

The logo for ASCENT, featuring the word in white capital letters on an orange and yellow trapezoidal background.

Final Revised  
Environmental Impact Report

# Capitol Annex Project

State Clearinghouse No. 2019049066

September 2023

Prepared for:

California Legislature



**DGS**  
GENERAL SERVICES



Final Revised  
Environmental Impact Report

# Capitol Annex Project

State Clearinghouse No. 2019049066

September 2023

Prepared for:

California Legislature



Joint Rules Committee  
State Capitol, Room 3016  
Sacramento, CA 95814

and

**DGS**  
GENERAL SERVICES

California Department of General Services  
707 3rd Street, MS-509  
West Sacramento, CA 95605

Contact:

Stephanie Coleman  
Senior Environmental Planner

Prepared by:

**ASCENT**

Ascent Environmental, Inc.  
455 Capitol Mall, Suite 300  
Sacramento, CA 95814

Contact:

Sean Bechta  
Project Manager



# TABLE OF CONTENTS

Section	Page
LIST OF ABBREVIATIONS .....	iii
1 INTRODUCTION .....	1-1
2 PROJECT MODIFICATIONS.....	2-1
3 MASTER RESPONSES TO COMMENTS ON THE DRAFT REVISED REIR.....	3-1
3.1 Overview .....	3-1
3.2 Master Response 1: Res Judicata .....	3-1
3.3 Master Response 2: Use of the West Lawn Area.....	3-7
3.4 Master Response 3: Relocation of Trees .....	3-9
3.5 Master Response 4: State Finances, Priorities, and Project Costs .....	3-17
4 RESPONSES TO COMMENTS ON THE DRAFT REVISED EIR .....	4-1
4.1 List of Commenters on the Draft Revised EIR .....	4-1
4.2 Comments and Responses.....	4-3
5 REVISIONS TO THE DRAFT REVISED EIR.....	5-1
5.1 Revisions to the Draft Revised EIR .....	5-1
6 REFERENCES.....	6-1
7 REPORT PREPARERS.....	7-1
 <b>Appendices</b>	
Appendix A	Public Resources Code, Division 13, Chapter 6.7, Judicial Review of Capitol Building Annex and State Office Building Projects
 <b>Tables</b>	
Table 4-1	List of Commenters .....
	4-1

## LIST OF ABBREVIATIONS

CCR	California Code of Regulations
CEQA	California Environmental Quality Act
CHBC	California Historical Building Code
CHP	California Highway Patrol
DGS	California Department of General Services
Draft REIR	Draft Revised Environmental Impact Report
Final REIR	Final Revised Environmental Impact Report
GHG	greenhouse gas
ISA	International Society of Arboriculture
JRC	Joint Rules Committee
LEED	Leadership in Energy and Environmental Design
MMRP	Mitigation Monitoring and Reporting Program
PRC	Public Resources Code
REIR	Draft Revised EIR
SHPO	State Historic Preservation Officer
SOIS	Secretary of Interior Standards
VMT	vehicle miles travelled

# 1 INTRODUCTION

On April 7, 2023, the California Department of General Services (DGS) distributed to public agencies and the general public a Draft Revised Environmental Impact Report (Draft REIR) prepared pursuant to the California Environmental Quality Act (CEQA) for the Capitol Annex Project in downtown Sacramento, California. A 45-day public review period was identified extending from April 7, 2023 to May 22, 2023. However, on May 1, 2023, supplemental information was made available to the public. Visual renderings showing the new visitor/welcome center were added to the Draft REIR as Appendix C. In addition, minor technical edits were made to the Draft REIR itself.

To provide the public and interested parties with sufficient time to review the supplemental information and determine whether this clarifying information would influence their comments on the Draft REIR, the public review period for the Draft REIR was extended to June 15, 2023 to allow for a full 45-day review period from the date the supplemental information was made available.

During the total 69-day public review period extending from April 7, 2023 to June 15, 2023, 39 comment letters were received. In addition, during a public hearing held on May 16, 2023, four individuals provided oral comments and six written comment letters were hand delivered. During a second public hearing held on June 6, 2023, nine individuals provided oral comments and six written comment letters were hand delivered.

This Final Revised Environmental Impact Report (Final REIR) has been prepared under the direction of DGS in accordance with the requirements of CEQA and the State CEQA Guidelines (California Code of Regulations [CCR] Section 15132). The Final REIR consists of the Draft REIR and this document (responses to comments document), which includes comments received on the Draft REIR, responses to those comments, and revisions to the Draft REIR.

The following text is provided as required by Section 21189.54 of the Public Resources Code:

THIS EIR IS SUBJECT TO CHAPTER 6.7 (COMMENCING WITH SECTION 21189.50) OF DIVISION 13 OF THE PUBLIC RESOURCES CODE, WHICH PROVIDES, AMONG OTHER THINGS, THAT THE LEAD AGENCY NEED NOT CONSIDER CERTAIN COMMENTS FILED AFTER THE CLOSE OF THE PUBLIC COMMENT PERIOD FOR THE DRAFT EIR. ANY JUDICIAL ACTION CHALLENGING THE CERTIFICATION OF THE EIR OR THE APPROVAL OF THE PROJECT DESCRIBED IN THE EIR IS SUBJECT TO THE PROCEDURES SET FORTH IN SECTIONS 21189.51 TO 21189.53, INCLUSIVE, OF THE PUBLIC RESOURCES CODE. A COPY OF CHAPTER 6.7 (COMMENCING WITH SECTION 21189.50) OF DIVISION 13 OF THE PUBLIC RESOURCES CODE IS INCLUDED IN APPENDIX A TO THIS EIR.

This document is divided into five chapters:

Chapter 1, "Introduction," provides an overview of the environmental review process and the contents of the Final EIR.

Chapter 2, "Project Modifications," identifies whether there have been any changes to the proposed project since publication of the Draft REIR. In this case there have been no changes to the proposed project. However, had there been any changes, like the 2021 Final EIR, this chapter would contain an evaluation of whether the changes trigger the need for recirculation of the Draft REIR.

Chapter 3, "Master Responses to Comments on the Draft REIR," identifies comment topics that were raised by multiple commenters and provides a master response to each of these topics.

Chapter 4, "Responses to Comments on the Draft REIR," reproduces public comments received on the Draft REIR and presents responses to those comments.

Chapter 5, "Revisions to the Draft REIR," identifies changes made to the Draft REIR since its publication and public review. The changes are presented in the order in which they appear in the original Draft REIR and are identified by page number. The text deletions are shown in ~~strike through~~ and text additions are shown in underline.

Chapter 6, "References," lists references cited in this document.

Chapter 7, "Report Preparers," identifies the preparers of the document.

This page intentionally left blank.



## 2 PROJECT MODIFICATIONS

Chapter 2, "Project Modifications," in the 2021 Final EIR described changes to the proposed project since publication of the Recirculated Draft EIR and evaluated the changes, documenting that the changes did not trigger the need for recirculation of the EIR.

In this Final REIR, Chapter 2, "Project Modifications," was retained in the event that there were changes to the proposed project since publication of the Draft REIR. However, in this case there have been no changes to the proposed project. The proposed project described in the Draft REIR remains the same and there are no project changes to evaluate.

This page intentionally left blank.

# 3 MASTER RESPONSES TO COMMENTS ON THE DRAFT REVISED REIR

## 3.1 OVERVIEW

Several comments on the Draft REIR raised similar issues. Rather than responding individually, a master response has been developed to address the comments comprehensively. A reference to the master response is provided, where relevant, in responses to the individual comment.

## 3.2 MASTER RESPONSE 1: RES JUDICATA

The Department of General Services (DGS) prepared the Draft Revised EIR (REIR) to address the issues identified by the Third District Court of Appeal in *Save our Capitol! v. Department of General Services* (2023) 87 Cal.App.5th 655 as requiring further analysis. The Draft REIR includes a summary of the issues that are addressed, as well as background information concerning the process leading up to the release of the Draft REIR. (See Draft REIR, pp. 1-1 – 1-4.)

DGS received various comments on the Draft REIR addressing issues found in the Court of Appeal’s Ruling (Ruling) to be adequately addressed in the original 2021 EIR, and/or that were not subject to the lawsuits. Examples include biological resources, effects on trees, climate change, carbon sequestration by trees, memorials and trees as memorials, offsite alternatives, Capitol Park operations, alternatives for parking, traffic, public transit, protection of project features from flooding, and energy consumption and efficiency. However, as identified on page 1-2 of the Draft REIR:

“DGS has prepared this Draft Revised EIR (REIR) to address the CEQA adequacy issues in accordance with the direction provided by the Ruling. This Draft REIR specifically addresses the impacts and issues identified in the Ruling and provides supplemental information and new analysis as needed to comply with CEQA. Contents of the 2021 EIR that the Court found to be adequately addressed, and/or that were not subject to the lawsuits, are not included. For example, this Draft REIR does not include information or analysis related to Biological Resources because the Court did not overturn any aspect of the 2021 EIR’s Biological Resources analysis. Also see the discussions of Public Resources Code (PRC) Sections 21168.9(b) and 21167.2 and res judicata below regarding the appropriate content for this REIR and the legal adequacy of past CEQA review. The content of this Draft REIR provides sufficient detail and clarity such that the public and decision makers can make an informed decision regarding the adequacy of the issues discussed in this Draft REIR.”

This Master Response provides further information on the concept of res judicata beyond what was provided in the Draft REIR. In particular, this Master Response discusses the extent to which DGS is not legally required to revisit issues previously addressed or that could have been addressed with the practice of reasonable diligence other than those identified by the Court of Appeal as requiring additional analysis.

The principle that a party need not revisit issues that have already been adjudged is often referred to as “res judicata,” a Latin term meaning “a matter judged.” Under this principle, once a particular issue or finding of fact is determined by a court in a final ruling, then that issue or fact is considered settled, and parties are generally precluded from relitigating that issue or fact.

This response provides a general overview of the rules governing “res judicata.” The response then applies that principle to the current circumstances.

Res judicata is founded on the principle that providing a party one opportunity to litigate a claim is sufficient, so that once a court reaches a final decision on that claim, the matter is considered settled, and further attempts to litigate that same claim ought to be prohibited. Allowing such claims to be relitigated would impose significant burdens on parties and the courts, could lead to inconsistent rulings or judgments that create confusion and inefficiency, and would be unfair to the party that has already obtained a final ruling in its favor.

These principles are relevant to DGS's reconsideration of the proposed project. The EIR certified by DGS in 2021 addressed the full range of issues requiring analysis under CEQA. The lawsuits filed by Save Our Capitol! and Save the Capitol, Save the Trees (Petitioners) challenged certain aspects of that analysis. Petitioners did not, however, challenge some of the topics that were addressed in the 2021 EIR. For example, issues related to the EIR's impact analysis on Public Services and Recreation (Draft EIR Section 4.14 addressing recreation, fire protection, and law enforcement services) were not raised. One issue, therefore, is whether DGS must revisit issues covered in the 2021 EIR that Petitioners could have challenged but did not. In addition, at trial and on appeal, Petitioners prevailed on some of their arguments, but did not prevail on others. For example, the Petitioners did not prevail on their arguments that information on effects to trees included in the 2021 Final EIR triggered the need for EIR recirculation. A second issue, therefore, is whether DGS must revisit those issues that the appellate court found were adequately addressed in the 2021 EIR. One purpose of this Master Response is to address these two broad categories of issues.

The focus here is on DGS's legal obligations and the extent to which certain claims are barred by *res judicata*. Through preparation of the Draft REIR, DGS has updated its analysis to address the issues identified as deficient by the Court of Appeal. All such updated analyses have been circulated for public review, and this Final REIR presents responses to comments that have been received on these issues. However, as a lead agency, DGS has discretion to undertake analysis or provide additional material even when it is not legally required to do so. In fact, in this instance, DGS has exercised its discretion to provide additional information in the form of aerial view renderings of the visitor/welcome center, even though it is not expressly required by the Court of Appeal's decision to provide those renderings.

Many comments simply raise, or re-raise issues or concerns on topics that the appellate court found were adequately addressed in the 2021 EIR. This category of comment is addressed in this Master Response. However, there are also comments specifically suggesting that DGS must broaden the scope of the Draft REIR. These comments are largely legal in character. The most noteworthy comments of this sort either a) identify circumstances where the commenter believes DGS has misinterpreted the Ruling, or b) present information on tree relocations conducted as part of the authorized Annex demolition activities as significant new information under CEQA (see CEQA Guidelines Section 15162(a)(3)) allegedly triggering the need for additional analysis. Comments questioning DGS's interpretation of the Ruling are addressed individually in the responses to each comment letter. The issue of data on tree relocations qualifying as significant new information under CEQA is addressed in Master Response 3 later in this chapter.

