, the court set aside an EIR for a statewide crop disease control plan because it did not include an evaluation of the risks to the environment and human health from the proposed program but simply presumed that no adverse impacts would occur from use of pesticides in accordance with the registration and labeling program of the California Department of Pesticide Regulation. *See also Ebbetts Pass Forest Watch v Department of Forestry & Fire Protection* (2008) 43 Cal. App. 4th 936, 956 (fact that Department of Pesticide Regulation had assessed

environmental effects of certain herbicides in general did not excuse failure to assess effects of their use for specific timber harvesting project).

RESPONSE TO COMMENT 20.9

This introductory comment asserts generally that the Draft EIR fails to support its findings with substantial evidence as a preface to specific comments raised below. Detailed responses to specific project-related claims presented under the subheadings are addressed below.

COMMENT 20.10

1. *The DEIR Fails to Support its Findings on Greenhouse Gas Impacts with Substantial Evidence.*

CEQA Guidelines § 15064.4 allow a lead agency to determine the significance of a project's GHG impact via a qualitative analysis (e.g., extent to which a project complies with regulations or requirements of state/regional/local GHG plans), and/or a quantitative analysis (e.g., using model or methodology to estimate project emissions and compare it to a numeric threshold). So too, CEQA Guidelines allow lead agencies to select what model or methodology to estimate GHG emissions so long as the selection is supported with substantial evidence, and the lead agency "should explain the limitations of the particular model or methodology selected for use." CEQA Guidelines § 15064.4(c).

CEQA Guidelines sections 15064.4(b)(3) and 15183.5(b) allow a lead agency to consider a project's consistency with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of GHG emissions.

CEQA Guidelines §§ 15064.4(b)(3) and 15183.5(b)(1) make clear qualified GHG reduction plans or CAPs should include the following features:

1) **Inventory:** Quantify GHG emissions, both existing and projected over a specific time period, resulting from activities (e.g., projects) within a defined geographic area (e.g., lead agency jurisdiction);
2) **Establish GHG Reduction Goal:** Establish a level, based on substantial evidence, below which the contribution to GHG emissions from activities covered by the plan would not be cumulatively considerable;
3) **Analyze Project Types:** Identify and analyze the GHG emissions resulting from specific actions or categories of actions anticipated within the geographic area;

4) **Craft Performance Based Mitigation Measures:** Specify measures or a group of measures, including performance standards, that substantial evidence demonstrates, if implemented on a project-by-project basis, would collectively achieve the specified emissions level;
5) **Monitoring:** Establish a mechanism to monitor the CAP progress toward achieving said level and to require amendment if the plan is not achieving specified levels;

Collectively, the above-listed CAP features tie qualitative measures to quantitative results, which in turn become binding via proper monitoring and enforcement by the jurisdiction—all resulting in real GHG reductions for the jurisdiction as a whole, and the substantial evidence that the incremental contribution of an individual project is not cumulatively considerable.

Here, the DEIR's analysis of greenhouse gas emissions impacts is not supported by substantial evidence for all of the reasons outlined in SWAPE's March 26, 2021 letter regarding their review of the DEIR[24]:

RESPONSE TO COMMENT 20.10

The commenter claims the Draft EIR's analysis and conclusions for air quality, greenhouse gas, and energy are not supported by substantial evidence as a preface to specific reasons raised below. The same comments are raised in more detail in the SWAPE letter, attached as Exhibit D to the Mitchell M. Tsai letter. As such, these issues are discussed in Response to Comment 20B.12 through 20B.20, below.

COMMENT 20.11

- The DEIR utilized an incorrect and unsubstantiated quantitative analysis of emissions;

RESPONSE TO COMMENT 20.11

Here, the commenter states that the Draft EIR's analysis of GHG emissions is incorrect and unsubstantiated based on information provided by SWAPE. However, this claim is not substantiated by reasonable assumptions predicated upon facts. Detailed responses to the specific claims presented by SWAPE are further addressed in SWAPE's comment

[24] *March 21, 2021 SWAPE Letter to Greg Sonstein re Comments on 3rd and Fairfax Mixed-Use Project. Attached hereto as Exhibit D.*

letter (see Comment Letter No. 20B, below, in Response to Comments 20B.12 through 20B.15).

COMMENT 20.12

- The DEIR incorrect relied upon GHG reduction measures that are not binding and are only included as PDFs;

RESPONSE TO COMMENT 20.12

The commenter also claims the project design features are not enforceable and included only to reduce GHG emissions and conclude less-than-significant GHG impacts. As shown in Section IV. Mitigation and Monitoring Program of this Final EIR, all of the project design features described in the Draft EIR would be monitored and strictly enforced by agencies in the same manner as mitigation measures. Additionally, the Proposed Project would be built in compliance with regulatory compliance measures and implementation of voluntary project design features aimed at reducing GHG emissions, as described on Pages IV.C-59 through IV.C-63 of the Draft EIR. Such measures include the Proposed Project's prohibition of hearths or fireplaces, implementation of TDM measures to reduce VMT, installation of ENERGY STAR-related appliances, meeting applicable water conservation requirements of the L.A. Green Building Code, meeting the applicable provisions of the California Energy Code, and complying with the construction and demolition solid waste handling and diversion required mandated in Section 66.32 of the LAMC.

Therefore, the commenter's claim that the Proposed Project's GHG reduction measures and project design features are unenforceable is speculative and unsubstantiated.

COMMENT 20.13

- The DEIR failed to identify a potentially significant GHG impact when applying a 2.6 MT CO2e/SP/year threshold per AEP guidance[6]; and

RESPONSE TO COMMENT 20.13

Response to Comment 20B.15 addresses this comment and the statements made by SWAPE in Comment 20B.15, below.

COMMENT 20.14

- The DEIR failed to consider performance-based standards under CARB's 2017 Scoping Plan, incorrectly relied upon SCAG's Outdated RTP/SCS, and failed to consider performance-based standards under SCAG's latest RTP/SCS plan.

(Exhibit D, 17-24.)

RESPONSE TO COMMENT 20.14

Here, the commenter states that the Draft EIR's failed to consider performance-based standards under CARB's 2017 Scoping Plan and SCAG's 2020 RTP/SCS, based on information provided by SWAPE. However, this claim is not substantiated by reasonable assumptions and is based on erroneous calculations. Detailed responses to the specific claims presented by SWAPE are further addressed in SWAPE's comment letter (see Comment Letter No. 20B, below, in Response to Comments 20B.16 through 20B.19).

COMMENT 20.15

Additionally, the DEIR needs to consider and incorporate all of the feasible mitigation measures to reduce identified GHG impacts proposed by SWAPE. (Exhibit D, 24-31.)

RESPONSE TO COMMENT 20.15

This comment suggests implementing all feasible mitigation measures recommended by SWAPE. However, as discussed in Section IV.C Greenhouse Gas Emissions of the Draft EIR, the Proposed Project would not result in a significant GHG impact. The commenter and SWAPE do not provide substantial evidence that the Proposed Project would result in significant impacts that would warrant mitigation measures. As such, no mitigation measures are required. See Response to Comment 20B.20 for an additional response to SWAPE's full list of recommended mitigation measures.

COMMENT 20.16

2. *The DEIR Fails to Support its Findings on Air Quality Impacts with Substantial Evidence.*

Second, the DEIR's Air Quality analysis is fundamentally flawed and not supported by substantial evidence for all the reasons outlined in SWAPE's comments, including:

- Use of unsubstantiated input parameters to estimate project emissions,
    - Unsubstantiated changes to area and architectural coating areas;

RESPONSE TO COMMENT 20.16

The following provides a three-part master response detailing why the air quality and health risk analyses contained in the Draft EIR is sufficient and additional review is not necessary. In addition, this master response explains why the law and regulatory guidance does not require the City to prepare a Health Risk Assessment (HRA) for the Project. Even

though not required to prepare it, the City elected to prepare an HRA (for informational purposes only) to further inform the public and decision makers. This master response summarizes the results of the HRA, which further confirmed that the Project would not have significant air quality impacts on sensitive receptors.

1. The Project is not required by law to prepare a Health Risk Assessment.

The Air Toxics "Hot Spots" Information and Assessment Act of 1987 (Hot Spots Act) regulates stationary sources. The Hot Spots Act is designed to provide information to state and local agencies and to the general public on the extent of airborne emissions from stationary sources and the potential public health impacts of those emissions.[25] The Office of Environmental Health Hazard Assessment (OEHHA), in conjunction with the California Air Resources Board (CARB) and the California Air Pollution Control Officers Association (CAPCOA), has adopted guidance manuals for use in implementing the Air Toxics "Hot Spots" Program (Hot Spots Program) as part of the Hot Spots Act (Health and Safety Code Section 44360 et. seq.). In 2003, OEHHA adopted the *Air Toxics Hot Spots Program Risk Assessment Guidelines – The Air Toxics Program Guidance Manual for Preparation of Health Risk Assessments* (2003 Guidance Manual). OEHHA adopted a new version of the manual in March 2015, called the *Hot Spots Program Guidance Manual for the Preparation of Risk Assessments* (2015 Guidance Manual). The guidance manuals are intended to address health risks from airborne contaminants released by stationary sources.[26] The intent of developing the guidance manuals is to provide health risk assessment (HRA) procedures for use in the Hot Spots Program or for the permitting of new or modified stationary sources.[27] Stationary sources are typically industrial-type uses that emit toxic air contaminants (TACs)[28] and are regulated by and/or require permits from the Air Districts. Examples of stationary sources include: metal finishing/manufacturing, chrome plating facilities, various product manufacturing (e.g., food, chemical, material, etc.), stationary diesel engines (e.g., emergency backup

[25] *"Air Toxics Hot Spots Program Risk Assessment Guidelines – The Air Toxics Program Guidance Manual for Preparation of Health Risk Assessments."* OEHHA, August 2003, Section 1.1, page. 1-1. See also, *Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments". OEHHA, February 2015. Available at: https://oehha.ca.gov/air/crnr/notice-adoption-air-toxics-hot-spots-program-guidance-manual-preparation-health-risk-0, Section 1.1,* page. 1-1 (accessed September 16, 2021).

[26] *2003 Guidance Manual and 2015 Guidance Manual at Section 1.1, page. 1-2.*

[27] *Ibid.*

[28] *"Toxic air contaminant" means an air pollutant 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. See Health and Safety Code Section 39655.*

generators), and refineries.[29] The guidance manuals are not meant to be used for a health risk evaluation of typical non-stationary source land use projects such as residential and commercial development projects.

OEHHA did not opine on or include CEQA significance thresholds applicable to construction activities or the operation of non-stationary source projects in the guidance manuals.[30] Additionally, in the *Risk Management Guidance for Stationary Sources of Air Toxics* (2015), CARB and CAPCOA recognized that the OEHHA guidance manuals do not include guidance for CEQA and that this would be handled by individual Air Districts.[31]

For these reasons, the Project is not subject to regulation under the Hots Spots Act, the 2003 Guidance Manual, or 2015 Guidance Manual.

The following provides further analysis demonstrating why an HRA is not required by law to be prepared.

CAPCOA HRA Guidance

The CAPCOA guidance document *Health Risk Assessments for Proposed Land Use Projects* (2009) (CAPCOA HRA Guidance) provides lead agencies with guidance regarding when and how an HRA should be prepared. It bases the risk assessment methodology on the procedures developed by the OEHHA to meet the mandates of the Hot Spots Act. CAPCOA recognized that "[w]hile local air districts have ample experience evaluating and mitigating toxic emissions from permitted stationary sources, most have limited experience preparing or reviewing risk assessments associated with multiple toxic sources or assessments for exhaust from mobile sources that are typically found when evaluating health risks to proposed land use projects." To bridge the gap between stationary sources subject to regulation by the Air Districts under the Hot Spots Act and

[29] *"Risk Management Guidance for Stationary Sources." CARB and CAPCOA, July 2015, Section I.D, page 5 and Appendix A, Table A-1: Statewide ARB Air Toxics Regulations for Stationary Sources. Available at: https://ww2.arb.ca.gov/sites/default/files/classic/toxics/rma/rmgssat.pdf (accessed September 16, 2021).*

[30] *"Final Environmental Assessment for: Proposed Amended Rule 307.1 – Alternative Fees for Air Toxics Emissions Inventory; Proposed Amended Rule 1401 – New Source Review of Toxic Air Contaminants; Proposed Amended Rule 1402 – Control of Toxic Air Contaminants from Existing Sources; SCAQMD Public Notification Procedures for Facilities Under the Air Toxics 'Hot Spots' Information and Assessment Act (AB 2588) and Rule 1402; and, SCAQMD Guidelines for Participating in the Rule 1402 Voluntary Risk." (SCAQMD Final EA) SCAQMD, September 2016, pages 1-2 and 2-23, September 2016. Affected facilities are those in identified for the AB 2588 Air Toxics Hot Spots program, which does not include the proposed Project nor mixed-use projects like the proposed Project that are not stationary sources. Further, the SCAQMD states it "does not have guidance on construction Health Risk Assessments."*

[31] *"Risk Management Guidance for Stationary Sources." CARB and CAPCOA, July 2015, Section III.J, page 16.*

health risk impacts from and to land use projects, CAPCOA prepared the CAPCOA HRA Guidance.[32] The CAPCOA HRA Guidance expressly does not address guidance on how risk assessments for construction projects should be addressed in CEQA, and only recommends assessment of health risks related to two types of land use projects, as described below.

Type A – Land use projects with toxic emissions that impact receptors, including:

- Combustion related power plants;
- Gasoline dispensing facilities;
- Asphalt batch plants;
- Warehouse distribution centers;
- Quarry operations; and
- Other stationary sources that emit toxic substances.

Type B – Land use projects that will place receptors in the vicinity of existing toxics sources, including residential, commercial, and institutional developments proposed to be located in the vicinity of existing toxic emission sources, such as:

- Stationary sources;
- High traffic roads;
- Freeways;
- Rail yards; and
- Ports

The Proposed Project is not a Type A or Type B land use project under the CAPCOA HRA Guidance. The operation of the Proposed Project does not include any of the industrial uses listed, nor does it include a stationary source that emits TACs. Nor is the Proposed Project a warehouse or distribution facility that generates more than 100 trucks per day or more than 40 trucks with operating transport refrigeration units.[33] The

[32] *"While local air districts have ample experience evaluating and mitigating toxic emissions from permitted statutory sources, most have limited experience preparing or reviewing risk assessment associated with multiple toxic sources or assessment for exhaust from mobile sources that are typically found when evaluating health risks to proposed land use projects. In order to provide consistency to lead agencies, project proponents and the general public throughout the state, the [CAPCOA] formed a subcommittee … to develop guidance on assessing the health risk impacts from and to proposed land use projects." "Health Risk Assessment for Proposed Land Use Projects." CAPCOA, July 2009, page. 1. Available at http://www.capcoa.org/wp-content/uploads/2020/12/with-stamp_CAPCOA_HRA_LU_Guidelines_8-6-09-min.pdf (accessed September 16, 2021).*

[33] *"Air Quality and Land Use Handbook: A Community Health Perspective."* CARB, April 2005, available at: https://www.arb.ca.gov/ch/handbook.pdf "*Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis." SCAQMD, August 2003.*

Proposed Project also does not involve siting sensitive receptors near an existing stationary source or industrial use, including stationary sources, freeways, rail yards, or ports. Additionally, the roads adjacent to the Project Site are not high traffic roads, so the Project does not contemplate siting sensitive receptors near high traffic roads[34, 35]. Section IV.A. Air Quality of the Draft EIR states this clearly. For these reasons, the preparation of an HRA (or AERSCREEN screening-level analysis) to assess the health risks due to the operation of the Proposed Project is not required.

The CAPCOA HRA Guidance does not consider construction-related health risks. Additional guidance was expected to be included in the CAPCOA HRA Guidance once the toxic emissions from construction can be better quantified with updated science. This has not yet occurred, and was not available when the City prepared the notice of preparation for the Project and its environmental analysis. As such, preparation of an HRA to assess health risks due to construction of the Project is not required.

SCAQMD Guidance

The South Coast Air Quality Management District (SCAQMD) is the Air District in charge of implementing, regulating, and enforcing the Hot Spots Program in the South Coast Air Basin. The SCAQMD has promulgated rules in furtherance of the Hot Spots Act,[36] and prepared supplemental guidelines for preparing HRAs as a supplement to OEHHA's guidance manuals.[37] These SCAQMD rules and supplemental guidelines provide guidance for the preparation of HRAs for stationary and certain mobile sources, as described below.[38] The SCAQMD has developed limited guidance and documents relevant to HRAs and CEQA analyses for non-stationary source land use projects. Specifically, these rules and guidelines do not require HRAs to be prepared as part of CEQA documents that evaluate the construction and operational impacts of residential

[34] *See CAPCOA HRA Guidance, Section 5.0, p. 8.*

[35] *Neither 3rd Street nor Fairfax Avenue have traffic volumes exceeding traffic volumes over 100,000 vehicles per day in the vicinity of the Project Site. See Appendix FEIR-8 LADOT Traffic Volume Data.*

[36] *See SCAQMD Rules and Regulations XIV – Toxics and Other Non-Criteria Pollutants, Rules 1401 and 1402.*

[37] *"AB 2588 and Rule 1402 Supplemental Guidelines for Preparing Risk Assessment for the Air Toxics 'Hot Spots' Information and Assessment Act." SCAQMD, October 2020, Available at: http://www.aqmd.gov/docs/default-source/planning/risk-assessment/ab-2588-supplemental-guidelines.pdf?sfvrsn=19 (accessed September 16, 2021).*

[38] *"Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis." SCAQMD, August 2003.*

and/or commercial projects, like the mixed-use Proposed Project.[39] These documents are discussed in more detail, below.

To start with, SCAQMD does not have recommended guidance on HRAs for operational impacts related to non-stationary source land use projects, except for the following guidance documents, neither of which requires preparation of an HRA for the Project:

- *Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis* (2003) (Mobile Source Guidance)

- *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning* (2005) (Local Planning Guidance)

The Mobile Source Guidance provides interim guidance and recommended procedures for preparing HRAs for projects with the potential for DPM impacts, including the following limited activities: (1) truck idling and movement (such as, but not limited to, truck stops, warehouse/distribution centers or transit centers); (2) ship hotelling at ports; and (3) train idling. The Project does not include any of these industrial-related activities. There would be approximately 29 daily trucks per day to the Project Site in connection with the operation of the Project.[40] This is significantly fewer trucks than the anticipated volume of trucks associated with a truck stop, warehouse/distribution center, or transit center. The Project's operational trucks would also be considerably fewer than the 100 trucks per day or more than 40 trucks with operating transport refrigeration units, the criteria used by CAPCOA, SCAQMD, and CARB for considering the siting of new sensitive land uses near these types of sources.[41] While the Project proposes a supermarket use, the primary land use is multi-family housing with associated commercial/retail, and restaurants. As such, the Project is not expected to be a substantial source of DPMs and the preparation of an HRA is therefore not required.

The Local Planning Guidance referenced above also does not require preparation of a quantitative HRA within the vicinity of the Project Site as the Project is consistent with the recommendations regarding the siting of new sensitive land uses near potential sources of TACs, including stationary sources, high traffic roads, freeways, rail yards, or ports.

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[39] *SCAQMD Final EA, pages 1-2 and 2-23, September 2016. Affected facilities are those in identified for the AB 2588 Air Toxics Hot Spots program, which does not include the proposed Project nor mixed-use projects like the proposed Project that are not stationary sources. Further, the SCAQMD states it "does not have guidance on construction Health Risk Assessments."*

[40] *See Appendix FEIR-A, Health Risk Assessment, Eyestone Environmental, September 23, 2021 (at page 9).*

[41] *"Air Quality and Land Use Handbook: A Community Health Perspective." CARB, April 2005. Available at: https://www.arb.ca.gov/ch/handbook.pdf (accessed September 16, 2021).*

Additionally, the Project is not considered to be a substantial source of DPM emissions warranting an HRA since daily truck trips to the Project Site would not exceed 100 trucks per day or more than 40 trucks with operating transport refrigeration units, which are the applicable screening thresholds in the Local Planning Guidance.

With regard to construction impacts, the SCAQMD does not recommend preparing HRAs to determine the human health risk associated with the construction of land use projects. Specifically, the SCAQMD's CEQA Air Quality Handbook (1993) (Air Quality Handbook) does not recommend analysis of TACs from short-term construction activities associated with land use development projects due to the limited duration of exposure related to construction impacts. 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.[42] Because the construction schedule for the Project is based on estimates that the phases which require the most heavy-duty diesel vehicle usage, such as demolition, site grading, excavation, would last for a much shorter duration (e.g., approximately 5 months), and the overall construction schedule would be limited to approximately 32 months, 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. Because there is such a short-term exposure period (32 out of 840 months of a 70-year lifetime), further evaluation of construction TAC emissions within the Draft EIR was not warranted.

In addition, the SCAQMD has not provided any guidance on how to apply the 2015 Guidance Manual to construction activities.[43] This was further confirmed by Eyestone Environmental, LLC (Eyestone), which contacted the SCAQMD to determine whether the SCAQMD had any available guidance on use of the 2015 Guidance Manual. According to the SCAQMD CEQA Program Supervisor, the SCAQMD continues to evaluate the 2015 Guidance Manual, but has not developed any recommendations on its use in evaluating the human health risk associated with a project's potential construction impacts. Additionally, any SCAQMD guidance that may be provided in the future would be included on SCAQMD's CEQA Air Quality Analysis Handbook webpage.[44] At this time, the SCAQMD has not provided any additional guidance to the CEQA Air Quality Analysis Handbook webpage. The Draft EIR followed the guidance, available at the time of the

[42] *South Coast Air Quality Management District (SCAQMD) CEQA Handbook, 1993. Chapters 5, 9 and 10.*

[43] *SCAQMD Final EA, page. 2-23, September 2016.*

[44] *See screenshot of SCAQMD's CEQA Air Quality Analysis Handbook webpage, accessed September 13, 2021.*

notice of preparation, included on this webpage, as detailed in the Methodology section on pages IV.A-36 - IV.A-37 and pages IV.A-43 - IV.A-44, which specifically address TACs and associated health risks.

Moreover, SCAQMD recommends consulting with the lead agency for projects subject to CEQA. Here, in preparing CEQA documents, the City relies in part on the L.A. City CEQA Thresholds Guide (Thresholds Guide). Note also, that the Draft EIR considers, on pages IV.A-33-36, factors from Thresholds Guide, but does not make those factors the threshold of significance. The Thresholds Guide recognizes that new sources of TACs are regulated by the SCAQMD. It also states that TACs can occur from certain construction activities during site remediation activities, or during building demolition, and that TACs may be released during industrial or manufacturing processes, or other activities that involve the use, storage, processing, or disposal of toxic materials. The Thresholds Guide does not specifically state that the preparation of a HRA is required to evaluate short-term construction impacts related to DPM emissions. Rather, the Thresholds Guide does set forth the following factors for consideration on a case-by-case basis in making a determination of significance with regard to toxic air contaminants: the regulatory framework for the toxic material(s) and process(es) involved; the proximity of the toxic air contaminants to sensitive receptors; the quantity, volume, and toxicity of the contaminants expected to be emitted; the likelihood and potential level of exposure; and the degree to which project design will reduce the risk of exposure. Based on this information, the methodology utilized in the Draft EIR remains consistent with City guidance for preparation of HRAs because the Proposed Project is not a stationary source of toxic air contaminants and would not otherwise expose sensitive receptors to toxic air contaminants above established regulatory thresholds. An HRA assessing construction impacts was not required to be prepared.

California Supreme Court Guidance

The Draft EIR's analysis of air quality impacts is consistent with the California Supreme Court's decision in *Sierra Club v. County of Fresno*, 6 Cal.5th 502 (2018) (*County of Fresno*). The City has prepared a document titled *Air Quality and Health Effects (Sierra Club v. County of Fresno)*, which explains why a specific health effect cannot be feasibly or accurately determined from a particular significant air quality impact; and explains that the court case focused on projects with significant and unavoidable air quality impacts. Applying the principles *County of Fresno*, it provides lead agency guidance on how to implement the case in future CEQA documents. As addressed in Section IV.A of the Draft EIR, the Proposed Project would not result in any significant and unavoidable air quality impacts.

The Further, the Draft EIR concluded that impacts from TACs and criteria pollutants would be less than significant without mitigation measures.

2. Even if an HRA was required for the Project, SWAPE comments are based on incorrect methodology and inputs and faulty assumptions that are inconsistent with the Project description and relevant legal requirements.

A key defect in the SWAPE analysis is that it relied solely on a "screening level" AERSCREEN model to evaluate health risks. A screening level analysis can be appropriate to assess whether a more detailed, refined modeling assessment is needed. However, the screening model relies on rough, overly conservative assumptions to assess if a project could cause a significant health impact. If, based on the screening analysis, there is no potential for a significant impact, then no additional analysis is required. In this way, screening models can help save time and money by eliminating the need for some projects to complete more expensive, time-consuming dispersion modeling.

However, this use of screening models alone is not consistent with the industry standard or agency guidance. A screening-level assessment is "normally used when no representative meteorological data are available and may be used as a preliminary estimate to determine if a more detailed assessment is warranted."[45] Screening level results that show a potential significant impact are only relevant to the extent they demonstrate that SWAPE could have then conducted, but did not conduct, additional analysis using a refined model that would have resulted in a dramatically lower human risk, as demonstrated in the project-level HRA prepared in response to these comments (refer to Appendix FEIR-7 to this Final EIR). As discussed below, though not required, this project-level HRA analyzed human health risk consistent with actual SCAQMD methodology and used AERMOD to complete refined dispersion modeling. AERMOD accounts for a variety of refined, site-specific conditions that facilitate a more accurate assessment of potential impacts compared to the less refined AERSCREEN screening model used in the SWAPE analysis.

The most important differences between AERSCREEN and AERMOD are the following:

- Meteorological Data—The AERSCREEN model assumes calm wind conditions at all times and a stable atmosphere (i.e., no atmospheric mixing) and does not have the capability to incorporate locally measured wind speed and wind direction data. Thus, AERSCREEN does not account for the dispersion of

[45] *California Environmental Protection Agency. Air Toxics Hot Spots Program Risk Assessment Guidelines, The Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments.*

pollutants that occurs from wind. This is a significant limitation because wind directed away from sensitive receptor locations relative to a source of emissions would disperse pollutants away from sensitive receptors and thereby reduce the impact of TAC emissions on those receptors. Because the AERSCREEN model fails to account for local wind speed and wind direction, its application results in artificially elevated pollutant concentrations at sensitive receptors and, therefore, artificially elevated health risk levels. The HRA prepared in response to these comments instead used AERMOD which allows for SCAQMD representative meteorological data (Central Los Angeles) to be used in calculation of annual concentrations. This SCAQMD meteorological data provides hourly conditions (e.g., wind speed, wind direction, and stability class) over a five-year period (43,800 hours). With these conditions, the AERMOD model is more representative of likely Project impacts compared to the AERSCREEN model.

- Site-Specific Conditions—AERMOD allows for analysis of multiple volume sources which is required to adequately represent Project construction and operation. The use of a single rectangular source with a release height of three meters to represent construction and operational activities provided in the SWAPE analysis does not adequately represent the Project Site, does not account for complex terrain conditions, and likely overstates emissions because of the plume interaction with terrain. In addition, a volume source and not an area source is the type of source recommended by the SCAQMD for modeling construction equipment and diesel truck exhaust emissions (SCAQMD LST Guidelines).[46] In addition, the SCAQMD LST Guidelines recommend a five-meter release height instead of three meters, which would also overestimate potential concentrations. By accounting for site-specific conditions around the Project Site, the AERMOD model is more representative of likely Project impacts compared to the AERSCREEN model.

- Source-to-Receptor Distance—The SWAPE analysis reported that the maximum impacts occurred 50 meters downwind. This is highly unusually for a screening model to provide a higher concentration further downwind for an area source as the pollutant travels further away from the source the plume becomes wider and pollutant concentrations decrease. An exception to this general rule is for a stack/chimney point source where the source is released high enough and with enough velocity/buoyancy that the ground concentrations closer to the source can result in lower pollutant concentrations. As a result, any findings from the SWAPE analyses based on modeling that shows higher concentrations from an area source further downwind are likely incorrect.

[46] *Area sources are used to model releases that occur over an area. Examples of area sources include landfills, open tanks, slag dumps and lagoons. Volume sources are used to model releases from a variety of industrial sources, such as building roof monitors, fugitive leaks from an industrial facility, multiple vents, and conveyor belts. (CAPCOA, Guidance Document, Health Risk Assessments for Proposed Land Use Projects, July 2009).*

In sum, the AERSCREEN evaluation used by SWAPE provides a much less accurate, and significantly overstated, assessment of Project health risks compared to the refined AERMOD evaluation. Moreover, as discussed below (Response to Comments Nos. 20B.10), the SWAPE screening level analysis was not performed in accordance with requirements included in SCAQMD's LST methodology and OEHHA's guidance because it did not account for the following: (1) site-specific conditions; (2) use of a refined dispersion model; (3) use of SCAQMD mandated meteorological data from the closest/most representative meteorological monitoring site within the Project area; and (4) higher pollutant concentrations at more distant receptors for an area source. If the SWAPE analysis accounted for the guidance and data discussed above, then the emissions would have been substantially less than claimed in this comment.

In addition, SWAPE's screening-level HRA has several significant flaws that account for the misleading and incorrect analysis and explain in part the unrealistically high results. The first flaw is that SWAPE assumes Project construction would occur at full intensity for seven days per week, including Sundays and holidays over the entire length of construction. This is not a valid assumption. As stated on page IV.G-14 in Section IV.F, Noise, of the Draft EIR, LAMC Section 41.40 prohibits construction between the hours of 9:00 p.m. to 7:00 a.m., Monday through Friday, between 6:00 p.m. and 8:00 a.m., on Saturday, and no construction on Sunday. The Project would comply with LAMC Section 41.40. Also, SWAPE's screening-level analysis incorrectly assumes that construction activities will generate approximately 627 pounds (lbs) of DPM over the 987-day construction period. As shown in the CalEEMod worksheets contained in Appendix C.1 of the Draft EIR, the Proposed Project's construction would actually occur over a period of 706 days.[47] SWAPE's incorrect assumptions contribute to substantially overestimated construction emissions and overestimated health risks at sensitive receptors.

The second flaw is that SWAPE used the Draft EIR's CalEEMod output for total regional construction emissions to represent on-site construction activity (Exhibit D SWAPE Letter, p. 12), which means that SWAPE incorrectly assumed that all of the DPM emissions from mobile sources (e.g., delivery and haul truck trips) would all occur at the Project Site. This was also improper because mobile sources, by their very nature, do not generate emissions at a single location but rather along the entire vehicle trip, which would disperse the emissions along regional roadways and not concentrate the emissions at a single location. When conducting HRAs, dispersion of pollutants is a critical consideration because health risk impacts are a direct result of TAC concentrations. The screening

[47] *Total number of construction days from six construction phases: 15 + 44 + 65 + 484 + 88 + 10 = 706 days. See Appendix C.1 of the Draft EIR, "3rd and Fairfax Mixed-Use Project – Summer" worksheets, page 10. Assuming an average of 22 working days per month (excluding weekends) the total duration of the construction period is 32 months.*

operational HRA incorrectly assumed that all mobile source emissions would occur at a single location, which results in concentrations at sensitive receptors that are artificially elevated to highly unreasonable levels.

The third flaw is that SWAPE assumed the Project's "operational activities will generate approximately 895 pounds of DPM per year throughout operation (Exhibit D SWAPE Letter, p. 13). This value was calculated based on the total exhaust PM_{10} emissions, which includes all area, energy, and mobile source exhaust PM_{10} emissions in the CalEEMod operational output files provided in the Draft EIR. However, SWAPE incorrectly assumed the 895 pounds of exhaust PM_{10} emissions were the result of diesel fuel combustion. In fact, only a small portion of these operational emissions are DPM emissions. In reality, most of the area and energy exhaust PM_{10} emissions are not DPM-related, and instead are the result of gasoline-fueled landscaping equipment and natural gas combustion for building, heating, and cooking. Similarly, the operational mobile source exhaust PM_{10} emissions are from a combination of primarily gasoline-fueled vehicles, such as passenger vehicles and light-duty pick-up trucks, and a smaller number of diesel-fueled trucks, as provided in the vehicle fleet percentages in the CARB on-road vehicle emissions factor (EMFAC) model. It is highly inappropriate and factually incorrect to characterize non-DPM (i.e., non-diesel fuel exhaust) PM_{10} emissions as DPM emissions because only a small portion of these emissions are in fact DPM emissions.

For all of these reasons, SWAPE's health risk results are misleading, highly inaccurate and lack credibility. In other words, SWAPE's conclusions are not supported by credible evidence, much less substantial evidence, and therefore do no support the conclusion that the Project would have a significant health risk impact with respect to DPM emissions (to the contrary, as discussed in the following section, it would not). Even SWAPE acknowledged the serious limitations in its screening-level study, stating that "[o]ur analysis represents a screening-level HRA, which is known to be conservative and tends to err on the side of health protection."

As discussed above, the Project's potential health risk impact on nearby sensitive uses (*e.g.*, nearby residences and/or school campus) from the proposed construction activities would be more accurately identified by the AERMOD methodology. As discussed in detail in the next section, the project-level HRA prepared for the Project for informational purposes in response to SWAPE's comments demonstrates that the Project would not have a significant health risk impact from DPM emissions associated with the construction and operation of the Project.

3. For informational purposes only, a quantitative HRA was prepared to address the human health risk associated with both the construction and operation of the Project.

a. SCAQMD has provided guidelines regarding OEHHA's 2003 Guidance Manual use in land use projects where the City is the lead agency, but has not done so with regard to OEHHA's 2015 Guidance Manual.

OEHHA, in conjunction with CARB and CAPCOA, adopted the 2003 Guidance Manual for use in implementing the Hot Spots Program as part of the Hot Spots Act. The 2003 Guidance Manual is intended to address health risks from airborne contaminants released by stationary sources.[48] The intent of developing the 2003 Guidance Manual is to provide HRA procedures for use in the Hot Spots Program or for the permitting of new or modified stationary sources.[49] As stated above, the 2003 Guidance Manual is not meant to be used for a health risk evaluation of non-stationary source land use projects that are not anticipated to result in significant TAC emissions. As discussed in the project-level HRA prepared in response to this comment, it should be noted that the primary sources of potential air toxics associated with Project operations include DPM from delivery trucks (e.g., truck traffic on local streets and idling on adjacent streets), and heavy-duty diesel trucks and construction vehicles during Project construction. These activities, and the land uses associated with the Project, are not considered land uses that generate substantial TAC emissions based on review of the air toxic sources listed in SCAQMD's guidelines.

As stated previously, SCAQMD has prepared limited guidance on preparation of HRAs for non-stationary source land use projects. The only SCAQMD guidance on the operation of non-stationary source land use projects are discussed above: Mobile Source Guidance and the Local Planning Guidance. The Local Planning Guidance relies on the 2003 Guidance Manual, not the 2015 Guidance Manual. SCAQMD has not updated or supplemented the Local Planning Guidance or the Mobile Source Guidance documents to incorporate the 2015 Guidance Manual. The CAPCOA HRA Guidance also relies on the 2003 Guidance Manual and has not been updated to reflect the 2015 Guidance Manual.

Additionally, the SCAQMD has not yet promulgated any rules with regard to the application of the 2015 Guidance Manual to non-stationary source land use projects at

[48] *2003 Guidance Manual and 2015 Guidance Manual* at Section 1.1, page. 1-2.
[49] *Ibid.*

the local level.[50] The SCAQMD reviewed and considered the 2015 Guidance Manual and whether it should be a basis for analyzing the health risk impacts associated with the construction and operation of non-stationary source land use projects, but it has not adopted any rules or guidelines for use in CEQA health risk analyses for non-stationary source land use projects where the City is lead agency.[51] To date, the SCAQMD has not conducted public workshops nor developed policy relating to the applicability of applying the revised OEHHA guidance for projects prepared by other public/lead agencies subject to CEQA or for mixed-use residential and commercial projects, such as the Proposed Project.

Moreover, the SCAQMD has thus far declined to provide guidance on evaluating health risk impacts associated with construction activities. Specifically, it has stated that it "currently does not have guidance on construction Health Risk Assessments and only applies the revised [2015] OEHHA Guidelines for operational impacts" to its Hot Spots Act Programs.[52] As discussed previously, the Project is not subject to the Hot Spots Act or Hot Spots Programs because it is not a stationary source. Accordingly, for the Project, SCAQMD recommends that the City use the Air Quality Handbook for the air quality analysis in the Draft EIR as well as the Mobile Source Guidance if a mobile source HRA is required.[53]

For these reasons, the project-level HRA used the risk assessment process provided in the OEHHA's 2003 Guidance Manual rather than the risk assessment process provided in the 2015 Guidance Manual.

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[50] *State law gives Air Districts the discretion to establish their own risk management policies, except where ARB's statewide ATCMs set the minimum requirements. Risk Management Guidance for Stationary Sources of Air Toxics, p. 15 (2015). Available at https://ww2.arb.ca.gov/sites/default/files/classic/toxics/rma/rmgssat.pdf?_ga=2.165767996.34434941.1631031776-686937763.1582649966 (accessed September 16, 2021). "This document recognizes that the [2015] OEHHA changes may impact each District's risk thresholds for use in CEQA analyses, but does not include guidance for CEQA. This will be handled by individual Districts." Id. at 19.*

[51] *See SCAQMD staff presentations to the Governing Board in 2014 and 2015 acknowledging the need to update guidelines, and in the interim directing lead agencies to use the 1993 CEQA Air Quality Analysis Handbook: (1) Presentation to Governing Board, Proposed Work Plan for Implementing OEHHA's Revised Air Toxics Hot Spots Program Risk Assessment Guidelines, pp. 10, 15 (March 6, 2015). Available at http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2015/2015-mar6-026-presentation.pdf?sfvrsn=6 (accessed on September 16, 2021); (2) Presentation to Governing Board, Potential Impacts of New OEHHA Risk Guidelines on SCAQMD Programs, pp. 9, 10 (May 2014). Available at http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2014/may-specsess-8b.pdf (accessed on September 16, 2021).*

[52] *SCAQMD Final EA, p. 2-23 (2016).*

[53] *SCAQMD Comment Letter, Notice of Preparation of an Environmental Impact Report for the Proposed 3rd and Fairfax Mixed-Use Project (ENV-2018-2771-EIR), March 5, 2019 (Appendix B to the Draft EIR, pp. 24-25 [recommending that the Lead Agency use the 1993 Air Quality Analysis Handbook as guidance when preparing air quality analysis]).*

b. The USEPA has found that DPM is not a mutagenic pollutant that requires use of the age sensitivity factors utilized in the 2015 Guidance Manual.

Meanwhile, another government agency has effectively determined that the 2015 Guidance Manual should not be applied to non-stationary-source land use projects because it requires the consideration of Age Sensitivity Factors (ASFs). The 2015 Guidance Manual provides ASFs to account for potential increased sensitivity of early-in-life exposure to carcinogens. For risk assessments conducted under the Hot Spots Act for stationary source projects, a weighting factor is applied to carcinogens. However, the ASF factors cannot be applied to a project-level HRA for the Project because neither the City, as the lead agency, nor SCAQMD has developed guidance or rules as to whether these factors should be used to analyze the DPM health risk associated with the construction of a non-stationary-source land use project that is analyzed pursuant to CEQA requirements.

The project-level HRA relied on United States Environmental Protection Agency (USEPA) guidance relating to the use of early life exposure adjustment factors (Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens, EPA/630/R-003F) whereby adjustment factors are only considered when carcinogens act "through the mutagenic mode of action." The USEPA has identified 19 compounds that elicit a mutagenic mode of action for carcinogenesis. DPM, polycyclic aromatic hydrocarbons (PAHs) and their derivatives comprise less than one percent of exhaust particulate mass. To date, the USEPA reports that whole diesel engine exhaust has not been shown to elicit a mutagenic mode of action. Therefore, ASFs or other early life exposure adjustments were not considered in the project-level HRA.

c. The application of the 2003 Guidance Manual in the Project HRA is supported by substantial evidence.

Even assuming that the preparation of a HRA was required for the Project (which it is not), the City's application of the 2003 Guidance Manual to prepare the Project HRA is supported by substantial evidence. As discussed above, the City's approach is consistent with adopted SCAQMD guidance because (1) the SCAQMD has not promulgated rules that implement the 2015 Guidance Manual for non-stationary-source land use projects where the City is lead agency and (2) neither City, as lead agency, nor SCAQMD has developed any recommendations as to whether ASFs (which are incorporated in the 2015 Guidance Manual) should be used for CEQA analyses of potential DPM impacts and (3) the USEPA has found that DPM is not a mutagenic pollutant that would require the use of the ASFs in the 2015 Guidance Manual or otherwise. Also note that, ultimately, in this regulatory context, the lead agency has discretion to determine whether an HRA is required or not for the Proposed Project, even if there is a disagreement among experts.

d. The project-level HRA properly concludes that the Project would result in less-than-significant cancer and non-cancer impacts with respect to DPM emissions and further demonstrates that SWAPE's screening-level HRA is not credible.

For informational purposes, the project-level HRA, which is attached to this Final EIR as Appendix FEIR-7 to this Final EIR, provides an analysis of potential health risk impacts related to the proposed construction and operation of the Project. The analysis uses the more thorough and accurate AERMOD dispersion model, which takes into consideration SCAQMD representative meteorological data (Central Los Angeles), site-specific conditions, and source-to-receptor distance. The HRA also identifies the baseline condition around the Project Site and evaluates the incremental change in health risk concentration exposure from DPM emitted by heavy-duty diesel construction equipment during construction of the Project and delivery trucks during operation of the Project. As indicated above, the primary source of potential air toxics associated with the Project is DPM from heavy-duty diesel trucks and construction equipment used during construction and to a lesser extent delivery trucks accessing the Project Site during operation of the Project. The SCAQMD recommends that an HRA be conducted for substantial sources of long-term DPM operational sources (e.g., truck stops and warehouse distribution facilities) and has provided guidance for analyzing mobile source diesel emissions.[54] While Project construction would not represent a long-term source of DPM emissions,[55] the SCAQMD Guidance was used for purposes of modeling parameters and assumptions.

The results from the health risk calculations provide an estimate of the potential risks and hazards to individuals through inhalation of Project construction DPM emissions over a 32-month duration. Consistent with OEHHA guidelines, health risk impacts from Project operational DPM emissions were assessed over a 70-year exposure duration for residential receptors, a nine-year exposure duration for student receptors, and 30-year exposure duration for school worker (teacher) receptors. The estimated risks and hazards include: lifetime excess cancer risk estimates, and cumulative chronic Hazard Index (HI)estimates for the receptor locations of concern.

The results of the HRA yield a maximum off-site individual cancer risk of 4.1 in a million for employees at the school receptors located south of the Project site. Students at the

[54] *SCAQMD, Mobile Source Guidance, August 2003.*

[55] *Project construction is short term—32 months. Moreover, the Project is residential, commercial, and open spaces uses, none of which are associated with heavy-duty truck use or significant DPM emissions.*

school may experience a 4.0 in one million cancer risk resulting from exposure to Project construction emissions. The closest residential uses to the Project Site, which are farther away from the Project Site than the school, would experience a 1.2 in one million cancer risk. The maximum chronic risk HI of 0.065 occurs within this same school receptor area. As the Project would not emit carcinogenic or toxic air contaminants that result in impacts which exceed the maximum individual cancer risk of ten in one million or the chronic HI of 1.0, Project-related toxic emission impacts would be less than significant.

COMMENT 20.17

- Failure to substantiate demolition;

RESPONSE TO COMMENT 20.17

Response to Comment 20B.5 addresses this comment and the statements made by SWAPE in Comment 20B.5, below.

COMMENT 20.18

- Underestimation of vendor and worker trips;

RESPONSE TO COMMENT 20.18

Response to Comment 20B.6 addresses this comment and the statements made by SWAPE in Comment 20B.6, below.

COMMENT 20.19

- Overestimation of existing operational vehicle trip rates;

RESPONSE TO COMMENT 20.19

Response to Comment 20B.7 addresses this comment and the statements made by SWAPE in Comment 20B.7, below.

COMMENT 20.20

- Incorrect application of constriction-related mitigation measures;

RESPONSE TO COMMENT 20.20

Response to Comment 20B.8 addresses this comment and the statements made by SWAPE in Comment 20B.8, below.

COMMENT 20.21

- Incorrect application of operational mitigation measures; and

RESPONSE TO COMMENT 20.21

Response to Comment 20B.9 addresses this comment and the statements made by SWAPE in Comment 20B.9, below.

COMMENT 20.22

- Failing to adequately analyze diesel particulate matter health risk emissions and identify a potentially significant health risk impact.

(Exhibit D, 1-15.)

RESPONSE TO COMMENT 20.22

See Response to Comment No. 20.16 and 20B.10.

COMMENT 20.23

Additionally, as noted above, the DEIR fails to consider or include many feasible mitigation measures proposed by SWAPE to reduce significant air quality impacts. (DEIR, 24-31.) The DEIR needs to be revised and recirculated with a substantiated air quality analysis that includes all feasible mitigation measures to reduce impacts.

RESPONSE TO COMMENT 20.23

This comment suggests implementing all feasible mitigation measures recommended by SWAPE to reduce air quality impacts. However, as discussed in Section IV.A Air Quality of the Draft EIR, the Proposed Project would not result in a significant air quality impact. The commenter and SWAPE do not provide substantial evidence that the Proposed Project would result in significant impacts that would warrant mitigation measures. As such, no mitigation measures are required.

COMMENT 20.24

3. *The DEIR Fails to Support its Findings on Energy with Substantial Evidence.*

The DEIR concludes that the Project will not conflict with or obstruct a state or local plan for renewable energy or energy efficiency based upon stated consistency with CALGreen

code, Title 24 standards and the LA Green Building Code standards. (DEIR, IV.B-38-9.) However, the DEIR merely states it will be required to comply with the applicable and thus will not obstruct their implementation. The analysis is circular. The DEIR does not actually analyze or demonstrate consistency with these plans or standards. An impacts analysis and subsequent determination that is based upon compliance statements with appliable standards [sic] does not suffice for a reasoned analysis based upon substantial evidence. The DEIR needs to be revised and recirculated to include a consistency analysis with CALGreen code, Title 24 standards and the LA Green Building Code standards.

RESPONSE TO COMMENT 20.24

The commenter claims that the Draft EIR must provide a consistency analysis with the applicable energy efficient standards and codes, such as the CALGreen code, Title 24 standards, and the LA Green Building Code standards. This level of review is not typically completed at this stage, but rather is completed by the City's Department of Building and Safety prior to the issuance of building permits and certificates of occupancy for the Project to ensure the Proposed Project complies with legal requirements and is designed consistent with all applicable development standards, including energy-efficient standards required by CALGreen Code, Title 24 standards, and the L.A. Green Building Code. These standards will be strictly enforced by the Department of Building and Safety as part of the standard, required review of construction-level plans which occurs at the building permit and plan check stage. The commenter's claim that the Proposed Project would not comply with regulatory compliance measures is speculative and unsubstantiated.

Additionally, Section IV.B Energy of the Draft EIR provides a robust analysis of the Proposed Project's anticipated energy impacts, including quantification of energy usage (electricity, natural gas, and transportation) during the construction and operation of the Project. As stated on page IV.B-16 of Section IV.B Energy, Appendix F of the CEQA Guidelines was prepared in order to ensure that EIRs include a discussion of the potential energy impacts of a proposed project, with a particular emphasis on avoiding or reducing inefficient, wasteful, and unnecessary consumption of energy. Appendix F lists six factors to be considered in the environmental impact analysis, and the L.A. CEQA Thresholds Guide provides two additional factors with regard to impacts to energy. The eight criteria determine the Proposed Project's impacts to energy capacity and supplies, future projections, peak demands, and compliance with existing energy efficiency standards. The Draft EIR evaluates the Proposed Project's energy impacts under all eight criteria and concluded that the Proposed Project would not cause wasteful, inefficient, and unnecessary consumption of energy during construction and operation, consistent with Appendix F of the State CEQA Guidelines. The Draft EIR does not rely solely on

compliance with applicable energy efficient regulations and codes to support the conclusions.

COMMENT 20.25

F. The DEIR Improperly Labels Mitigation Measures as "Project Design Features"

The DEIR improperly labels mitigation measures for "Project Design Features" or "PDFs" which the DEIR purports will "reduce the potential for environmental effects." (DEIR, I-146~149.)

Relying on the PDFs, the DEIR concludes in many instances that the Project's impacts are less than significant and that no mitigation is required.

However, it is established that "'[a]voidance, minimization and / or mitigation measure' . . . are not 'part of the project.' . . . compressing the analysis of impacts and mitigation measures into a single issue . . [sic] disregards the requirements of CEQA." *Lotus v. Department of Transportation* (2014) 223 Cal. App. 4th 645, 656.

When "an agency decides to incorporate mitigation measures into its significance determination, and relies on those mitigation measures to determine that no significant effects will occur, that agency must treat those measures as though there were adopted following a finding of significance." *Lotus, supra*, 223 Cal. App. 4th at 652 [citing CEQA Guidelines § 15091(a)(1) and Cal. Public Resources Code § 21081(a)(1).

By labeling mitigation measures as project design features, the City violates CEQA by failing to disclose "the analytic route that the agency took from the evidence to its findings." Cal. Public Resources Code § 21081.5; CEQA Guidelines § 15093; *Village Laguna of Laguna Beach, Inc. v. Board of Supervisors* (1982) 134 Cal. App. 3d 1022, 1035 (quoting *Topanga Assn for a Scenic Community v. County of Los Angeles* (1974) 11 Cal. 3d 506, 515).

The DEIR's use of "Project Design Features" further violates CEQA because such measures would not be included in the Project's Mitigation Monitoring and Reporting Program CEQA requires lead agencies to adopt mitigation measures that are fully enforceable and to adopt a monitoring and/or reporting program to ensure that the measures are implemented to reduce the Project's significant environmental effects to the extent feasible. PRC § 21081.6; CEQA Guidelines § 15091(d). Therefore, using Project Design Features in lieu of mitigation measures violates CEQA.

RESPONSE TO COMMENT 20.25

The commenter asserts that the City has violated CEQA because the Project Design Features (PDFs), included as part of the Project, should have been identified in the Draft EIR as mitigation measures. The commenter asserts that this violation runs afoul of *Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645 by inappropriately compressing the impact analysis of the project and omitting the "analytical route that the agency took from the evidence to its findings." These claims have no merit. The mere inclusion of PDFs in a Project is not a violation of CEQA. CEQA permits the incorporation of features into a project, including features proposed by an applicant which may have a net benefit on existing conditions and those that could avoid or minimize environmental effects. These project features, or PDFs, may be included as part of a project, but should be distinguished from proposed mitigation measures required to reduce or avoid a specific significant impact caused by the project. See State CEQA Guidelines Section 15126.4(a)(1)(A). Here, the PDFs have been clearly identified and incorporated as part of the Project. The commenter does not specify which PDF or PDFs are at issue, or which section of the Draft EIR would result in significant environmental impacts that would warrant mitigation measures, Furthermore, the evaluation of the Project's impacts in the Draft EIR takes into consideration the PDFs and applies mitigation measures needed to avoid or reduce significant environmental impacts caused by the Project. The various impact analyses contained in the Draft EIR are thorough and complete, regardless of whether PDFs are included in the analysis or not. The commenter provides no evidence to support its claim that the analysis is insufficient.

The commenter further asserts that the PDFs will not be enforceable or included as part of the Mitigation Monitoring Program. Neither assertion is correct. The City has included the PDFs in Section IV. Mitigation Monitoring Program of the Final EIR, which will ensure compliance, enforcement, and monitoring obligations. All of the PDFs described in the Draft EIR would be monitored and strictly enforced by agencies in the same manner as mitigation measures. Therefore, the commenter's claim that the Project's PDFs are unenforceable is speculative and unsubstantiated.

COMMENT 20.26

G. <u>The Project Objectives are Unduly Narrow</u>

Project objectives should not be so narrowly defined that they preclude consideration of reasonable alternatives for achieving the project's underlying purpose. *North Coast Rivers Alliance v Kawamura* (2015) 243 Cal. App. 4th 647, 668. Inconsistency with only some project objectives may not be an appropriate basis to eliminate impact-reducing

project alternatives from analysis in an EIR. See CEQA Guidelines § 15126.6(c), (f). The fact that a proposed alternative does not meet all of the Project Objectives is not an appropriate basis to eliminate impact-reducing alternatives from analysis in an EIR. CEQA Guidelines § 15126.6(c), (f). Objectives should be based on the underlying purpose of the project, rather than the specific nature of the proposed project. *Habitat & Watershed Caretakers v City of Santa Cruz* (2013) 213 Cal. App. 4th 1277, 1299 (holding that the project objective of implementing a settlement agreement relating to expansion of a University of California campus was too narrow and too focused on the nature of the Project).

Here, the EIR provides extremely narrow and specific objectives that essentially only describe the proposed Project, rather than the purpose of the project:

- Objective 2 calls for "replacing a portion of the existing surface parking lot…" with a mixed-use development;
- Objective 3 calls for "replacing older commercial buildings with a modern mid-rise building"; and
- Objective 4 calls for "providing high-density multi-family housing."

(DEIR, II-17.)

Effectively, the above Project objectives so narrowly define the scope of the Project that it curtails any meaningful analysis or consideration of Project alternatives that could substantially reduce the Project's environmental impacts. A revised and recirculated DEIR should include amended Project objectives that do not circumscribe the EIR's Alternatives' analysis.

RESPONSE TO COMMENT 20.26

The commenter asserts that the project objectives are unduly narrow and preclude consideration of reasonable alternatives for achieving the Project's underlying purpose and substantially reducing the Project's environmental impacts. None of these claims are accurate. CEQA provides lead agencies with broad discretion to formulate project objectives. *California Oak Found. v Regents of Univ. of Cal.* (2010) 188 CA4th 227, 276 ("CEQA does not restrict an agency's discretion to identify and pursue a particular project designed to meet a particular set of objectives"). However, project objectives should not be so narrowly defined that they preclude consideration of reasonable alternatives for achieving the project's underlying purpose. *North Coast Rivers Alliance v Kawamura (2015) 243 CA4th 647, 668.* Here, the statement of objectives (including Objectives 2, 3, and 4) are not unduly narrow, but based on the underlying purpose of the

Project, which is to transform an aging commercial retail center into an integrated smart-growth mixed-use development in the City, pursuant to smart growth principles of SCAG's RTP/SCS. The Project objectives are sufficiently broad as to facilitate a meaningful alternatives analysis, as is provided in detail within Section V, Project Alternatives, of the Draft EIR. Additionally, the commenter provides no evidence to support claims that the objectives precluded consideration of other reasonable alternatives for achieving the underlying purpose of the Project, or suggest any additional specific alternatives that would provide better ways to avoid or mitigate significant environmental effects, as permitted by State CEQA Guidelines Section 15204(a). The analysis contained in the Draft EIR is sufficient and identifies four potentially feasible alternatives: No Project Alternative, Mixed-Use Office Alternative, Reduced-Density Alternative, and Retail/Office Alternative.

Importantly, the commenter also ignores the fact that this Project does not have any significant and unavoidable impacts. The range of potential alternatives to a proposed project "shall include those that could feasibility accomplish most of the basic objectives of the project and could avoid or substantially lessen or more significant effects." See State CEQA Guidelines Section 15126.6(c) [emphasis added]. All impacts have been reduced to less than significant either directly or with mitigation measures incorporated. As such, even if the commenter suggested a specific alternative, it could not avoid significant environmental effects or substantially lessen significant effects caused by the Project, as suggested by the commenter. At most, the reduction would be less impactful than the Proposed Project, which already has less than significant impacts.

COMMENT 20.27

III. THE PROJECT VIOLATES THE STATE PLANNING AND ZONING LAW AS WELL AS THE CITY'S GENERAL PLAN

A. Background Regarding the State Planning and Zoning Law

Each California city and county must adopt a comprehensive, long-term general plan governing development. *Napa Citizens for Honest Gov. v. Napa County Bd. of Supervisors* (2001) 91 Cal. App.4th 342, 352, citing Gov. Code §§ 65030, 65300. The general plan sits at the top of the land use planning hierarchy (See *DeVita v. County of Napa* (1995) 9 Cal. App. 4th 763, 773), and serves as a "constitution" or "charter" for all future development. *Lesher Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal. App. 3d 531, 540.

General plan consistency is "the linchpin of California's land use and development laws; it is the principle which infused the concept of planned growth with the force of law." See *Debottari v. Norco City Council* (1985) 171 Cal. App. 3d 1204, 1213.

State law mandates two levels of consistency. First, a general plan must be internally or "horizontally" consistent: its elements must "comprise an integrated, internally consistent and compatible statement of policies for the adopting agency." (See Gov. Code § 65300.5; *Sierra Club v. Bd. of Supervisors* (1981) 126 Cal. App. 3d 698, 704.) A general plan amendment thus may not be internally inconsistent, nor may it cause the general plan as a whole to become internally inconsistent. See *DeVita*, 9 Cal. App. 4th at 796 fn. 12.

Second, state law requires "vertical" consistency, meaning that zoning ordinances and other land use decisions also must be consistent with the general plan. (See Gov. Code § 65860(a)(2) [land uses authorized by zoning ordinance must be "compatible with the objectives, policies, general land uses, and programs specified in the [general] plan."]; see also *Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal. App. 3d 1176, 1184.) A zoning ordinance that conflicts with the general plan or impedes achievement of its policies is invalid and cannot be given effect. See *Lesher*, 52 Cal. App. 3d at 544.

State law requires that all subordinate land use decisions, including conditional use permits, be consistent with the general plan. See Gov. Code § 65860(a)(2); *Neighborhood Action Group*, 156 Cal. App. 3d at 1184.

A project cannot be found consistent with a general plan if it conflicts with a general plan policy that is "fundamental, mandatory, and clear," regardless of whether it is consistent with other general plan policies. See *Endangered Habitats League v. County of Orange* (2005) 131 Cal. App. 4th 777, 782-83; *Families Unafraid to Uphold Rural El Dorado County v. Bd. of Supervisors* (1998) 62 Cal. App. 4th 1332, 1341-42 ("*FUTURE*").

Moreover, even in the absence of such a direct conflict, an ordinance or development project may not be approved if it interferes with or frustrates the general plan's policies and objectives. See *Napa Citizens*, 91 Cal. App. 4th at 378-79; see also *Lesher*, 52 Cal. App. 3d at 544 (zoning ordinance restricting development conflicted with growth-oriented policies of general plan).

RESPONSE TO COMMENT 20.27

The commenter claims the Proposed Project violates state planning and zoning law as well as the City's General Plan, by citing case law on the standards of general plan

consistency. The commenter does not include any specific comments regarding how the Proposed Project conflicts with the City's General Plan. As discussed in great detail in Section IV.E Land Use and Planning and Appendix M, Land Use Consistency Analysis Tables, of the Draft EIR, the Proposed Project is consistent with and would not conflict with the applicable goals and policies of the City of Los Angeles General Plan. The Draft EIR determined that the Proposed Project would be fully consistent with SCAG's RTP/SCS, SCAQMD's Air Quality Management Plan, the City's General Plan and associated Elements, the Los Angeles Municipal Code's zoning and land use designations, and L.A. Green Building Code. Therefore, the commenter's claim that the Proposed Project violates the state planning and zoning law is erroneous and based on speculative assumptions. Detailed responses to the specific claims with respect to RTP/SCS consistency is discussed in Response to Comments 20.28 and 20.29, below.

COMMENT 20.28

B. The DEIR Fails to Demonstrate Consistency with SCAG's RTP/SCS Plan

While the EIR conducts a consistency analysis between the Project and SCAG's 2016 RTP/SCS Plan, it fails to consider *many* of that plan's other goals and policies which apply at the project level, specifically those addressing the reduction of greenhouse gas emissions. The Southern California Association of Government's ("SCAG") 2016-2040 Regional Transportation Plan/Sustainable Communities Strategy ("2016 RTP/SCS") and the California Air Resources Board ("CARB") 2017 Climate Change Scoping Plan ("2017 Scoping Plan") outline numerous measures for reducing Project GHG emissions which the EIR fails to consider.[56] [sic]

In September 2008, SB 375 (Gov. Code § 65080(b) et seq.) was instituted to help achieve AB 32 goals through strategies including requiring regional agencies to prepare a Sustainable Communities Strategy ("SCS") to be incorporated into their Regional Transportation Plan ("RTP"). The RTP links land use planning with the regional transportation system so that the region can grow smartly and sustainably, while also demonstrating how the region will meet targets set by CARB that reduce the per capita GHG emission from passenger vehicles in the region.

In April 2012, SCAG adopted its 2012-2035 RTP/ SCS ("2012 RTP/SCS"), which proposed specific land use policies and transportation strategies for local governments to implement that will help the region achieve GHG emission reductions of 9 percent per capita in 2020 and 16 percent per capita in 2035. In April 2016, SCAG adopted the 2016-

2040 RTP/SCS ("2016 RTP/SCS")[57] [sic], which incorporates and builds upon the policies and strategies in the 2012 RTP/SCS[58], that will help the region achieve GHG emission reductions that would reduce the region's per capita transportation emissions by eight percent by 2020 and 18 percent by 2035.[59]

For both the 2012 and 2016 RTP/SCS, SCAG prepared Program Environmental Impact Reports ("PEIR") that include Mitigation Monitoring and Reporting Programs ("MMRP") that list project-level environmental mitigation measures that directly and/or indirectly relate to a project's GHG impacts and contribution to the region's GHG emissions.[60] These environmental mitigation measures serve to help local municipalities when identifying mitigation to reduce impacts on a project-specific basis that can and should be implemented when they identify and mitigate project-specific environmental impacts.[61]

RESPONSE TO COMMENT 20.28

It should be noted that footnotes 7 and 8 were omitted from the original comment letter (see Comment Letter No. 20 at page 19 of 32 in Appendix A to this Final EIR). As such, the footnotes shown herein skip from 6 to 9 to be consistent with the commenter's letter.