As explained more fully below, the litigation background for the project and DGS's decision to revise those portions of the 2021 EIR that were deficient limit the scope of future legal challenges that may ultimately be raised regarding the legal adequacy of the Draft REIR. To the extent DGS has relied on the portions of the 2021 EIR that were either unchallenged or found to be adequate by the courts, those data, analyses, and conclusions are not appropriate subjects for further analysis in the Draft REIR. Rather, DGS need only address those comments on the adequacy of the Draft REIR that involve information and material that are new and were not already included in the 2021 EIR.

Although DGS received some comments stating that DGS should revisit those issues that were unchallenged or found to be adequate, these comments are not consistent with CEQA's policies or requirements.

The following discussion provides a summary of principles surrounding *res judicata*, and then applies those principles to the current situation.

## Legal Principles

Although CEQA is interpreted broadly to protect the environment, its litigation provisions are interpreted in light of legislative policies favoring the prompt resolution of CEQA litigation. (*Board of Supervisors v. Superior Court* (1994) 23 Cal.App.4th 830, 836.) Where a project requiring an EIR is approved and no timely CEQA litigation is filed, the EIR is presumed adequate. (Pub. Resources Code, §21167.2.) As the California Supreme Court has explained:

This presumption acts to preclude reopening of the CEQA process even if the initial EIR is discovered to have been fundamentally inaccurate and misleading in the description of a significant effect or the severity of its consequences. After certification, the interests of finality are favored over the policy of encouraging public comment.

(*Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1130.)

These principles also apply where a court has determined that the agency has not complied with CEQA in certain respects. CEQA provides that, in such instances, the court should fashion its remedy to “include only those mandates which are necessary to achieve compliance with [CEQA]” (Pub. Resources Code, §21168.9.) In other words, remedies should be narrowly tailored to address only the aspects of a CEQA document that the court has found inadequate. Consistent with the general presumption of validity noted above, the aspects of a CEQA document that were either unchallenged or found to comply with CEQA generally need not be revisited. (See also Pub. Resources Code, § 21005, subd. (c) [directing court to respond to each alleged ground of noncompliance so that respondent agency will know the specific steps that need to be taken to achieve CEQA compliance].)

After a CEQA challenge has been litigated, the doctrine of “res judicata” limits the scope of subsequent litigation involving the same subject matter. Under this doctrine, any issues that were (or could have been) conclusively resolved in earlier litigation may not be re-litigated in a subsequent lawsuit between the same parties or their privies (i.e., parties with sufficiently aligned interests). (*Bernhard v. Bank of America Nat. Trust & Savings Association* (1942) 19 Cal.2d 807, 810.) This principle requires plaintiffs to assert all legal claims they may have against a defendant in connection with the facts that gave rise to the litigation. Thus, the doctrine of res judicata “seeks to curtail multiple litigation causing vexation and expense to the parties and wasted effort and expense in judicial administration” and “promotes judicial economy.” (*Mycogen Corp. v. Monsanto Co.* (2002) 28 Cal.4th 888, 897.)

These principles apply to CEQA lawsuits in the same manner as they do for lawsuits brought under other statutes. (See, e.g., *Planning & Conservation League v. Castaic Lake Water Agency* (2009) 180 Cal.App.4th 210, 229–233 (Castaic Lake); *Silverado Modjeska Recreation & Park Dist. v. County of Orange* (2011) 197 Cal.App.4th 282, 299 (Silverado Modjeska); *Central Delta Water Agency v. Department of Water Resources* (2021) 69 Cal.App.5th 170, 209; *Roberson v. City of Rialto* (2014) 226 Cal.App.4th 1499, 1512–1513; *Atwell v. City of Rohnert Park* (2018) 27 Cal.App.5th 692, 703–704; *The Inland Oversight Committee v. City of San Bernardino* (2018) 27 Cal.App.5th 771, 782.)

## Res Judicata Limits the Scope of Permissible Legal Challenges to the Draft REIR

Consistent with the legal principles favoring prompt resolution and finality in CEQA litigation and the doctrine of res judicata, the scope of permissible legal challenges to the Draft REIR is limited in light of the prior litigation.

Res judicata applies to a subsequent legal proceeding if: “(1) the decision in the prior proceeding is final and on the merits; (2) the [subsequent] proceeding is on the same cause of action as the prior proceeding; and (3) the parties in the [subsequent] proceeding or parties in privity with them were parties to the prior proceeding.” (*Federation of Hillside & Canyon Assns. v. City of Los Angeles* (2004) 126 Cal.App.4th 1180, 1202 (*Federation Hillside*)). Where these elements are met, the doctrine “bars the litigation not only of issues that were actually litigated but also issues that could have been litigated.” (Ibid.)

The following discussion addresses the three-part test set forth in the *Federation Hillside* case in the context of the Draft REIR.

## THE COURT’S DECISION IN SAVE OUR CAPITOL! V. DEPARTMENT OF GENERAL SERVICES WAS FINAL AND ON THE MERITS

The first issue is whether the decision in the prior proceeding is final and on the merits. In this case, the answer is “yes.”

The Sacramento County Superior Court denied the petitions for writ of mandate and the Plaintiffs appealed the decision. On January 18, 2023, the Third District Court of Appeal issued its Ruling that reversed in part and affirmed in part the Superior Court’s judgment. The Ruling directed the Superior Court to issue a peremptory writ of mandate directing DGS to vacate partially its certification of the 2021 EIR and to revise and recirculate the deficient portions of the 2021 EIR consistent with the Court of Appeal’s Ruling. On remand from the Court of Appeal, the Superior Court issued a judgment granting Plaintiffs’ petitions in part and issued peremptory writs of mandate on June 27, 2023 (Save the Capitol, Save the Trees) and July 17, 2023 (Save Our Capitol!). The judgment and writs required DGS to

vacate partially its certification of the 2021 EIR and all associated approvals for the Capitol Annex Project consistent with the Court of Appeal's Ruling in *Save Our Capitol! v. Department of General Services* (2023) 87 Cal.App.5th 655.

The time to appeal the judgment has passed. Thus, the judgment is final for purposes of res judicata. (*Citizens for Open Government v. City of Lodi* (2012) 205 Cal.App.4th 296, 324–325, citing *Federation Hillside, supra*, 126 Cal.App.4th at p. 1203.)

The judgment was on the merits, because it followed the appellate court's consideration of the merits of the Petitioner's challenges under CEQA. (*Citizens for Open Government, supra*, 205 Cal.App.4th at p. 325, citing *Federation Hillside, supra*, 126 Cal.App.4th at p. 1203)

The appellate court identified three issues that, in its view, required further action, analysis, or evidence: (1) providing an opportunity for public review of the Annex design with glass exterior, along with further evaluation of effects of the new Annex exterior on historic architectural resources and additional information on the potential effects of project lighting on the Historic Capitol, (2) providing a visual simulation of the visitor/welcome center as seen from Capitol Mall, and (3) analysis of alternatives to the visitor/welcome center that would reduce adverse effects on the West Lawn area of Capitol Park.

The Court of Appeal rejected the balance of the Petitioner's claims. The rejected claims concerned various topics including (1) biological resources impacts, including impacts to trees and birds, (2) traffic during project demolition/construction and operations, (3) demand for utilities and service systems, and (4) impacts to trees and modified project boundaries acting as new information triggering recirculation.

The Court's judgment on all of these claims – those that were litigated, and those that could have been litigated but were not – is final. (*See Lone Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 171 (*Lone Valley*); *Citizens for Open Government, supra*, 205 Cal.App.4th at pp. 324–327.) Thus, the first element of the test – whether the judgment is final – is satisfied. Moreover, as outlined above, the judgment specifically identifies those specific areas found to be out of compliance with CEQA, as required by PRC section 21005, subdivision (c). Thus, DGS received a final judgment identifying the specific issues in its CEQA analysis that require further action, analysis, or evidence.

## **A SUBSEQUENT LAWSUIT WILL INVOLVE “THE SAME CAUSE OF ACTION” AS SAVE OUR CAPITOL! V. DEPARTMENT OF GENERAL SERVICES IF THAT LAWSUIT CHALLENGES DGS’S COMPLIANCE WITH CEQA IN RESPONSE TO THE JUDGMENT AND WRIT**

In the context of res judicata, “causes of action based on the same primary right are the same cause of action even if they are based on different legal theories.” (*Federation Hillside, supra*, 126 Cal.App.4th at p. 1204, fn. 6.) The “primary right” at issue in *Save our Capitol! v. Department of General Services* (2023) 87 Cal.App.5th 655 was the right to ensure DGS compliance with CEQA's substantive and procedural requirements in connection with the 2021 EIR. (See *Federation Hillside, supra*, 126 Cal.App.4th at p. 1204.) Thus, any challenges to the Draft REIR's adequacy that could have been raised in the prior litigation over the 2021 EIR's compliance with CEQA (e.g., relating to DGS's continued reliance on the data, analyses, and conclusions from the portions of the 2021 EIR that were not deemed deficient) involve the same cause of action as the prior litigation.

Res judicata may not apply where “changed conditions and new facts” are sufficient to distinguish the cause of action in subsequent litigation from that in the prior litigation. (*Castaic Lake*, 180 Cal.App.4th at p. 227; *Citizens for Open Government, supra*, 205 Cal.App.4th at p. 325; see *Federation Hillside, supra*, 126 Cal.App.4th at p. 1204 [new information available after agency's earlier CEQA approvals did not constitute new material facts where agency was not required to revise the EIR, did not revise the EIR, and relied “primarily on the information and analysis contained in the EIR” in its later CEQA approvals]; *Atwell v. City of Rohnert Park, supra*, 27 Cal.App.5th at pp. 701–702 [no new material facts where subsequent CEQA challenges were based on portions of subsequent EIR that had not been revised]; *Lone Valley, supra*, 33 Cal.App.5th at pp. 171–172 [challenges to unrevised portions of EIR barred, even where EIR had been fully decertified and recertified in between legal challenges].)

By contrast, to the extent that the material revisions contained in the Draft REIR present “factually distinct attempts to satisfy CEQA’s mandates” *res judicata* does not apply. (*Castaic Lake, supra*, 180 Cal.App.4th at pp. 220–224, 228.) Thus, *res judicata* would not bar challenges to DGS’s efforts to respond to the specific issues identified in the judgment and writ.

Some of the comments state that new facts have arisen since certification of the 2021 EIR, which would result in *res judicata* not being applicable. Where such comments have been received, DGS responds to them in this Final REIR. For example, see Master Response 3 addressing relocation of trees. The responses focus on whether the information is meaningful in the CEQA context, that is, significant new information under CEQA.

There are well-established principles for determining whether, for CEQA purposes, new information is sufficiently “significant” to require further analysis or public review. Those standards govern when an agency must recirculate a Draft EIR for further public review and comment (CEQA Guidelines section 15088.5), or whether an agency must perform supplemental review to augment the analysis in an existing EIR (Pub. Resources Code § 21166, CEQA Guidelines section 15162(a)(3)). These same principles are relevant for determining whether new facts are sufficiently distinct such that *res judicata* ought not to apply.

An example may be helpful for purposes of illustrating DGS’s approach. The example does not involve a case in which the “*res judicata*” defense was asserted. Rather, the example involved an instance in which the petitioner alleged that “significant new information” required further CEQA review. The legal principles involved are therefore analogous.

In *Concerned Dublin Citizens v. City of Dublin* (2013) 214 Cal.App.4th 1301, the respondent agency, City of Dublin, certified a program EIR and approved the “Eastern Dublin Specific Plan.” The specific plan authorized a high-density, mixed-use, transit-oriented project adjacent to a Bay Area Rapid Transit station. The EIR analyzed impacts of full build-out of the specific plan, analyzed alternatives, and identified mitigation measures. The 2002 specific plan included land use designations for the parcel at issue in the litigation. The parcel was designated for up to 405 high-density residential units and up to 25,000 square feet of retail space. In 2011, a developer submitted a proposal to develop a parcel within the specific plan area. The proposal included amending the plan to shift residential uses within the plan area. The City approved the proposal without performing further CEQA review, relying on Government Code section 65457 [CEQA exemption for residential development projects consistent with a specific plan]. The petitioners argued that the City erred by failing to perform supplemental review pursuant to Public Resources Code § 21166. The “significant new information” cited by the petitioners consisted of new information regarding greenhouse gas (“GHG”) emissions that had come to light since the City certified the EIR in 2002. The Court rejected this argument, noting that concerns about GHG emissions and climate change were not “new”; the issue was known, and had been debated and regulated, since the early 1990s. The petitioners argued that standards adopted in 2010 were necessarily “new” because they did not exist in 2002, when the City certified the 2002 EIR. The Court rejected this argument. The 2002 EIR analyzed the specific plan’s impact on air quality, the GHG issue was known at the time, and the issue could have been addressed. Under such circumstances, substantial evidence supported the City’s decision not to prepare a supplemental EIR. (See also *Silverado Modjeska, supra*, 197 Cal.App.4th at p. 307 fn. 17 [agency did not need to perform supplemental review based on new evidence concerning potential presence of protected species on project site, particularly in light of the fact that the previous EIR addressed this issue, but was not challenged on this ground].)

Here, DGS is in a position similar to that of the City of Dublin. Some comments have stated that new information has come to light since certification of the 2021 EIR and that such new information requires further CEQA review. The Final REIR responds to such comments by addressing whether the new information is actually new, and whether the new information is sufficiently “significant” to warrant further analysis.

## **SAVE OUR CAPITOL! AND SAVE THE CAPITOL, SAVE THE TREES WAS IN PRIVITY WITH THE GENERAL PUBLIC WHEN THEY CHALLENGED THE 2021 EIR IN SAVE OUR CAPITOL! V. DEPARTMENT OF GENERAL SERVICES**

*Res judicata* bars subsequent actions involving not only the original parties, but also any parties in privity with the original parties. For *res judicata* purposes:

[P]rivily ' "refers to a mutual or successive relationship to the same rights of property, or to such an identification in interest of one person with another as to represent the same legal rights [citations]...." ' (*Castaic Lake*, 180 Cal.App.4th at pp. 229–233.)

For privity to exist, (1) the parties in privity must share a common interest, and (2) the party to the first action must have "asserted the common interest with adequate vigor" so that it is fair to bind the subsequent party to the earlier proceedings. (*Castaic Lake*, *supra*, 180 Cal.App.4th at p. 230.) In litigation involving the public interest, courts have held that nonprofit organizations suing on behalf of the public or for very generalized purposes may be in privity with the entire public. (See, e.g., *Citizens for Open Access to Sand and Tide, Inc. v. Seadrift Association* (1998) 60 Cal.App.4th 1053, 1064–1075 (Seadrift).)

Where all parties seek to enforce CEQA, the first requirement for privity is met. (*Castaic Lake*, *supra*, 180 Cal.App.4th at p. 230 [seeking enforcement of CEQA on behalf of the public demonstrates a "common interest" for privity purposes]; see also *Silverado Modjeska*, *supra*, 197 Cal.App.4th at p. 299 & fn. 10 [to conclude otherwise would "subject [CEQA compliance] to continuing challenges by different parties successively asserting similar claims, in contravention of the legislative goal of avoiding delay and achieving prompt resolution of CEQA claims"]; *Central Delta Water Agency*, *supra*, 69 Cal.App.5th at p. 209 ["litigation of CEQA claims against a defendant on behalf of the public is generally sufficient to support a finding of common interest to establish privity," even where the parties assert different causes of action].)

Courts have reached this conclusion even where one of the parties claims that it is asserting only its own personal interests. (See, e.g., *Roberson v. City of Rialto*, *supra*, 226 Cal.App.4th 1499, 1512–1513 [no evidence that individual harms were different "in any respect from any alleged harm to the community or the public"]; *Atwell v. City of Rohnert Park*, *supra*, 27 Cal.App.5th at pp. 703–704 [same]; *The Inland Oversight Committee v. City of San Bernardino*, *supra*, 27 Cal.App.5th at p. 782 [same].)

The second requirement for privity is met so long as the party in the earlier litigation "displayed a [sufficient] level of care regarding the public's interest." (*Castaic Lake*, *supra*, 180 Cal.App.4th at p. 231.) If the party " 'abdicate[s] the role of public agent,' " however, it cannot also preserve privity. (*Id.* at pp. 231–233.) Courts have concluded that such abdication may include the decision to voluntarily dismiss the action due to a lack of funds for continued litigation (*Id.* at p. 231), or a consent to discharge a writ in which the party "expressly disavow[s] and abandon[s] [its] role as public agent." (*Central Delta Water Agency*, *supra*, 69 Cal.App.5th at pp. 209–211.)

In this case, the record shows that Save our Capitol! and Save the Capitol, Save the Trees pursued the litigation on both their own behalf, and on behalf of members of the public generally who opposed the project. Petitioners have made multiple statements both verbally and in writing indicating their representation of the public at large and California's citizenry as the Capitol is "the people's house." Material on the Save Our Capitol! website (<https://www.saveourcapitol.org/>) expresses an intent to protect the right for the public to assemble on the west steps of the Capitol and to prevent a financial "burden" on California taxpayers. The record also shows that Petitioners displayed vigor and care in the manner in which they pursued the litigation since they pursued the matter to a resolution on the merits at both the trial court and appellate court levels and did not abdicate their role as a representative of the public. For these reasons, privity exists between Petitioners and those members of the public that oppose the project, and "res judicata" is a valid defense to claims advanced by those opponents. For these reasons, no other members of the public may subsequently, in later litigation, raise claims that were, or could have been, previously raised by Petitioners. (See, e.g., *Seadrift*, *supra*, 60 Cal.App.4th at pp. 1064-1075.)

## IN SUMMARY

Under the principles outlined above, DGS need not respond to comments raising issues that were resolved in DGS's favor, or that could have been raised but were not, in the prior litigation. As discussed above, challenges to the data, analyses, and conclusions in the 2021 EIR that were brought or could have been brought in the prior litigation may not now be raised. Comments on the Draft REIR that address revisions to the analysis in response to the Court of Appeal's ruling – that is, whether DGS has performed sufficient analysis to remedy the defects identified by the Court of Appeal – are appropriate subjects for comment.



### 3.3 MASTER RESPONSE 2: USE OF THE WEST LAWN AREA

Multiple comments on the Draft REIR bring up the topic of use by the public of the West Lawn area, after completion of the visitor/welcome center. This portion of Capitol Park is also described as the “west steps” or “west side of the Historic Capitol”; however, for the purposes of this Master Response, the term “West Lawn” will be used. The long history of the West Lawn area being used for events, ceremonies, protests, and other functions is described in the comments. Many comments contend that these uses would no longer be able to occur with the planned visitor/welcome center in place. The perceived loss of access or use of the West Lawn area by the public is expressed as an environmental effect that is either not addressed, or not adequately addressed in the Draft REIR.

The issue of modified access and operations in Capitol Park from the project as a whole, and for the visitor/welcome center, was addressed in the 2019 Draft EIR. The discussion of Impact 4.14-4: Increased Demand for Recreational Facilities, contains the following paragraph:

“After construction, the Capitol steps and surrounding Capitol Park lands in the project site would be completely reopened to the public. Although the project would increase the square footage of the Annex, the number of staff occupants and visitors would remain the same. Visitors, workers, and residents in the area would be expected to use the same parks that they currently use, particularly Capitol Park, maintained by DGS, and Roosevelt Park and Fremont Park, maintained by the City, which are within walking distance of the project site. Events at and near the State Capitol could continue as they did before construction. DGS is not required to pay city park-development fees for nonresidential development, and ongoing maintenance of Capitol Park is and would continue to be funded through bonds, grants, and visitor fees collected from museums and concessions. Therefore, operation of the new Annex would not increase demand for recreational facilities and would not require new or expanded parks facilities.”

This analysis was based on the visitor/welcome center configuration analyzed in the 2019 Draft EIR, which provided entry via stairs and elevators. The change in the visitor/welcome center design to a ramped entry was a key reason for preparation of the 2020 Recirculated Draft EIR. It is this ramp entry design that causes much of the changes in the West Lawn area that generates the concerns expressed by current Draft REIR comments. It is worth noting that a ramped entry was suggested by Richard Cowan, when a member of the Historic State Capitol Commission, as a mechanism to minimize the environmental effects of the elevators and stairs in the original visitor/welcome center design. The specific comment, Comment A7-71 on the 2019 Draft EIR, reads as follows:

“Impact 4.2-1: *Consistency with Land Use Plans and Documents*

Due to the proposed project’s new elevator shaft structures and stairwell enclosures in the western portion of Capitol Park, the project would impact the western most section of Capitol Park and the proposal to locate these outside the view corridor to the west steps of the Capitol would not lessen the impact to Capitol Park to a Less-Than-Significant level. A new mitigation measure to ramp down to below-grade levels for new structures could help comply with the Capitol Area Plan and also avoid impacts of new above-grade structures in this significant portion of Capitol Park.”

Many of the current concerns expressed in comments on the Draft REIR were expressed in comments on the 2020 Recirculated Draft EIR and were responded to in the 2021 Final EIR. Examples of two comments on this topic and relevant portions of the responses from the 2021 Final EIR are provided below.

***Comment A3-3 (Comment from the Historic State Capitol Commission)***

**“WEST SIDE AND VIEW PROTECTION**

The RDEIR has committed to returning the “landscaping back to original” after project excavation and construction are complete. Huell Howser called the area between the Capitol and 10th Street “California’s front porch.” It is the place where political voices are heard, and celebrations of events and history occur. After the creation of the Visitor /Welcome Center, where will the front porch be? It appears the RDEIR does not address this question. Can the terracing, which affords the current excellent view from the west, be put back to original? We suggest that restoration of historically used plants and trees should take priority over “drought tolerant” plants even if they originate from out of state.

We recommend as a mitigation measure the creation now of an early "schematic" landscape design for the Visitor/Welcome Center and equipment vault area on the west side. Instead of advancing the architectural plan until it is so developed it would be difficult to change, and THEN starting the landscape design after the fact, why not reverse that sequence to address public concerns?"

**Response A3-3**

"The Draft EIR and Recirculated Draft EIR commits to returning temporarily disturbed areas to existing conditions or very similar. For example, see Recirculated Draft EIR Page 3-10, last paragraph of the description of the visitor/welcome center. It would be impossible to return all "landscaping back to original" given the changes to the project site that would result from project implementation and the EIR does not convey such a commitment. The potential effects of the overall Capitol Annex project on public events, which would include political events, is addressed in the Draft EIR in the discussion of Impact 4.14-4, "Increased Demand for Recreational Activities." The impact was found to be less than significant. Section 2.11 of Appendix A of the Recirculated Draft EIR addresses how the modifications to the visitor/welcome center evaluated in the Recirculated Draft EIR do not alter this "less-than-significant" conclusion. The upper and lower plazas of the visitor/welcome center, described in Section 3.4.5 of the Recirculated Draft EIR, would be where events occurring on the "West Steps" today would occur if the visitor/welcome center is constructed."

**Comment PH-16 (Oral comment from Kate Riley at a Public Hearing)**

"I'm going to represent myself as a human, and then I'm going to represent an organization. So the first one. My name is Kate Riley, and this is just a personal comment about the -- what's happening to the west entrance of the Capitol.

As somebody who has, over the past 30 years, been living here, been in numbers of various protests and marches and events, to have that -- it's an amazing thing to have that plaza full and then all the way down the -- down to the boulevard, and that -- that entrance is going to really change that forever.

And that is -- I don't hear that -- I hear the aesthetics, but I don't hear the key thing about a broad place, where people can meet and make -- and actually seek redress for grievances, which is, of course, one of our rights as citizens. I believe that that is not addressed in this Recirculated DEIR."

**Response PH-16**

"The comment includes a general concern related to aesthetics; however, it does not provide further information related to the analysis and conclusions of the EIR. The project-related impacts on aesthetics, including on the west entrance to the Historic Capitol, related to the proposed Visitor/Welcome Center, are addressed in Section 4.15, "Aesthetics, Light, and Glare," of the Recirculated Draft EIR and Chapter 2 of this Final EIR. The use of Capitol Park and the west lawn area of Capitol Park for various events is addressed in Section 4.14 of the Draft EIR titled "Public Services and Recreation." The proposed visitor/welcome center is designed to support the continued use of the west lawn area for various events and public gatherings."

Concerns with the use and functioning of the West Steps for events and gatherings after completion of the visitor/welcome center were identified during preparation of the 2021 EIR and were part of the project record. The Ruling gave direction to evaluate alternatives to the visitor/welcome center that would reduce adverse effects on the West Lawn area of Capitol Park. This analysis is included in the Draft REIR. However, the Ruling gives no direction to revisit the analysis of effects on the use and function of the Capitol Park provided in the 2021 EIR. Because the Ruling did not find fault with the analysis in the 2021 EIR on this issue, the analysis provided in the 2021 EIR is considered compliant with CEQA and the matter is considered settled. DGS need not address this issue further in this REIR.