The commenter states the Draft EIR failed to provide a consistency analysis with all of the goals, policies, and mitigation measures disclosed in SCAG's 2016-2040 RTP/SCS. The assertion that individual development projects within the region are required to implement the mitigation measures identified in SCAG's RTP/SCS is incorrect. Under state planning law (SB 375), the SCS developed as part of the RTP cannot supersede local General Plan policies.[62] Rather, the RTP/SCS provides a regional policy foundation that local governments may build upon if they so choose and generally includes the quantitative growth projections for each city and county in the region going forward.[63] While a lead agency must find that a project is consistent with the SCS under the CEQA Streamlining pursuant to SB 375, the Proposed Project is not seeking any incentives or discretionary actions under SB 375 and is not subject to these provisions. Further, the Draft EIR is a project-specific EIR, and is not tiering or relying on the RTP/SCS' Program EIR (PEIR) as CEQA clearance, which includes the preparation of a Sustainable Communities Environmental Assessment (SCEA). The Proposed Project's project-level

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[58] *SCAG (Apr. 2016) 2016 RTP/SCS, p. 69, 75-115, http://scagrtpscs.net/Documents/2016/final/f2016RTPSCS.pdf (attached as Exhibit B).*

[59] *Id., p. 8, 15, 153, 166.*

[60] *Id., p. 116-124; see also SCAG 2012 RTP/SCS, supra fn. 38, p. 77-86.*

[61] *SCAG 2012 RTP/SCS, supra fn. 38, p. 77; see also SCAG 2016 RTP/SCS, supra fn. 41, p. 115.*

[62] *Cal. Gov Code Section 65080(b)(2)(K).*

[63] *SCAG,* Connect SoCal Program Environmental Impact Report Addendum*, September 2020 (at page 2.0-7).*

EIR has adequately analyzed environmental impacts under CEQA and imposes its own mitigation measure relevant to the Proposed Project and is not required to incorporate any regional-level PEIR Mitigation Measures listed in the RTP/SCS, which are typically required for SCEAs. SCAG has clearly indicated that lead agencies/local jurisdictions have sole discretion to make consistency findings with the SCS for the purposes of CEQA. Furthermore, as noted in the Draft EIR, the Proposed Project would result in less than significant GHG impacts with implementation of existing regulatory compliance measures (i.e., consistency with the L.A. Green Building Code) and does not require any additional mitigation measures. Thus, the assertion that the Proposed Project must be consistent with or implement all of the mitigation measures identified in SCAG's RTP/SCS is incorrect.

Notwithstanding the above, Pages IV.C-50 through 56 in Section IV.C Greenhouse Gas Emissions of the Draft EIR, provide a thorough consistency analysis with SCAG's 2016-2040 RTP/SCS, including any policies and goals that are applicable to the Proposed Project. Additionally, the Proposed Project already incorporates many of the strategies that the commenter is requesting to be included. For example, the Project incorporates a TDM Plan through MM-TRAFFIC-1. The other strategies are discussed throughout in detail in Sections IV.B Energy, IV.C Greenhouse Gas Emissions, IV.I Transportation, IV.K Public Utilities of the Draft EIR. In addition,

Additionally, as stated on Page IV.E-19 in Section IV.E Land Use and Planning of the Draft EIR, generally, plans reflect a range of competing interests, and agencies are given great deference to determine consistency with their own plans. A proposed project should be considered consistent with a general plan or elements of a general plan if it furthers one or more policies and does not obstruct other policies.[64] Generally, given that land use plans reflect a range of competing interests, a project should be compatible with a plan's overall goals and objectives but need not be in perfect conformity with every plan policy.

As discussed on Page IV.E-21, the Proposed Project would not conflict with any applicable goals, objectives, and policies of the 2016-2040 RTP/SCS adopted for the purpose of avoiding or mitigating an environmental effect. The Proposed Project's potential to conflict with the applicable objectives and policies that support the goals set forth in the 2016-2040 RTP/SCS is also discussed in detail in Table 1 of Appendix M of the Draft EIR. As such, the Proposed Project does not need to be in perfect conformity with every plan policy, and the Proposed Project would not conflict with the general goals of the RTP/SCS.

64 *Office of Planning and Research [OPR], State of California General Plan Guidelines (2017).*

For informational purposes, a supplemental consistency analysis with each of the goals and policies of the 2020-2045 RTP/SCS is provided in Section III Revisions, Clarifications, and Corrections of the Final EIR. As discussed on page IV.E-2 in Section IV.E. Land Use and Planning of the DEIR and Table 1 of Appendix M of the Draft EIR, the goals and policies of the 2020–2045 RTP/SCS are similar to, and consistent with, those of the 2016–2040 RTP/SCS. Because the 2020-2045 RTP/SCS was adopted by SCAG subsequent to both circulation of the Notice of Preparation (NOP) for the Project on February 20, 2019, and approval by LADOT of the Transportation Assessment for the Project on March 26, 2020, this consistency analysis is not required, and the balance of this Draft EIR provided detailed analysis of Project consistency with the 2016-2040 RTP/SCS.

COMMENT 20.29

The sections below outline applicable land use policies, transportation strategies, and project-level GHG measures identified in the 2012 and 2016 RTP/SCS and PEIRs which the EIR should consider in a revised consistency analysis (note that this is not an exhaustive list):

Land Use and Transportation

- Providing transit fare discounts[65];
- Implementing transit integration strategies[66]; and
- Anticipating shared mobility platforms, car-to-car communications, and automated vehicle technologies.[67]

GHG Emissions Goals[68]

[65] *SCAG 2012 RTP/SCS, supra fn. 38, Tbls. 4.3 – 4.7; see also SCAG 2016 RTP/SCS, supra fn. 41, p. 75-114.*

[66] *Id.*

[67] *Id.*

[68] *SCAG 2012 RTP/SCS (Mar. 2012) Final PEIR MMRP, p. 6-2—6-14 (including mitigation measures ("MM") AQ3, BIO/OS3, CUL2, GEO3, GHG15, HM3, LU14, NO1, POP4, PS12, TR23, W9 [stating "[l]ocal agencies can and should comply with the requirements of CEQA to mitigate impacts to [the environmental] as applicable and feasible …[and] may refer to Appendix G of this PEIR for examples of potential mitigation to consider when appropriate in reducing environmental impacts of future projects." (Emphasis added)]),* https://rtpscs.scag.ca.gov/Documents/peir/1012/final/Final2012PEIR.pdf*; see also id., Final PEIR Appendix G (including MMs AQ1-23, GHG1-8, PS1-104, TR1-83, W1-62),* http://rtpscs.scag.ca.gov/Documents/peir/2012/final/2012fPEIR_AppendixG_ExampleMeasures.pdf*; SCAG 2016 RTP/SCS (Mar. 2016) Final PEIR MMRP, p. 11–63 (including MMs AIR-2(b), AIR-4(b), EN- 2(b), GHG-3(b), HYD-1(b), HYD-2(b), HYD-8(b), TRA-1(b), TRA-2(b), USS-4(b), USS-6(b)),* http://scagrtpscs.net/Documents/2016/peir/final/2016fPEIR_ExhibitB_MMRP.pdf*.*

- Reduction in emissions resulting from a project through implementation of project features, project design, or other measures, such as those described in Appendix F of the State CEQA Guidelines,[69] such as:
    - Potential measures to reduce wasteful, inefficient and unnecessary consumption of energy during construction, operation, maintenance and/or removal. The discussion should explain why certain measures were incorporated in the project and why other measures were dismissed.
    - The potential siting, orientation, and design to minimize energy consumption, including transportation energy.
    - The potential for reducing peak energy demand.
    - Alternate fuels (particularly renewable ones) or energy systems.
    - Energy conservation which could result from recycling efforts.
- Off-site measures to mitigate a project's emissions.
- Measures that consider incorporation of Best Available Control Technology (BACT) during design, construction and operation of projects to minimize GHG emissions, including but not limited to:
    - Use energy and fuel-efficient vehicles and equipment;
    - Deployment of zero- and/or near zero emission technologies;
    - Use cement blended with the maximum feasible amount of flash or other materials that reduce GHG emissions from cement production;
    - Incorporate design measures to reduce GHG emissions from solid waste management through encouraging solid waste recycling and reuse;
    - Incorporate design measures to reduce energy consumption and increase use of renewable energy;
    - Incorporate design measures to reduce water consumption;
    - Use lighter-colored pavement where feasible;
    - Recycle construction debris to maximum extent feasible;
- Adopting employer trip reduction measures to reduce employee trips such as vanpool and carpool programs, providing end-of-trip facilities, and telecommuting programs.
- Designate a percentage of parking spaces for ride-sharing vehicles or high-occupancy vehicles, and provide adequate passenger loading and unloading for those vehicles;
- Land use siting and design measures that reduce GHG emissions, including:
    - Measures that increase vehicle efficiency, encourage use of zero and low emissions vehicles, or reduce the carbon content of fuels, including

[69] *CEQA Guidelines, Appendix F-Energy Conservation,* http://resources.ca.gov/ceqa/guidelines/Appendix_F.html.

constructing or encouraging construction of electric vehicle charging stations or neighborhood electric vehicle networks, or charging for electric bicycles; and
- Measures to reduce GHG emissions from solid waste management through encouraging solid waste recycling and reuse.

Hydrology & Water Quality Goals

- Incorporate measures consistent in a manner that conforms to the standards set by regulatory agencies responsible for regulating water quality/supply requirements, such as:
  - Reduce exterior consumptive uses of water in public areas, and should promote reductions in private homes and businesses, by shifting to drought-tolerant native landscape plantings(xeriscaping), using weather-based irrigation systems, educating other public agencies about water use, and installing related water pricing incentives.
  - Promote the availability of drought-resistant landscaping options and provide information on where these can be purchased. Use of reclaimed water especially in median landscaping and hillside landscaping can and should be implemented where feasible.
  - Implement water conservation best practices such as low-flow toilets, water-efficient clothes washers, water system audits, and leak detection and repair.
  - Ensure that projects requiring continual dewatering facilities implement monitoring systems and long-term administrative procedures to ensure proper water management that prevents degrading of surface water and minimizes, to the greatest extent possible, adverse impacts on groundwater for the life of the project. Comply with appropriate building codes and standard practices including the Uniform Building Code.
  - Maximize, where practical and feasible, permeable surface area in existing urbanized areas to protect water quality, reduce flooding, allow for groundwater recharge, and preserve wildlife habitat. Minimized new impervious surfaces to the greatest extent possible, including the use of in-lieu fees and off-site mitigation.
  - Avoid designs that require continual dewatering where feasible.
  - Where feasible, do not site transportation facilities in groundwater recharge areas, to prevent conversion of those areas to impervious surface.

- Incorporate measures consistent in a manner than conforms to the standards set by regulatory agencies responsible for regulating and enforcing water quality and waste discharge requirements, such as:
    - Complete, and have approved, a Stormwater Pollution Prevention Plan ("SWPPP") before initiation of construction.
    - Implement Best Management Practices to reduce the peak stormwater runoff from the project site to the maximum extent practicable.
    - Comply with the Caltrans stormwater discharge permit as applicable; and identify and implement Best Management Practices to manage site erosion, wash water runoff, and spill control.
    - Complete, and have approved, a Standard Urban Stormwater Management Plan, prior to occupancy of residential or commercial structures.
    - Ensure adequate capacity of the surrounding stormwater system to support stormwater runoff from new or rehabilitated structures or buildings.
    - Prior to construction within an area subject to Section 404 of the Clean Water Act, obtain all required permit approvals and certifications for construction within the vicinity of a watercourse (e.g., Army Corps § 404 permit, Regional Waterboard § 401 permit, Fish & Wildlife § 401 permit).
    - Where feasible, restore or expand riparian areas such that there is no net loss of impervious surface as a result of the project.
    - Install structural water quality control features, such as drainage channels, detention basins, oil and grease traps, filter systems, and vegetated buffers to prevent pollution of adjacent water resources by polluted runoff where required by applicable urban stormwater runoff discharge permits, on new facilities.
    - Provide structural stormwater runoff treatment consistent with the applicable urban stormwater runoff permit where Caltrans is the operator, the statewide permit applies.
    - Provide operational best management practices for street cleaning, litter control, and catch basin cleaning are implemented to prevent water quality degradation in compliance with applicable stormwater runoff discharge permits; and ensure treatment controls are in place as early as possible, such as during the acquisition process for rights-of-way, not just later during the facilities design and construction phase.
    - Comply with applicable municipal separate storm sewer system discharge permits as well as Caltrans' stormwater discharge permit including long-term sediment control and drainage of roadway runoff.
    - Incorporate as appropriate treatment and control features such as detention basins, infiltration strips, and porous paving, other features to control

surface runoff and facilitate groundwater recharge into the design of new transportation projects early on in the process to ensure that adequate acreage and elevation contours are provided during the right-of-way acquisition process.

- Design projects to maintain volume of runoff, where any downstream receiving water body has not been designed and maintained to accommodate the increase in flow velocity, rate, and volume without impacting the water's beneficial uses. Pre-project flow velocities, rates, volumes must not be exceeded. This applies not only to increases in stormwater runoff from the project site, but also to hydrologic changes induced by flood plain encroachment. Projects should not cause or contribute to conditions that degrade the physical integrity or ecological function of any downstream receiving waters.
- Provide culverts and facilities that do not increase the flow velocity, rate, or volume and/or acquiring sufficient storm drain easements that accommodate an appropriately vegetated earthen drainage channel.
- Upgrade stormwater drainage facilities to accommodate any increased runoff volumes. These upgrades may include the construction of detention basins or structures that will delay peak flows and reduce flow velocities, including expansion and restoration of wetlands and riparian buffer areas. System designs shall be completed to eliminate increases in peak flow rates from current levels.
- Encourage Low Impact Development ("LID") and incorporation of natural spaces that reduce, treat, infiltrate and manage stormwater runoff flows in all new developments, where practical and feasible.

- Incorporate measures consistent with the provisions of the Groundwater Management Act and implementing regulations, such as:
  - For projects requiring continual dewatering facilities, implement monitoring systems and long-term administrative procedures to ensure proper water management that prevents degrading of surface water and minimizes, to the greatest extent possible, adverse impacts on groundwater for the life of the project, Construction designs shall comply with appropriate building codes and standard practices including the Uniform Building Code.
  - Maximize, where practical and feasible, permeable surface area in existing urbanized areas to protect water quality, reduce flooding, allow for groundwater recharge, and preserve wildlife habitat. Minimize to the greatest extent possible, new impervious surfaces, including the use of in-lieu fees and off-site mitigation.
  - Avoid designs that require continual dewatering where feasible.

  - Avoid construction and siting on groundwater recharge areas, to prevent conversion of those areas to impervious surface.
  - Reduce hardscape to the extent feasible to facilitate groundwater recharge as appropriate.
- Incorporate mitigation measures to ensure compliance with all federal, state, and local floodplain regulations, consistent with the provisions of the National Flood Insurance Program, such as:
  - Comply with Executive Order 11988 on Floodplain Management, which requires avoidance of incompatible floodplain development, restoration and preservation of the natural and beneficial floodplain values, and maintenance of consistency with the standards and criteria of the National Flood Insurance Program.
  - Ensure that all roadbeds for new highway and rail facilities be elevated at least one foot above the 100-year base flood elevation. Since alluvial fan flooding is not often identified on FEMA flood maps, the risk of alluvial fan flooding should be evaluated and projects should be sited to avoid alluvial fan flooding. Delineation of floodplains and alluvial fan boundaries should attempt to account for future hydrologic changes caused by global climate change.

Transportation, Traffic, and Safety

- Institute teleconferencing, telecommute and/or flexible work hour programs to reduce unnecessary employee transportation.
- Create a ride-sharing program by designating a certain percentage of parking spaces for ride sharing vehicles, designating adequate passenger loading and unloading for ride sharing vehicles, and providing a web site or message board for coordinating rides.
- Provide a vanpool for employees.
- Provide a Transportation Demand Management (TDM) plan containing strategies to reduce on-site parking demand and single occupancy vehicle travel. The TDM shall include strategies to increase bicycle, pedestrian, transit, and carpools/vanpool use, including:
  - Inclusion of additional bicycle parking, shower, and locker facilities that exceed the requirement.
  - Direct transit sales or subsidized transit passes.
  - Guaranteed ride home program.
  - Pre-tax commuter benefits (checks).
  - On-site car-sharing program (such as City Car Share, Zip Car, etc.).

  - On-site carpooling program.
  - Distribution of information concerning alternative transportation options.
  - Parking spaces sold/leased separately.
  - Parking management strategies; including attendant/valet parking and shared parking spaces.
- Promote ride sharing programs e.g., by designating a certain percentage of parking spaces for high-occupancy vehicles, providing larger parking spaces to accommodate vans used for ride-sharing, and designating adequate passenger loading and unloading and waiting areas.
- Encourage the use of public transit systems by enhancing safety and cleanliness on vehicles and in and around stations, providing shuttle service to public transit, offering public transit incentives and providing public education and publicity about public transportation services.
- Build or fund a major transit stop within or near transit development upon consultation with applicable CTCs.
- Work with the school districts to improve pedestrian and bike access to schools and to restore or expand school bus service using lower-emitting vehicles.
- Purchase, or create incentives for purchasing, low or zero-emission vehicles.
- Provide the necessary facilities and infrastructure to encourage the use of low or zero-emission vehicles.
- Promote ride sharing programs, if determined feasible and applicable by the Lead Agency, including:
  - Designate a certain percentage of parking spaces for ride-sharing vehicles.
  - Designate adequate passenger loading, unloading, and waiting areas for ridesharing vehicles.
  - Provide a web site or message board for coordinating shared rides.
  - Encourage private, for-profit community car-sharing, including parking spaces for car share vehicles at convenient locations accessible by public transit.
  - Hire or designate a rideshare coordinator to develop and implement ridesharing programs.
- Support voluntary, employer-based trip reduction programs, if determined feasible and applicable by the Lead Agency, including:
  - Provide assistance to regional and local ridesharing organizations.
  - Advocate for legislation to maintain and expand incentives for employer ridesharing programs.
  - Require the development of Transportation Management Associations for large employers and commercial/ industrial complexes.

    - Provide public recognition of effective programs through awards, top ten lists, and other mechanisms.
- Implement a "guaranteed ride home" program for those who commute by public transit, ridesharing, or other modes of transportation, and encourage employers to subscribe to or support the program.
- Encourage and utilize shuttles to serve neighborhoods, employment centers and major destinations.
- Create a free or low-cost local area shuttle system that includes a fixed route to popular tourist destinations or shopping and business centers.
- Work with existing shuttle service providers to coordinate their services.
- Facilitate employment opportunities that minimize the need for private vehicle trips, such as encourage telecommuting options with new and existing employers, through project review and incentives, as appropriate.
- Organize events and workshops to promote GHG-reducing activities.
- Implement a Parking Management Program to discourage private vehicle use, including:
    - Encouraging carpools and vanpools with preferential parking and a reduced parking fee.
    - Institute a parking cash-out program or establish a parking fee for all single-occupant vehicles.

Utilities & Service Systems

- Integrate green building measures consistent with CALGreen (Title 24, part 11), U.S. Green Building Council's Leadership in Energy and Environmental Design, energy Star Homes, Green Point Rated Homes, and the California Green Builder Program into project design including, but not limited to the following:
    - Reuse and minimization of construction and demolition (C&D) debris and diversion of C&D waste from landfills to recycling facilities.
    - Inclusion of a waste management plan that promotes maximum C&D diversion.
    - Development of indoor recycling program and space.
    - Discourage exporting of locally generated waste outside of the SCAG region during the construction and implementation of a project. Encourage disposal within the county where the waste originates as much as possible. Promote green technologies for long-distance transport of waste (e.g., clean engines and clean locomotives or electric rail for waste-by-rail disposal systems) and consistency with SCAQMD and 2016 RTP/SCS policies can and should be required.

- Develop ordinances that promote waste prevention and recycling activities such as: requiring waste prevention and recycling efforts at all large events and venues; implementing recycled content procurement programs; and developing opportunities to divert food waste away from landfills and toward food banks and composting facilities.
- Develop alternative waste management strategies such as composting, recycling, and conversion technologies.
- Develop and site composting, recycling, and conversion technology facilities that have minimum environmental and health impacts.
- Require the reuse and recycle construction and demolition waste (including, but not limited to, soil, vegetation, concrete, lumber, metal, and cardboard).
- Integrate reuse and recycling into residential industrial, institutional and commercial projects.
- Provide recycling opportunities for residents, the public, and tenant businesses.
- Provide education and publicity about reducing waste and available recycling services.
- Implement or expand city or county-wide recycling and composting programs for residents and businesses. This could include extending the types of recycling services offered (e.g., to include food and green waste recycling) and providing public education and publicity about recycling services.

As the above tables indicate, the EIR fails to mention or demonstrate consistency with all the above listed measures and strategies of the SCAG RTP/SCS Plan. Thus, the EIR fails to demonstrate the Project is actually consistent with the applicable RTP/SCS plan.

An amended and recirculated DEIR needs to include a consistency analysis with not only with general goals and planning level policies of the RTP plan, but all goals and policies which apply to this Project, at a project level.

RESPONSE TO COMMENT 20.29

Here, the commenter reiterates the Draft EIR failed to provide consistency with all of the strategies and mitigation measures within SCAG's 2016-2040 RTP/SCS and suggests implementing all feasible mitigation measures and strategies of the 2016-2040 RTP/SCS, particularly pertaining to land use and transportation, GHG emissions, hydrology and water quality, traffic and safety, and utilities. As discussed above in Response to Comment No. 20.28, the assertion that individual development projects within the region are required to implement the mitigation measures identified in SCAG's RTP/SCS is incorrect. Under

state planning law (SB 375), the SCS developed as part of the RTP cannot supersede local General Plan policies.[70] Rather, the RTP/SCS provides a regional policy foundation that local governments may build upon if they so choose and generally includes the quantitative growth projections for each city and county in the region going forward.[71] While a lead agency must find that a project is consistent with the SCS under the CEQA Streamlining pursuant to SB 375, the Proposed Project is not seeking any incentives or discretionary actions under SB 375 and is not subject to these provisions. SCAG has clearly indicated that lead agencies/local jurisdictions have sole discretion to make consistency findings with the SCS for the purposes of CEQA.[72] Furthermore, as noted in the Draft EIR, the Proposed Project would result in less than significant GHG impacts with implementation of existing regulatory compliance measures (i.e., consistency with the L.A. Green Building Code) and does not require any additional mitigation measures. Thus, the assertion that the Proposed Project must be consistent with or implement all of the mitigation measures identified in SCAG's RTP/SCS PEIR is incorrect.

Notwithstanding the above, an analysis addressing the Proposed Project's compliance with (or applicability to) the measures and strategies identified by the commenter is provided in the table below. As stated in Response to Comment 20.28, the Proposed Project already incorporates many of the strategies that the commenter is requesting, including strategies related to land use, transportation, GHG emissions, hydrology and water quality, and utilities, as discussed in detail in Sections IV.B Energy, IV.C Greenhouse Gas Emissions, IV.I Transportation, IV.K Public Utilities of the Draft EIR, and many of the other strategies/mitigation measures are not applicable to the Proposed Project.

[70] *Cal. Gov Code Section 65080(b)(2)(K).*

[71] *SCAG, Connect SoCal Program Environmental Impact Report Addendum, September 2020 (at page 2.0-7).*

[72] *SCAG, Connection SoCal Program Environmental Impact Report, Addendum #1, September 2020, Page 2.0-7 website: https://scag.ca.gov/sites/main/files/file-attachments/fpeir_connectsocal_addendum_complete.pdf?1606004379.*

Project Consistency with the RTP/SCS Mitigation Measures and Strategies

Measures and Strategies	Project Consistency Analysis
Land Use and Transportation	
Providing transit fare discounts; Implementing transit integration strategies; and Anticipating shared mobility platforms, car-to-car communications, and automated vehicle technologies.	**These Measures are not applicable or required for the Proposed Project.** This measure is not listed in the 2012 RTP/SCS or the 2016 RTP/SCS PEIR as referenced by the commenter. Nevertheless, as discussed in Section IV.I Transportation of the Draft EIR, the Proposed Project would implement Mitigation Measure MM-TRANS-1, which is comprised of TDM strategies such as unbundled parking, promotions and marketing of travel choices, and bicycle parking. Although MM-TRANS-1 would not specifically include transit passes, these TDM measures would reduce VMT impacts to less than significant levels. Therefore, additional mitigation is not required and these measures are not applicable.
GHG Emissions Goals	
Reduction in emissions resulting from a project through implementation of project features, project design, or other measures, such as those described in Appendix F of the State CEQA Guidelines, such as: - Potential measures to reduce wasteful, inefficient and unnecessary consumption of energy during construction, operation, maintenance and/or removal. The discussion should explain why certain measures were incorporated in the project and why other measures were dismissed. - The potential siting, orientation, and design to minimize energy consumption, including transportation energy. - The potential for reducing peak energy demand.	**The Proposed Project would substantially conform to this Measure.** As discussed in Section IV.B Energy of the Draft EIR, the Proposed Project would not result in wasteful, inefficient, or unnecessary consumption of energy during construction or operation. The Proposed Project's demands on electricity, natural gas, and transportation energy would not significantly affect local and regional supplies or capacity. The Proposed Project's energy usage during base and peak periods would be consistent with electricity and natural gas future projections for the region. Electricity generation capacity and supplies of natural gas and transportation fuels would be sufficient to meet the needs of Project-related construction and operational activities. Additionally, the Proposed Project would comply with all energy conservation standards applicable to the Proposed Project. In summary, the Proposed Project's energy demands would not

Measures and Strategies	Project Consistency Analysis
- Alternate fuels (particularly renewable ones) or energy systems. - Energy conservation which could result from recycling efforts.	significantly affect available energy supplies and would comply with existing energy efficiency standards. Therefore, the Proposed Project would not cause wasteful, inefficient, and unnecessary consumption of energy during the construction and operation, and impacts with respect to energy consumption would be less than significant. The Project would substantially conform to this measure, and furthermore, mitigation is not required.
Off-site measures to mitigate a project's emissions.	**This Measure is not applicable or required for the Proposed Project.** As discussed in Section IV.C Greenhouse Gas Emissions of the Draft EIR, the Proposed Project would not conflict with any applicable plan, policy, or regulation of an agency adopted for the purpose of reducing emissions of GHGs. Furthermore, because the Proposed Project is consistent and does not conflict with these plans, policies, and regulations, the Proposed Project's incremental increase in GHG emissions as described above would not result in a significant impact on the environment. Therefore, Project-specific impacts with regard to climate change would be less than significant, and therefore mitigation measures are not required for the Proposed Project, and these measures are not applicable.
Measures that consider incorporation of Best Available Control Technology (BACT) during design, construction and operation of projects to minimize GHG emissions, including but not limited to: - Use energy and fuel-efficient vehicles and equipment; - Deployment of zero- and/or near zero emission technologies; - Use cement blended with the maximum feasible amount of flash or other materials that reduce GHG emissions from cement production;	**The Proposed Project would substantially conform to this Measure.** As discussed in Section IV.B Energy, Section IV.C Greenhouse Gas Emissions, Section IV.K Public Utilities of the Draft EIR, the Proposed Project must meet Title 24 2019 standards and include ENERGY STAR appliances. ENERGY STAR-rated appliances would reduce the projects energy demand during the operational life. Pursuant to SB 1374, the Proposed Project is subject to construction waste reduction of at least 75 percent. In addition, Project Site operations are subject to AB 939 and as updated by AB341

Measures and Strategies	Project Consistency Analysis
- Incorporate design measures to reduce GHG emissions from solid waste management through encouraging solid waste recycling and reuse; - Incorporate design measures to reduce energy consumption and increase use of renewable energy; - Incorporate design measures to reduce water consumption; - Use lighter-colored pavement where feasible; - Recycle construction debris to maximum extent feasible;	requirements to divert 75 percent of solid waste to landfills through source reduction, recycling, and composting. Finally, the Project is required by the California Solid Waste Reuse and Recycling Access Act of 1991 to provide adequate storage areas for collection and storage of recyclable waste materials. As mandated by the LA Green Building Code, the Proposed Project would be required to provide a schedule of plumbing fixtures and fixture fittings that reduce potable water use within the development by at least 20 percent compared to the "water use baseline" established by LAMC Section 99.04.303. The Project must also provide irrigation design and controllers that are weather- or soil moisture-based and automatically adjust in response to weather conditions and plants' needs, pursuant to the California Department of Water Resources Model Water Efficient Landscape Ordinance. The Proposed Project would use energy from the Los Angeles Department of Water and Power (LADWP), which has goals to diversify its portfolio of energy sources to increase the use of renewable energy by 50 percent by 2025. The Proposed Project would use water-efficient landscaping including point-to-point irrigation and a smart controller drip system to reduce water use. Pursuant to the LAMC, 30 percent of the total number of parking spaces provided will be electric vehicle charging spaces (EVCS) capable of supporting future (e.g., EVCS-ready) and 10 percent of the total parking spaces provided will consist of EVCS spaces. As analyzed in the Draft EIR, impacts related to GHG emissions would be less than significant. The Project would substantially conform to this measure, and furthermore, mitigation is not required.
Adopting employer trip reduction measures to reduce employee trips such	**This Measure is not applicable or required for the Proposed Project.** As discussed in

Measures and Strategies	Project Consistency Analysis
as vanpool and carpool programs, providing end-of-trip facilities, and telecommuting programs.	Section IV.I Transportation of the Draft EIR, the Proposed Project would implement Mitigation Measure MM-TRANS-1, which is comprised of TDM strategies such as unbundled parking, promotions and marketing of travel choices, and bicycle parking. Although MM-TRANS-1 would not specifically include employer trip reduction, these TDM measures would reduce VMT impacts to less than significant levels. Therefore, additional mitigation is not required, and these measures are not applicable.
Designate a percentage of parking spaces for ride-sharing vehicles or high-occupancy vehicles, and provide adequate passenger loading and unloading for those vehicles;	**This Measure is not applicable or required for the Proposed Project.** As discussed in Section IV.I Transportation of the Draft EIR, the Proposed Project would implement Mitigation Measure MM-TRANS-1, which would reduce VMT impacts to less than significant levels. Therefore, additional mitigation is not required, and these measures are not applicable.
Land use siting and design measures that reduce GHG emissions, including: - Measures that increase vehicle efficiency, encourage use of zero and low emissions vehicles, or reduce the carbon content of fuels, including constructing or encouraging construction of electric vehicle charging stations or neighborhood electric vehicle networks, or charging for electric bicycles; and - Measures to reduce GHG emissions from solid waste management through encouraging solid waste recycling and reuse.	**The Proposed Project would substantially conform to this Measure.** The Proposed Project would include 258 bicycle on-site parking spaces. Additionally, 30 percent of the total number of parking spaces provided will be electric vehicle charging spaces (EVCS) capable of supporting future (e.g., EVCS-ready) and 10 percent of the total parking spaces provided will consist of EVCS spaces, which would promote the use of zero and low emissions vehicles. Further, the Proposed Project is subject to AB 939 requirements to divert 75 percent of solid waste to landfills through source reduction, recycling, and composting. Additionally, the Proposed Project is required by the California Solid Waste Reuse and Recycling Access Act of 1991 to provide adequate storage areas for collection and storage of recyclable waste materials. Therefore, the Proposed Project would substantially conform to this measure, and

Measures and Strategies	Project Consistency Analysis
	mitigation is not required.
Hydrology & Water Quality Goals	
Incorporate measures consistent in a manner that conforms to the standards set by regulatory agencies responsible for regulating water quality/supply requirements, such as - Reduce exterior consumptive uses of water in public areas, and should promote reductions in private homes and businesses, by shifting to drought-tolerant native landscape plantings(xeriscaping), using weather-based irrigation systems, educating other public agencies about water use, and installing related water pricing incentives. - Promote the availability of drought-resistant landscaping options and provide information on where these can be purchased. Use of reclaimed water especially in median landscaping and hillside landscaping can and should be implemented where feasible. - Implement water conservation best practices such as low-flow toilets, water-efficient clothes washers, water system audits, and leak detection and repair - Ensure that projects requiring continual dewatering facilities implement monitoring systems and long-term administrative procedures to ensure proper water management that prevents degrading of surface water and minimizes, to the greatest extent possible, adverse impacts on groundwater for the life of the project. Comply with appropriate building codes and standard	**The Proposed Project would substantially conform to this Measure.** As discussed on Page II-28 of the Draft EIR, a minimum of 25 percent of open space would be landscaped with a variety of drought-tolerant plant species. As discussed on page IV.K-16 in Section IV.K, Utilities and Service Systems in the Draft EIR, the Proposed Project would be required to provide a schedule of plumbing fixtures and fixture fittings that reduce potable water use within the development by at least 20 percent compared to the "water use baseline" established by LAMC Section 99.04.303. Such flow rates would be reduced to the following fixtures, but not be limited to: low-flow toilets, showerheads, kitchen faucets, clothes washers, and dishwashers. The Proposed Project must also provide irrigation design and controllers that are weather- or soil moisture-based and automatically adjust in response to weather conditions and plants' needs. With respect to Hydrology and Water Quality, these impacts were analyzed in the Initial Study. As discussed therein, impacts related to hydrology and water quality would result in less than significant impacts without mitigation. As discussed in Checklist Question X(c) of the Initial Study, the Development Site is mostly covered with impermeable surfaces. The Proposed Project would increase the amount of permeable surfaces on portions of the Development Site due to increased landscaping and filtration areas as part of the Low Impact Development measures. In addition, as discussed in the Initial Study, Appendix A to the Draft EIR, water produced during temporary dewatering will be treated to remove

Measures and Strategies	Project Consistency Analysis
practices including the Uniform Building Code. - Maximize, where practical and feasible, permeable surface area in existing urbanized areas to protect water quality, reduce flooding, allow for groundwater recharge, and preserve wildlife habitat. Minimized new impervious surfaces to the greatest extent possible, including the use of in-lieu fees and off-site mitigation. - Avoid designs that require continual dewatering where feasible. - Where feasible, do not site transportation facilities in groundwater recharge areas, to prevent conversion of those areas to impervious surface.	contaminants and discharged under applicable permits to the storm or sanitary sewer system. Thus, through compliance with all National Pollutant Discharge Elimination System (NPDES) General Construction Permit requirements, including preparation of a Stormwater Pollution Prevention Plan (SWPPP), implementation of best management practices (BMPs), compliance with applicable City grading regulations, and treatment of dewatering water prior to discharge, the Proposed Project would not violate any water quality standards or waste discharge requirements, or otherwise substantially degrade surface or groundwater quality during construction. Therefore, the Proposed Project would already substantially conform to these measures, and no mitigation measures are required.
Incorporate measures consistent in a manner that conforms to the standards set by regulatory agencies responsible for regulating and enforcing water quality and waste discharge requirements, such as: - Complete, and have approved, a Stormwater Pollution Prevention Plan ("SWPPP") before initiation of construction. - Implement Best Management Practices to reduce the peak stormwater runoff from the project site to the maximum extent practicable. - Comply with the Caltrans	**The Proposed Project would substantially conform to this Measure.** As discussed in the Initial Study, (Appendix A to the Draft EIR), the Proposed Project is subject to the following regulatory compliance measures: • Hydrology (National Pollutant Discharge Elimination System General Permit): Prior to issuance of a grading permit, the Applicant shall obtain coverage under the State Water Resources Control Board National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ, National Pollutant Discharge Elimination System No.

Measures and Strategies	Project Consistency Analysis
stormwater discharge permit as applicable; and identify and implement Best Management Practices to manage site erosion, wash water runoff, and spill control. - Complete, and have approved, a Standard Urban Stormwater Management Plan, prior to occupancy of residential or commercial structures. - Ensure adequate capacity of the surrounding stormwater system to support stormwater runoff from new or rehabilitated structures or buildings. - Prior to construction within an area subject to Section 404 of the Clean Water Act, obtain all required permit approvals and certifications for construction within the vicinity of a watercourse (e.g., Army Corps § 404 permit, Regional Waterboard § 401 permit, Fish & Wildlife § 401 permit). - Where feasible, restore or expand riparian areas such that there is no net loss of impervious surface as a result of the project. - Install structural water quality control features, such as drainage channels, detention basins, oil and grease traps, filter systems, and vegetated buffers to prevent pollution of adjacent water resources by polluted runoff where required by applicable urban stormwater runoff discharge permits, on new facilities. - Provide structural stormwater runoff treatment consistent with the applicable urban stormwater runoff permit where Caltrans is the operator, the statewide permit applies. - Provide operational best	CAS000002) (Construction General Permit) for the Proposed Project. The Applicant shall provide the Waste Discharge Identification Number to the City of Los Angeles to demonstrate proof of coverage under the Construction General Permit. • The Proposed Project would be required to incorporate a Storm Water Pollution Prevention Plan (SWPPP) in compliance with the requirements of the Construction General Permit. The Storm Water Pollution Prevention Plan shall identify construction Best Management Practices to be implemented to ensure that the potential for soil erosion and sedimentation is minimized and to control the discharge of pollutants in stormwater runoff as a result of construction activities. • Hydrology (Stormwater Pollution (Demolition, Grading, and Construction Activities)): Sediment carries with it other work-site pollutants such as pesticides, cleaning solvents, cement wash, asphalt, and car fluids that are toxic to sea life. o Leaks, drips and spills shall be cleaned up immediately to prevent contaminated soil on paved surfaces that can be washed away into the storm drains. o All vehicle/equipment maintenance, repair, and washing shall be conducted away from storm drains. All major repairs shall be conducted off-site. Drip pans or drop clothes shall be used to catch drips and spills. o Pavement shall not be hosed down at material spills. Dry cleanup methods shall be used whenever possible. o Dumpsters shall be covered and maintained. Uncovered dumpsters shall be placed under a roof or be covered with tarps or plastic sheeting. • Hydrology (Standard Urban Stormwater Mitigation Plan): Prior to the issuance of a grading permit, the Project shall comply with the SUSMP to the City of Los Angeles of Sanitation and Environment Watershed Protection Division for review and approval. The Standard Urban Stormwater Mitigation

Measures and Strategies	Project Consistency Analysis
management practices for street cleaning, litter control, and catch basin cleaning are implemented to prevent water quality degradation in compliance with applicable stormwater runoff discharge permits; and ensure treatment controls are in place as early as possible, such as during the acquisition process for rights-of-way, not just later during the facilities design and construction phase. - Comply with applicable municipal separate storm sewer system discharge permits as well as Caltrans' stormwater discharge permit including long-term sediment control and drainage of roadway runoff. - Incorporate as appropriate treatment and control features such as detention basins, infiltration strips, and porous paving, other features to control surface runoff and facilitate groundwater recharge into the design of new transportation projects early on in the process to ensure that adequate acreage and elevation contours are provided during the right-of-way acquisition process. - Design projects to maintain volume of runoff, where any downstream receiving water body has not been designed and maintained to accommodate the increase in flow velocity, rate, and volume without impacting the water's beneficial uses. Pre-project flow velocities, rates, volumes must not be exceeded. This applies not only to increases in stormwater runoff from the project site, but also to hydrologic changes induced by flood plain encroachment. Projects should	Plan shall be prepared consistent with the requirements of the Development Best Management Practices Handbook. • Hydrology (Low Impact Development): After construction, appropriate Low Impact Development (LID) Stormwater Quality Control Measures will be implemented on the newly constructed, mixed-use building. These include flow-through planters and flow through tree rings to tilter runoff in excess of the Storm Water Quality Design volume and harvest rainwater used for landscape irrigation. Thus, the Proposed Project would already substantially conform to these measures as regulatory compliance. Impacts would be less than significant through regulatory compliance and no mitigation measures are required.

Measures and Strategies	Project Consistency Analysis
not cause or contribute to conditions that degrade the physical integrity or ecological function of any downstream receiving waters. - Provide culverts and facilities that do not increase the flow velocity, rate, or volume and/or acquiring sufficient storm drain easements that accommodate an appropriately vegetated earthen drainage channel. - Upgrade stormwater drainage facilities to accommodate any increased runoff volumes. These upgrades may include the construction of detention basins or structures that will delay peak flows and reduce flow velocities, including expansion and restoration of wetlands and riparian buffer areas. System designs shall be completed to eliminate increases in peak flow rates from current levels. - Encourage Low Impact Development ("LID") and incorporation of natural spaces that reduce, treat, infiltrate and manage stormwater runoff flows in all new developments, where practical and feasible.	
Incorporate measures consistent with the provisions of the Groundwater Management Act and implementing regulations, such as: - For projects requiring continual dewatering facilities, implement monitoring systems and long-term administrative procedures to ensure proper water management that prevents degrading of surface water and minimizes, to the greatest extent possible, adverse impacts on groundwater for the life of the project, Construction designs shall comply	**The Proposed Project would substantially conform to these measures.** The Proposed Project is subject to the following standard regulatory requirements: • Hydrology (Low Impact Development Plan): Prior to issuance of grading permits, the Applicant shall submit a Low Impact Development Plan and/or Standard Urban Stormwater Mitigation Plan to the City of Los Angeles of Sanitation and Environment Watershed Protection Division for review and approval. The Low Impact Development Plan and/or Standard Urban Stormwater Mitigation Plan shall be prepared consistent with the requirements

Measures and Strategies	Project Consistency Analysis
with appropriate building codes and standard practices including the Uniform Building Code. - Maximize, where practical and feasible, permeable surface area in existing urbanized areas to protect water quality, reduce flooding, allow for groundwater recharge, and preserve wildlife habitat. Minimize to the greatest extent possible, new impervious surfaces, including the use of in-lieu fees and off-site mitigation. - Avoid designs that require continual dewatering where feasible. - Avoid construction and siting on groundwater recharge areas, to prevent conversion of those areas to impervious surface. - Reduce hardscape to the extent feasible to facilitate groundwater recharge as appropriate.	of the Development Best Management Practices Handbook. • Hydrology (Best Management Practices): The Best Management Practices shall be designed to retain or treat the runoff from a storm event producing 0.75 inch of rainfall in a 24-hour period or the rainfall from an 85th percentile 24-hour runoff event, which ever is greater, in accordance with the Development Best Management Practices Handbook Part B Planning Activities. A signed certificate from a licensed civil engineer or licensed architect confirming that the proposed Best Management Practices meet this numerical threshold standard shall be provided. As discussed in Checklist Question X(c) of the Initial Study, the Development Site is mostly covered with impermeable surfaces. The Proposed Project would increase the amount of permeable surfaces on portions of the Development Site due to increased landscaping and filtration areas as part of the LID measures. After construction, appropriate LID Stormwater Quality Control Measures will be implemented on the newly constructed, mixed-use building. These include flow-through planters and flow through tree rings to tilter runoff in excess of the Storm Water Quality Design volume and harvest rainwater used for landscape irrigation. Thus, the Proposed Project would already substantially conform to these measures as regulatory compliance. No mitigation measures are required.
Incorporate mitigation measures to ensure compliance with all federal, state, and local floodplain regulations, consistent with the provisions of the National Flood Insurance Program, such	**This measure is not applicable or required for the Proposed Project.** With respect to Hydrology and Water Quality, floodplain impacts were analyzed in the Initial Study. As discussed in Checklist Question X(d) of the Initial Study, the Project Site is not located

Measures and Strategies	Project Consistency Analysis
as: - Comply with Executive Order 11988 on Floodplain Management, which requires avoidance of incompatible floodplain development, restoration and preservation of the natural and beneficial floodplain values, and maintenance of consistency with the standards and criteria of the National Flood Insurance Program. - Ensure that all roadbeds for new highway and rail facilities be elevated at least one foot above the 100-year base flood elevation. Since alluvial fan flooding is not often identified on FEMA flood maps, the risk of alluvial fan flooding should be evaluated and projects should be sited to avoid alluvial fan flooding. Delineation of floodplains and alluvial fan boundaries should attempt to account for future hydrologic changes caused by global climate change.	within a designated flood zone, according to the Federal Emergency Management Agency (FEMA) flood insurance rate map. Therefore, mitigation is not required, and these measures are not applicable.
Transportation, Traffic, and Safety	
Institute teleconferencing, telecommute and/or flexible work hour programs to reduce unnecessary employee transportation.	**This Measure is not applicable or required for the Proposed Project.** The Proposed Project would include commercial and retail uses, which would typically require employees to physically travel to the Project Site. As discussed in Section IV.I Transportation of the Draft EIR, the Proposed Project would implement Mitigation Measure MM-TRANS-1, which would reduce VMT impacts to less than significant levels. Therefore, additional mitigation is not required, and these measures are not applicable.
Create a ride-sharing program by designating a certain percentage of	**This Measure is not applicable or required for the Proposed Project.** As discussed in

Measures and Strategies	Project Consistency Analysis
parking spaces for ride sharing vehicles, designating adequate passenger loading and unloading for ride sharing vehicles, and providing a web site or message board for coordinating rides.	Section IV.I Transportation of the Draft EIR, the Proposed Project would implement Mitigation Measure MM-TRANS-1, which is comprised of TDM strategies such as unbundled parking, promotions and marketing of travel choices, and bicycle parking. Although MM-TRANS-1 would not specifically create a ride-sharing program, these TDM measures would reduce VMT impacts to less than significant levels. Therefore, additional mitigation is not required, and these measures are not applicable.
Provide a vanpool for employees.	**This Measure is not applicable or required for the Proposed Project.** As discussed in Section IV.I Transportation of the Draft EIR, the Proposed Project would implement Mitigation Measure MM-TRANS-1, which is comprised of TDM strategies such as unbundled parking, promotions and marketing of travel choices, and bicycle parking. Although MM-TRANS-1 would not specifically include vanpool for employees, these TDM measures would reduce VMT impacts to less than significant levels. Therefore, additional mitigation is not required, and these measures are not applicable.
Provide a Transportation Demand Management (TDM) plan containing strategies to reduce on-site parking demand and single occupancy vehicle travel. The TDM shall include strategies to increase bicycle, pedestrian, transit, and carpools/vanpool use, including: - Inclusion of additional bicycle parking, shower, and locker facilities that exceed the requirement. - Direct transit sales or subsidized transit passes. - Guaranteed ride home program. - Pre-tax commuter benefits (checks). - On-site car-sharing program	**The Proposed Project would substantially conform to this Measure.** As discussed in Section IV.I Transportation of the Draft EIR, the Proposed Project would implement Mitigation Measure MM-TRANS-1, which would incorporate Transportation Demand Management Strategies as part of the Proposed Project operations. Strategies would include unbundled parking, promotions and marketing of alternative transportation options, and on-site bike parking, which would all reduce VMT impacts to less than significant levels. Therefore, the Proposed Project would include a TDM plan containing strategies to reduce on-site parking demand and single occupancy vehicle travel. Thus, the Proposed Project would already substantially conform to these

Measures and Strategies	Project Consistency Analysis
(such as City Car Share, Zip Car, etc.). - On-site carpooling program. - Distribution of information concerning alternative transportation options. - Parking spaces sold/leased separately. - Parking management strategies; including attendant/valet parking and shared parking spaces.	measures, and no additional mitigation measures are required.
Promote ride sharing programs e.g., by designating a certain percentage of parking spaces for high-occupancy vehicles, providing larger parking spaces to accommodate vans used for ride-sharing, and designating adequate passenger loading and unloading and waiting areas.	**This Measure is not applicable or required for the Proposed Project.** As discussed in Section IV.I Transportation of the Draft EIR, the Proposed Project would implement Mitigation Measure MM-TRANS-1, which would reduce VMT impacts to less than significant levels. Therefore, additional mitigation is not required, and these measures are not applicable.
Encourage the use of public transit systems by enhancing safety and cleanliness on vehicles and in and around stations, providing shuttle service to public transit, offering public transit incentives and providing public education and publicity about public transportation services.	**This Measure is not applicable or required for the Proposed Project.** As discussed in Section II. Project Description, the Project Site is served by the Metro Rapid bus line 780; Metro local bus lines 14, 16, 17, 217, 218, and 316; and the LADOT DASH Fairfax bus route. The Project Site is also located less than 0.5 mile north of the planned Metro Purple Line Wilshire/Fairfax Station, which is anticipated to be operational by 2024. As discussed in Section IV.I Transportation of the Draft EIR, the Proposed Project would implement Mitigation Measure MM-TRANS-1, which is comprised of TDM strategies that includes promoting and marketing of travel choices, such as the transit lines in the local area. This TDM measure would help reduce VMT impacts to less than significant levels. Therefore, additional mitigation is not required, and these measures are not applicable.
Build or fund a major transit stop within or near transit development upon	**This Measure is not applicable or required for the Proposed Project.** As discussed in Section IV.I Transportation of the Draft EIR, the

Measures and Strategies	Project Consistency Analysis
consultation with applicable CTCs.	Proposed Project would implement Mitigation Measure MM-TRANS-1, which would reduce VMT impacts to less than significant levels. Therefore, the Proposed Project would already substantially conform to these measures, and no additional mitigation measures are required.
Work with the school districts to improve pedestrian and bike access to schools and to restore or expand school bus service using lower-emitting vehicles.	**The Proposed Project would substantially conform to this Measure.** As discussed in Section IV.I Transportation of the Draft EIR, the Proposed Project would implement Project Design Features PDF-TRAFFIC-2 and PDF-TRAFFIC-3, which includes various strategies to ensure the Proposed Project's construction would not impact Hancock's Park Elementary School's traffic and school bus routes and pedestrian access. Therefore, the Proposed Project would already substantially conform to these measures, and no mitigation measures are required.
Purchase, or create incentives for purchasing, low or zero-emission vehicles.	**This Measure is not applicable or required for the Proposed Project.** As discussed in Section IV.I Transportation of the Draft EIR, the Proposed Project would implement Mitigation Measure MM-TRANS-1, which would reduce VMT impacts to less than significant levels. Therefore, additional mitigation is not required, and these measures are not applicable.
Provide the necessary facilities and infrastructure to encourage the use of low or zero-emission vehicles.	**The Proposed Project would substantially conform to this Measure.** As discussed in Section II Project Description, of the Draft EIR, the Proposed Project would provide the required EVCS and electric vehicle parking spaces capable of supporting future EVSE in compliance with the LAMC. Therefore, the Proposed Project would already substantially conform to these measures, and no mitigation measures are required.
Promote ride sharing programs, if determined feasible and applicable by	**These Measures are not applicable or required for the Proposed Project.** As

Measures and Strategies	Project Consistency Analysis
the Lead Agency, including: - Designate a certain percentage of parking spaces for ride-sharing vehicles. - Designate adequate passenger loading, unloading, and waiting areas for ridesharing vehicles. - Provide a web site or message board for coordinating shared rides. - Encourage private, for-profit community car-sharing, including parking spaces for car share vehicles at convenient locations accessible by public transit. - Hire or designate a rideshare coordinator to develop and implement ridesharing programs. • Support voluntary, employer-based trip reduction programs, if determined feasible and applicable by the Lead Agency, including: - Provide assistance to regional and local ridesharing organizations. - Advocate for legislation to maintain and expand incentives for employer ridesharing programs. - Require the development of Transportation Management Associations for large employers and commercial/ industrial complexes. - Provide public recognition of effective programs through awards, top ten lists, and other mechanisms. • Implement a “guaranteed ride home” program for those who commute by public transit, ridesharing, or other modes of transportation, and encourage employers to subscribe to or support the program. • Encourage and utilize shuttles to serve neighborhoods, employment centers and major destinations.	discussed in Section IV.I Transportation of the Draft EIR, the Proposed Project would implement Mitigation Measure MM-TRANS-1, which is comprised of TDM strategies such as unbundled parking, promotions and marketing of travel choices, and bicycle parking. Although MM-TRANS-1 would not specifically promote a ride-sharing program, these TDM measures would reduce VMT impacts to less than significant levels. Therefore, additional mitigation is not required, and these measures are not applicable.

Measures and Strategies	Project Consistency Analysis
• Create a free or low-cost local area shuttle system that includes a fixed route to popular tourist destinations or shopping and business centers. • Work with existing shuttle service providers to coordinate their services. • Facilitate employment opportunities that minimize the need for private vehicle trips, such as encourage telecommuting options with new and existing employers, through project review and incentives, as appropriate. • Organize events and workshops to promote GHG-reducing activities. • Implement a Parking Management Program to discourage private vehicle use, including: - Encouraging carpools and vanpools with preferential parking and a reduced parking fee. - Institute a parking cash-out program or establish a parking fee for all single-occupant vehicles.	
Utilities & Service Systems	
Integrate green building measures consistent with CALGreen (Title 24, part 11), U.S. Green Building Council's Leadership in Energy and Environmental Design, energy Star Homes, Green Point Rated Homes, and the California Green Builder Program into project design including, but not limited to the following: - Reuse and minimization of construction and demolition (C&D) debris and diversion of C&D waste from landfills to recycling facilities. - Inclusion of a waste management plan that promotes maximum C&D diversion. - Development of indoor recycling program and space. - Discourage exporting of locally	**The Proposed Project would substantially conform to this Measure.** As discussed in Section IV.K.3, Utilities and Service Systems - Solid Waste, the Proposed Project would be required to comply with LAMC Section 66.32, which requires the Applicant to obtain all required permits for construction and demolition materials. Construction waste to be hauled to City-certified processing facilities that adhere to recycling regulations. Additionally, recycling bins must be available during operation. The Proposed Project is subject to the following regulatory compliance measures: Utilities (Solid Waste Recycling): • (Operational): In compliance with LAMC Section 66.32 and AB 341, all waste shall be disposed of properly. Use appropriately labeled recycling bins to recycle demolition

Measures and Strategies	Project Consistency Analysis
generated waste outside of the SCAG region during the construction and implementation of a project. Encourage disposal within the county where the waste originates as much as possible. Promote green technologies for long-distance transport of waste (e.g., clean engines and clean locomotives or electric rail for waste-by-rail disposal systems) and consistency with SCAQMD and 2016 RTP/SCS policies can and should be required. - Develop ordinances that promote waste prevention and recycling activities such as: requiring waste prevention and recycling efforts at all large events and venues; implementing recycled content procurement programs; and developing opportunities to divert food waste away from landfills and toward food banks and composting facilities. - Develop alternative waste management strategies such as composting, recycling, and conversion technologies. - Develop and site composting, recycling, and conversion technology facilities that have minimum environmental and health impacts. - Require the reuse and recycle construction and demolition waste (including, but not limited to, soil, vegetation, concrete, lumber, metal, and cardboard). - Integrate reuse and recycling into residential industrial, institutional and commercial projects. - Provide recycling opportunities for residents, the public, and tenant businesses. - Provide education and publicity about reducing waste and available recycling services.	and construction materials including: solvents, water-based paints, vehicle fluids, broken asphalt and concrete, bricks, metals, wood, and vegetation. Non-recyclable materials/wastes shall be taken to an appropriate landfill. Toxic wastes must be discarded at a licensed regulated disposal site. • (Operational): In compliance with LAMC Section 12.21 A.19, recycling bins shall be provided at appropriate locations to promote recycling of paper, metal, glass, and other recyclable material. These bins shall be emptied and recycled accordingly as a part of the Project's regular solid waste disposal program. • (Construction/Demolition). Pursuant to LAMC Section 66.32.1, prior to the issuance of any demolition or construction permit, the Applicant shall provide a copy of the receipt or contract from a waste disposal company providing services to the project, specifying recycled waste service(s), to the satisfaction of the Department of Building and Safety. The demolition and construction contractor(s) shall only contract for waste disposal services with a company that recycles demolition and/or construction-related wastes. • (Construction/Demolition) Pursuant to LAMC Section 66.32.1, to facilitate on-site separation and recycling of demolition- and construction-related wastes, the contractor(s) shall provide temporary waste separation bins on-site during demolition and construction. These bins shall be emptied and the contents recycled accordingly as a part of the project's regular solid waste disposal program. Therefore, the Proposed Project would conform with these measures and would result in a less than significant impact. No mitigation is required.

Measures and Strategies	Project Consistency Analysis
- Implement or expand city or county-wide recycling and composting programs for residents and businesses. This could include extending the types of recycling services offered (e.g., to include food and green waste recycling) and providing public education and publicity about recycling services.	
Source: Parker Environmental Consultants, 2021.	

Furthermore, as discussed in Response to Comment 20.28, above, a project consistency analysis should discuss whether a project should be compatible with a plan's overall goals and objectives but need not be in perfect conformity with every plan policy. Therefore, as discussed on Page IV.E-20 of Section IV.E Land Use and Planning of the Draft EIR, the Proposed Project would not conflict with the applicable goals, objectives, and policies of the 2016-2040 RTP/SCS adopted for the purpose of avoiding or mitigating an environmental effect, and the Proposed Project would not result in any significant environmental impacts with respect to consistency with SCAG's RTP/SCS. Furthermore, the Proposed Project would be consistent with the required development standards listed within this comment, as required by the CALGreen code, Title 24 standards, the LAMC, and the L.A. Green Building Code standards. As such, the commenter does not provide any substantial evidence that the Proposed Project would result in significant impacts that would warrant additional measures listed in this comment.

COMMENT 20.30

C. <u>The DEIR Fails to Demonstrate Consistency with the State Housing Law's Regional Housing Needs Assessment Requirements and the City's Obligations to Fulfill those Requirements in its Housing Element</u>

State law requires that jurisdictions provide their fair share of regional housing needs and adopt a general plan for future growth (California Government Code Section 65300). The California Department of Housing and Community Development (HCD) is mandated to determine state-wide housing needs by income category for each Council of Governments (COG) throughout the state. The housing need is determined based on four broad household income categories: very low (households making less than 50 percent of median family income), low (50 to 80 percent of median family income), moderate (80

to 120 percent of median family income), and above moderate (more than 120 percent of median family income). The intent of the future needs allocation by income groups is to relieve the undue concentration of very low and low-income households in a single jurisdiction and to help allocate resources in a fair and equitable manner.

CEQA requires the DEIR analyze the Project's consistency with the State's housing goals. CEQA requires that an environmental document identify and discuss the significant effects of a Project, alternatives and how those significant effects can be mitigated or avoided. CEQA Guidelines § 15126.2; PRC §§ 21100(b)(1), 21002.1(a). A Court "[w]hen reviewing whether a discussion is sufficient to satisfy CEQA, . . . the EIR (1) includes sufficient detail to enable those who did not participate in its preparation to understand and to consider meaningfully the issues the proposed project raises [citation omitted], and (2) makes a reasonable effort to substantively connect a project's air quality impacts to likely health consequences." (*Sierra Club v. County of Fresno* (2018) 6 Cal. 5th 502, 510 [citing *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 405.]; see also PRC §§ 21002.1(e), 21003(b).) The Court may determine whether a CEQA environmental document sufficiently discloses information required by CEQA de novo as "noncompliance with the information disclosure provisions" of CEQA is a failure to proceed in a manner required by law. (PRC § 21005(a); see also *Sierra Club v. County of Fresno* (2018) 6 Cal. 5th 502, 515.)

SCAG is the COG for Los Angeles County and has determined that the City's RHNA for the 1/1/2014 - 10/1/2021 planning period is 82,002 housing units including 10,213 units for extremely-low income residents, 10,213 units for very-low income residents, 12,435 units for low-income residents, and 13,728 units for moderate income residents. (DEIR, IV.G-7.) According to the California Dept. of Housing and Community Development's latest available reporting data,[73] the City has yet to build thousands of allocated affordable units under the [sic] *only the fifth cycle* RHNA numbers. The Project must incorporate an adequate number of affordable housing units across all income categories if the City has any hope in meeting its RHNA obligations under state housing law.

The DEIR postulates that the 331 additional units the Project adds to the City's housing stock will help the City meet its RHNA allocation—yet the Project fails to demonstrate that any of the units it will provide will be affordable to City residents in extremely low income, very low income, low income, or even moderate income categories. The average market

[73] *California Dept. of Housing and Community Development, Regional Housing Needs Allocation and Housing Elements, Annual Progress Reports (APR), Dec. 9, 2020 APR. Available at* https://www.hcd.ca.gov/community-development/housing-element/index.shtml.

rate for even a studio apartment in the Project area is nearly $2,000/month.[74] RHNA requires the City to meet the housing needs of all City residents—not just those residents in the above moderate income category.

The DEIR should be revised and recirculated with an affordable housing component.

RESPONSE TO COMMENT 20.30

The commenter misunderstands the land use goals of the Regional Housing Needs Allocation (RHNA) plan and the uses allowed by the Project Site's existing C2-1-O zone. The RHNA is mandated by State Housing Law as part of the periodic process of updating local housing elements of the General Plan. RHNA quantifies the need for housing within each jurisdiction during specified planning periods. Communities use RHNA in land use planning, prioritizing local resource allocation, and in deciding how to address identified existing and future housing needs related to population, employment and household growth. RHNA does not necessarily encourage or promote growth, but rather allows communities to anticipate growth, so that collectively the region and subregion can grow in ways that enhance quality of life, improve access to jobs, promotes transportation mobility, and addresses social equity, fair share housing needs. As such, the RHNA does not require individual development projects to provide affordable housing. The Proposed Project is not required to provide affordable housing per SCAG's RHNA.

Furthermore, pursuant to LAMC Section 12.14, mixed-use multi-family and commercial buildings are explicitly permitted uses in the C2 zone. The C2 zoning designation permits residential development at a density of one dwelling unit per 400 square feet of land area. The Proposed Project would be allowed a base density of 818 dwelling units. Therefore, the Proposed Project's total of 331 dwelling units is much lower than the LAMC permits on the Project Site. Importantly, no applicable zoning designation or land use policy mandates that affordable housing be provided at the Development Site. The commenter's assertion that the Proposed Project is required to include affordable housing on-site is incorrect.

COMMENT 20.31

IV. CONCLUSION

Commenters request that the City deny the Project's proposed Site Plan Review and any other discretionary approvals the City finds necessary and order the revision and

[74] *See, e.g., https://www.apartments.com/malls/ca/los-angeles/the-grove-at-farmers-market/19ns3e7/3/?bb=qu35mo82mNh_05N.*

recirculation of the Project's environmental impact report to address the aforementioned concerns.