Although DGS is not required to provide further information in this REIR regarding the effects of the visitor/welcome center on the future use and function of the west steps for gatherings, protests, and other events, some additional information is presented here to provide additional clarity on this topic.

The presence of the visitor/welcome center will not close off the entire west/lawn area to events. The visitor/welcome center upper plaza, except for the skylight, will be available for all the same uses authorized under existing conditions. For

safety and security reasons, standing on the skylight will not be permitted at any time. The lawn areas to the north and south of the visitor/welcome center entry ramp will also continue to be available for use during events.

The entry ramp leading to the entrance of the visitor/welcome center will not be available for events and groups of people will not be permitted to congregate in this area during events. The visitor/welcome center will be a primary entry/exit point for the Historic Capitol. Because the entry ramp is a key component of this entry/exit point, it must remain unobstructed for safety and security reasons.

For events where people walk towards the west steps of the Capitol from Capitol Mall, once they cross 10<sup>th</sup> Street, individuals may walk to the right or the left of the visitor/welcome center ramp as they continue towards the Historic Capitol, then congregate on the upper plaza immediately in front of the Historic Capitol. Therefore, the ability to walk directly from Capitol Mall to the Historic Capitol will remain. Currently, for those who cannot climb steps to reach the west side of the Historic Capitol, concrete pathways are available that can be accessed from the corners of 10<sup>th</sup> and L Street and 10<sup>th</sup> and N Street. This condition will not change. These concrete pathways will be retained and will provide access to the upper plaza of the new visitor/welcome center.

Much of the area currently available for events in the West Lawn area, and in particular, the areas closest to the Historic Capitol, will continue to be available for events and will support large numbers of people. Although locations for people to congregate and paths of movement will be somewhat different from current conditions, very large events will continue to be supported.

### 3.4 MASTER RESPONSE 3: RELOCATION OF TREES

#### Background

Multiple comments bring up the project's effects on trees in Capitol Park. Comments bring up issues such as biological resource effects, carbon sequestration benefits of trees, effects on the historic landscape, and aesthetic effects; and well as presenting personal opinions regarding the value of the trees in Capitol Park and a desire for their preservation.

The effects on trees in Capitol Park were analyzed and disclosed in the 2021 EIR. The Ruling found no deficiencies in the analysis of trees in the 2021 EIR. Therefore, per the legal principle of *res judicata* described above in Master Response 1, this REIR is not required to revisit environmental effects related to the relocation and removal of trees as part of project implementation.

Demolition of the existing Annex, as authorized by the Court as part of the partial decertification of the 2021 EIR, has resulted in the need to relocate and remove some trees to allow demolition activities to proceed. These tree relocation and removal activities have occurred both before preparation of this REIR was initiated and while this REIR was being prepared. Several comments contend that these tree relocations and removals have been implemented in a way that is inconsistent with the 2021 EIR. These alleged inconsistencies may be with the project description, mitigation measures, or environmental commitments. Comments also indicate that mitigation measures and/or environmental commitments related to tree relocations are not achieving the desired effect and call into question the ability of these measures to reduce environmental effects. Because these tree relocations and removals occurred after the 2021 EIR was certified, commenters present the tree relocation/removal information as significant new information pursuant to Section 15088.5 of the CEQA Guidelines, triggering the need for new environmental review. New environmental review triggered by qualified "significant new information" supersedes the principle of *res judicata*. As described in Section 15088.5, new information would be considered significant if its disclosure would demonstrate that:

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.

- (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.
- (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

CEQA Guidelines Section 15162(a)(3) also addresses the issue of new information that might trigger additional CEQA review, stating "new information of substantial importance" is information that "...was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete..."

The comments contend that because tree relocation and removal is allegedly not occurring as identified in the 2021 EIR, or that desired results for tree relocations are not being achieved, there is a substantial increase in the severity of impacts on Capitol Park trees. According to the comments, this would then qualify as significant new information pursuant to CEQA Guidelines Section 15088.5, and further environmental review of effects on trees would be required. The comments allege that because the tree relocation and removal was initiated after the 2021 EIR was certified, it meets the Section 15162(a)(3) criteria of information that "was not known and could not have been known with the exercise of reasonable diligence" at the time the 2021 EIR was certified.

## Review of Existing Tree Information and Protection Measures

To assist in the evaluation of whether information on current tree relocation and removal qualifies as significant new information, a review of existing information in the 2021 EIR is provided here. As stated above, due to the principle of res judicata, information and analysis related to trees in the 2021 EIR is not subject to further review. The following information is presented only to assist with the determination of whether comments on the Draft REIR present information that qualifies as significant new information under CEQA.

### PROJECT DESCRIPTION INFORMATION RELATED TO TREES

The most recent EIR project description information related to effects on, and treatment of, trees is from the 2021 Final EIR. The Ruling finds no CEQA deficiency with providing this information in the Final EIR. The following is text from Section 2.2.4, "Capitol Park Trees" from the 2021 Final EIR:

Construction of the Capitol Annex Project, with the Double-T Annex configuration, the new underground parking garage aligned under the 12th Street walkway, and the underground visitor/welcome center as presented in the Recirculated Draft EIR is projected to affect trees in the project site as follows:

Trees Protected In Place. There are 15 large dedicated and historic trees that are within the construction areas that are specifically identified to be preserved in place:

- ▶ the grove of six (6) dedicated redwoods, including the moon tree, on the north side of the Annex
- ▶ one (1) dedicated "largest specimen" tulip tree near the 12th Street walkway slightly north of the Annex
- ▶ one (1) dedicated "largest specimen" Montezuma Cypress near the 12th Street walkway near the center of the park
- ▶ one (1) 30-inch coast redwood near the 12th Street walkway slightly south of the Annex
- ▶ one (1) 48-inch giant sequoia, dedicated by the citizens of Los Angeles, near the 12th Street walkway slightly south of the Annex
- ▶ one (1) 48-inch cockspur coral, "largest specimen," near N Street and the proposed entrance to the parking garage
- ▶ four (4) deodar cedars in the western end of Capitol Park between 10th Street and the Historic Capitol

It should be noted that there are additional trees within the overall project boundary in the west end of Capitol Park that are not within or directly adjacent to the construction boundaries. These trees would also be protected in place.

Trees Anticipated to be Transplanted On Site. There are ten (10) historic or dedicated trees that are suitable for, and planned for, transplanting due to their size and health that occur within the New Annex and underground parking garage construction boundary and would be transplanted to a new location within the construction area as part of the project landscaping.

- ▶ Two (2) historic trees
- ▶ Eight (8) dedicated trees

Additional Trees to be Considered for Transplanting within Capitol Park. In addition to the ten (10) historic or dedicated trees that are anticipated to be transplanted on the project site, there are an additional eighteen (18) trees that are considered potentially suitable for transplanting due to their size and health and could be placed in Capitol Park outside the project footprint.

Trees to be Removed and Replaced within Capitol Park. There are a total of 56 trees located within the project site that are anticipated to be directly affected by construction activities and require removal of the tree. These trees would not be relocated due to their health/condition; rather, these trees would be replaced in-kind by new trees within Capitol Park.

- ▶ Twenty-four (24) affected trees within the new Annex and underground parking construction boundaries.
- ▶ Thirty-two (32) affected trees within the visitor/welcome center footprint.

\*Note that because a detailed landscape plan has not yet been prepared for the visitor/welcome center portion of the project site, that this evaluation has made a conservative assumption of removal and replacement of all trees affected by construction of this project element. However, some number of these trees are likely to be suitable for transplanting and will be identified for transplanting as landscape design for the visitor/welcome center advances.

City of Sacramento Street Trees. The State is coordinating with the City of Sacramento on City trees, consistent with the City's tree ordinance. Project construction would affect a total of 49 City of Sacramento street trees consisting entirely of palm trees that provide a perimeter around Capitol Park. It is anticipated that these 49 palm trees would be transplanted, either to the inside of the new sidewalk to move them out of the way of the new parking ramps, or to be placed in some existing open areas (i.e., gaps in the line of perimeter palms) around Capitol Park. There are 43 transplant sites identified for the project (Figure 2-9), primarily re-establishing the boundary palm trees along L Street and N Street after construction of the underground parking garage. Another six sites for transplant need to be identified for six (6) palms anticipated to be affected by the 10th Street bulb-out included with the visitor/welcome center. As identified above, because design of the visitor/welcome center has not advanced as much as for the Annex and underground parking, receiving sites for these six palms have not been specifically identified. However, there are sufficient gaps in the perimeter palms, either locations where trees are absent or locations where a different species of palm has been planted, to accommodate relocation of these six palms.

- ▶ Forty-three (43) City of Sacramento palm trees at the boundary of Capitol Park along L Street and N Street affected by construction of the ramps for the underground parking.
- ▶ Six (6) City of Sacramento palm trees at the boundary of Capitol Park along 10th Street affected by construction of the visitor/welcome center bulb-out.

Therefore, in total, the project would affect an estimated 133 trees; 10 trees to be transplanted on site, 18 trees potentially transplanted outside the construction area but within Capitol Park, 56 trees to be removed and replaced with new trees in Capitol Park (with some portion of these 56 trees anticipated to be identified for transplanting once visitor/welcome center design advances), and 49 City perimeter palm trees to be

transplanted along the perimeter of Capitol Park. The new plantings and transplanted trees would be monitored for five years to ensure survivorship. If a new tree or relocated tree dies, it would be replaced in-kind. (2021 FEIR 2-13–2-15, 2-17.)

### Mitigation Measures Related to Tree Protection

There are two mitigation measures identified in the adopted final Mitigation Monitoring and Reporting Program (MMRP) that have content related to protection of trees: Mitigation Measure 4.12-4d and 4.13-3. The text of these mitigation measures is provided below.

#### **Mitigation Measure 4.12-4d: Develop and Implement a Landscape Treatment Report for Capitol Park including Protection, Restoration, or Replacement of Commemorative Trees, Plantings, or Other Memorials**

As part of the project, DGS and the JRC shall facilitate the development of a landscape treatment report that: (a) identifies which of the contributing landscape features located in Capitol Park require removal or that are located within the zone of potential damage from construction activities, (b) establishes specifications for protecting, restoring, replacing and/or relocating contributing landscape features within Capitol Park, consistent with the salvage plan identified in Mitigation Measure 4.12-4b, as close to their original location as feasible or to a compatible location within the park, (c) establishes guidelines for the protection of contributing landscape features, including detailed guidance for the treatment of contributing memorials and trees to ensure that construction, grading, and vibration does not cause damage to features within the zone of potential damage from construction activities, and (d) identifies the distance threshold at which construction activities have the potential to damage contributing landscape features, noting that this threshold may differ by feature type (i.e. trees vs. memorials).

The JRC shall bring at least one of each of the following specialists under contract as part of the Architect's team: landscape historian, arborist, and landscape architect with experience in cultural landscape treatment. The role of the landscape historian, arborist and landscape architect are to prepare a landscape treatment report for Capitol Park in accordance with Preservation Brief 36 (Protecting Cultural Landscapes: Planning, Treatment and Management of Historic Landscapes) and The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscapes. The landscape treatment report shall provide an existing conditions analysis of Capitol Park to establish baseline conditions of trees, plantings, memorials, and contributing landscape features prior to the commencement of any demolition or construction of the proposed project. The report shall also outline preservation objectives and treatment guidelines for the protection, rehabilitation, restoration, relocation and/or replacement of contributing features of Capitol Park. The landscape treatment report is not equivalent to a master plan and will not specify future design.

In developing the report, DGS and the JRC will prioritize protection in place over removal of contributing landscape features. Where protection, preservation, or in-kind replacement of contributing landscape features is not feasible, guidelines for compatible design options that comply with the Secretary of the Interior's Standards for Rehabilitation will be included. For each memorial (including commemorative trees, plantings, statues, or other types of memorials) where removal is necessary, DGS or the JRC will consult with individuals or groups who are affiliated with that memorial (such as the original sponsoring organization or the individual or group that is the subject of the memorial) to identify a mutually agreeable treatment for the memorial. Treatments may include relocation of the memorial to a new location as close as possible to the original location after project construction is complete, relocation of the original memorial to a new location within Capitol Park, complete removal of the original memorial and replacement "in-kind" with the same type/species or materials, or complete removal of the original memorial and replacement with a mutually acceptable new memorial. DGS and the JRC shall review the draft landscape treatment report prior to the completion of schematic design for the first project component to be implemented. DGS and the JRC shall review and approve the final landscape treatment report prior to the completion of the 50% design development phase. DGS, the JRC, and the design team will use the report to ensure that the landscape treatment report's historic preservation objectives and treatment recommendations are incorporated into the design for the Annex and Capitol Park.