Please contact my Office if you have any questions or concerns.

RESPONSE TO COMMENT 20.31

As discussed in Response to Comments 20.1 through 20.30, above, the commenter does not provide credible evidence to support their assertions that the Proposed Project would result in significant impacts or that the Draft EIR requires recirculation. The critical issue in determining whether recirculation is required is whether any new information added to the EIR is "significant." (CEQA Guidelines Section 15088.5(a)) Recirculation is not required because there is no new information added to the EIR that: (1) shows a new substantial environmental impact resulting from the Project; (2) shows a substantial increase in the severity of an environmental impact; (3) shows a feasible alternative or mitigation measure, considerably different from those considered in the EIR, that clearly would lessen the significant environmental impacts of Project; and (4) there is no indication that the Draft EIR was so fundamentally and basically inadequate and conclusory in nature that public comment on the Draft EIR was essentially meaningless. Nothing presented by the comment triggers any of these specific prongs of recirculation. Therefore, there is no specific or general basis in law that requires the City to recirculate the Draft EIR. The claims and assertions presented by the commenter are erroneous and supported by speculative assumptions. The Draft EIR does not require recirculation, and no further analysis is required.

COMMENT LETTER NO. 20A

Soil Water Air Protection Enterprise (SWAPE)
Matt Hagemann, P.G., C.Hg.; Paul Rosenfeld, Ph.D
2656 29th Street, Suite 201
Santa Monica, CA 90405
March 8, 2021

COMMENT 20A.1

Dear Mr. Tsai,

Soil Water Air Protection Enterprise ("SWAPE") is pleased to provide the following draft technical report explaining the significance of worker trips required for construction of land use development projects with respect to the estimation of greenhouse gas ("GHG") emissions. The report will also discuss the potential for local hire requirements to reduce the length of worker trips, and consequently, reduced or mitigate the potential GHG impacts.

RESPONSE TO COMMENT 20A.1

This introductory comment states that the purpose of the technical report prepared by SWAPE is to analyze the significance of construction worker trips required for land use development projects with respect to the estimation of greenhouse gas (GHG) emissions. SWAPE discusses the potential for local hire requirements to reduce the length of worker trips, and consequently, reduce or mitigate the potential GHG impacts. As this comment does not raise any specific CEQA issue with the Draft EIR, no further response is required. Responses to specific comments are provided below in Response to Comment 20A.2 through Response to Comment 20A.4.

COMMENT 20A.2

Worker Trips and Greenhouse Gas Calculations

The California Emissions Estimator Model ("CalEEMod") is a "statewide land use emissions computer model designed to provide a uniform platform for government agencies, land use planners, and environmental professionals to quantify potential criteria pollutant and greenhouse gas (GHG) emissions associated with both construction and operations from a variety of land use projects."[75] CalEEMod quantifies construction-related emissions associated with land use projects resulting from off-road construction equipment; on-road mobile equipment associated with workers, vendors, and hauling; fugitive dust associated with grading, demolition, truck loading, and on-road vehicles traveling along paved and unpaved roads; and architectural coating activities; and paving.[76]

[75] *"California Emissions Estimator Model." CAPCOA, 2017, available at:* http://www.aqmd.gov/caleemod/home.

[76] *"California Emissions Estimator Model." CAPCOA, 2017, available at: http://www.aqmd.gov/caleemod/home.*

The number, length, and vehicle class of worker trips are utilized by CalEEMod to calculate emissions associated with the on-road vehicle trips required to transport workers to and from the Project site during construction.[77]

Specifically, the number and length of vehicle trips is utilized to estimate the vehicle miles travelled ("VMT") associated with construction. Then, utilizing vehicle-class specific EMFAC 2014 emission factors, CalEEMod calculates the vehicle exhaust, evaporative, and dust emissions resulting from construction-related VMT, including personal vehicles for worker commuting.[78]

Specifically, in order to calculate VMT, CalEEMod multiplies the average daily trip rate by the average overall trip length (see excerpt below):

> "$VMT_d = \Sigma(\text{Average Daily Trip Rate}_i * \text{Average Overall Trip Length}_i)_n$
>
> Where:
>
> n = Number of land uses being modeled."[79]

Furthermore, to calculate the on-road emissions associated with worker trips, CalEEMod utilizes the following equation (see excerpt below):

> "$\text{Emissions}_{pollutant} = VMT * EF_{running,pollutant}$
>
> Where:
>
> $\text{Emissions}_{pollutant}$ = emissions from vehicle running for each pollutant
>
> VMT = vehicle miles traveled
>
> $EF_{running,pollutant}$ = emission factor for running emissions."[80]

Thus, there is a direct relationship between trip length and VMT, as well as a direct relationship between VMT and vehicle running emissions. In other words, when the trip length is increased, the VMT and vehicle running emissions increase as a result. Thus,

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[77] *"CalEEMod User's Guide." CAPCOA, November 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4.*

[78] *"Appendix A Calculation Details for CalEEMod." CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 14-15.*

[79] *"Appendix A Calculation Details for CalEEMod." CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p.23.*

[80] *"Appendix A Calculation Details for CalEEMod." CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p.15.*

vehicle running emissions can be reduced by decreasing the average overall trip length, by way of a local hire requirement or otherwise.

RESPONSE TO COMMENT 20A.2

This comment provides an introduction to the CalEEMod program and an explanation of specific default calculations for construction worker VMT. As this comment does not raise any specific issue with the Draft EIR regarding CEQA, no response is required.

COMMENT 20A.3

Default Worker Trip Parameters and Potential Local Hire Requirements

As previously discussed, the number, length, and vehicle class of worker trips are utilized by CalEEMod to calculate emissions associated with the on-road vehicle trips required to transport workers to and from the Project site during construction.[81] In order to understand how local hire requirements and associated worker trip length reductions impact GHG emissions calculations, it is important to consider the CalEEMod default worker trip parameters. CalEEMod provides recommended default values based on site-specific information, such as land use type, meteorological data, total lot acreage, project type and typical equipment associated with project type. If more specific project information is known, the user can change the default values and input project-specific values, but the California Environmental Quality Act ("CEQA") requires that such changes be justified by substantial evidence.[82] The default number of construction-related worker trips is calculated by multiplying the number of pieces of equipment for all phases by 1.25, with the exception of worker trips required for the building construction and architectural coating phases.[83] Furthermore, the worker trip vehicle class is a 50/25/25 percent mix of light duty autos, light duty truck class 1 and light duty truck class 2, respectively."[84] Finally, the default worker trip length is consistent with the length of the operational home-to-work vehicle trips.[85] The operational home-to-work vehicle trip lengths are:

> "[B]ased on the *location* and *urbanization* selected on the project characteristic screen. These values were *supplied by the air districts or use a default average*

[81] *"CalEEMod User's Guide." CAPCOA, November 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4, p.34.*

[82] *CalEEMod User Guide, available at: http://www.caleemod.com/, p.1, 9.*

[83] *"CalEEMod User's Guide." CAPCOA, November 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4, p.34.*

[84] *"Appendix A Calculation Details for CalEEMod." CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p.15.*

[85] *"Appendix A Calculation Details for CalEEMod." CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p.14.*

for the state. Each district (or county) also assigns trip lengths for urban and rural settings" (emphasis added). [86]

Thus, the default worker trip length is based on the location and urbanization level selected by the User when modeling emissions. The below table shows the CalEEMod default rural and urban worker trip lengths by air basin (see excerpt below and Attachment A).[87]

Worker Trip Length by Air Basin		
Air Basin	**Rural (miles)**	**Urban (miles)**
Great Basin Valleys	16.8	10.8
Lake County	16.8	10.8
Lake Tahoe	16.8	10.8
Mojave Desert	16.8	10.8
Mountain Counties	16.8	10.8
North Central Coast	17.1	12.3
North Coast	16.8	10.8
Northeast Plateau	16.8	10.8
Sacramento Valley	16.8	10.8
Salton Sea	14.6	11
San Diego	16.8	10.8
San Francisco Bay Area	10.8	10.8
San Joaquin Valley	16.8	10.8
South Central Coast	16.8	10.8
South Coast	19.8	14.7
Average	**16.47**	**11.17**
Minimum	**10.80**	**10.80**
Maximum	**19.80**	**14.70**
Range	**9.00**	**3.90**

As demonstrated above, default rural worker trip lengths for air basins in California vary from 10.8- to 19.8-miles, with an average of 16.47 miles. Furthermore, default urban worker trip lengths vary from 10.8- to 14.7-miles, with an average of 11.17 miles. Thus, while default worker trip lengths vary by location, default urban worker trip lengths tend to be shorter in length. Based on these trends evident in the CalEEMod default worker

[86] *"Appendix A Calculation Details for CalEEMod." CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p.21.*

[87] *"Appendix D Default Data Tables." CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/05_appendix-d2016-3-2.pdf?sfvrsn=4, p. D-84 – D-86.*

trip lengths, we can reasonably assume that the efficacy of a local hire requirement is especially dependent upon the urbanization of the project site, as well as the project location.

RESPONSE TO COMMENT 20A.3

The commenter provides the default worker trip lengths for the average construction worker based on the air basin locations in California. As provided in the table, the Project Site is located in the South Coast Air Basin, which has an estimated daily average trip of 14.7 miles per construction worker traveling to and from the Project Site. The CalEEMod worksheets prepared for the Proposed Project assumes a 14.7-mile worker trip length for the Proposed Project's construction phase. As this comment does not raise any specific CEQA issue with the Draft EIR, no further response is required.

COMMENT 20A.4

Practical Application of a Local Hire Requirement and Associated Impact

To provide example of the potential impact of a local hire provision on construction-related GHG emissions, we estimated the significance of a local hire provision for the Village South Specific Plan ("Project") located in the City of Claremont ("City"). The Project proposed to construct 1,000 residential units, 100,000-SF of retail space, 45,000-SF of office space, as well as a 50-room hotel, on the 24-acre site. The Project location is classified as Urban and lies within the Los Angeles-South Coast County. As a result, the Project has a default worker trip length of 14.7 miles.[88] In an effort to evaluate the potential for a local hire provision to reduce the Project's construction-related GHG emissions, we prepared an updated model, reducing all worker trip lengths to 10 miles (see Attachment B). Our analysis estimates that if a local hire provision with a 10-mile radius were to be implemented, the GHG emissions associated with Project construction would decrease by approximately 17% (see table below and Attachment C).

[88] *"Appendix D Default Data Tables." CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/05_appendix-d2016-3-2.pdf?sfvrsn=4, p. D-85.*

Local Hire Provision Net Change	
Without Local Hire Provision	
Total Construction GHG Emissions (MT CO_2e)	3,623
Amortized Construction GHG Emissions (MT CO_2e/year)	120.77
With Local Hire Provision	
Total Construction GHG Emissions (MT CO2e)	3,024
Amortized Construction GHG Emissions (MT CO_2e/year)	100.80
% Decrease in Construction-related GHG Emissions	***17%***

As demonstrated above, by implementing a local hire provision requiring 10 mile worker trip lengths, the Project could reduce potential GHG emissions associated with construction worker trips. More broadly, any local hire requirement that results in a decreased worker trip length from the default value has the potential to result in a reduction of construction-related GHG emissions, though the significance of the reduction would vary based on the location and urbanization level of the project site.

This serves as an example of the potential impacts of local hire requirements on estimated project-level GHG emissions, though it does not indicate that local hire requirements would result in reduced construction-related GHG emission for all projects. As previously described, the significance of a local hire requirement depends on the worker trip length enforced and the default worker trip length for the project's urbanization level and location.

RESPONSE TO COMMENT 20A.4

The commenter provides an example of how a project's hire of local construction workers with a 10-mile roundtrip length, compared to the 14.7-mile default in CalEEMod, could reduce a project's overall construction related GHG emissions. This example, however, is not sufficient evidence that local hire provisions actually reduce impacts in the City of Los Angeles, especially when the example is from another city altogether. Also, it is important to note (even though the issue of local hire is beyond the scope of the Draft EIR) that local hire provisions are typically embodied in project labor agreements between unions and developers. In general, these agreements often contain goals and not mandates for local hiring. From a practical standpoint, even agreements with local hire provisions may end up resulting in a fraction of the labor force being hired from the "local" area because the labor force is more dispersed than a certain local area or zip code. Therefore, the comment is based on speculation that a local hire goal could even be satisfied, let alone result in changes in environmental impact analysis.

The CalEEMod User Guide states that "the model provides a number of opportunities for the user to change the defaults in the model; however, users are required to provide justification for all changes made to the default settings (e.g., reference more appropriate data sources)."[89] The commenter does not provide any information to justify the change of the default input, or the feasibility of reducing the default value, including the location of the local construction workers' residences to substantiate the 10-mile worker trip length utilized in this example. Therefore, there is no substantial evidence to conclude that the Proposed Project would actually reduce GHG emissions because it is not clear that reducing the default trip length is feasible, or that a local hire provision is relevant to environmental impact analysis, as described above. Additionally, as analyzed in Section IV.C Greenhouse Gas Emissions of the Draft EIR, the Proposed Project would not result in a significant GHG impact. Therefore, the Proposed Project does not warrant mitigation measures to reduce VMT and construction-related GHG emissions.

COMMENT 20A.5

Disclaimer

SWAPE has received limited discovery. Additional information may become available in the future; thus, we retain the right to revise or amend this report when additional information becomes available. Our professional services have been performed using that degree of care and skill ordinarily exercised, under similar circumstances, by reputable environmental consultants practicing in this or similar localities at the time of service. No other warranty, expressed or implied, is made as to the scope of work, work methodologies and protocols, site conditions, analytical testing results, and findings presented. This report reflects efforts which were limited to information that was reasonably accessible at the time of the work, and may contain informational gaps, inconsistencies, or otherwise be incomplete due to the unavailability or uncertainty of information obtained or provided by third parties.

RESPONSE TO COMMENT 20A.5

The commenter does not raise any specific environmental issues related to the Draft EIR; as such, no further response is required. The commenter's concerns have been noted for the record and will be forwarded to the decision makers for their consideration.

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[89] *CalEEMod User's Guide, Version 2016.3.2, November 2017, page 1.*

COMMENT LETTER NO. 20B

SWAPE
Matt Hagemann, P.G., C.Hg.; Paul Rosenfeld, Ph.D
2656 29th Street, Suite 201
Santa Monica, CA 90405
March 26, 2021

COMMENT 20B.1

Dear Mr. Sonstein,

We have reviewed the February 2021 Draft Environmental Impact Report ("DEIR") for the 3rd and Fairfax Mixed-Use Project ("Project") located in the City of Los Angeles ("City"). The Project proposes to demolish of 151,048-SF of existing retail space and 70,000-SF of asphalt debris, as well as construct 331 multi-family dwelling units, 83,994-SF of commercial space, 37,225-SF of open space, and 996 parking spaces on the 7.51-acre site.

RESPONSE TO COMMENT 20B.1

This introductory comment acknowledges that SWAPE has reviewed the Draft EIR for the Proposed Project. This introductory comment accurately restates the proposed land uses on the Project Site. However, the proposed development would be limited to the eastern portion of the Project Site, encompassing approximately 3.15 acres of the Project Site. No further response is required.

COMMENT 20B.2

Our review concludes that the DEIR fails to adequately evaluate the Project's air quality, health risk, and greenhouse gas impacts. As a result, emissions and health risk impacts associated with construction and operation of the proposed Project are underestimated and inadequately addressed. An updated EIR should be prepared to adequately assess and mitigate the potential air quality, health risk, and greenhouse gas impacts that the project may have on the surrounding environment.

RESPONSE TO COMMENT 20B.2

The commenter asserts that the Draft EIR fails to comply with CEQA and expresses concerns with significant impacts regarding air quality, health risk, and greenhouse gas

impacts. The commenter discusses their concerns in more detail under the subheadings of their comment letter. As such, detailed responses to each of these concerns are presented below.

COMMENT 20B.3

Air Quality

Unsubstantiated Input Parameters Used to Estimate Project Emissions

The DEIR's air quality analysis relies on emissions calculated with CalEEMod.2016.3.2 (p. IV.A-38).[90] CalEEMod provides recommended default values based on site-specific information, such as land use type, meteorological data, total lot acreage, project type and typical equipment associated with project type. If more specific project information is known, the user can change the default values and input project-specific values, but the California Environmental Quality Act ("CEQA") requires that such changes be justified by substantial evidence. Once all of the values are inputted into the model, the Project's construction and operational emissions are calculated, and "output files" are generated. These output files disclose to the reader what parameters are utilized in calculating the Project's air pollutant emissions and make known which default values are changed as well as provide justification for the values selected.

When reviewing the Project's CalEEMod output files, provided in the Air Quality Modeling Worksheets ("AQ Modeling Worksheets") as Appendix C.1 and the Greenhouse Gas Emissions ("GHG Analysis") as Appendix E to the DEIR, we found that several model inputs were not consistent with information disclosed in the DEIR. As a result, the Project's construction and operational emissions may be underestimated.

RESPONSE TO COMMENT 20B.3

The commenter raises concerns with several parameters in the air quality modeling, including architectural coating areas, demolition, vendor/worker trips, operational vehicle trips, diesel particulate matter, health risks, and mitigation measures. These input parameters are discussed in detail in Response to Comment 20B.4 through B.11, below.

COMMENT 20B.4

Unsubstantiated Changes to Area and Architectural Coating Areas

[90] *CAPCOA (November 2017) CalEEMod User's Guide, http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4%20.*

Review of the CalEEMod output files demonstrates that the "3rd and Fairfax Mixed-Use Project" and "3rd and Fairfax Mixed-Use Project – Without GHG Reduction Feature and Mitigation Measures" models include several reductions to the default architectural and area coating areas for the proposed parking land use (see excerpt below) (Appendix C.1, pp. 37-38, 73-74; Appendix E, pp. 27-28).

Table Name	Column Name	Default Value	New Value
tblArchitecturalCoating	ConstArea_Parking	23,904.00	22,872.00
tblAreaCoating	Area_Parking	23904	22872

Furthermore, review of the CalEEMod output files demonstrates that the "3rd and Fairfax Mixed-Use Project-2023 With Mitigation" model includes a reduction to the default area coating area for the proposed parking land use (see excerpt below) (Appendix C.1, pp. 109; Appendix E, pp. 74).

Table Name	Column Name	Default Value	New Value
tblAreaCoating	Area_Parking	23904	22872

As you can see in the excerpts above, the architectural and area coating areas for the proposed parking land use were each reduced from the default value of 23,904- to 22,872-SF. As previously mentioned, the CalEEMod User's Guide requires any changes to model defaults be justified.[91] However, no justification is provided by the "User Entered Comments and Non-Default Data" table. Furthermore, regarding the Project's area-source emissions, the DEIR states:

> "Area sources include emissions from consumer products, landscape equipment and architectural coatings. *No changes were made to the default area source emissions*" (see excerpt below) (p. IV.C-43).

As the excerpt above demonstrates, the DEIR claims that no changes were made to the default area-source emissions. As such, the changes to the default architectural and area coating areas are incorrect.

These inconsistencies present an issue, as CalEEMod uses architectural and area coating areas to calculate ROG emissions associated with painting and reapplication.[92] By including unsubstantiated reductions to the default architectural and area coating

[91] *CalEEMod User Guide, available at: http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4, p. 2, 9.*

[92] *CalEEMod User Guide, available at: http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4, p. 35, 42.*

areas, the models underestimate the Project's area-source emissions and should not be relied upon to determine Project significance.

RESPONSE TO COMMENT 20B.4

The commenter asserts that the change in architectural coatings area was unjustified. With respect to the input values for the parking area of architectural coatings, the CalEEMod program automatically calculated 22,872 square feet for the parking surface area for the application of architectural coatings. When using CalEEMod, the interface shows 23,904 square feet of surface area as the default for architectural coatings within the parking garage; however, when the model output calculations are generated the CalEEMod worksheets automatically default to 22,872 square feet. This is a minor difference that does not change the significance conclusions in the Draft EIR. This modeling discrepancy resulted from the CalEEMod software.

In order to clarify the analysis, and reconcile the modeling, a secondary CalEEMod run was conducted that rounded the parking area to 24,000 square feet, which is a 96 square-foot increase from the default, to represent a conservative estimate. The CalEEMod model accepted this user input. The revised tables are provided in Section III. Revisions, Clarifications, and Corrections of this Final EIR. As shown in Table IV.A-7 of Section III, the increase in construction emissions from architectural coatings minimally increases VOC emissions from 35.45 pounds per day to 35.51 pounds per day, a 0.06-pound per day increase. Thus, the Proposed Project's CalEEMod worksheets did not intentionally or substantially underestimate air quality area emissions from the architectural coatings. The clarifying CalEEMod worksheets still show that the Proposed Project's VOC emissions are well below the SCAQMD significance threshold of 75 pounds per day and would not result in a significant air quality impact.

COMMENT 20B.5

Failure to Substantiate Demolition

According to the CalEEMod User's Guide, "[h]aul trips are based on the amount of material that is demolished, imported or exported assuming a truck can handle 16 cubic yards of material."[93] Therefore, the air model calculates a default number of hauling trips based upon the amount of demolition material inputted into the model. According to the DEIR, the Project proposes to demolish 151,048-SF of existing retail uses and 70,000-SF of asphalt debris (p. II-41). However, the DEIR fails to provide the tons of demolition resulting from the removal of the existing retail uses and asphalt. As such, the models

[93] *http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 14.*

should have included at least 221,048-SF of demolition.[94] When correctly inputting 221,048-SF of building demolition, the model calculates a default demolition hauling trip number of 1,005 trips. However, review of the CalEEMod output files demonstrates that the "3rd and Fairfax Mixed-Use Project" and "3rd and Fairfax Mixed-Use Project – Without GHG Reduction Feature and Mitigation Measures" models calculated a ***default*** value of 841 demolition hauling trips, which was artificially increased to 2,008 trips (see excerpts below) (Appendix C.1, pp. 39, 47, 75, 83; Appendix E, pp. 29, 39).

Table Name	Column Name	Default Value	New Value
tblTripsAndVMT	HaulingTripNumber	841.00	2,008.00

Phase Name	Offroad Equipment Count	Worker Trip Number	Vendor Trip Number	Hauling Trip Number
Pre-Demolition Abatement	3	8.00	0.00	10.00
Demolition	6	15.00	0.00	2,008.00
Grading	11	60.00	0.00	13,750.00
Building Construction	11	150.00	112.00	0.00
Architectural Coating	6	87.00	0.00	0.00
Paving	8	20.00	0.00	0.00

As you can see in the excerpts above, the ***default*** number of demolition hauling trips was underestimated by 164 trips.[95] As such, we know that the model fails to include the total amount of demolition required for the Project (p. II-41).

This underestimation presents an issue, as the total amount of demolition material is used by CalEEMod to determine emissions associated with this phase of construction; the three primary operations that generate dust emission during the demolition phase are mechanical or explosive dismemberment, site removal of debris, and on-site truck traffic on paved and unpaved road.[96] By failing to include the total amount of required demolition, the models underestimate emissions associated with fugitive dust and site removal and should not be relied upon to determine Project significance.

[94] *Calculated: (151,048-SF of retail demolition) + (70,000-SF of asphalt demolition) = 221,048-SF of demolition.*

[95] *Calculated: (1,005 demolition hauling trips) – (841 trips demolition hauling trips) = 164 demolition hauling trips.*

[96] *CalEEMod User Guide, Appendix A, p. 11, available at: http://www.caleemod.com/.*

RESPONSE TO COMMENT 20B.5

The commenter asserts the number of demolition haul trips were unsubstantiated in CalEEMod, as compared to default values. The commenter claims that the haul trips did not account for the asphalt debris and only accounted for the existing commercial floor area. However, this is incorrect. As stated on Page II-41 of the Draft EIR, approximately 151,048 square feet of existing commercial floor area (i.e., approximately 13,986 cy of demolition debris) and 70,000 square feet (i.e., 1,300 cy) of asphalt debris would be demolished and exported from the Development Site during the demolition phase.

The demolition phase estimated approximately 2,008 trips would be required based on the amount of building debris and asphalt estimated for removal. The number of haul of trips during demolition was calculated based on the following calculations (see Appendix C.1, 3rd and Fairfax Mixed-Use Project, page 2):

1. Asphalt Debris: 1,300 cy total asphalt / 10 cy hauling capacity = 130 loaded trips x 2 = 260 total one-way trips

2. Building Debris: 151,048 sf building area = 377,620 cf of building volume = 13,986 cy / 16 cy hauling capacity = 874 loaded trips x 2 = 1,748 total one-way trips.

3. Total: 260 trips for asphalt removal + 1,748 trips for building debris = 2,008 total trips during demolition.

These trips represent the number of one-way trips. As such, it is estimated the demolition phase would result in approximately 2,008 total haul trips, which is higher than the 841 default trips initially estimated in CalEEMod. The default assumptions in CalEEMod were modified to include the specific demolition inputs to better reflect the actual impacts of the Project. The numbers were not artificially inflated. Therefore, contrary to the commenter's assertion, the Proposed Project conservatively estimated the number of demolition hauling trips and would not result in a significant air quality impact, as discussed in Section IV.A, Air Quality. No further analysis is warranted.

COMMENT 20B.6

Underestimated Number of Vendor and Worker Trips

According to the DEIR:

> "During peak construction activity, it is estimated that approximately 150 construction worker round-trips per day would be generated (150 inbound and 150 outbound)" (p. II-45).

As the excerpt above demonstrates, the building construction phase would generate 300 one-way trips. As such, the model should have included 300 building construction worker trips.

Regarding the Project's demolition worker trips, the DEIR states: "it is estimated that 15 trips per day would [be] generated by construction workers" (p. II-41). Furthermore, regarding the Project's architectural coating and paving worker trips, the DEIR states: "[t]he architectural phase would generate approximately 87 worker trips per day, while the paving phase would generate 20 worker trips per day" (p. II-45). Finally, the DEIR indicates that "112 trips by miscellaneous delivery trucks" would be required for building construction (p. II-45). However, the DEIR fails to specify whether these worker and vendor trip numbers represent one-way trips or roundtrips. As such, assuming the trip numbers represent roundtrips in order to conduct the most conservative analysis, the model should have included 30 demolition worker trips, 174 architectural coating worker trips, and 40 paving worker trips, as well as 224 building construction vendor trips.

However, review of the CalEEMod output files demonstrates that the "3rd and Fairfax Mixed-Use Project" and "3rd and Fairfax Mixed-Use Project – Without GHG Reduction Feature and Mitigation Measures" models include only 15 demolition worker trips, 150 building construction worker trips, 87 architectural coating worker trips, 20 paving worker trips, and 112 building construction vendor trips (see excerpt below) (Appendix C.1, pp. 47, 83; Appendix E, pp. 39).

Phase Name	Offroad Equipment Count	Worker Trip Number	Vendor Trip Number	Hauling Trip Number
Pre-Demolition Abatement	3	8.00	0.00	10.00
Demolition	6	15.00	0.00	2,008.00
Grading	11	60.00	0.00	13,750.00
Building Construction	11	150.00	112.00	0.00
Architectural Coating	6	87.00	0.00	0.00
Paving	8	20.00	0.00	0.00

As you can see in the excerpt above, worker trips during the building construction phase are underestimated by 150 trips. Furthermore, worker trips during the demolition phase, architectural coating phase, and paving phase, as well as vendor trips during the building construction phase, are potentially underestimated by 15, 87, 20, and 112 trips, respectively. As the DEIR fails to specify whether the provided worker and vendor trips

represent one-way or two-way trips, the worker and vendor trip numbers inputted into the model are potentially underestimated. By including underestimated worker and vendor trip numbers, the models underestimate the Project's construction-related emissions and should not be relied upon to determine Project significance.

RESPONSE TO COMMENT 20B.6

The commenter asserts the number of worker and vendor trips were underestimated because the DEIR fails to specify whether worker and vendor trips were inputted into the model as one-way trips or roundtrips. CalEEMod calculates mobile emissions from round trips, not one way trips as stated by the commenter. The commenter's assertion that the model is based on the number of one-way trips is not correct. The method on how CalEEMod treats trips in its calculations is clarified in the CalEEmod User Guide in its discussion on haul trips. As noted on page 27 of the CalEEMod User Guide, "assuming one load of material, CalEEMod considers a haul truck importing material will have a return trip with an empty truck (2 trips). Thus, each trip to import and export material is considered as two separate round trips (4 trips) unless the "phase" box is clicked. Then, a haul truck trip to import material will be the same haul truck to export material (2 trips)." Similar to haul trips, the model treats the input value of the number of worker and vendor trips as round trips. Thus, entering 150 worker trips is accounting for 150 inbound trips and 150 outbound trips. The same concept applies to the worker trip inputs for the other phases of construction as well as the vendor trips for building construction.

Therefore, contrary to the commenter's claim, the CalEEMod worksheets did not underestimate construction worker and vendor trips by assuming that all trips would be round trips.

COMMENT 20B.7

Overestimated Existing Operational Vehicle Trip Rates

According to the CEQA Transportation Analysis ("Transportation Analysis"), provided by Appendix H.1 to the DEIR, the existing land uses generate approximately 5,232 daily vehicle trips (see excerpt below) (Appendix H.1, p. 34).

Table 7-1
PROJECT TRIP GENERATION [1]

12-Jun-19

LAND USE	SIZE	DAILY TRIP ENDS [2] VOLUMES	AM PEAK HOUR VOLUMES [2] IN	AM PEAK HOUR VOLUMES [2] OUT	AM PEAK HOUR VOLUMES [2] TOTAL	PM PEAK HOUR VOLUMES [2] IN	PM PEAK HOUR VOLUMES [2] OUT	PM PEAK HOUR VOLUMES [2] TOTAL
Existing Site								
Commercial Retail [4]	(144,963) GLSF	(5,472)	(84)	(52)	(136)	(265)	(287)	(552)
Restaurant [5]	(6,085) GSF	(683)	(33)	(27)	(60)	(37)	(22)	(59)
Subtotal		(6,155)	(117)	(79)	(196)	(302)	(309)	(611)
Existing Transit Trips [6]								
Commercial Retail (15%)		821	13	8	21	40	43	83
Restaurant (15%)		102	5	4	9	6	3	9
Subtotal		923	18	12	30	46	46	92
Subtotal Existing Driveway Trips		**(5,232)**	**(99)**	**(67)**	**(166)**	**(256)**	**(263)**	**(519)**

As such, the Project's emissions modeling should have included trip rates that reflect the estimated number of average existing daily vehicle trips. However, review of the CalEEMod output files demonstrates that the "3rd and Fairfax Mixed-Use Project - Existing Conditions" model includes 6,207 weekday trips and 7,501 Saturday trips (see excerpt below) (Appendix C.1, pp. 13; Appendix E, pp. 13).