Cultural Landscapes. The landscape treatment report shall provide an existing conditions analysis of Capitol Park to establish baseline conditions of trees, plantings, memorials, and contributing landscape features prior to the commencement of any demolition or construction of the proposed project. The report shall also outline preservation objectives and treatment guidelines for the protection, rehabilitation, restoration, relocation and/or replacement of contributing features of Capitol Park. The landscape treatment report is not equivalent to a master plan and will not specify future design.

In developing the report, DGS and the JRC will prioritize protection in place over removal of contributing landscape features. Where protection, preservation, or in-kind replacement of contributing landscape features is not feasible, guidelines for compatible design options that comply with the Secretary of the Interior's Standards for Rehabilitation will be included. For each memorial (including commemorative trees, plantings, statues, or other types of memorials) where removal is necessary, DGS or the JRC will consult with individuals or groups who are affiliated with that memorial (such as the original sponsoring organization or the individual or group that is the subject of the memorial) to identify a mutually agreeable treatment for the memorial. Treatments may include relocation of the memorial to a new location as close as possible to the original location after project construction is complete, relocation of the original memorial to a new location within Capitol Park, complete removal of the original memorial and replacement "in-kind" with the same type/species or materials, or complete removal of the original memorial and replacement with a mutually acceptable new memorial. DGS and the JRC shall review the draft landscape treatment report prior to the completion of schematic design for the first project component to be implemented. DGS and the JRC shall review and approve the final landscape treatment report prior to the completion of the 50% design development phase. DGS, the JRC, and the design team will use the report to ensure that the landscape treatment report's historic preservation objectives and treatment recommendations are incorporated into the design for the Annex and Capitol Park.

#### **Mitigation Measure 4.13-3: Remove and Replace City Street Trees Consistent with the City of Sacramento Tree Preservation Ordinance**

Before construction begins, DGS will complete a survey of City street trees at the project site and, for City street trees to be affected by the project, prepare and submit a detailed tree removal, protection, replanting, and replacement plan to the City arborist. The tree removal plan will be developed by a certified arborist. Separate plans may be prepared for different phases of project construction; however, each construction phase cannot be initiated until a completed plan addressing that construction phase is provided to the City. The plan shall include the following elements:

- ▶ The number, location, species, health, and sizes of all City street trees to be removed, relocated, or replaced will be identified. This information will also be provided on a map/design drawing to be included in the project plans.
- ▶ Planting techniques, the necessary maintenance regime, success criteria, and a monitoring program for all City street trees planted on or, disturbed but retained on the project site, will be described.

DGS and JRC will ensure implementation of the tree removal, protection, replanting, and replacement plan during project construction and operation.

#### **Environmental Commitments Related to Tree Protection**

The 2021 EIR has both formal Mitigation Measures and environmental commitments incorporated into the project. Environmental commitments were adopted by DGS primarily in response to input provided by the public and interested parties. As identified in the MMRP for the project, environmental commitments are adopted as conditions of approval for the project and have the same monitoring, verification of implementation, and verification of compliance obligations as Mitigation Measures. Where actions included in Mitigation Measures qualify as performance standards, such as implementation of ANSI A300 standards, they would also qualify as performance standards as environmental commitments. There are three environmental commitments related to protection of trees. The text of these environmental commitments is provided below:

**EC-1:** ANSI A300 standards for tree protection will be implemented during all phases of project construction.

**EC-2:** As part of the design and construction of the Project, disturbance of the perimeter palm trees will be minimized to the extent possible.

**EC-3:** Impacts to trees and memorials in Capitol Park will be minimized to the extent possible.

## Evaluation of Consistency with Tree Protection Obligations

An evaluation of implemented tree relocation and removal activities is provided below for each primary group of obligations; project description, mitigation measures, and environmental commitments. Whether impact reduction objectives are being met and whether there is any significant new information under CEQA is also identified.

### CONSISTENCY WITH THE PROJECT DESCRIPTION

The project description information provided above addresses the treatment of trees (preservation, relocation, or removal), the number of trees affected; and in some cases, particular categories of trees (e.g., City of Sacramento perimeter palms). Each of these issues are considered in the following evaluation. The information below does not consider Capitol Park trees that were damaged or fell due to weather during winter 2022/2023. Loss or damage of trees due exclusively to weather is not a project impact.

The 15 large dedicated and historic trees that are within the construction areas and that are specifically identified to be preserved in place have been, and will continue to be, preserved in place. No comments have been received that provide new information since certification of the 2021 EIR that contradict this conclusion. For the visitor/welcome center, the project design has been developed in consultation with a certified arborist to ensure trees identified for preservation can, indeed, be preserved. For example, although some cutting of roots is anticipated to be required during excavation, root loss will not be sufficient to contribute to tree mortality.

The 10 historic or dedicated trees designated for replanting on site are in containers awaiting a future replanting date when demolition/construction activity is completed at the planting site. An exception is five Japanese cherry trees that died while in their containers. Although mortality of any of the Capitol Park trees is unfortunate, the 2021 EIR made a realistic assessment that not all relocated trees may survive and disclosed this possibility. For example, the last sentence in the project description information provided above states: "The new plantings and transplanted trees would be monitored for five years to ensure survivorship. If a new tree or relocated tree dies, it would be replaced in-kind." "Replacement in-kind" is the standard used throughout the 2021 EIR for replacement of trees, whether they die during the process of relocation or are removed as part of the project. The five Japanese cherry trees that were lost are being replaced with Japanese cherry trees of the same species, although of a different horticultural variety. During coordination with Capitol Park maintenance staff it was requested that this different horticultural variety be selected as it is better suited for the Sacramento climate. This tree replacement approach of Japanese cherry trees being replaced with the same species of Japanese cherry trees falls within the realm of "in-kind" replacement, even if a different horticultural variety is used.

Comments identify that a fan palm tree also died while in a container awaiting replanting. This is correct. However, this tree will also be replaced in-kind consistent with the 2021 EIR, although a replacement tree has not yet been purchased.

Although a total of six trees have died to date as demolition of the Annex has proceeded, the remainder of trees have been successfully replanted in new locations, or are surviving in containers until an appropriate time for replanting. As stated above, the 2021 EIR disclosed the potential for tree mortality and provided criteria for replacing these trees. Therefore, the current loss of six trees does not alter the impact analysis from the 2021 EIR; there is no new significant impact and existing impacts are not substantially more severe than described in the 2021 EIR. Therefore, the tree mortality does not qualify as significant new information under CEQA triggering new environmental analysis.

The trees that could be affected by Annex demolition that are not historic, and not dedicated, and that would be transplanted outside of the project area have been successfully transplanted, minus the fan palm mentioned above. The 2021 EIR identified 18 trees in this relocation category. However, 29 trees in this category have been relocated at the time this Final REIR was prepared. The relocation within Capitol Park of 11 additional non-historic and non-



dedicated trees above what was estimated in the 2021 EIR does not result in a new significant impact or a substantially more severe impact. There is no significant impact in the 2021 REIR or Draft REIR resulting from the relocation of non-historic and non-dedicated trees. The specific location of these trees has no historic significance; therefore, relocating them does not affect historic resources. There is no net change in the number and type of trees in Capitol Park caused by relocation of these 11 additional trees. Therefore, the relocation of these trees does not qualify as significant new information resulting in the need for further CEQA analysis of impacts on trees.

Trees that must be removed to allow for demolition of the Annex have been removed as needed as the demolition process has proceeded. The type/species of each removed tree has been recorded for future in-kind replacement when the designated planting site is available. The 2021 EIR identified 24 trees for removal associated with the new Annex and underground parking. At the time this Final EIR was prepared, 19 trees had been removed, remaining below the estimate developed in 2021.

The 2021 EIR identifies a total of 32 trees in the footprint of the visitor/welcome center and assumes all of these trees would be removed and replaced in kind. However, as noted in the 2021 EIR, a detailed landscape plan had not yet been prepared for the visitor/welcome center portion of the project site and trees suitable for relocation had not been identified. Therefore, some of the trees identified for removal and replacement may, instead, be relocated elsewhere in Capitol Park. These conditions have not changed. There remain 32 trees potentially affected by the visitor/welcome center and an evaluation of trees suitable for relocation has not been completed. It is still expected that some of these trees will be identified for transplanting and the total number of trees removed and replaced will be less than the 32 identified.

Finally, for the palm trees that are located in the perimeter of Capitol Park on City of Sacramento property, several of these trees have been moved to support demolition activities. These trees have been moved consistent with the project description information provided above. For many of these trees, the land the trees were located on was transferred to the State from the City of Sacramento in a real estate transaction prior to the trees being moved. Therefore, many of the moved palms were property of the State of California rather than the City of Sacramento when they were moved. For any trees moved from, or moved to City of Sacramento property, authorization from the City and compliance with City regulations will be completed prior to disturbance of City right-of-way. To date, less than 40 perimeter palm trees have been moved, less than the 43 trees attributed to the Capitol Annex and underground parking portion of the project identified in the 2021 EIR, or the total of 49 trees identified for the whole project. There is no evidence that as the Capitol Annex project proceeds that more than 49 perimeter palms will need to be moved. Ultimately, fewer than the estimated 49 perimeter palms may need to be moved as the bulb-out into 10<sup>th</sup> Street may not occur as part of the visitor/welcome center and the six perimeter palms in this area may no longer need to be relocated.

Given the information above, the relocation and removal of trees implemented to date in support of demolition of the Annex does not deviate substantially from the project description parameters provided in the 2021 EIR. Without any substantial deviation from what was expected, analyzed, and disclosed in the 2021 EIR, there cannot be any new significant impacts or substantially more severe impacts. Therefore, there is no significant new information resulting in the need for further CEQA analysis of impacts on trees.

## CONSISTENCY WITH MITIGATION MEASURES

As identified above, there are two mitigation measures in the Project MMRP that relate to protection of trees, Mitigation Measure 4.12-4d and Mitigation Measure 4.13-3. Each are addressed below.

### Mitigation Measure 4.12-4d

Mitigation Measure 4.12-4d, "Develop and Implement a Landscape Treatment Report for Capitol Park including Protection, Restoration, or Replacement of Commemorative Trees, Plantings, or Other Memorials" is part of a suite of mitigation measures intended to reduce and compensate for significant impacts to historic resources. Relevant components of Mitigation Measure 4.12-4d, with the text adjusted to specifically focus on trees, are listed below.

- ▶ Develop a landscape treatment report that identifies trees that are contributors to the historic landscape of Capitol Park (contributing trees) and identify methods to protect or relocate these trees, or replace them if removed.

- ▶ In the landscape treatment report provide detailed guidance for the treatment of contributing trees to ensure that construction, grading, and vibration does not cause damage to features within the zone of potential damage from construction activities.
- ▶ In the landscape report identify the distance threshold at which construction activities have the potential to damage contributing trees.
- ▶ Prioritize protection in place of contributing trees over removal.
- ▶ For each commemorative tree where removal or relocation is necessary, DGS or the JRC will consult with individuals or groups who are affiliated with that commemorative tree (such as the original sponsoring organization or the individual or group that is the subject of the memorial) to identify a mutually agreeable treatment for the commemorative tree.
- ▶ Treatments of commemorative trees that cannot be preserved in place may include relocation to a new location as close as possible to the original location after project construction is complete, relocation of the commemorative tree to a new location within Capitol Park, complete removal of the original memorial tree and replacement “in-kind” with the same type/species, or complete removal of the memorial tree and replacement with a mutually acceptable new memorial.

Mitigation Measure 4.12-4d has been implemented by the JRC and their representatives as Annex demolition has proceeded. The JRC and their representatives have prepared the identified landscape treatment report and are implementing it as demolition proceeds. This report is under the jurisdiction of the JRC and the release of any material included in the report is at their discretion consistent with any applicable rules, regulations, and laws. This report was not included as part of the Draft REIR, as an appendix or otherwise, as it is not relevant to issue areas evaluated in the Draft REIR. In addition, the comments identify no legal authority that requires the report to be made publicly available in the manner requested in the comments. (See *El Morro Community Association v. California Dept. of Parks and Recreation* (2004) 122 Cal.App.4th 1341, 1354, fn. 5.) Also see Master Response 1, above, regarding the legal principle of res judicata for an explanation of why general impacts on trees need not be evaluated in the Draft REIR. This Master Response then explains why there is not significant new information resulting in the need to re-open the evaluation of impacts on trees. The identified landscape treatment report does not address or support any of the impact analyses in the Draft REIR.