Land Use	Average Daily Trip Rate		
	Weekday	Saturday	Sunday
High Turnover (Sit Down Restaurant)	0.00	0.00	0.00
Regional Shopping Center	0.00	0.00	0.00
User Defined Commercial	4,696.00	5,669.00	2996.00
User Defined Parking	1,511.00	1,832.00	928.00
Total	6,207.00	7,501.00	3,924.00

As you can see in the excerpt above, the average weekday and Saturday vehicle trip numbers for the existing land uses were overestimated by approximately 975- and 2,269-trips, respectively. As such, the trip rates inputted into the model are overestimated and inconsistent with the information provided in the Transportation Analysis.

These inconsistencies present an issue, as CalEEMod uses the operational vehicle trip rates to calculate the emissions associated with the operational on-road vehicles.[97] By including overestimated operational vehicle trip rates, the model overestimates the mobile-source operational emissions associated with the existing land uses, resulting in

[97] *"CalEEMod User Guide." CAPCOA, November 2017, available at: http://www.caleemod.com/.*

an *underestimation of the net change in emissions associated with the proposed Project*. As a result, the model should not be relied upon to determine Project significance.

RESPONSE TO COMMENT 20B.7

The commenter asserts the CalEEMod trip generation inputs for existing conditions were overestimated, to allow for a higher trip credit to decrease the net trips and operational mobile emissions. With respect to existing operational trips, the Proposed Project's CalEEMod worksheets are based on the weekday trip generation and trip lengths provided in the VMT analysis, which was based on the LADOT VMT Calculator and as approved by LADOT, plus an adjustment factor to account for pass-by trips and weekend trips. The weekend trips, which are not provided by the LADOT VMT Calculator, were calculated proportionally to the weekday to weekend trip ratio based on the published trip generation rates in the ITE Trip Generation manual. See Appendix A contained within Appendix H.2 of the Draft EIR. The commenter compares the estimated CalEEMod trips (6,207 trips) to Table 7-1 of the non-CEQA transportation analysis (5,232 trips). However, the trips calculated in CalEEMod match the estimated trips within the VMT calculator output reports (provided in Appendix H.1 of the Draft EIR), which are consistent with new CEQA guidelines, as discussed below. In other words, the CalEEMod trip summary for User Defined Commercial matches the VMT calculator inputs for existing conditions. To ensure an accurate reflection of existing conditions and the existing use of the Project Site, the VMT calculator inputs for existing conditions were supplemented in the CalEEMod modeling to include weekend trip rates and pass-by trips.

The LADOT VMT Calculator estimates the existing conditions would result in a total of 4,696 primary trips, 1,511 pass by trips, and a total of 32,405 daily VMT. Since these trips represent weekday trips only, in order to account for Saturday and Sunday trips, the estimated trip rates were prorated with the default Saturday and Sunday trip rates in CalEEMod, which is based on the ITE Trip Generation manual. This was completed to provide a more realistic and consistent estimate of trips during the weekend (See Appendix C.1 of Draft EIR, "CalEEMod Assumptions and Data Input Modifications"). Further, the trip length was adjusted to match the average trip length estimated in the VMT Calculator (32,405 daily VMT / 4,696 trips = 6.9 miles per trip). As a conservative estimate, it is assumed that an additional 1,511 pass-by trips would occur in addition to the 4,696 primary trips calculated in the VMT Calculator, which results in a total of 6,207 daily weekday trips.[98] Therefore, the Proposed Project's mobile trips are consistent with the VMT Calculator outputs in order to be consistent with current CEQA guidelines.

[98] *Pass-by trips were taken from the July 2019 Non-CEQA Traffic Analysis, Table 7-1, and added to the primary trips as a conservative estimate. Pass-by trips were based on ITE Trip Generation rates.*

COMMENT 20B.8

Incorrect Application of Construction-Related Mitigation Measures

Review of the CalEEMod output files demonstrates that the "3rd and Fairfax Mixed-Use Project," "3rd and Fairfax Mixed-Use Project – Without GHG Reduction Feature and Mitigation Measures," and "3rd and Fairfax Mixed-Use Project-2023 With Mitigation" models include the following construction-related mitigation measure (see excerpt below) (Appendix C.1, pp. 47, 83, 117, 137; Appendix H, pp. 39, 83):

3.1 Mitigation Measures Construction

Water Exposed Area

As previously mentioned, the CalEEMod User's Guide requires any changes to model defaults be justified.[99] According to the "User Entered Comments and Non-Default Data" table, the justification provided for the inclusion of this measure is:

> "Mitigation assumes compliance with AQMD Rule 403 (dust suppression) with a watering frequency of 3x a day (=61% reduction in fugitive dust)" (Appendix C.1, pp. 37, 73, 109; Appendix E, pp. 27, 74).

Furthermore, the DEIR states:

> "[T]the Proposed Project would comply with the applicable dust control measures contained in SCAQMD Rule 403 regarding fugitive dust during each phase of development. Rule 403 requirements include, but are not limited to, the following:
>
> - Water shall be applied to disturbed soil in sufficient quantities to prevent the generation of visible dust plumes…" (p. IV.A-60 – IV.A-61).

However, the inclusion of the above-mentioned construction-related mitigation measure remains unsubstantiated for two reasons.

First, simply because the DEIR states that the Project would comply with SCAQMD Rule 403 does not justify the inclusion of the above-mentioned construction-related mitigation measure in the model. According to the Association of Environmental Professionals' ("AEP") *CEQA Portal Topic Paper* on mitigation measures:

[99] *CalEEMod User Guide, available at: http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4, p. 2, 9.*

> "By definition, *mitigation measures are not part of the original project design*. Rather, mitigation measures are actions taken by the lead agency to reduce impacts to the environment resulting from the original project design. Mitigation measures are identified by the lead agency after the project has undergone environmental review and are *above-and-beyond existing laws, regulations, and requirements* that would reduce environmental impacts" (emphasis added).[100]

As you can see in the excerpt above, mitigation measures "are not part of the original project design" and are intended to go "above-and-beyond" existing regulatory requirements. Thus, the inclusion of the above-mentioned construction-related mitigation measure remains unsupported, despite the Project's purported compliance with SCAQMD Rule 403.

Second, regarding the Project's construction-related air quality impacts, the DEIR states:

"Project-level and cumulative construction-related impacts with regard to air quality would be less than significant with adherence to all applicable SCAQMD rules and regulations. Therefore, *no mitigation measures are required*" (emphasis added) (p. IV.A-68).

As demonstrated above, the DEIR claims that no mitigation measures are required. However, while the DEIR concludes that *no* mitigation measures are required to reduce emissions to less-than-significant levels, the DEIR's modeling incorporates a mitigation measure to reduce emissions to less-than-significant levels. If the DEIR's conclusion was correct, the above-mentioned construction-related mitigation measure should not have been included in the model. By incorrectly including a construction-related mitigation measure, the model underestimates the Project's construction-related emissions and should not be relied upon to determine Project significance.

RESPONSE TO COMMENT 20B.8

The commenter states that the Proposed Project utilized inappropriately applied mitigation measures as part of the modeling for the Proposed Project's using CalEEMod. The Proposed Project is required to adhere to regulatory compliance measures pursuant to the AQMD Rules, such as Rule 403 (Fugitive Dust). The interface on CalEEMod (Version 2016.3.2) lists this rule under the "Mitigation" tab, although they are actually required rules by the SCAQMD. The term "Mitigation" in CalEEMod is defined differently than "Mitigation Measures" under CEQA and in the Draft EIR. The "mitigation" applied in CalEEMod are requirements for the Proposed Project, including mandatory regulatory requirements that

[100] *"CEQA Portal Topic Paper Mitigation Measures." AEP, February 2020, available at: https://ceqaportal.org/tp/CEQA%20Mitigation%202020.pdf, p. 5.*

are not considered mitigation measures defined in Section 15370 of the State CEQA Guidelines, or design features of the Proposed Project. Although labeled as "mitigation" applied in CalEEMod, regulatory requirements such as Rule 403 are not considered to be mitigation measures under CEQA. "Mitigation Measures" under CEQA and in the Draft EIR are utilized when a significant impact has been identified, and mitigation measures are necessary to reduce that significant impact to less than significant.

Furthermore, as disclosed in the CalEEMod User Guide, it is important to note that compliance with fugitive dust rules vary widely by district and include requirements to reduce dust. The fugitive dust rules are mandatory regulatory requirements that when implemented, have the effect of reducing dust emissions. In CalEEMod, however, mandatory requirements such as percentage adjustments to fugitive dust rules have not been incorporated into the "unmitigated" fugitive dust calculations.[101] Therefore, since the SCAQMD requires implementation of AQMD Rules during construction activities, the "Water Exposed Area" box was checked under "Mitigation" in CalEEMod as part of the Proposed Project. Therefore, the "Mitigated" scenario for the Proposed Project is the scenario that includes the typical construction activities and the required AQMD Rules that are legally required for the Proposed Project. The Proposed Project's air quality emissions would be below the threshold of significance for all six criteria pollutants and below the localized significance thresholds. As such, air quality mitigation measures were not required or warranted by the Proposed Project. Contrary to the commenter's claim, the Proposed Project does not propose any air quality mitigation measures. The term "Mitigation" differs when applied in CalEEMod, as disclosed in the CalEEMod User Guide, compared to mitigation measures implemented in the Draft EIR and defined by the CEQA Statute and Guidelines. The Proposed Project does not include Mitigation Measures as part of the initial emissions calculations to mitigate a significant effect. The "Mitigated" scenario is the Proposed Project's initial construction emissions scenario, which applied required regulations set by the SCAQMD.

[101] *CalEEMod User Guide, page 13, November 2017, website: https://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4.*

COMMENT 20B.9

Incorrect Application of Operational Mitigation Measures

Review of the CalEEMod output files demonstrates that the "3rd and Fairfax Mixed-Use Project," "3rd and Fairfax Mixed-Use Project – Without GHG Reduction Feature and Mitigation Measures," and "3rd and Fairfax Mixed-Use Project-2023 With Mitigation" models include the following energy-, area-, water-, and waste-related operational mitigation measures (see excerpt below) (Appendix C.1, pp. 47, 83, 117, 137; Appendix H, pp. 39, 83):

Energy-Related Mitigation Measures:

5.1 Mitigation Measures Energy

Install Energy Efficient Appliances

Area-Related Mitigation Measures:

6.1 Mitigation Measures Area

Use Low VOC Paint - Residential Interior
Use Low VOC Paint - Residential Exterior
Use Low VOC Paint - Non-Residential Interior
Use Low VOC Paint - Non-Residential Exterior
No Hearths Installed

Water-Related Mitigation Measure:

7.1 Mitigation Measures Water

Apply Water Conservation Strategy

Waste-Related Mitigation Measure:

8.1 Mitigation Measures Waste

Institute Recycling and Composting Services

As previously mentioned, the CalEEMod User's Guide requires any changes to model defaults be justified.[102] According to the "User Entered Comments and Non-Default Data" table, the justifications provided for the inclusion of the energy-, area-, water-, and waste-related operational mitigation measures are: "Energy Star Rated appliances required per LA Green Building Code," "Application of low- VOC architectural coatings per LA Green Building Code," "Water conservation measures are mandatory per compliance with the LA Green Building Code," and "Solid waste recycling program is mandatory under the LA Green Building Code," respectively (Appendix C.1, pp. 37, 73, 109; Appendix E, pp. 27, 74).

However, the inclusion of the above-mentioned operational mitigation measures remains unsubstantiated for two reasons.

First, simply because the DEIR states that the Project would comply with LA Green Building Code does not justify the inclusion of the above-mentioned operational mitigation measures in the model. According to the Association of Environmental Professionals' ("AEP") *CEQA Portal Topic Paper* on mitigation measures:

> "By definition, *mitigation measures are not part of the original project design*. Rather, mitigation measures are actions taken by the lead agency to reduce impacts to the environment resulting from the original project design. Mitigation measures are identified by the lead agency after the project has undergone environmental review and are *above-and-beyond existing laws, regulations, and requirements* that would reduce environmental impacts" (emphasis added).[103]

As you can see in the excerpt above, mitigation measures "are not part of the original project design" and are intended to go "above-and-beyond" existing regulatory requirements. Thus, the inclusion of the above-mentioned operational mitigation measure remains unsupported, despite the Project's purported compliance with the LA Green Building Code.

Second, regarding the Project's operational air quality impacts, the DEIR states:

> "Project-level and cumulative construction-related impacts with regard to air quality would be less than significant with adherence to all applicable SCAQMD rules and regulations. Therefore, no mitigation measures are required" (p. IV.A-68).

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[102] *CalEEMod User Guide, available at: http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4, p. 2, 9.*

[103] *"CEQA Portal Topic Paper Mitigation Measures." AEP, February 2020, available at: https://ceqaportal.org/tp/CEQA%20Mitigation%202020.pdf, p. 5.*

As demonstrated above, the DEIR claims that *no* mitigation measures would be required. However, while the DEIR concludes that *no* mitigation measures would be required to reduce emissions to less than-significant levels, the DEIR's modeling incorporates mitigation measures to reduce emissions to less-than-significant levels. If the DEIR's conclusion was correct, the above-mentioned operational mitigation measures should not have been included in the model. By incorrectly including several energy-, area-, water-, and waste-related operational mitigation measures without properly committing to their implementation, the model may underestimate the Project's operational emissions and should not be relied upon to determine Project significance.

RESPONSE TO COMMENT 20B.9

As previously discussed in Response to Comment 20.B.8, above, in the CalEEMod model, analytical assumptions such as providing installation of energy-efficient appliances, no hearths, using low-VOC cleaning supplies, applying water conservation strategies, and instituting recycling and composting services are only available under the mitigation scenario. The interface on CalEEMod (Version 2016.3.2) lists these rules under the "Mitigation" tab, when they are actually required rules by the SCAQMD, State, and City. The term "Mitigation" in CalEEMod is defined differently than "Mitigation Measures" under CEQA and in the Draft EIR. The model does not allow for these features to be implemented in the "unmitigated project" impact scenario. As such, the values that appear under the mitigated results columns are reflective of the Proposed Project impacts that are compliant with required State and City policies and regulations.

While these features are termed mitigation in the model, they are in fact required for all projects, and are not considered mitigation measures for purposes of CEQA. As disclosed on Page IV.B-25 of Section IV.B Energy, the Proposed Project would be required to include energy-efficient appliances, pursuant to the L.A. Green Building Code and 2019 Title 24 Standards. As noted on page IV.C-26 of Section C, Greenhouse Gas Emissions, compliance with Title 24 and LAGBC is a standard regulatory requirement of all projects that is enforced through the building permit process. As implemented through project design feature PDF-GHG-2, the Proposed Project also would not include any hearths or fireplaces within the residential units. Consistent with SCAQMD Rule 1113, the Proposed Project would be required to adhere to the VOC limits for architectural coatings, as described on Page IV.A-21 in Section IV.A, Air Quality. As mandated by the LA Green Building Code, the Proposed Project would be required to provide plumbing fixtures and fixture fittings that reduce potable water use within the development by at least 20 percent compared to the "water use baseline" established by LAMC Section 99.04.303 (see Page IV.C-63 of Section IV.C Greenhouse Gas Emissions). As stated on Page IV.K-82 of Section IV.K.4 Utilities and Service Systems – Solid Waste, the Proposed Project would

achieve at least a 75 percent solid waste diversion rate through source reduction, recycling, composting and other methods, in accordance with SB 1374 and AB 939 and 341. In the present case, the application of these features are regulatory compliance measures or design features and are not proposed or recommended as mitigation measures.

The commenter references mitigation measures as "above-and-beyond existing laws, regulations, and requirements" defined by AEP's *CEQA Portal Topic Paper.* It should be noted that the AEP is a non-profit organization of interdisciplinary professionals, which do not enforce standards or regulations, but instead provide guidance documents addressing environmental issues with respect to CEQA. According to Section 15370 of the State CEQA Guidelines, mitigation measures include "reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action." The Draft EIR concluded that the Proposed Project would not result in a significant impact to air quality when applying all existing laws, regulations, and requirements. Therefore, the "Mitigation" scenario in CalEEMod reflects the application of required regulations and requirements only. The commenter makes a contradictory claim by stating mitigation measures are "above-and-beyond existing laws, regulations, and requirements" and then goes on to claim that the Proposed Project's compliance with regulations should be considered mitigation measures in the Draft EIR.

Therefore, the Proposed Project's air quality impacts have been determined to be less than significant assuming all regulatory compliance measures are implemented. As such, no mitigation measures are warranted.

COMMENT 20B.10

Diesel Particulate Matter Health Risk Emissions Inadequately Evaluated

The DEIR concludes that the proposed Project would have a less-than-significant health risk impact, based on a localized significance threshold ("LST") analysis, without conducting a quantified construction or operational health risk analysis ("HRA") (p. IV.A-64 – IV.A-65, IV.A-67 – IV.A-68). Specifically, regarding potential health risk impacts associated with Project construction, the DEIR states:

> "Given the short-term construction schedule of approximately 32 months, the Proposed Project would not result in a long-term (i.e., 70-year) source of TAC emissions. Additionally, the SCAQMD CEQA guidance does not require a health risk assessment (HRA) for short-term construction emissions. It is, therefore, not necessary to evaluate long-term cancer impacts from construction activities which occurs over a relatively short duration. In addition, there would be no residual

> emissions or corresponding individual cancer risk after construction. ***As such, Project-related TAC impacts during construction would be less than significant***" (p. IV.A- 64 - IV.A-65).

As demonstrated above, the DEIR concludes that the Project would result in a less-than-significant impact with respect to construction-related toxic air contaminants ("TACs"), because construction activities occur over a short duration and would not result in a long-term source of TAC emissions. Furthermore, regarding potential health risk impacts associated with Project operation, the DEIR states:

> "The Proposed Project consists of a mixed-use development containing multi-family residential units and commercial uses that would not support any land uses or activities that would involve the use, storage, or processing of carcinogenic or non-carcinogenic TACs. The primary sources of potential air toxics associated with project operations include diesel particulate matter from delivery trucks (e.g., truck traffic on local streets and idling on adjacent streets) and, to a lesser extent, facility operations (e.g., natural gas fired boilers). However, these activities, and the land uses associated with the Proposed Project, are not considered land uses that generate substantial TAC emissions. Therefore, no significant toxic airborne emissions would result from the operation of the Proposed Project. Based on AQMD guidance, an HRA is not recommended for the Proposed Project since its operational land uses are not considered a substantial source of diesel particulate matter" (p. IV.A-67 - IV.A-68).

As demonstrated above, the DEIR concludes that the Project would result in a less-than-significant impact with respect to operational toxic air contaminants ("TACs"), because the proposed land uses would not generate substantial TAC emissions. Finally, the DEIR concludes:

> "*[O]n-site localized emissions from the Proposed Project's construction and operational would not exceed the established SCAQMD localized thresholds. Therefore, localized construction and operational related air quality impacts would be considered less than significant without mitigation. Additionally, potential air toxic impacts to sensitive receptors from Project TAC emissions would also be less than significant. Therefore, the Proposed Project would not expose sensitive receptors to substantial pollutant concentrations, and impacts would be less than significant*" (p. IV.A-68).

However, the DEIR's evaluation of the Project's potential health risk impacts, as well as the subsequent less-than-significant impact conclusion, is incorrect for four reasons.

First, the use of an LST analysis to determine the health risk impacts posed to nearby, existing sensitive receptors as a result of the Project's construction-related and operational TAC emissions is incorrect. While the LST method assesses the impact of pollutants at a local level, it only evaluates impacts from criteria air pollutants. According to the *Final Localized Significance Threshold Methodology* document prepared by the SCAQMD, the LST analysis is only applicable to NOx, CO, PM10, and PM2.5 emissions, which are collectively referred to as criteria air pollutants.[104] Because the LST method can only be applied to criteria air pollutants, this method cannot be used to determine whether emissions from TACs, specifically diesel particulate matter ("DPM"), a known human carcinogen, would result in a significant health risk impact to nearby sensitive receptors. As a result, health impacts from exposure to TACs, such as DPM, were not analyzed, thus leaving a gap in the DEIR's analysis.

Second, despite the DEIR's qualitative claims that construction-related TAC emissions would be less than significant, construction of the proposed Project will produce emissions of DPM through the exhaust stacks of construction equipment over a potential construction period of approximately 32 months (p. II- 40). Furthermore, despite the DEIR's qualitative claim that the proposed land uses would not generate TACs, the Transportation Analysis indicates that the proposed land uses are expected to generate approximately 7,714 average daily vehicle trips, which will generate additional exhaust emissions and continue to expose nearby sensitive receptors to DPM emissions (Appendix H.1, p. 34). However, the DEIR's vague discussion of potential Project-generated TACs fails to indicate the concentrations at which such pollutants would trigger adverse health effects. Thus, without making a reasonable effort to connect the Project's construction-related and operational TAC emissions to the potential health risks posed to nearby receptors, the DEIR is inconsistent with CEQA's requirement to correlate the increase in emissions generated by the Project with the potential adverse impacts on human health.

Third, the Office of Environmental Health Hazard Assessment ("OEHHA"), the organization responsible for providing guidance on conducting HRAs in California, released its most recent *Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments* in February 2015, as referenced by the Air Quality and Health Effects ("AQ & Health Effects Analysis"), provided as Appendix C.2 to the DEIR (Appendix

[104] *"Final Localized Significance Threshold Methodology." SCAQMD, Revised July 2008, available at: http://www.aqmd.gov/docs/default-source/ceqa/handbook/localized-significance-thresholds/final-lst-methodology-document.pdf.*

C.2, pp. 114).[105] The OEHHA document recommends that all short-term projects lasting at least two months be evaluated for cancer risks to nearby sensitive receptors.[106] As the Project's proposed 32-month construction duration vastly exceeds the 2-month requirement set forth by OEHHA, it is clear that the Project meets the threshold warranting a quantified HRA under OEHHA guidance (p. II-40). Furthermore, the OEHHA document recommends that exposure from projects lasting more than 6 months be evaluated for the duration of the project and recommends that an exposure duration of 30 years be used to estimate individual cancer risk for the maximally exposed individual resident ("MEIR").[107] Even though we were not provided with the expected lifetime of the Project, we can reasonably assume that the Project will operate for at least 30 years, if not more. Therefore, we recommend that health risk impacts from Project operation also be evaluated, as a 30-year exposure duration vastly exceeds the 6-month requirement set forth by OEHHA. These recommendations reflect the most recent state health risk policies, and as such, we recommend that an analysis of health risk impacts posed to nearby sensitive receptors from Project operation be included in an EIR for the Project.

Fourth, by claiming a less than significant impact without conducting a quantified construction or operational HRA for nearby, existing sensitive receptors, the DEIR fails to compare the Project's cumulative excess cancer risk to the applicable SCAQMD numeric threshold of 10 in one million, and lacks evidence to support its conclusion that the health risk would be under the threshold.[108] Thus, pursuant to CEQA and SCAQMD guidance, an analysis of the health risk posed to nearby, existing receptors from Project construction and operation should have been conducted.

RESPONSE TO COMMENT 20B.10

See Response to Comment 20.16 for a response to the issues raised by the commenter related to preparation of an HRA.

The Proposed Project's construction emissions were quantified utilizing CalEEMod *(Version 2016.3.2)*, which is the SCAQMD's recommended methodology for addressing

[105] *"Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: https://oehha.ca.gov/air/crnr/notice-adoption-air-toxics-hot-spots-program-guidance-manual-preparation-health-risk-0*

[106] *"Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: https://oehha.ca.gov/air/crnr/notice-adoption-air-toxics-hot-spots-program-guidance-manual-preparation-health-risk-0, p. 8-18.*

[107] *"Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: https://oehha.ca.gov/air/crnr/notice-adoption-air-toxics-hot-spots-program-guidance-manual-preparation-health-risk-0, p. 8-6, 8-15.*

[108] *"South Coast AQMD Air Quality Significance Thresholds." SCAQMD, April 2019, available at: http://www.aqmd.gov/docs/default-source/ceqa/handbook/scaqmd-air-quality-significance-thresholds.pdf.*

construction impacts for infill development projects subject to CEQA review. As shown in Table IV.A-7, Estimated Peak Daily Construction Emissions, and Table IV.A-8, Proposed Project Estimated Daily Operational Emissions, in Section IV.A, Air Quality of the Draft EIR, the Proposed Project's construction emissions and operational emissions would not exceed any regional threshold of significance for any of the criteria pollutants. Specifically, the CalEEMod emissions analysis found that the Proposed Project's peak daily construction emissions for PM_{10} (particulate matter equal to or less than 10 microns in diameter) and $PM_{2.5}$ (particulate matter equal to or less than 2.5 microns in diameter) would be 9.57 lbs/day and 4.41 lbs/day, respectively. Comparably, the threshold of significance for PM_{10} and $PM_{2.5}$ emissions is 150 and 55 lbs/day, respectively. Thus, the Proposed Project's PM_{10} and $PM_{2.5}$ emissions are substantially below the thresholds of significance. Furthermore, DPM is a subset of both PM_{10} and $PM_{2.5}$, (i.e., approximately 94 percent of DPM particles are less than 2.5 microns in diameter and approximately 6 percent of DPM particles are between 2.5 and less than 10 microns in diameter),[109] and not all PM_{10} and $PM_{2.5}$ emissions are considered DPM (PM_{10} and $PM_{2.5}$ also include dust and other particles that are not DPM). As a result, the Proposed Project's diesel emissions would represent only a fraction of the total PM_{10} and $PM_{2.5}$ emissions generated during construction.

The commenter also claims that the Draft EIR's analysis of LSTs is limited since only four criteria pollutants were addressed and did not include DPM. As stated above, DPM is a subset of both PM_{10} and $PM_{2.5}$. Therefore, as shown in Table IV.A-9 on Page IV.A-64, the Proposed Project's PM_{10} and $PM_{2.5}$ emissions would be lower than SCAQMD's recommended localized significance thresholds, which are more stringent than regional thresholds. Therefore, diesel emissions would represent only a fraction of the total localized PM_{10} and $PM_{2.5}$ emissions generated during construction and would not warrant the preparation of an HRA. Furthermore, as discussed in detail in Response to Comment 20.16, the requirement to prepare a construction or operational HRA pursuant to OEHHA Guidelines is not required under CEQA or any required permits or approvals. Based on the relatively low emissions associated with PM_{10} and $PM_{2.5}$ during both construction and operation, there was no evidence to suggest that the Proposed Project would generate diesel emissions that are excessive or above acceptable levels that already occur within the environment.

See Response to Comment 20.16 for a detailed response.

[109] *Scientific Review Panel Findings for the Proposed Identification of Diesel Exhaust as a Toxic Air Contaminant Report, May 27, 1998, https://www.arb.ca.gov/srp/findings/4-22-98.pdf.*

As shown the CalEEMod worksheets (Appendix C.1 of the Draft EIR), the highest number of haul trips would occur during the demolition and grading phases to haul demolition debris and soil export from the Project Site; therefore, the greatest potential for DPM emissions to occur would be during the demolition and grading phases (approximately five months) and the other construction activities during another 26.5 months would result in reduced heavy-duty construction equipment in comparison to the demolition and grading phases, the Proposed Project would not result in a long-term source of TAC emissions. No residual TAC emissions and corresponding individual cancer risk are anticipated after construction. Therefore, the Proposed Project would not result in a significant increase of TACs that would warrant significant human health impacts.

COMMENT 20B.11

Screening-Level Analysis Indicates a Potentially Significant Health Risk Impact

In order to conduct our screening-level risk analysis we relied upon AERSCREEN, which is a screening level air quality dispersion model.[110] The model replaced SCREEN3, and AERSCREEN is included in the OEHHA[111] and the California Air Pollution Control Officers Associated ("CAPCOA")[112] guidance as the appropriate air dispersion model for Level 2 health risk screening analyses ("HRSAs"). A Level 2 HRSA utilizes a limited amount of site-specific information to generate maximum reasonable downwind concentrations of air contaminants to which nearby sensitive receptors may be exposed. If an unacceptable air quality hazard is determined to be possible using AERSCREEN, a more refined modeling approach is required prior to approval of the Project.

In order to estimate the health risk impacts posed to residential sensitive receptors as a result of the Project's construction-related and operational TAC emissions, we prepared a preliminary HRA using the annual PM10 exhaust estimates from the DEIR's CalEEMod output files. Consistent with recommendations set forth by OEHHA, we assumed residential exposure begins during the third trimester stage of life. The DEIR's CalEEMod model indicates that construction activities will generate approximately 627 pounds of DPM over the 987-day construction period (Appendix E, pp. 32). The AERSCREEN model relies on a continuous average emission rate to simulate maximum downward concentrations from point, area, and volume emission sources. To account for the

[110] *U.S. EPA (April 2011) AERSCREEN Released as the EPA Recommended Screening Model, http://www.epa.gov/ttn/scram/guidance/clarification/20110411_AERSCREEN_Release_Memo.pdf.*

[111] *"Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: https://oehha.ca.gov/air/crnr/notice-adoption-air-toxics-hot-spots-program-guidance-manual-preparation-health-risk-0.*

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

variability in equipment usage and truck trips over Project construction, we calculated an average DPM emission rate by the following equation:

$$Emission\ Rate\ \left(\frac{grams}{second}\right) = \frac{627.2\ lbs}{987\ days} \times \frac{453.6\ grams}{lbs} \times \frac{1\ day}{24\ hours} \times \frac{1\ hour}{3{,}600\ seconds} = \mathbf{0.00334\ g/s}$$

Using this equation, we estimated a construction emission rate of 0.00334 grams per second ("g/s"). Subtracting the 987-day construction period from the total residential duration of 30 years, we assumed that after Project construction, the sensitive receptor would be exposed to the Project's operational DPM for an additional 27.3 years, approximately. The DEIR's operational CalEEMod emissions indicate that operational activities will generate approximately 895 pounds of DPM per year throughout operation (Appendix E, pp. 35). Applying the same equation used to estimate the construction DPM rate, we estimated the following emission rate for Project operation:

$$Emission\ Rate\ \left(\frac{grams}{second}\right) = \frac{895.2\ lbs}{365\ days} \times \frac{453.6\ grams}{lbs} \times \frac{1\ day}{24\ hours} \times \frac{1\ hour}{3{,}600\ seconds} = \mathbf{0.0129\ g/s}$$

Using this equation, we estimated an operational emission rate of 0.0129 g/s. Construction and operational activity was simulated as a 7.51-acre rectangular area source in AERSCREEN with dimensions of 298 by 102 meters. A release height of three meters was selected to represent the height of exhaust stacks on operational equipment and other heavy-duty vehicles, and an initial vertical dimension of one and a half meters was used to simulate instantaneous plume dispersion upon release. An urban meteorological setting was selected with model-default inputs for wind speed and direction distribution.

The AERSCREEN model generates maximum reasonable estimates of single-hour DPM concentrations from the Project site. EPA guidance suggests that in screening procedures, the annualized average concentration of an air pollutant be estimated by multiplying the single-hour concentration by 10%.[113] According to the DEIR, the nearest sensitive receptors are located directly south of the Project Site (p. IV.A-42, Figure IV.A-3). However, review of the AERSCREEN output files demonstrates that the *maximally exposed* individual resident ("MEIR") is located approximately 150 meters from the Project site. Thus, the single-hour concentration estimated by AERSCREEN for Project construction is approximately 3.596 µg/m^3 DPM at approximately 150 meters downwind.

[113] *"Screening Procedures for Estimating the Air Quality Impact of Stationary Sources Revised." EPA, 1992, available at: https://www.epa.gov/technical-air-pollution-resources; see also "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf, p. 4-36.*

Multiplying this single-hour concentration by 10%, we get an annualized average concentration of 0.3596 µg/m^3 for Project construction at the MEIR. For Project operation, the single-hour concentration estimated by AERSCREEN is 13.87 µg/m^3 DPM at approximately 150 meters downwind. Multiplying this single-hour concentration by 10%, we get an annualized average concentration of 1.387 µg/m^3 for Project operation at the MEIR.

We calculated the excess cancer risk to the MEIR using applicable HRA methodologies prescribed by OEHHA. Consistent with the 987-day construction schedule included in the Project's CalEEMod output files, the annualized average concentration for Project construction was used for the entire third trimester of pregnancy (0.25 years), infantile stage of life (0 – 2 years), and the first 0.45 year of the child stage of life (2 – 16 years); and the annualized averaged concentration for operation was used for the remainder of the 30-year exposure period, which makes up the remaining 13.55 years of the child stage of life and the entire the adult stage of life (16 – 30 years).

Consistent with OEHHA guidance and recommended by the SCAQMD, BAAQMD, and SJVAPCD guidance, we used Age Sensitivity Factors ("ASF") to account for the heightened susceptibility of young children to the carcinogenic toxicity of air pollution.[114, 115, 116] According to this guidance, the quantified cancer risk should be multiplied by a factor of ten during the third trimester of pregnancy and during the first two years of life (infant), as well as multiplied by a factor of three during the child stage of life (2 – 16 years). We also included the quantified cancer risk without adjusting for the heightened susceptibility of young children to the carcinogenic toxicity of air pollution in accordance with older OEHHA guidance from 2003. This guidance utilizes a less health protective scenario than what is currently recommended by SCAQMD, the air quality district with jurisdiction over the City, and several other air districts in the state. Furthermore, in accordance with the guidance set forth by OEHHA, we used the 95th percentile breathing

[114] *"Draft Environmental Impact Report (DEIR) for the Proposed The Exchange (SCH No. 2018071058)." SCAQMD, March 2019, available at: http://www.aqmd.gov/docs/default-source/ceqa/comment-letters/2019/march/RVC190115-03.pdf?sfvrsn=8, p. 4.*

[115] *"California Environmental Quality Act Air Quality Guidelines." BAAQMD, May 2017, available at: https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en, p. 56; see also "Recommended Methods for Screening and Modeling Local Risks and Hazards." BAAQMD, May 2011, available at: https://www.baaqmd.gov/~/media/Files/Planning%20and%20Research/CEQA/BAAQMD%20Modeling%20Approach.ashx, p. 65, 86.*

[116] *"Update to District's Risk Management Policy to Address OEHHA's Revised Risk Assessment Guidance Document." SJVAPCD, May 2015, available at: https://www.valleyair.org/busind/pto/staff-report-5-28-15.pdf, p. 8, 20, 24.*

rates for infants.[117] Finally, according to SCAQMD guidance, we used a Fraction of Time At Home ("FAH") Value of 1 for the 3rd trimester and infant receptors.[118] We used a cancer potency factor of 1.1 $(mg/kg\text{-}day)^{-1}$ and an averaging time of 25,550 days. The results of our calculations are shown below.

The Maximum Exposed Individual at an Existing Residential Receptor (MEIR)

Activity	Duration (years)	Concentration (ug/m3)	Breathing Rate (L/kg-day)	Cancer Risk without ASFs*	ASF	Cancer Risk with ASFs*
Construction	0.25	0.3596	361	4.9E-07	10	4.9E-06
3rd Trimester Duration	***0.25***			***4.9E-07***	***3rd Trimester Exposure***	***4.9E-06***
Construction	2.00	0.3596	1090	1.2E-05	10	1.2E-04
Infant Exposure Duration	***2.00***			***1.2E-05***	***Infant Exposure***	***1.2E-04***
Construction	0.45	0.3596	572	1.4E-06	3	4.2E-06
Operation	13.55	1.387	572	1.6E-04	3	4.9E-04
Child Exposure Duration	***14.00***			***1.6E-04***	***Child Exposure***	***4.9E-04***
Operation	14.00	1.387	261	5.6E-05	1	5.6E-05
Adult Exposure Duration	***14.00***			***5.6E-05***	***Adult Exposure***	***5.6E-05***
Lifetime Exposure Duration	**30.00**			**2.3E-04**	**Lifetime Exposure**	**6.7E-04**

* We, along with CARB and SCAQMD, recommend using the more updated and health protective 2015 OEHHA guidance, which includes ASFs.

As demonstrated in the table above, the excess cancer risk to adults, children, infants, and during the 3rd trimester of pregnancy at the MEIR located approximately 150 meters away, over the course of Project construction and operation, utilizing ASFs, is approximately 56, 490, 120, and 4.9 in one million, respectively. The excess cancer risk over the course of a residential lifetime (30 years), utilizing ASFs, is approximately 670 in one million. The infant, child, adult, and lifetime cancer risks exceed the SCAQMD threshold of 10 in one million, thus resulting in a potentially significant impact not previously addressed or identified by the DEIR.

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[117] *"Supplemental Guidelines for Preparing Risk Assessments for the Air Toxics 'Hot Spots' Information and Assessment Act," July 2018, available at: http://www.aqmd.gov/docs/default-source/planning/risk-assessment/ab2588supplementalguidelines.pdf, p. 16. "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf.*

[118] *"Risk Assessment Procedures for Rules 1401, 1401.1, and 212." SCAQMD, August 2017, available at: http://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/1401/riskassessmentprocedures_2017_080717.pdf, p. 7.*

Utilizing ASFs is the most conservative, health-protective analysis according to the most recent guidance by OEHHA and reflects recommendations from the air district. Results without ASFs are presented in the table above, although we **do not** recommend utilizing these values for health risk analysis. Regardless, the excess cancer risk to adults, children, infants, and during the 3rd trimester of pregnancy at the MEIR located approximately 150 meters away, over the course of Project construction and operation, without ASFs, are approximately 56, 160, 12, and 0.49 in one million, respectively. The excess cancer risk over the course of a residential lifetime (30 years), without ASFs, is approximately 230 in one million. The infant and lifetime cancer risk, without ASFs, exceed the SCAQMD threshold of 10 in one million, thus resulting in a potentially significant impact not previously addressed or identified by the DEIR. While we recommend the use of ASFs, the Project's cancer risk without ASFs, as estimated by SWAPE, nonetheless exceeds the SCAQMD threshold, resulting in a potentially significant health risk impact that the DEIR fails to disclose.

An agency must include an analysis of health risks that connects the Project's air emissions with the health risk posed by those emissions. Our analysis represents a screening-level HRA, which is known to be conservative and tends to err on the side of health protection.[119] The purpose of the screening-level construction and operational HRA shown above is to demonstrate the link between the proposed Project's emissions and the potential health risk. Our screening-level HRA demonstrates that construction and operation of the Project could result in a potentially significant health risk impact, when correct exposure assumptions and up-to-date, applicable guidance are used. Therefore, since our screening-level HRA indicates a potentially significant impact, the City should prepare a Project-specific EIR with an HRA which makes a reasonable effort to connect the Project's air quality emissions and the potential health risks posed to nearby receptors. Thus, the City should prepare an updated, quantified air pollution model as well as an updated, quantified refined health risk analysis which adequately and accurately evaluates health risk impacts associated with both Project construction and operation.

RESPONSE TO COMMENT 20B.11

See Response to Comment 20.16 for a detailed response.

[119] *"Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf, p. 1-5*

COMMENT 20B.12

Greenhouse Gas

Failure to Adequately Evaluate Greenhouse Gas Impacts

The DEIR estimates that the Project would generate net annual greenhouse gas ("GHG") emissions of 3,384 metric tons of carbon dioxide equivalents per year ("MT CO_2e/year"), including GHG reduction measures (see excerpt below) (p. IV.C-59, Table IV.C-8).

Table IV.C-8
Annual Operational Greenhouse Gas Emissions

Emissions Source	Project Generated CO_2e Emissions (Metric Tons per Year)	Project-Generated CO_2e Emissions with GHG Reduction Measures (Metric Tons per Year)	Percent Reduction
Area	112	6	95
Energy	3,967	3,158	20
Mobile (Motor Vehicles)	11,056	7,146	35
Stationary	9	9	0
Waste	307	77	75
Water	371	297	20
Construction Emissions [a]	89	89	0
Subtotal:	**15,911**	**10,782**	**32**
Less Existing Development Site Uses:	*-7,398*	*-7,398*	
Project NET TOTAL:	**8,513**	**3,384**	**60**

Notes:
[a] *The total construction GHG emissions were amortized over 30 years and added to the operation of the Proposed Project.*
[b] *The Proposed Project's CalEEMod worksheets were based on the default 2016 Title 24 Energy Use Standards. Therefore the Proposed Project's Energy Use emissions were reduced by 20 % to account for compliance with the 2019 Title 24 Energy Conservation Standards.*
Source: CalEEMod Version 2016.3.2. Calculation data and results provided in Appendix E, Greenhouse Gas Emissions Calculations Worksheets, Parker Environmental Consultants, 2020.

However, the DEIR elects not to apply a quantitative GHG threshold, stating:

> "[T]he SCAQMD Governing Board adopted the staff proposal for an interim GHG significance threshold 10,000 MTCO$_2$e per year for stationary source/industrial projects where the SCAQMD is the lead agency. However, the SCAQMD has yet to adopt a GHG significance threshold for land use development projects (e.g., residential/commercial projects)" (p. IV.C-32).

Instead, the DEIR relies upon the Project's consistency with CARB's 2017 Climate Change Scoping Plan, SCAG's 2016-2040 RTP/SCS, and the Sustainable City pLAn / L.A.'s Green New Deal in order to conclude that the Project would result in a less-than-significant GHG impact (p. IV.C-40). However, the DEIR's GHG analysis, as well as the subsequent less-than-significant impact conclusion, is incorrect for six reasons.

(1) The DEIR's quantitative GHG analysis relies upon an incorrect and unsubstantiated air model;
(2) The DEIR incorrectly relies upon unsubstantiated GHG reduction measures;
(3) The DEIR's unsubstantiated air model indicates a potentially significant impact;
(4) The DEIR fails to consider the performance-based standards under CARB's *Scoping Plan*;
(5) The DEIR incorrectly relies upon SCAG's outdated *RTP/SCS*; and
(6) The DEIR fails to consider the performance-based standards under SCAG's *RTP/SCS.*

RESPONSE TO COMMENT 20B.12

This commenter states that the Draft EIR elects not to use a quantitative GHG threshold and that the less-than-significant impact conclusion is unsupported. As stated on Page IV.C-40 of Section IV.C Greenhouse Gas Emissions of the Draft EIR, because there is no applicable adopted or accepted numerical threshold of significance for GHG emissions, the City, in its discretion, focuses on consistency with statewide, regional, and local plans adopted for the purpose of reducing and/or mitigating GHG emissions. This evaluation of consistency with such plans is the sole basis for determining the significance of the Proposed Project's GHG-related impacts on the environment. For informational purposes, the analysis in the Draft EIR includes an estimate of the amount of GHG emissions that would be attributable to the Proposed Project using recommended air quality models. The primary purpose of quantifying the Proposed Project's GHG emissions is to satisfy State CEQA Guidelines Section 15064.4(a), which calls for a good-faith effort to describe and calculate emissions. The estimated emissions inventory is also used to quantify and determine the reduction in the Proposed Project's incremental contribution of GHG emissions as a result of compliance with regulations and requirements adopted to implement plans for the reduction or mitigation of GHG emissions. The significance of the Proposed Project's GHG emissions impacts is not based on the quantification of GHG emissions provided.

Detailed responses to the six specific claims listed by the commenter regarding the less-than-significant conclusion presented under the subheadings are addressed below in Responses to Comments 20B.13 through 20B.18.

COMMENT 20B.13

1) Incorrect and Unsubstantiated Quantitative Analysis of Emissions

As previously stated, DEIR estimates that the Project would generate net annual GHG emissions of MT CO_2e/year (p. IV.C-59, Table IV.C-8). However, the DEIR's quantitative GHG analysis is unsubstantiated. As previously discussed, when we reviewed the Project's CalEEMod output files, provided in the AQ Modeling Worksheets as Appendix C.1 and the GHG Analysis as Appendix E to the DEIR, we found that several of the values inputted into the model are not consistent with information disclosed in the DEIR. As a result, the model underestimates the Project's emissions, and the DEIR's quantitative GHG analysis should not be relied upon to determine Project significance. An updated EIR should be prepared that adequately assesses the potential GHG impacts that construction and operation of the proposed Project may have on the surrounding environment.

RESPONSE TO COMMENT 20B.13

The commenter asserts that the quantitative GHG analysis is unsubstantiated because specific inputs in the CalEEMod were incorrect and resulted in an underestimation of the Proposed Project emissions. As discussed in Response to Comments 20B.4 through 20B.9, above, the assertions and claims that the Proposed Project would result in a significant impact to air quality are not supported by substantial evidence. Additionally, as discussed above, the commenter's claims regarding the CalEEMod modeling are incorrect. Also, as noted above, the Proposed Project's CalEEMod analysis was updated to clarify minor changes to emission levels, which still resulted in a less than significant air quality impact conclusion. Consistent with these minor changes to the air quality emission levels, revised GHG tables are provided in Section III. Revisions, Clarifications, and Corrections of this Final EIR. As shown in Table IV.C-7 of Section III, the total construction emissions would minimally increase from 2,670 to 2,683 metric tons of CO_2e per year, which is an approximately 0.005 percent increase. This minimal increase would not change the conclusions or analysis in the Draft EIR. Therefore, the assertion that the proposed GHG emissions calculations are based on incorrect air quality modeling is speculative and unsubstantiated.

Furthermore, as stated on Page IV.C-40 of Section IV.C Greenhouse Gas Emissions of the Draft EIR, the quantified estimate of GHG emissions was included for informational purposes only. The significance of the Proposed Project's GHG emissions impacts is not based on the quantification of GHG emissions provided. Rather, the Proposed Project's impacts related to GHG emissions is based upon on consistency with statewide, regional, and local plans adopted for the purpose of reducing and/or mitigating GHG emissions,

which include SCAG's RTP/SCS, SB37, CARB's Climate Change Scoping Plan, and the Sustainable City pLAn / L.A.'s Green New Deal.

COMMENT 20B.14

2) Incorrect Reliance on GHG Reduction Measures

As previously discussed, the DEIR estimates that the Project would generate net annual GHG emissions of 3,384 MT CO_2e/year, after the inclusion of GHG reduction measures (p. IV.C-59, Table IV.C-8). Specifically, the DEIR estimates that the area-, energy-, mobile-, water-, and waste-related measures would result in GHG emissions reductions of 95%, 20%, 35%, 75% and 20%, respectively (see excerpt below) (p. IV.C-59, Table IV.C-8).

Table IV.C-8
Annual Operational Greenhouse Gas Emissions

Emissions Source	Project Generated CO_2e Emissions (Metric Tons per Year)	Project-Generated CO_2e Emissions with GHG Reduction Measures (Metric Tons per Year)	Percent Reduction
Area	112	6	95
Energy	3,967	3,158	20
Mobile (Motor Vehicles)	11,056	7,146	35
Stationary	9	9	0
Waste	307	77	75
Water	371	297	20

Furthermore, regarding the implementation of GHG reduction measures, the DEIR states:

> "[T]his Draft EIR quantifies the Proposed Project's total annual GHG emissions, taking into account the GHG emission reduction features that would be incorporated into the Project's design. Consistent with evolving scientific knowledge, approaches to GHG quantification may continue to evolve in the future. For purposes of quantifying the efficacy of the Proposed Project's compliance with the various regulations, plans and policies identified above, the Proposed Project's site-specific conditions, project design features, or code compliance measures are reflected under the 'mitigated' scenario in the CalEEMod worksheets… Compliance with these regulations can only be calculated under the 'mitigation' screen in CalEEMod" (p. IV.C-41 – IV.C-42).

However, as discussed above, the Project's compliance with various regulations, plans and policies does not justify the inclusion of mitigation measures in the model. As these PDFs are not formally included as mitigation measures, we cannot verify that they would be implemented, monitored, and enforced on the Project site.

Furthermore, regarding the use of mitigation measures, the DEIR states:

> "The Proposed Project's impacts would be less than significant. Therefore, no mitigation measures are warranted" (p. IV.C-65).

As you the excerpt above demonstrates, the DEIR claims that *no* mitigation measures would be required. As such, the DEIR should not rely on reduction measures to artificially decrease the Project's estimated GHG emissions. Rather, in order to claim that the Project would result in a less-than-significant GHG impact, the DEIR should demonstrate that the Project's GHG emissions are less-than-significant *without* the inclusion of reduction measures.

RESPONSE TO COMMENT 20B.14

The commenter claims that the Proposed Project's GHG reduction measures are relied upon to reduce potential significant GHG impacts. In the CalEEMod model, analytical assumptions such as providing installation of energy-efficient appliances, no hearths, using low-VOC cleaning supplies, applying water conservation strategies, and instituting recycling and composting services are only available under the mitigation scenario. As previously discussed in Response to Comment 20B.9, above, the interface on CalEEMod (Version 2016.3.2) lists these rules under the "Mitigation" tab, when they are actually required rules by the SCAQMD, State, and City. The term "Mitigation" in CalEEMod is defined differently than "Mitigation Measures" under CEQA and in the Draft EIR. According to Section 15370 of the State CEQA Guidelines, mitigation measures include "reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action." The Draft EIR concluded that the Proposed Project would not result in a significant GHG impact when applying all existing laws, regulations, and requirements. As previously discussed, the Mitigation scenario in CalEEMod reflects the application of required regulations and design features and are not proposed as mitigation measures under CEQA. The model does not allow for these required features to be implemented in the "unmitigated project" impact scenario.

Additionally, the Proposed Project would be built in compliance with regulatory compliance measures and implementation of voluntary design measures aimed at reducing GHG emissions, as described on Pages IV.C-59 through IV.C-63 of the Draft EIR. Such

measures include the Proposed Project's prohibition of hearths or fireplaces, implementation of a TDM measures to reduce VMT, installation of ENERGY STAR-related appliances, meeting applicable water conservation requires of the L.A. Green Building Code, meeting the applicable provisions of the California Energy Code, and complying with the construction and demolition solid waste handling and diversion required mandated in Section 66.32 of the LAMC.

The commenter also claims the Draft EIR improperly labels mitigation measures as unenforceable project design features in order to reduce GHG emissions and conclude less-than-significant GHG impacts. As shown in Section IV. Mitigation and Monitoring Program of this Final EIR, all of the project design features described in the Draft EIR would be monitored and strictly enforced by agencies in the same manner as mitigation measures. Therefore, the commenter's claim that the Proposed Project's GHG reduction measures and project design features are unenforceable is speculative and unsubstantiated.

Moreover, as discussed in Section IV.C Greenhouse Gas Emissions of the Draft EIR, the Proposed Project would not result in a significant GHG impact. The commenter does not provide substantial evidence that the Proposed Project would result in significant GHG impacts that would warrant mitigation measures.

COMMENT 20B.15

3) Failure to Identify a Potentially Significant GHG Impact

The DEIR's incorrect and unsubstantiated air model indicates a potentially significant GHG impact when applying the "2030 Land Use Efficiency Threshold" of 2.6 MT CO_2e/SP/year. In support of this threshold for projects with a horizon year beyond 2020, AEP's guidance *states*:

> "Once the state has a full plan for 2030 (which is expected in 2017), and then *a project with a horizon between 2021 and 2030 should be evaluated based on a threshold using the 2030 target*. A more conservative approach would be to apply a 2030 threshold *based on SB 32* for any project with a horizon between 2021 and 2030 regardless of the status of the Scoping Plan Update" (emphasis added).[120]

As the California Air Resources Board ("CARB") adopted *California's 2017 Climate Change Scoping Plan* in November of 2017, the proposed Project "should be evaluated

[120] *"Beyond Newhall and 2020: A Field Guide to New CEQA Greenhouse Gas Thresholds and Climate Action Plan Targets for California." Association of Environmental Professionals (AEP), October 2016, available at: https://califaep.org/docs/AEP-2016_Final_White_Paper.pdf, p. 40.*

based on a threshold using the 2030 target," according to the relevant guidance referenced above. Thus, in an effort to evaluate the Project's GHG emissions quantitatively, we compared the Project's GHG emissions, as estimated by the DEIR, to the AEP's "2030 Land Use Efficiency Threshold" of 2.6 MT CO_2e/SP/year.

As previously stated, the DEIR estimates that the Project would generate net annual GHG emissions of 3,384 MT CO_2e/year, after the inclusion of GHG reduction measures (p. IV.C-59, Table IV.C-8). Furthermore, according to CAPCOA's *CEQA & Climate Change* report, service population is defined as "the sum of the number of residents and the number of jobs supported by the project."[121] The DEIR estimates that the Project would house and employ approximately 801 residents and 319 employees, respectively, resulting in a service population of 1,120 people (p. IV.G-17, Table IV.G-4; IV.G-19, Table IV.G-5).[122] When dividing the Project's GHG emissions, as estimated by the DEIR, by a service population of 1,120 people, we find that the Project would emit approximately 3.0 MT CO_2e/SP/year (see table below).[123]

DEIR Service Population Efficiency	
Project Phase	**Proposed Project (MT CO_2e/year)**
Total	**3,384**
Service Population	1,120
Service Population Efficiency	**3.0**
Threshold	2.6
Exceed?	***Yes***

As demonstrated above, when we compare the Project's per service population GHG emissions to the AEP's "2030 Land Use Efficiency Threshold" of 2.6 MT CO_2e/SP/year, we find that the Project would result in a potentially significant GHG impact not previously identified or addressed by the DEIR. Therefore, an updated EIR should be prepared and recirculated for the Project, and mitigation should be implemented where necessary.

RESPONSE TO COMMENT 20B.15

The commenter asserts the Proposed Project's would result in significant GHG impacts when applying AEP's service population threshold. The analysis provided by SWAPE is

[121] *CAPCOA (Jan. 2008) CEQA & Climate Change, p. 71-72, http://www.capcoa.org/wp-content/uploads/2012/03/CAPCOA-White-Paper.pdf.*
[122] *Calculated: 801 residents + 319 employees = 1,120 service population.*
[123] *Calculated: (3,384 MT CO2e/year) / (1,120 service population) = (3.0 MT CO2e/SP/year).*

based on AEP's "2030 Land Use Efficiency Threshold" of 2.6 MT CO_2e/SP/year.[124] However, the commenter's comparison to this threshold is misleading, as this threshold has not been adopted by the State or City. The AEP is a non-profit organization of interdisciplinary professionals, which do not enforce standards or regulations, but instead provide guidance documents addressing environmental issues with respect to CEQA. AEP also discloses that this White Paper, *Beyond Newhall and 2020: A Field Guide to New CEQA Greenhouse Gas Thresholds and Climate Action Plan Targets for California,* is provided as personal opinions of the authors and does not represent the opinions or judgment of their respective firms, agencies, or of AEP. The White Paper provides suggested GHG thresholds and GHG reductions targets, but these are not regulatory standards, nor do they constitute legal advice. Additionally, this White Paper was published in October 2016, prior to the 2017 Scoping Plan. Statewide GHG goals have since been updated. The commenter also utilizes AEP's Statewide land use goal of 2.6 MT CO_2e/SP/year to the Proposed Project, which is inappropriate for a project-level EIR threshold. Furthermore, there are flaws in the calculation provided in this comment. The Proposed Project's net annual GHG emissions of 3,384 MT CO_2e/year is estimated from all activities that occur on the Development Site, including residents, guests, employees, and patrons of the Development Site. Trip rates within the VMT Calculator are based on ITE and other external traffic observations conducted at different land uses and include vehicle trips from residents, employees, and guests. It would be inaccurate to calculate the total annual GHG emissions to the resident and employee population only. AEP's Statewide GHG per capita goal is also an inappropriate comparison because it based service population on California residents only. There are many factors contributing to the Project's total GHG emissions that are unrelated to the on-site resident population only. For example, the commercial uses include local serving retail land uses that would be utilized by people residing in the surrounding neighborhood. Thus, it would be erroneous to compare a State-level target to an individual development project. Since it is unknown the precise number of patrons and guests that would utilize the Proposed Project annually, it would be erroneous to calculate the emissions per service population without factoring in the number of patrons and guests of the Project Site. Therefore, the commenter's calculation and reasoning above is based on inaccurate assumptions.

As stated on Page IV.C-40 of Section IV.C Greenhouse Gas Emissions of the Draft EIR, because there is no applicable adopted or accepted numerical threshold of significance for GHG emissions, including the service population threshold. In its discretion, the City

[124] *SWAPE comments, p. 18, citing "Beyond Newhall and 2020: A Field Guide to New CEQA Greenhouse Gas Thresholds and Climate Action Plan Targets for California." Association of Environmental Professionals (AEP), October 2016, available at: https://califaep.org/docs/AEP-2016_Final_White_Paper.pdf, p. 40; SWAPE Comment letter, p. 16.*

uses the consistency with statewide, regional, and local plans adopted for the purpose of reducing and/or mitigating GHG emissions. This evaluation of consistency with such plans is the sole basis for determining the significance of the Proposed Project's GHG-related impacts on the environment. For informational purposes, the analysis in the Draft EIR includes an estimate of the amount of GHG emissions that would be attributable to the Proposed Project using recommended air quality models.

Pursuant to Section 15204 of the State CEQA Guidelines, "CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR." As such, the additional analysis of service population emissions, as suggested by the commenter, is not warranted or required. The Proposed Project's GHG emissions impact would still be less than significant.

COMMENT 20B.16

4) Failure to Consider Performance-based Standards Under CARB's 2017 Scoping Plan

As previously discussed, the DEIR relies upon the Project's consistency with CARB's 2017 *Scoping Plan* to determine Project GHG significance (p. IV.C-40). However, this is incorrect, as the DEIR fails to consider performance-based measures proposed by CARB.

i. Passenger & Light Duty VMT Per Capita Benchmarks per SB375

In reaching the State's long-term GHG emission reduction goals, CARB's 2017 *Scoping Plan* explicitly cites to SB 375 and the VMT reductions anticipated under the implementation of Sustainable Community Strategies.[125] CARB has identified the population and daily VMT from passenger autos and light-duty vehicles at the state and county level for each year between 2010 to 2050 under a "baseline scenario" that includes "current projections of VMT included in the existing Regional Transportation Plans/Sustainable Communities Strategies (RTP/SCSs) adopted by the State's 18 Metropolitan Planning Organizations (MPOs) pursuant to SB 375 as of 2015."[126] By dividing the projected daily VMT by the population, we calculated the daily VMT per capita

[125] *"California's 2017 Climate Change Scoping Plan." CARB, November 2017, available at: https://ww2.arb.ca.gov/sites/default/files/classic//cc/scopingplan/scoping_plan_2017.pdf, p. 25, 98, 101-103.*

[126] *"Supporting Calculations for 2017 Scoping Plan-Identified VMT Reductions," Excel Sheet "Readme." CARB, January 2019, available at: http://ww2.arb.ca.gov/sites/default/files/2019-01/sp_mss_vmt_calculations_jan19_0.xlsx.*

for each year at the state and county level for 2010 (baseline year), 2023 (Project operational year), and 2030 (target years under SB 32) (see table below and Attachment A).

2017 Scoping Plan Daily VMT Per Capita						
	Los Angeles County			State		
Year	Population	LDV VMT Baseline	VMT Per Capita	Population	LDV VMT Baseline	VMT Per Capita
2010	9,838,771	216,979,221.64	22.05	37,335,085	836,463,980.46	22.40
2023	10,581,976	221,156,313.83	20.90	41,659,526	924,184,228.61	22.18
2030	10,868,614	215,539,586.12	19.83	43,939,250	957,178,153.19	21.78

The below table compares the 2017 *Scoping Plan* daily VMT per capita values against the daily VMT per capita values for the Project based on the DEIR's modeling (see table below and Attachment A).

Daily VMT Per Capita from Passenger & Light-Duty Trucks, Exceedances under 2017 Scoping Plan Performance-Based SB 375 Benchmarks	
Sources	Project DEIR Modeling
Annual VMT from Auto & Light-Duty Vehicles	15,209,308
Daily VMT from Auto & Light-Duty Vehicles	41,669
Service Population	1,120
Daily VMT Per Capita	37.20
2017 Scoping Plan Benchmarks, Statewide	
22.40 VMT (2010 Baseline) Exceed?	Yes
22.18 VMT (2023 Projected) Exceed?	Yes
21.78 VMT (2030 Projected) Exceed?	Yes
2017 Scoping Plan Benchmarks, Los Angeles County Specific	
22.05 VMT (2010 Baseline) Exceed?	Yes
20.90 VMT (2023 Projected) Exceed?	Yes
19.83 VMT (2030 Projected) Exceed?	Yes

As shown above, the DEIR's modeling shows that the Project exceeds the CARB 2017 *Scoping Plan* projections for 2010, 2023, and 2030. Because the exceeds the CARB 2017 *Scoping Plan* performance-based daily VMT per capita projections, the Project conflicts with the CARB 2017 *Scoping Plan* and SB 375. As such, the DEIR's claim that the proposed Project would not conflict with the CARB 2017 *Scoping Plan* is unsupported. Project-specific EIR should be prepared for the proposed Project to provide additional information and analysis to conclude less than significant GHG impacts.

RESPONSE TO COMMENT 20B.16

The comment claims that a "Project-specific EIR should be prepared for the proposed Project." The lead agency has in fact prepared a project-specific EIR for the Proposed Project. The commenter also asserts that the Proposed Project exceeds the CARB 2017 *Scoping Plan* performance-based daily VMT per capita. However, as a fundamental matter, as stated on page IV.C-23 and discussed on pages IV.C-38-IV.C-42 of Section IV.C, Greenhouse Gas Emissions in the Draft EIR, the performance-based daily VMT per capita is not a threshold of significance used by the lead agency to analyze GHG impacts. Moreover, the commenter's use and calculations of performance-based goals in this instance is misleading. The commenter utilizes the Statewide and County VMT goals to calculate a per capita objective, which is inappropriate for a project-level EIR. The commenter's assertion is also based on incorrect assumptions and calculations. The Proposed Project's total annual VMT estimated in CalEEMod and provided in Appendix E of the Draft EIR incorporates all of the VMT from residents, guests, employees, and patrons traveling to and from the Project Site. The VMT benchmark goals calculated by SWAPE are based on resident population only. SWAPE then uses the total annual VMT with the resident and employee population to determine the per capita VMT. Therefore, the annual VMT from residents only would be significantly lower than the Proposed Project's total of 16,674,185 VMT per year, which accounts for residents, guests, employees, and patrons. Thus, the commenter's calculations in the table above significantly overestimates the daily VMT per capita and are based on erroneous calculations and misleading performance-based objectives that cannot be used as project-level thresholds.