Contributing and memorial trees intended for protection are being successfully protected and relocation of trees has been successful, with the exception of the trees identified above in the discussion of consistency with the project description. Contributing and memorial trees that are removed or that die are being replaced in-kind consistent with the mitigation measure. One relocated commemorative tree did fall over but was successfully put back in place. The consultation with individuals or groups who are affiliated with commemorative trees are being completed as directed in the mitigation measure. The JRC and their representatives are conducting this consultation.

Although implementation of Mitigation Measure 4.12-4d has not been perfect in every respect (e.g., tree mortality, commemorative tree temporarily falling over), it is being implemented and the desired effects of protecting, relocating, and replacing in-kind as necessary contributing and memorial trees is occurring. There are no deficiencies in the implementation or outcomes of Mitigation Measure 4.12-4d that would result in any new significant impacts or substantially more severe impacts. Therefore, the implementation to date of Mitigation Measure 4.12-4d does not provide any significant new information resulting in a need for further CEQA analysis of impacts on trees.

### **Mitigation Measure 4.13-3**

Mitigation Measure 4.13-3, “Remove and Replace City Street Trees Consistent with the City of Sacramento Tree Preservation Ordinance” is intended to ensure that if any trees under the jurisdiction of the City of Sacramento are moved or removed as part of the Capitol Annex Project, that the action is implemented in compliance with the City of Sacramento Tree Preservation Ordinance. The only trees on the project site under the jurisdiction of the City of Sacramento are the perimeter palms. As identified previously, some of the perimeter palms moved in support of Annex demolition were moved after the land, and the trees, were transferred to the State of California. Therefore, the City of Sacramento Tree Preservation Ordinance would not apply to these trees. For all project activities under the

jurisdiction of the City of Sacramento (e.g., traffic controls, utility work in City rights-of-way), including any moving of the perimeter palms, the JRC and its representatives have coordinated closely with the City of Sacramento and have obtained all necessary authorizations and have complied with all regulatory conditions. With the intent of Mitigation Measure 4.13-3 being compliance with the City of Sacramento Tree Preservation Ordinance, there are no deficiencies in the implementation or outcomes of Mitigation Measure 4.13-3 that would result in any new significant impacts or substantially more severe impacts. Therefore, the implementation to date of Mitigation Measure 4.13-3 does not provide any significant new information resulting a need for further CEQA analysis of impacts on trees.

## CONSISTENCY WITH ENVIRONMENTAL COMMITMENTS

As identified above, there are three environmental commitments that relate to protection of trees:

**EC-1:** ANSI A300 standards for tree protection will be implemented during all phases of project construction.

**EC-2:** As part of the design and construction of the Project, disturbance of the perimeter palm trees will be minimized to the extent possible.

**EC-3:** Impacts to trees and memorials in Capitol Park will be minimized to the extent possible.

Environmental commitments 2 and 3 have been implemented, both in minimizing the overall disturbance to the perimeter palms and trees and memorials in Capitol Park, and by not implementing disturbing activities until necessary. Given the substantial cost associated with relocating trees, and the difficulty and cost sometimes associated with finding in-kind replacement specimens, there are motives beyond fulfilling these environmental commitments to minimize disturbance to trees during project implementation. The comments on the topic of impacts on trees provide no new information or evidence that environmental commitments 2 and 3 have not been complied with.

There are several comments that question the compliance with ANSI A300 standards during tree relocation activities. Some comments point specifically to observations of a tree not being supported by guy-wires (i.e., anchored wires supporting the tree), which the comments contend would be used under ANSI A300 standards.

The JRC and their representatives have primary responsibility for implementing ANSI A300 standards during project implementation and have been following these standards. Consistent with ANSI A300 standards, an International Society of Arboriculture (ISA) certified arborist is overseeing tree relocation activities. The information provided in the comment regarding the use of guy-wires has been conveyed to all appropriate individuals. However, even if ANSI A300 standards were not properly followed during this one incident, this incident, and other information provided in comments do not provide evidence of large scale tree mortality or other adverse effects that would alter the conclusions of the 2021 EIR regarding impacts to trees. The information provided in comments does not identify any new significant impacts or substantially more severe impacts. Therefore, the implementation to date of environmental commitments does not provide any significant new information resulting a need for further CEQA analysis of impacts on trees.

## 3.5 MASTER RESPONSE 4: STATE FINANCES, PRIORITIES, AND PROJECT COSTS

Multiple comments on the Draft REIR express concern about the cost of the project and the decision to fund a new Capitol Annex at a time of State budget deficit and when there are many other State priorities. These comments are acknowledged.

The purpose of an EIR is to assess the physical environmental effects of a proposed project, not to evaluate or judge the merits of a project, the cost of a project, or whether a project should be pursued by a lead agency. Only actions that can be directly related to a change in the physical environment are to be evaluated in an EIR. The State CEQA Guidelines speak to economic and social effects, noting that they may be included in an EIR and presented in whatever form the agency desires, but that they shall not in and of themselves be treated as significant effects on the environment, unless it can be shown through a chain of cause and effect that the economic and social effects may result in physical effects (CCR, Title 14, Division 6, Chapter 3, Section 15131). In this instance, the specific act of the allocation and expenditure of State funds to plan, construct, and operate the project would not result in physical

effects that are not already evaluated and disclosed in the 2021 EIR or the Draft REIR. Therefore, the merit, or suggested lack thereof, of State budget decisions related to the proposed project are not subject to CEQA.

Under CEQA, project costs may also come into play in the determination of feasibility of project alternatives and mitigation measures. The CEQA Statute and Guidelines define “feasible” as, “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors” (Public Resources Code Section 21061.1; CCR, Title 14, Division 6, Chapter 3, Section 15364). It is the responsibility of DGS, as the lead agency under CEQA, and the JRC of the California State Senate and Assembly, as the entity implementing the project, to determine the feasibility of alternatives and mitigation measures, and they have done so as part of earlier project approval actions. No comments provide evidence that the proposed project, or any element of it, would meet the CEQA definition of infeasibility due to cost.

Comments also critique the policy decisions made by the legislature regarding the funding and execution of the Capitol Annex Project. Policy decisions and legislative actions by the California Assembly, Senate, and Governor’s office are exempt from CEQA. CEQA only applies to “projects” and Section 15378(b) identifies that actions such as “proposals for legislation to be enacted by the State Legislature” and “general policy and procedure making” do not qualify as projects under CEQA. In addition, Section 15378(d) identifies that the appropriate time for identification of a project under CEQA is at the “development proposal” stage. DGS and the JRC properly initiated the CEQA process for the project after a “proposal” for a particular project was available.

Section 15132(d) of the CEQA Guidelines calls for a final EIR to include responses to “significant environmental points raised in the review.” As critiques of legislative policy and budget decisions are not “environmental points,” further response to these topics are not required in this Final EIR.

## 4 RESPONSES TO COMMENTS ON THE DRAFT REIR

This chapter contains comment letters received during the public review period for the Draft REIR, which concluded on June 15, 2023. Two public hearings were also held. During the first public hearing, held on May 16, 2023, four individuals provided oral comments and six packages of written comments were hand delivered. During the second public hearing, held on June 6, 2023, nine individuals provided oral comments and six packages of written comments were hand delivered. In conformance with Section 15088(a) of the State CEQA Guidelines, written responses have been prepared addressing comments on environmental issues received from reviewers of the Recirculated Draft REIR.

### 4.1 LIST OF COMMENTERS ON THE DRAFT EIR

Table 4-1 presents the list of commenters, including a numerical designation for each comment letter received (A1, A2, A3, etc.), the author of the comment letter, and the date of the comment letter.

**Table 4-1 List of Commenters**

Letter No.	Commenter	Date
<b>Agencies</b>		
A1	Sacramento Fire Department, King Tunson	April 21, 2023
A2	City of Sacramento Department of Public Works, Traffic Engineering, Alex (James) Switzgable	May 22, 2023
<b>Organizations</b>		
O1	Yocha Dehe Wintun Nation, Yvonne Perkins	April 20, 2023
O2	Public Accountability for Our Capitol, Luree Stetson	June 7, 2023
O3	Terra Nova Planning & Research, Nicole Sauviat Criste	June 14, 2023
O4	Sacramento Chapter of Physicians for Social Responsibility, Bill Durston, MD	June 14, 2023
O5	Public Accountability for Our Capitol	June 14, 2023
O6	Public Accountability for Our Capitol, Karen Jacques	June 15, 2023
O7	Save Our Capitol!, Public Accountability for Our Capitol, and Capitol Historic Preservation Society, Maria Nicholas Kelly	June 15, 2023
O8	Trees for Sacramento, Kate Riley	June 15, 2023
O9	Trees for Sacramento, Kate Riley	June 15, 2023
O10	Save the Capitol, Save the Trees, Luree Stetson	June 15, 2023
<b>Individuals</b>		
I1	Steve McQuillin	April 15, 2023
I2	Lee Miller	April 15, 2023
I3	Molly Lewis	April 18, 2023
I4	Robert Millsap	May 1, 2023
I5	Sam Nicholas	May 4, 2023
I6	John Hingtgen	May 8, 2023
I7	Clara Smith	May 14, 2023
I8	Luree Stetson	May 14, 2023
I9	Sharyn Kaplan	May 16, 2023
I10	Mark Schneider	May 16, 2023

Letter No.	Commenter	Date
I11	Ilsa Hess	May 26, 2023
I12	Phyllis Ehlert and Dennis Blegen	May 31, 2023
I13	Kevin Concolino	June 3, 2023
I14	Kathleen D. Green	June 10, 2023
I15	Richard Cowan	June 13, 2023
I16	J. C. Zdyrka	June 13, 2023
I17	Rick Stevenson	June 14, 2023
I18	John Allen	June 15, 2023
I19	Ann Amato	June 15, 2023
I20	Milford Wayne Donaldson, FAIA	June 15, 2023
I21	Milford Wayne Donaldson, FAIA	June 15, 2023
I22	Roxanne Fuentes	June 15, 2023
I23	Karen Jacques	June 15, 2023
I24	Gail Kara	June 15, 2023
I25	Lisa Krause	June 15, 2023
I26	Peggi Martin	June 15, 2023
I27	Michael Silver and Chris Ratekin	June 15, 2023
<b>May 16, 2023, Public Hearing</b>		
PH1-1	Luree Stetson	Part of Hearing Transcript
PH1-2	Milford Wayne Donaldson	Part of Hearing Transcript
PH1-3	Richard Cowan	Part of Hearing Transcript
PH1-4	Marian Moe	Part of Hearing Transcript
PH1-5	Richard Cowan	Hand Delivered at Hearing
PH1-6	Richard Cowan	Hand Delivered at Hearing
PH1-7	Richard Cowan	Hand Delivered at Hearing
PH1-8	Richard Cowan	Hand Delivered at Hearing
PH1-9	Milford Wayne Donaldson, FAIA	Hand Delivered at Hearing
PH1-10	Paula J. Peper	Hand Delivered at Hearing
<b>June 6, 2023, Public Hearing</b>		
PH2-1	Karen Jacques	Part of Hearing Transcript
PH2-2	Assembly Member Josh Hoover	Part of Hearing Transcript
PH2-3	Roxanne Fuentes	Part of Hearing Transcript
PH2-4	Phyllis Ehlert	Part of Hearing Transcript
PH2-5	Phillip Guddemi	Part of Hearing Transcript
PH2-6	Maria Nichols Kelley	Part of Hearing Transcript
PH2-7	Kate Riley	Part of Hearing Transcript
PH2-8	Daniel Pskowski	Part of Hearing Transcript
PH2-9	David Garlic	Part of Hearing Transcript
PH2-10	Roxanne Fuentes	Hand Delivered at Hearing

Letter No.	Commenter	Date
PH2-11	Roxanne Fuentez	Hand Delivered at Hearing
PH2-12	Public Accountability for Our Capitol	Hand Delivered at Hearing
PH2-13	Paula J. Peper	Hand Delivered at Hearing
PH2-14	Daniel Pskowski, Trees for Sacramento	Hand Delivered at Hearing
PH2-15	Kate Riley, Public Accountability for Our Capitol	Hand Delivered at Hearing

## 4.2 COMMENTS AND RESPONSES

The written comments received on the Draft REIR and the responses to those comments are provided below. Each individual comment within the letters (Comment A2-1, Comment A2-2, etc.) is reproduced in its entirety and is followed by the response (Response A2-1, Response A2-2, etc.).

## AGENCIES

### Letter A1 Sacramento Fire Department

King Tunson  
April 21, 2023

#### Comment A1-1

I don't have any comment for the above-referenced Draft.

#### Response A1-1

DGS appreciates review by the Sacramento Fire Department. The comment does not address the analysis or conclusions in the EIR. No further response is required.