When applying the VMT calculated in Appendix H.1(B) of the Draft EIR, the daily VMT per trip is approximately 6.7 miles per trip (41,197 daily VMT / 6,143 daily trips), and estimates approximately 5.8 household VMT per resident. This estimate is conservative as it assumes each trip is a single-occupant vehicle. As such, after applying this method, the Proposed Project's estimated VMT would not exceed any of the CARB 2017 *Scoping Plan*'s target goals for daily VMT per capita projections, as estimated by SWAPE. Therefore, the commenter's assertion is flawed and incorrect.

Furthermore, as stated on Page IV.C-40 of Section IV.C Greenhouse Gas Emissions of the Draft EIR, because there is no applicable adopted or accepted numerical threshold of significance for GHG emissions. Lead agencies have discretion to formulate standards of significance for use in an EIR, which requires the agency to make a policy judgment distinguishing adverse impacts deemed significant from those deemed not significant. In its discretion, the City uses the consistency with statewide, regional, and local plans adopted for the purpose of reducing and/or mitigating GHG emissions. As stated in the

Draft EIR, the Proposed Project is consistent with the Scoping Plan, which does not establish a quantitative project-level threshold of significance or target. As such, the Proposed Project's consistency analysis demonstrates the Proposed Project's compliance with or exceedance of performance-based standards as well as consistency with applicable plans and policies adopted for the purpose of reducing GHG emissions.

COMMENT 20B.17

5) Incorrect Reliance Upon SCAG's Outdated RTP/SCS

As previously discussed, the DEIR concludes that the Project would be consistent with SCAG's 2016-2040 *RTP/SCS*. However, in September 2020 SCAG adopted the more recent 2020-2045 *RTP/SCS*.[127] Thus, the DEIR should have relied upon the current 2020-2045 *RTP/SCS*, and the DEIR's less-than-significant impact conclusion regarding the outdated 2016-2040 *RTP/SCS* should not be relied upon.

RESPONSE TO COMMENT 20B.17

The commenter states the Draft EIR should have relied on the most recently adopted 2020-2045 RTP/SCS, rather than the previous 2016-2040 RTP/SCS. The Notice of Preparation (NOP) for this Project was published on February 20, 2019. CEQA Guidelines Section 15125(e) requires that when a proposed project is compared to an adopted plan, the analysis shall examine the existing physical conditions at the time the NOP was published. SCAG's 2020-2045 RTP/SCS (also referred to as Connect SoCal) was not approved and fully adopted until September 3, 2020, after publication of the NOP.

Regardless, Section IV.E Land Use of the Draft EIR acknowledges the adoption of the 2020-2045 RTP/SCS and notes that "because the 2020–2045 RTP/SCS was adopted by SCAG subsequent to both circulation of the Notice of Preparation (NOP) for the Project on February 20, 2019 and approval by LADOT of the Transportation Assessment for the Project on March 26, 2020, this section and the balance of this Draft EIR provided detailed analysis of Project consistency with the 2016–2040 RTP/SCS." Additionally, Page IV.E-2 of the Draft EIR notes how similar the goals and policies of the 2020–2045 RTP/SCS are similar to, and consistent with, those of the 2016–2040 RTP/SCS. For example, the Proposed Project would be consistent with both the 2016–2040 RTP/SCS and the 2020–2045 RTP/SCS because it would increase urban density within an High Quality Transit Area (HQTA) located less than 0.5 miles from a planned Metro Purple light rail station and in close proximity to more than a dozen bus routes; would include transit-oriented

[127] *"ADOPTED FINAL CONNECT SOCAL." SCAG, available at: https://scag.ca.gov/read-plan-adopted-final-plan.*

development; and would implement TDM, all of which would reduce the City's per capita VMT and associated air emissions. Another example is that because the Proposed Project would be consistent with the City's existing General Plan land use designation and zoning of the Project Site, it has been accounted for in the regional growth projections in both the 2016–2040 RTP/SCS and 2020–2045 RTP/SCS. Hence, because the Proposed Project would be consistent with the 2016–2040 RTP/SCS, the Proposed Project would also be consistent with the 2020–2045 RTP/SCS.

Furthermore, to supplement the information providing in the Draft EIR, and for informational purposes only, as discussed in Section III. Revisions, Clarifications, and Corrections of this Final EIR, an analysis of the Proposed Project's consistency with the 2020-2045 RTP/SCS is provided in detail on Table IV.C-6 on page III-3 of this Final EIR. Therefore, the Proposed Project would be consistent with SCAG's most recent 2020-2045 RTP/SCS.

COMMENT 20B.18

6) Failure to Consider Performance-based Standards under SCAG's RTP/SCS

Here, as discussed above, the DEIR concludes that the Project would be consistent with SCAG's *RTP/SCS*. However, the DEIR fails to consider whether or not the Project meets any of the specific performance-based goals underlying SCAG's *RTP/SCS* and SB 375, such as: i) per capita GHG emission targets, or ii) daily vehicles miles traveled ("VMT") per capita benchmarks.

i. SB 375 Per Capita GHG Emission Goals

SB 375 was signed into law in September 2008 to enhance the state's ability to reach AB 32 goals by directing CARB to develop regional 2020 and 2035 GHG emission reduction targets for passenger vehicles (autos and light-duty trucks). In March 2018, CARB adopted updated regional targets requiring a 19 percent decrease in VMT for the SCAG region by 2035. This goal is reflected in SCAG's 2020 RTP/SCS Program Environmental Impact Report ("PEIR"),[128] in which the 2020 RTP/SCS PEIR updates the per capita emissions to 21.3 lbs/day in 2020 and 18.8 lbs/day in 2035 (*see* excerpt below).[129]

[128] *"Connect SoCal Certified Final Program Environmental Impact Report." SCAG, May 2020, available at:https://scag.ca.gov/sites/main/files/file-attachments/fpeir_connectsocal_complete.pdf?1607981618.*

[129] *"Connect SoCal Certified Final Program Environmental Impact Report." SCAG, May 2020, available at:https://scag.ca.gov/sites/main/files/file-attachments/fpeir_connectsocal_complete.pdf?1607981618, p. 3.8-74.*

Table 3.8-10
SB 375 Analysis

	2005 (Baseline)	2020 (Plan)	2035 (Plan)
Resident population (per 1,000)	17,161	19,194	21,110
CO2 emissions (per 1,000 tons)	204.0/a/	204.5/b/	198.6/b/
Per capita emissions (pounds/day)	23.8	21.3	18.8
% difference from Plan (2020) to Baseline (2005)			–8%
% difference from Plan (2035) to Baseline (2005)			–19%/c/

Note:
/a/ Based on EMFAC2007
/b/Based on EMFAC2014 and SCAG modeling, 2019.
/c/ Includes off-model adjustments for 2035 and 2045
Source: SCAG modeling, 2019.
http://www.scag.ca.gov/committees/CommitteeDocLibrary/jointRCPC110515fullagn.pdf

In order to evaluate consistency with this SB 375 objective and SCAG's *RTP/SCS* performance-based goals, SWAPE calculated the Project's per-capita CO2 emissions from passenger and light duty vehicles (calculations attached hereto as Attachment A). First, total annual GHG mobile emissions were multiplied by the percentage of auto and light-duty truck fleet mix, then converted into total pounds per day, then divided by the estimated service population of 1,120. The below table shows the per capita emissions for the Project based on the DEIR's modeling (see table below and Attachment A).

CO_2e Per Capita Emissions from Passenger & Light-Duty Trucks,	
Exceedances under RTP/SCS Performance-Based SB 375 Goals	
Sources	**Project**
	DEIR Modeling
Annual Mobile Emissions (MT CO_2e/year)	7,146.40
Passenger & Light-Duty Fleet Mix (%)	91.21%
Daily CO_2e Emissions (lbs/day)	39,372.58
Service Population	1,120
Per Capita Emissions (lbs/day)	**35.15**
21.3 lbs/day/SP (2020 Goal) Exceeded?	**Yes**
18.8 lbs/day/SP (2035 Goal) Exceeded?	**Yes**

As shown in the above table, when utilizing the DEIR's modeling, the Project would result in 35.15 pounds per day per service population ("lbs/day/SP") emissions. This exceeds both SCAG's 2020 and 2035 targets of 21.3- and 18.8-lbs/day/SP, respectively, indicating that the Project is inconsistent with SB 375 and SCAG's *RTP/SCS*.

RESPONSE TO COMMENT 20B.18

The commenter asserts the Proposed Project exceeds the performance-based standards within the 2020 RTP/SCS such as per capita emissions. However, this assertion and analysis is based on the total mobile emissions of 7,146 $MTCO_2$/year. These mobile emissions estimated in CalEEMod incorporate all of the emissions from residents, guests, employees, and patrons. SCAG's 2020 target of 21.3 lbs of CO_2/capita/day and 2035 target of 18.8 lbs of CO_2/capita/day are based on resident population only. Therefore, the annual mobile emissions from residents would be significantly lower than the Proposed Project's total mobile emissions of 7,146 $MTCO_2$/year, shown in Table IV.C-8 of the Draft EIR. Thus, the commenter's calculations in the table above significantly overestimate per capita emissions.

The 2020 target of 21.3 lbs of CO_2/capita/day and 2035 target of 18.8 lbs of CO_2/capita/day are target goals for the SCAG region in order to meet CARB's target goals of reducing GHG emissions by 8 percent below 2005 levels by 2020 and 19 percent below 2005 levels by 2035. These are not considered project-level regulatory standards enforced by CARB or SCAG nor are they recommended or established by these agencies or the City as appropriate thresholds of significance for the purposes of determining GHG impacts. OPR and CARB have both provided recommendations for reducing VMT reductions at the project level which could be a means to close the gap between GHG reductions achieved through SCS implementation and the GHG reductions necessary to meet the state's GHG reduction goals. For example, OPR has provided a recommended threshold of 15 percent VMT reduction at the project level.[130] Given the state's emphasis on VMT reduction as the only feasible way for development projects to achieve additional GHG reductions needed from cars and light-duty trucks, and in recognition of the climate change benefits that occur from reduced VMT resulting in reductions in GHGs, the projected land use pattern proposed under the Plan supports HQTAs.[131] The Proposed Project would promote these climate change benefits by increasing urban density within HQTA located less than 0.5 miles from a planned Metro Purple light rail station and in

[130] *Office of Planinng and Research, Technical Advisory on Evaluating Transportation Impacts in CEQA, page 12, December 2018, website: http://opr.ca.gov/docs/20190122-743_Technical_Advisory.pdf.*

[131] *"Connect SoCal Certified Final Program Environmental Impact Report." SCAG, May 2020, available at: https://scag.ca.gov/sites/main/files/file-attachments/fpeir_connectsocal_complete.pdf?1607981618, p. 3.8-77 to 3.8-78.*

close proximity to more than a dozen bus routes. The Proposed Project would also include transit-oriented development and implement TDM strategies, all of which would reduce the City's per capita VMT and associated GHG emissions.

LADOT published an updated TAG to conform to requirements of SB 743 and the CEQA guidelines proposed by OPR. Therefore, based on OPR's CEQA guidance, LADOT's revised TAG establishes VMT as a primary metric for evaluating transportation impacts, includes performance measures that promote a reduction in GHG emissions, and utilizes a 15 percent below existing average household and employee VMT per capita thresholds for the Area Planning Commission (APC) area in which a project is located. As such, the Draft EIR analyzed transportation VMT thresholds based on the goal of VMT per capita or per employee that is 15 percent or more below that of existing development, which is a reasonable and achievable threshold in determining significant transportation impacts to reduce GHG emissions. As concluded in Section IV.I Transportation, the Proposed Project's household VMT per capita would not exceed the daily household VMT per capita impact threshold of 6.0 with mitigation and is well below the RTP/SCS goals cited by the commenter. Furthermore, it is important to note that GHG impacts are not dependent on the Proposed Project's VMT impacts. As clearly stated on Page IV.C-40 of Section IV.C Greenhouse Gas Emissions of the Draft EIR, the significance of the Proposed Project's GHG emissions impacts is not based on the quantification of GHG emissions provided or VMT per capita. The Proposed Project's impact related to GHG emissions solely focuses on its overall consistency with statewide, regional, and local plans adopted for the purpose of reducing and/or mitigating GHG emissions and were concluded to be consistent with those applicable plans. As such, the Proposed Project is the type of land use development that is encouraged by the RTP/SCS to reduce VMT and expand multi-modal transportation options in order for the region to achieve the GHG reductions from the land use and transportation sectors required by SB 375.

COMMENT 20B.19

i. SB 375 RTP/SCS Daily VMT Per Capita Target

Under the SCAG's 2020 RTP/SCS, daily VMT per capita in the SCAG region should decrease from 23.2 VMT in 2016 to 20.7 VMT by 2045.[132] Daily VMT per capita in Los Angeles County should decrease from 22.2 to 19.2 VMT during that same period.[133]

[132] *"Connect SoCal." SCAG, September 2020, available at: https://scag.ca.gov/sites/main/files/file-attachments/0903fconnectsocal-plan_0.pdf?1606001176, pp. 138.*

[133] *"Connect SoCal." SCAG, September 2020, available at: https://scag.ca.gov/sites/main/files/file-attachments/0903fconnectsocal-plan_0.pdf?1606001176, pp. 138.*

Here, however, the DEIR fails to consider any of the above-mentioned performance-based VMT targets. In order to evaluate consistency with the *RTP/SCS*'s performance-based VMT reduction targets, SWAPE calculated the Project's VMT from passenger and light duty vehicles (calculations attached hereto as Attachment A). First, annual VMTs from passenger automobile and light-duty vehicle were calculated based on the CalEEMod default fleet mix, converted into daily VMT, and divided by the estimated service population of 1,120. The below table shows the daily VMT per capita for the Project based on the DEIR's modeling (see table below and Attachment A).

Daily VMT Per Capita from Passenger & Light-Duty Trucks, Exceedances under RTP/SCS Performance-Based SB 375 Target	
Sources	**Project DEIR Modeling**
Annual VMT from Auto & Light-Duty Vehicles	15,209,308
Daily VMT from Auto & Light-Duty Vehicles	41,669
Service Population	1,120
Daily VMT Per Capita	37.20
2020 RTP/SCS Benchmarks, SCAG-Wide	
23.2 VMT (2016 Baseline) Exceed?	Yes
20.7 VMT (2045 Target) Exceed?	Yes
2020 RTP/SCS Benchmarks, Los Angeles County	
22.2 VMT (2016 Baseline) Exceed?	Yes
19.2 VMT (2045 Target) Exceed?	Yes

As shown in the above table, based on a service population of 1,120, the Project would result in 37.2 VMT per capita from passenger auto and light-duty truck vehicles. This exceeds all SCAG-wide and Los Angeles County specific benchmarks and targets under SCAG's 2020 *RTP/SCS*. Thus, based on the DEIR's modeling, the Project would exceed the 2016 baseline and 2045 target VMT per capita values for both Los Angeles County and the SCAG region as a whole, indicating that the Project conflicts with the SCAG's *RTP/SCS* and SB 375.

RESPONSE TO COMMENT 20B.19

The commenter asserts that the Proposed Project exceeds the performance-based standards within the 2020 RTP/SCS with respect to daily VMT per capita. However, this assertion is based on incorrect assumptions and calculations. The Proposed Project's total annual VMT estimated in CalEEMod (Appendix E to the Draft EIR) incorporates all of the VMT from residents, guests, employees, and patrons traveling to and from the

Project Site. The VMT benchmark goals calculated by SWAPE are based on resident population only. Therefore, the annual VMT from residents would be significantly lower than Proposed Project's total of 16,674,185 VMT per year. Thus, the commenter's calculations in the table above significantly overestimate the daily VMT per capita.

When applying the VMT calculated in Appendix H.1(B) of the Draft EIR, the daily VMT per trip is approximately 6.7 miles per trip (41,197 daily VMT / 6,143 daily trips), and estimates approximately 5.8 household VMT per resident. This estimate is conservative as it assumes each trip is a single-occupant vehicle. As such, after applying this method, the Proposed Project's estimated VMT would still not exceed any of the 2020 RTP/SCS target goals estimated by SWAPE. Furthermore, as clearly stated on Page IV.C-40 of Section IV.C Greenhouse Gas Emissions of the Draft EIR, the significance of the Proposed Project's GHG emissions impacts is not based on the quantification of GHG emissions provided or VMT per capita. The VMT thresholds apply only when analyzing the Proposed Project's transportation impacts. The Proposed Project's impacts related to GHG emissions solely focuses on its overall consistency with statewide, regional, and local plans adopted for the purpose of reducing and/or mitigating GHG emissions and were concluded to be consistent with those applicable plans. Therefore, the commenter's assertion is incorrect.

COMMENT 20B.20

Feasible Mitigation Measures Available to Reduce Emissions

Our analysis demonstrates that the Project would result in potentially significant health risk and GHG impacts that should be mitigated further. In an effort to reduce the Project's emissions, we identified several mitigation measures that are applicable to the proposed Project. Feasible mitigation measures can be found in CAPCOA's *Quantifying Greenhouse Gas Mitigation Measures*.[134] Therefore, to reduce the Project's emissions, consideration of the following measures should be made:

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

CAPCOA's *Quantifying Greenhouse Gas Mitigation Measures*[40]
Measures – Energy
Building Energy Use
Install Programmable Thermostat Timers
Obtain Third-party HVAC Commissioning and Verification of Energy Savings
Install Energy Efficient Appliances
Install Energy Efficient Boilers
Lighting
Install Higher Efficacy Public Street and Area Lighting
Limit Outdoor Lighting Requirements
Replace Traffic Lights with LED Traffic Lights
Alternative Energy Generation
Establish Onsite Renewable or Carbon-Neutral Energy Systems
Establish Onsite Renewable Energy System – Solar Power
Utilize a Combined Heat and Power System
Measures – Transportation
Land Use/Location
Increase Density
Increase Location Efficiency
Increase Destination Accessibility
Increase Transit Accessibility
Orient Project Toward Non-Auto Corridor
Locate Project near Bike Path/Bike Lane
Neighborhood/Site Enhancements
Provide Pedestrian Network Improvements, such as: • Compact, mixed-use communities • Interconnected street network • Narrower roadways and shorter block lengths • Sidewalks • Accessibility to transit and transit shelters • Traffic calming measures and street trees • Parks and public spaces • Minimize pedestrian barriers

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[135] *"Quantifying Greenhouse Gas Mitigation Measures." California Air Pollution Control Officers Association (CAPCOA), August 2010, available at: http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf, p.*

Provide Traffic Calming Measures, such as: • Marked crosswalks • Count-down signal timers • Curb extensions • Speed tables • Raised crosswalks • Raised intersections • Median islands • Tight corner radii • Roundabouts or mini-circles • On-street parking
• Planter strips with trees • Chicanes/chokers
Implement a Neighborhood Electric Vehicle (NEV) Network.
Create Urban Non-Motorized Zones
Incorporate Bike Lane Street Design (on-site)
Provide Bike Parking with Multi-Unit Residential Projects
Provide Electric Vehicle Parking
Dedicate Land for Bike Trails
Parking Policy/Pricing
Limit Parking Supply through: • Elimination (or reduction) of minimum parking requirements • Creation of maximum parking requirements • Provision of shared parking
Unbundle Parking Costs from Property Cost
Implement Market Price Public Parking (On-Street)
Require Residential Area Parking Permits
Commute Trip Reduction Programs
Implement Commute Trip Reduction (CTR) Program – Voluntary • Carpooling encouragement • Ride-matching assistance • Preferential carpool parking • Flexible work schedules for carpools • Half time transportation coordinator • Vanpool assistance • Bicycle end-trip facilities (parking, showers and lockers) • New employee orientation of trip reduction and alternative mode options • Event promotions and publications • Flexible work schedule for employees • Transit subsidies • Parking cash-out or priced parking • Shuttles • Emergency ride home

Implement Commute Trip Reduction (CTR) Program – Required Implementation/Monitoring • Established performance standards (e.g. trip reduction requirements) • Required implementation • Regular monitoring and reporting
Provide Ride-Sharing Programs • Designate a certain percentage of parking spaces for ride sharing vehicles • Designating adequate passenger loading and unloading and waiting areas for ride-sharing vehicles • Providing a web site or messaging board for coordinating rides • Permanent transportation management association membership and funding requirement.

Implement Subsidized or Discounted Transit Program
Provide Ent of Trip Facilities, including: • Showers • Secure bicycle lockers • Changing spaces
Encourage Telecommuting and Alternative Work Schedules, such as: • Staggered starting times • Flexible schedules • Compressed work weeks
Implement Commute Trip Reduction Marketing, such as: • New employee orientation of trip reduction and alternative mode options • Event promotions • Publications
Implement Preferential Parking Permit Program
Implement Car-Sharing Program
Implement School Pool Program
Provide Employer-Sponsored Vanpool/Shuttle
Implement Bike-Sharing Programs
Implement School Bus Program
Price Workplace Parking, such as: • Explicitly charging for parking for its employees; • Implementing above market rate pricing; • Validating parking only for invited guests; • Not providing employee parking and transportation allowances; and • Educating employees about available alternatives.
Implement Employee Parking "Cash-Out"
Transit System Improvements
Transit System Improvements, including: • Grade-separated right-of-way, including bus only lanes (for buses, emergency vehicles, and sometimes taxis), and other Transit Priority measures. Some systems use guideways which automatically steer the bus on portions of the route.

• Frequent, high-capacity service • High-quality vehicles that are easy to board, quiet, clean, and comfortable to ride. • Pre-paid fare collection to minimize boarding delays. • Integrated fare systems, allowing free or discounted transfers between routes and modes. • Convenient user information and marketing programs. • High quality bus stations with Transit Oriented Development in nearby areas. • Modal integration, with BRT service coordinated with walking and cycling facilities, taxi services, intercity bus, rail transit, and other transportation services.
Implement Transit Access Improvements, such as: • Sidewalk/crosswalk safety enhancements
• Bus shelter improvements
Expand Transit Network
Increase Transit Service Frequency/Speed
Provide Bike Parking Near Transit
Provide Local Shuttles
Road Pricing/Management
Improve Traffic Flow, such as: • Signalization improvements to reduce delay; • Incident management to increase response time to breakdowns and collisions; • Intelligent Transportation Systems (ITS) to provide real-time information regarding road conditions and directions; and • Speed management to reduce high free-flow speeds.
Required Project Contributions to Transportation Infrastructure Improvement Projects
Vehicles
Utilize Alternative Fueled Vehicles, such as: • Biodiesel (B20) • Liquefied Natural Gas (LNG) • Compressed Natural Gas (CNG)
Utilize Electric or Hybrid Vehicles
Measures – Water
Water Supply
Use Reclaimed Water
Use Gray Water
Use Locally Sourced Water Supply
Water Use
Install Low-Flow Water Fixtures
Adopt a Water Conservation strategy
Design Water-Efficient Landscapes (see California Department of Water Resources Model Water Efficient Landscape Ordinance), such as: • Reducing lawn sizes; • Planting vegetation with minimal water needs, such as native species;

• Choosing vegetation appropriate for the climate of the project site; • Choosing complimentary plants with similar water needs or which can provide each other with shade and/or water.
Use Water-Efficient Landscape Irrigation Systems ("Smart" irrigation control systems)
Reduce Turf in Landscapes and Lawns
Plant Native or Drought-Resistant Trees and Vegetation
Measures – Area Landscaping

Landscaping Equipment
Prohibit Gas Powered Landscape Equipment
Implement Lawnmower Exchange Program
Electric Yard Equipment Compatibility
Measures – Solid Waste
Solid Waste
Institute Recycling and Composting Services
Recycle Demolished Construction Material
Measures – Vegetation
Vegetation
Urban Tree Planting
Create New Vegetated Open Space
Measures – Construction
Construction
Use Alternative Fuels for Construction Equipment
Urban Tree Planting
Use Electric and Hybrid Construction Equipment
Limit Construction Equipment Idling Beyond Regulation Requirements
Institute a Heavy-Duty Off-Road Vehicle Plan, including: • Construction vehicle inventory tracking system; • Requiring hour meters on equipment; • Document the serial number, horsepower, manufacture age, fuel, etc. of all onsite equipment; and • Daily logging of the operating hours of the equipment.
Implement a Construction Vehicle Inventory Tracking System
Measures – Miscellaneous
Miscellaneous
Establish a Carbon Sequestration Project, such as: • Geologic sequestration or carbon capture and storage techniques, in which CO_2 from point sources is captured and injected underground;

• Terrestrial sequestration in which ecosystems are established or preserved to serve as CO_2 sinks; • Novel techniques involving advanced chemical or biological pathways; or • Technologies yet to be discovered.
Establish Off-Site Mitigation
Use Local and Sustainable Building Materials
Require Environmentally Responsible Purchasing, such as: • Purchasing products with sustainable packaging; • Purchasing post-consumer recycled copier paper, paper towels, and stationary; • Purchasing and stocking communal kitchens with reusable dishes and utensils;
• Choosing sustainable cleaning supplies; • Leasing equipment from manufacturers who will recycle the components at their end of life; • Choosing ENERGY STAR appliances and Water Sense-certified water fixtures; • Choosing electronic appliances with built in sleep-mode timers; • Purchasing 'green power' (e.g. electricity generated from renewable or hydropower) from the utility; and • Choosing locally-made and distributed products.

Furthermore, in an effort to reduce the Project's emissions, we identified several mitigation measures that are applicable to the proposed Project from NEDC's *Diesel Emission Controls in Construction Projects.*[136] Therefore, to reduce the Project's emissions, consideration of the following measures should be made:

[136] *"Diesel Emission Controls in Construction Projects." Northeast Diesel Collaborative (NEDC), December 2010, available at: https://www.epa.gov/sites/production/files/2015-09/documents/nedc-model-contract-sepcification.pdf.*

NEDC's *Diesel Emission Controls in Construction Projects*[42]
Measures – Diesel Emission Control Technology
a. Diesel Onroad Vehicles All diesel nonroad vehicles on site for more than 10 total days must have either (1) engines that meet EPA onroad emissions standards or (2) emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85%.
b. Diesel Generators All diesel generators on site for more than 10 total days must be equipped with emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85%.
c. Diesel Nonroad Construction Equipment i. All nonroad diesel engines on site must be Tier 2 or higher. Tier 0 and Tier 1 engines are not allowed on site ii. All diesel nonroad construction equipment on site for more than 10 total days must have either (1) engines meeting EPA Tier 4 nonroad emission standards or (2) emission control technology verified by EPA or CARB for use with nonroad engines to reduce PM emissions by a minimum of 85% for engines 50hp and greater and by a minimum of 20% for engines less than 50hp.
d. Upon confirming that the diesel vehicle, construction equipment, or generator has either an engine meeting Tier 4 non road emission standards or emission control technology, as specified above, installed and functioning, the developer will issue a compliance sticker. All diesel vehicles, construction equipment, and generators on site shall display the compliance sticker in a visible, external location as designated by the developer.
e. Emission control technology shall be operated, maintained, and serviced as recommended by the emission control technology manufacturer.
Measures – Additional Diesel Requirements
a. Construction shall not proceed until the contractor submits a certified list of all diesel vehicles, construction equipment, and generators to be used on site. The list shall include the following:

[137] *"Diesel Emission Controls in Construction Projects." Northeast Diesel Collaborative (NEDC), December 2010, available at: https://www.epa.gov/sites/production/files/2015-09/documents/nedc-model-contract-sepcification.pdf.*

i. Contractor and subcontractor name and address, plus contact person responsible for the vehicles or equipment. ii. Equipment type, equipment manufacturer, equipment serial number, engine manufacturer, engine model year, engine certification (Tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation. iii. For the emission control technology installed: technology type, serial number, make, model, manufacturer, EPA/CARB verification number/level, and installation date and hour-meter reading on installation date.
b. If the contractor subsequently needs to bring on site equipment not on the list, the contractor shall submit written notification within 24 hours that attests the equipment complies with all contract conditions and provide information.
c. All diesel equipment shall comply with all pertinent local, state, and federal regulations relative to exhaust emission controls and safety.
d. The contractor shall establish generator sites and truck-staging zones for vehicles waiting to load or unload material on site. Such zones shall be located where diesel emissions have the least impact on abutters, the general public, and especially sensitive receptors such as hospitals, schools, daycare facilities, elderly housing, and convalescent facilities.
Reporting
a. For each onroad diesel vehicle, nonroad construction equipment, or generator, the contractor shall submit to the developer's representative a report prior to bringing said equipment on site that includes: i. Equipment type, equipment manufacturer, equipment serial number, engine manufacturer, engine model year, engine certification (Tier rating), horsepower, and engine serial number. ii. The type of emission control technology installed, serial number, make, model, manufacturer, and EPA/CARB verification number/level. iii. The Certification Statement signed and printed on the contractor's letterhead.
b. The contractor shall submit to the developer's representative a monthly report that, for each onroad diesel vehicle, nonroad construction equipment, or generator onsite, includes: i. Hour-meter readings on arrival on-site, the first and last day of every month, and on off-site date. ii. Any problems with the equipment or emission controls. iii. Certified copies of fuel deliveries for the time period that identify: 1. Source of supply 2. Quantity of fuel 3. Quality of fuel, including sulfur content (percent by weight)

These measures offer a cost-effective, feasible way to incorporate lower-emitting design features into the proposed Project, which subsequently, reduce emissions released during Project construction and operation. An updated EIR should be prepared to include all feasible mitigation measures, as well as include an updated health risk and GHG analysis to ensure that the necessary mitigation measures are implemented to reduce emissions to below thresholds. The EIR should also demonstrate a commitment to the implementation of these measures prior to Project approval, to ensure that the Project's significant emissions are reduced to the maximum extent possible.

RESPONSE TO COMMENT 20B.20

This comment suggests implementing all feasible mitigation measures recommended by SWAPE. As discussed in Response to Comment 20B.12 through 20B.19, above, the Proposed Project would not result in a significant GHG impact. CEQA requires the inclusion of mitigation measures for significant environmental impacts. Mitigation measures are not required when impacts are found to be less than significant. See Public Resources Code Section 21100(b)(3) and CEQA Guidelines Section 15126.4(a)(3). As such, the inclusion of mitigation measures here is not required.

COMMENT 20B.21

Disclaimer

SWAPE has received limited discovery regarding this project. Additional information may become available in the future; thus, we retain the right to revise or amend this report when additional information becomes available. Our professional services have been performed using that degree of care and skill ordinarily exercised, under similar circumstances, by reputable environmental consultants practicing in this or similar localities at the time of service. No other warranty, expressed or implied, is made as to the scope of work, work methodologies and protocols, site conditions, analytical testing results, and findings presented. This report reflects efforts which were limited to information that was reasonably accessible at the time of the work, and may contain informational gaps, inconsistencies, or otherwise be incomplete due to the unavailability or uncertainty of information obtained or provided by third parties.

RESPONSE TO COMMENT 20B.21

The commenter provides a general disclaimer stating the comments may be amended at a future time as the comments may contain informational gaps, inconsistencies, or otherwise be incomplete due to the unavailability or uncertainty of information obtained or provided by third parties. This comment does not include any specificity, cite any evidence, or otherwise raise a significant environmental issue in the Draft EIR. Thus, no further response is required.