### Letter A2 City of Sacramento Department of Public Works, Traffic Engineering

Alex (James) Switzgable  
May 22, 2023

#### Comment A2-1

Thank you for including the City of Sacramento in the environmental review process for the project referenced above. The revised proposed project would involve the demolition and reconstruction of the existing Capitol Annex Building to increase the gross building size from 325,000 to 525,000 square feet.

The existing parking in the Annex Building will be abandoned in favor of a new 150 space underground parking facility on the south side of the Capitol. The current Annex basement parking has entries/exits with security checkpoints on both L Street and N Street. The revision includes entry/exit from the new underground parking to/from L Street and N Street, consistent with the existing accesses. Proposed up/down ramps for these accesses may require intersection modifications.

Before initiating demolition of the existing Annex, the Legislature and executive branch offices and related facilities would be temporarily located in the new 10th and O Street Office Building, which is currently under construction.

The underground visitor center is still proposed on the west side of the Capitol, adjacent to 10th Street. However, with the revision, the design of the new visitor/welcome center now consists of using ramps rather than stairs and elevators to enter the welcome center, increasing pedestrian movement along 10th Street between L Street and N Street.

#### Response A2-1

DGS appreciates the City's review and input on the Capitol Annex Project and EIR. The comment provides an accurate summary of the proposed project as described in the Recirculated Draft EIR. The comment does not address the analysis or conclusions in the EIR. No further response is required.

#### Comment A2-2

1. Any proposed changes to lane striping and parking, such as along 10th Street, will require analysis, coordination and approval by the City of Sacramento's Department of Public Works.

#### Response A2-2

DGS and the JRC understand that the State must coordinate with, and receive applicable authorizations from, the City of Sacramento for all project activities on lands under the City's jurisdiction. The State and its representatives have undertaken, and are continuing to undertake the requested coordination with City of Sacramento Department of Public Works and implementing the desired analysis. Project activities will not be implemented on lands under the City's jurisdiction until applicable authorizations have been received.

In addition, as stated in Response A2-4, below, and discussed in Impact 4.4-5, "Construction-Related Impacts," of the Draft EIR (page 4.3-26 to 4.3-28), in accordance with Section 12.20.20 of the Sacramento City Code, DGS and the JRC



or their selected contractor have prepared, and will continue to prepare as necessary, construction traffic management plans, which are subject to approval by the City of Sacramento Traffic Engineer and subject to review by all affected agencies, including California Highway Patrol and City of Sacramento Fire and Police Departments. The plans are designed to ensure acceptable operating conditions on local roadways, pedestrian and bicycle facilities, and transit and affected by construction traffic.

### **Comment A2-3**

2. The City of Sacramento's Central City Specific Plan integrates a number of planned transportation improvements and programs to further enhance the downtown grid. Grid 3.0 is the adopted and preferred city street network, including conversion of N Street to 2-way operations. Planning efforts for the Capitol Annex Project should take into consideration the City's adopted and preferred street network. In the vicinity of the proposed project, the future infrastructure improvements include but are not limited to:

- 10th Street, 15th Street, and L Street lane reduction from 3 lanes to 2 lanes;
- N Street conversion from an eastbound 1-Way vehicle travel to 2-Way vehicle travel;
- Pedestrian network improvements within the vicinity of the project site;
- Class II Enhanced Buffered Bike Lane along 10 Street and 15th Street, Class II Bike Lane along N Street adjacent to the project site, the existing Class II Bike Lane bisecting Capitol Park;
- Bus Stop enhancements on 15th Street adjacent to the project site, etc.

### **Response A2-3**

This same comment was provided by the City of Sacramento on the Recirculated Draft EIR and responded to in the 2021 Final EIR. This comment and response was not part of the court's ruling on the EIR (*Save Our Capitol! v. Department of General Services* (2023) 87 Cal.App.5th 655, hereinafter referred to as "Ruling") and therefore the issue has been adequately addressed under CEQA (Please see Master Response 1, in Chapter 3 of this Final REIR regarding the legal principal of res judicata). However, DGS provides the same response as provided in the 2021 Final EIR to reiterate the resolution to these issues:

The City's future infrastructure improvements are included in the cumulative impact analysis in Chapter 5 of the Draft EIR. These improvements are listed in Section 5.2.4, "Related Projects," and are considered in the cumulative transportation and circulation impacts in Section 5.3.2, "Transportation and Circulation." As stated on page 5-8 of the Draft EIR, the model used for the cumulative traffic analysis, SACMET, "...accounts for planned improvements to the surrounding transportation system, including improvements identified in the City's 'Grid 3.0' plan for the Central City...". As identified in Draft EIR Section 5.3.2, under cumulative traffic conditions, including implementation of the Grid 3.0 plan, the proposed project would not make a substantial contribution to any significant cumulative traffic impacts.

As identified previously, since publication of the Recirculated Draft EIR, design development for the Annex and underground parking has proceeded and a modified approach to project phasing and Annex and underground parking implementation are described and evaluated in Chapter 2 of this Final EIR. As described in Section 2.3.1, "Transportation and Circulation," of this Final EIR, the project modifications do not result in any new significant traffic impacts or substantially more severe significant impacts compared to what was identified in the Draft EIR, either under existing conditions or under future cumulative conditions where the Grid 3.0 plan has been implemented.

### **Comment A2-4**

3. The proposed project is required to comply with Sacramento City Code Section 12.20.020 to prepare a traffic control plan for any construction activities that may obstruct vehicular or pedestrian traffic on city streets. The plan is subject to review and approval of the City of Sacramento director of Department of Public Works. The City Code Section 12.20.030 outlines the minimum requirements for information that must be provided in the traffic

control plan. Traffic control plan is subject to review and approval of the City of Sacramento director of Department of Public Works.

#### **Response A2-4**

This same comment was provided by the City of Sacramento on the Recirculated Draft EIR and responded to in the 2021 Final EIR. This comment and response was not part of the court's Ruling on the EIR and therefore the issue has been adequately addressed under CEQA (Please see Master Response 1, in Chapter 3 of this Final REIR regarding the legal principal of res judicata). However, DGS provides the same response as provided in the 2021 Final EIR to reiterate the resolution to this item:

As stated on page 3-16 of the Draft EIR and discussed in the description of Impact 4.4-5, "Construction-Related Impacts," (page 4.3-26) in accordance with Section 12.20.20 of the Sacramento City Code, DGS and the JRC or their selected contractor would prepare a construction traffic management plan, which is subject to approval by the City of Sacramento Traffic Engineer and subject to review by all affected agencies, including California Highway Patrol and City of Sacramento Fire and Police Departments. The plan would be designed to ensure acceptable operating conditions on local roadways, pedestrian and bicycle facilities, and transit studied as a part of this EIR and affected by construction traffic. At a minimum, the plan shall include a:

- ▶ description of the proposed work area and phases of traffic control;
- ▶ description of trucks, including number and size of trucks per day, expected arrival and departure times, and truck circulation patterns;
- ▶ description of right-of-way (vehicular, bicycle, and pedestrian facility) closures, including duration, advance warning and posted signage, detour routes, safe and efficient access routes for emergency vehicles, and use of manual traffic control; and
- ▶ description of a driveway access plan, including provisions for safe vehicular, pedestrian, and bicycle travel; minimum distance from any open trench; special signage; and private vehicle accesses.

A copy of the construction traffic management plan shall be submitted to local emergency response agencies and transit providers, and these agencies shall be notified at least 30 days before the commencement of construction that would partially or fully obstruct roadways. The project site is located within the downtown street grid; therefore, various alternative vehicle, pedestrian, and bicycle routes are available to access the project area and nearby locations in response to temporary access disruptions during construction. There are no transit stops that would be affected by anticipated travel lane and sidewalk closures. There is one bus stop on L Street near the project site; however, the stop is on the north side of L Street, on the opposite side of L Street from where a sidewalk closure may occur.

Project contractors have been implementing this process in support of the ongoing demolition phase of project implementation.

#### **Comment A2-5**

4. Access to parking garages and location of driveways need to be evaluated so that there will be no queuing and spill back to public streets.

#### **Response A2-5**

This same comment was provided by the City of Sacramento on the Recirculated Draft EIR and responded to in the 2021 Final EIR. This comment and response was not part of the court's Ruling on the EIR and therefore the issue has been adequately addressed under CEQA (Please see Master Response 1, in Chapter 3 of this Final REIR regarding the legal principal of res judicata). However, DGS provides the same response as provided in the 2021 Final EIR to reiterate the resolution to this item:

The travel forecasts and traffic operations analysis contained in Chapter 2 of this Final EIR account for the closure of the existing parking garage under the current Annex and construction and operation of

underground parking along the “12th Street alignment.” The potential for queuing spillback into public streets is addressed in this analysis and it is identified that the proposed design, with entry and exit ramps on L Street and N Street, would not result into spillback onto public streets. See Section 2.2.3, “Underground Parking – 12th Street alignment” in this Final EIR for more information on the proposed parking facility and Section 2.3.1, “Transportation and Circulation” for the traffic analysis evaluating the operation of this facility. Note that the State has been actively coordinating with the City of Sacramento regarding the design and operation of the proposed underground parking.

#### **Comment A2-6**

5. The proposed garage accesses from L Street and N Street will require extensive coordination with the City of Sacramento including Traffic Engineering staff. The proposed accesses may require signal modifications along with intersection modifications. N Street is also planned for two-way travel; the design should take this planned conversion into consideration.

#### **Response A2-6**

This comment does not address the analysis or conclusions in the Draft Revised EIR. However, the contractors representing the JRC have been coordinating closely with a variety of City staff, including Traffic Engineering staff, regarding access to the underground parking. The potential for signal modifications, intersection modifications, and planned two-way travel on N Street have all been part of this coordination. The activities suggested in the comment have been, and will continue to be implemented.

#### **Comment A2-7**

6. Pursuant to City Code Section 17.700.060, a Transportation System Management Plan is required. The Transportation System Management Plan shall be subject to review and approval by the City, Department of Public Works.

#### **Response A2-7**

This same comment was provided by the City of Sacramento on the Recirculated Draft EIR and responded to in the 2021 Final EIR. This comment and response was not part of the court’s Ruling on the EIR and therefore the issue has been adequately addressed under CEQA (Please see Master Response 1, in Chapter 3 of this Final REIR regarding the legal principal of res judicata). However, DGS provides the same response as provided in the 2021 Final EIR to reiterate the resolution to this item:

This comment does not address the analysis or conclusions in the EIR. DGS has incentives in place to encourage non-auto transportation, use of transit, bicycle parking, ride sharing, teleworking, etc. that currently apply to the State Capitol and would continue to apply with implementation of the proposed project. Furthermore, the Capitol Annex Project would not change the number of employees at the Annex and would not increase demands on the transportation system (see Section 4.3 of the Draft EIR and Chapter 2 of this Final EIR). State employee mode share surveys indicate that a substantial number of State employees within the Central City use non-auto commute modes. The development or implementation of the suggested Transportation System Management Plan would not alter the traffic impact analysis in the EIR or the conclusions that no significant traffic impacts would occur.

#### **Comment A2-8**

Please provide our office with copies of any further actions regarding this project. We would appreciate the opportunity to review and comment on any changes related to this development and we would like to be included on early review of the proposed project site plan.

#### **Response A2-8**

DGS appreciates the City Department of Public Works, Traffic Engineering, input. DGS and the project planners and engineers have coordinated, and will continue to coordinate, with the City regarding the CEQA process, the project, and integrating the project with the local transportation network.

## ORGANIZATIONS

### Letter O1 Yocha Dehe Wintun Nation

Yvonne Perkins  
April 20, 2023

#### Comment O1-1

The Cultural Resources Department has reviewed the project and concluded that it is not within the aboriginal territories of the Yocha Dehe Wintun Nation. Therefore, we respectfully decline any comment on this project. However, based on the information provided, please defer correspondence to the following:

Wilton Rancheria  
Attn: Tribal Historic Preservation Officer  
9728 Kent Street  
Elk Grove, CA 95624

United Auburn Indian Community  
Attn: Tribal Historic Preservation Officer  
10720 Indian Hill Road  
Auburn, CA 95603

Please refer to identification number YD 04152019-01 in any future correspondence with Yocha Dehe Wintun Nation concerning this project.

#### Response O1-1

DGS appreciates review by the Yocha Dehe Wintun Nation. The comment does not address the analysis or conclusions in the EIR. No further response is required.

### Letter O2 Public Accountability for Our Capitol

Luree Stetson  
June 7, 2023

#### Comment O2-1

These California Environmental Quality Act (CEQA) comments are submitted to the Department of General Services (DGS) on the Capitol Annex Project draft Revised Environmental Impact Report (REIR) to ensure that it reviews and considers a broad array of issues as directed by the Court of Appeal, Third Appellate District, C096617, final ruling.

#### Response O2-1

The comment provides introductory language to the comment letter and does not address the analysis or conclusions in the EIR. No further response is required.

#### Comment O2-2

Unfortunately, the language in the draft REIR for the Capitol Annex Project limits issues that the public can comment on – and that DGS must consider in this draft REIR.

"DGS will consider comments received on the contents of this Draft REIR within the comment period and prepared written responses as required by CEQA. Under CEQA and other legal doctrines, including *res judicata*, *DGS need not address comments on issues that were covered in the 2021 Final EIR and that were not overturned by the Ruling (draft REIR, page 1)* (emphasis added). Issues which are being limited include:

- Limiting public comments to only the glass exterior of the new Annex building;
- Omitting any discussion of the size, shape, height of the new Annex building and its compatibility with the historic Capitol – the "one-building feel";
- Limiting the analysis of aesthetics to only the scenic view from the Visitor Center;
- Limiting comments on alternatives for the underground parking garage which was moved to 12th Street in 2021 Final EIR after the public comment period closed.

The Court of Appeal rulings, as listed below, clearly requires DGS to consider and analyze public comments on more issues than identified in the draft REIR in order to be compliance with the Court's ruling.

### **Response O2-2**

The comment correctly quotes text from page 1-2 of the Draft REIR. The remainder of the comment overstates the limitations on the topics open for comment, which consist of topics addressed in the Draft REIR, which are guided by direction provided in the Ruling. For example, the bullet list does not identify that the effects of project lighting on the Historic Capitol is also a topic of analysis in the Draft REIR, and is therefore also open to comment. The first and second bullet points are inaccurate, comments on the new Annex are not limited to only the glass exterior as the size, shape, and height of the new Annex are considered in the analysis of compatibility of the new Annex with the Historic Capitol. The size, shape, and height of the new Annex are specifically addressed in the discussion of Impact 4.12-4, "Potential Impacts on Historic Architectural Resources" In the Draft REIR. An example is Figure 4.12-3 where the height and shape of the new Annex is directly compared to the height and shape of the Historic Capitol. Therefore, the size, shape, and height of the new Annex, relative to the Historic Capitol, is open to comment. The third bullet point in the comment is correct in noting that the portion of the aesthetics analysis related to the view of the visitor/welcome center from the Capitol Mall is the only part of the aesthetics analysis open to comment. The Ruling did not find other elements of the aesthetic impact analysis to be deficient. Please also see Master Response 1, in Chapter 3 of this Final REIR regarding the legal principal of res judicata. It is worth noting that the topic of nighttime lighting of the new Annex is also addressed in Section 4.15, "Aesthetics, Light, and Glare" of the Draft REIR and therefore open to comment. See the discussion of Impact 4.15-3, "Introduction of New Sources of Light and Glare that Adversely Affect Day and Nighttime Views." However, this is an assessment of lighting impacts separate from the scenic vista impact related to the visitor/welcome center view from Capitol Mall. The last bullet in the comment is correct in noting that further alternatives to the underground parking garage are not open for comment as the Ruling did not find the analysis of alternatives to the underground parking to be deficient. Please also see Master Response 1, regarding the legal principal of res judicata. Also see Response O2-4 below addressing this topic.

### **Comment O2-3**

#### **NEW ANNEX BUILDING**

**DRAFT REIR:** (page 4.12-3, third paragraph) that "*The Ruling identifies one item related to the analysis of impacts on archaeological, historical, and Tribal Cultural Resources (i.e., Section 4.12 of the 2021 EIR) as requiring discussion and analysis; that is the effect of the new Annex, with the identified glass exterior, on the Capitol Complex (i.e., the combined Historic Capitol, Capitol Park, Annex, and Insectary)*" (emphasis added)

#### **COURT RULING REQUIRES EVALUATION OF THE NEW ANNEX BUILDING'S TOTAL DESIGN:**

The Ruling states:

"We conclude that the EIR's project description satisfied the demands of CEQA except with its description of the new Annex exterior design." DGS did not comply with CEQA's requirements when it significantly changed the project decision of the new Annex's exterior design in the Final EIR to the detriment of public participation and informed decision-making on the project's most controversial aspect – its impact on historical resources." (Court Ruling, page 19)

"We agree with plaintiffs that the historical resources impact analysis is deficient to the extent it does not account for public comment on the new Annex's exterior design disclosed in the final EIR. A project description that omits internal components of the project may result in an EIR that does not adequately disclose all the project's impacts." (Court ruling, page 26)

#### **COURT RULING REQUIRES ANALYSIS OF A "ONE-BUILDING" FEEL:** The ruling states:

"Because the changed project description happened in the final EIR, the conflicting descriptions in the earlier EIRs may have misled the public about the nature of the Annex's design and adversely affected their ability to comment on it. When they commented on the earlier EIRs, the public believed only that the new Annex's design and materials would be consistent with the Historic Capitol and create a "one-building" feel. The unstable description of the new Annex's exterior design literally drew a "red herring across the path of public input." (County of Inyo, supra, 71

Cal.App.3d at p. 198.) It prevented the people from comments on significant environmental effects on what is truly the people's capitol." (Court Ruling, page 16.)

"Nowhere does DGS explain how it or any member of the public could meaningfully analyze the new Annex impact on the Historic Capitol as a historic resource without knowing what the Annex would look like. *Indeed, a project's compatibility with a historic resource "is properly analyzed as an aesthetic impact."* Protect Niles v. City of Fremont (2018) 25 Cal.App.5th 1129, 1134.) (Court Ruling, page 17) (emphasis added)

### Response O2-3

The comment provides information from the Ruling as background for later comments. The comment does not address the content or analysis in the Draft REIR. The comment does not accurately quote the Ruling. The second paragraph of the comment has the statement "A project description that omits **internal** components of the project..." (emphasis added). The Ruling uses the word "integral" rather than "internal." This shift in wording is significant as the Ruling has no content regarding deficiencies in information provided on the internal components of the Project. The comment repeatedly adds emphasis not contained in the ruling without attribution, inaccurately adds quotation marks within a paragraph, and omits the sentence, "When the final EIR disclosed the actual design of a glass curtain, the public was foreclosed from commenting meaningfully on the glass exterior's impact on the Capitol" from its discussion of page 16 of the Ruling. (Ruling, *supra*, 87 Cal.App.5th at p. 676.)

### Comment O2-4

As stated in the Court ruling, DGS must consider comments on more than the new Annex's glass façade. The ruling clearly states that the new building's exterior design includes size, shape, height, appearance, color and architectural style and general design. The Court's term "exterior design" is a broad architectural concept and more than the façade of a building. Exterior is defined as exterior features which include the architectural style, general design and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material and the type and style of all windows, doors, light fixtures, signs and other appurtenant fixtures. Design is defined as exterior features including mass, height, appearance and the texture, color, nature and composition of materials.

### Response O2-4

The quote from page 4.12-3 in the Draft REIR provided in Comment O2-3 is reasonable given the entirety of the Ruling rather than the selected quotes in the comment:

"The Ruling identifies one item related to the analysis of impacts on archaeological, historical, and Tribal Cultural Resources (i.e., Section 4.12 of the 2021 EIR) as requiring discussion and analysis; that is the effect of the new Annex, with the identified glass exterior, on the Capitol Complex (i.e., the combined Historic Capitol, Capitol Park, Annex, and Insectary)."

Below are additional quotes from the Ruling supporting this conclusion:

"When the Final EIR disclosed the actual design of a glass curtain, the public was foreclosed from commenting meaningfully on the glass exterior's impact on the Capitol." (page 16)

"Whether the final EIR analyzed the glass design does not address whether the project description adequately provided the public a meaningful opportunity to comment on the project's impacts. (page 17)

"We do not think the public would infer from this paragraph that the new Annex's exterior would be a glass curtain." (page 18)

These quotes, and multiple other references to the glass exterior in the Ruling show the Court's focus on this element of the new Annex. Regarding the list of exterior design components provided in the comment, the terms architectural style, general design, general arrangement, texture, and mass do not appear anywhere in the ruling. The terms architectural style, building materials, windows, doors, light fixtures, signs, and color appear only as part of descriptions of the proposed project, as material repeated from the EIR, or in a context

not related to the new Annex (e.g., "...the use of posted warning signs and detour routes..." in the discussion of construction traffic). There is no evidence in the content of the Ruling that the broad definition of "exterior design" provided in the comment is consistent with the Court's intent.

However, as already identified above in Response O2-2, other features of the new Annex's exterior appearance were incorporated into the analysis of Impact 4.12-4, "Potential Impacts on Historic Architectural Resources" including the size, shape, and height of the new Annex. In addition, as directed by the Ruling, the Draft EIR evaluates the effects of light generated by the new Annex (see discussion of Impact 4.15-3: Introduction of New Sources of Light and Glare that Adversely Affect Day or Nighttime Views), which is a component of the new Annex's exterior appearance.

While the quote from the Draft REIR provided in Comment O2-3 regarding the focus on the glass exterior, as a summary statement, may not have captured all the nuance associated with the Draft REIR's analysis of appearance of the new Annex, other elements of the new Annex's appearance were utilized in the Draft REIR where needed to provide a thorough impact analysis, or to be responsive to the Ruling.

#### **Comment O2-5**

In addition, DGS must consider ways to create a "one-building" feel in order to meet the Secretary of Interior Standards (SOIS). To achieve this, DGS must consider and reduce the Annex building's design which includes size, height and appearance of the new Annex to create the "one-building" feel with the historic Capitol. DGS must consider public comments that show how this can be accomplished and still meet the project objectives.

#### **Response O2-5**

The topic of compliance with the SOIS is addressed in detail in Comment Letter I21. Please see responses to Letter I21, and in particular Responses I21-7 and I21-8. In addition, there is no criteria in the SOI Standards related to a "one-building" feel. This is a concept presented in the comment but is not included in the SOI Standards.

#### **Comment O2-6**

### **VISITOR CENTER**

**DRAFT REIR:** The draft REIR focuses only on the scenic view, and ignores impacts to the original topography and public uses of the west lawn. "This section provides supplemental information and analysis of the effects of the project views of the Historic Capitol from the west and night time light generation from the new Annex." (Draft REIR, page 1-4) (emphasis added)

The draft REIR states "CEQA Guidelines Section 15162(a) (3) defines new information as the following: (C) Mitigation measures or alternatives previously found not to be feasible and would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measures or alternative." There are alternative locations for the Visitor Center entrance that significantly lessen damage to the West Lawn and still meet the project's objectives, including having a separate entrance for the public to enter the historic Capitol.

#### **Response O2-6**

Impacts to the original topography of the West Lawn (i.e., Historic Landscape) are addressed in the 2020 Recirculated Draft EIR. See the discussion of Impact 4.12-4: Potential for Impacts on Historic Architectural Resources. Impacts to public uses of the West Lawn area are addressed in the 2019 Draft EIR. See the discussion of Impact 4.14-4: Increased Demand for Recreational Facilities. The Ruling finds no deficiencies in these analyses, other than the evaluation of visitor/welcome center alternatives to minimize significant adverse effects on the West Lawn. Please see Master Response discussing the legal principle of res judicata and why these topics need not be revisited in the REIR. An evaluation of alternative locations for the visitor/welcome center is provided in the Draft REIR, as suggested in the comment and as called for in the Ruling. See Draft REIR section 7.4, "Alternatives Selected for Detailed Analysis."

#### **Comment O2-7**

### **COURT RULING REQUIRES EVALUATION – AND FEASIBLE REDUCTION – OF IMPACTS TO HISTORIC RESOURCES:**

The ruling states:

"This case concerns significant impacts to a treasured historical resource, the historic Capitol. An obvious and key requirement for determining a project's impact on a historical resource is the project's appearance. (See *Preserve Poway v. City of Poway* (2016) 245 Cal.App.4th 560, 577 ["Courts have also recognized that aesthetic issues" to be considered and properly studied under CEQA "include impacts on public and private views *and on the historic character of the project site and surrounding area*"]. (Court Ruling, page 15). (emphasis added)

The court continues that the recirculated draft EIR states the new visitor center entrance and underground space "would create the most substantial change to the western entrance of the Capitol Building and the western blocks of Capitol Park since the building's completion in 1874. Construction of the new visitor/welcome center would alter historic features of the West Lawn landscape by interrupting the stepped terracing of the West Lawn the north/side aligned tree rows, the pedestrian circulation paths; altering the spatial organization of the West Lawn and related ratio of softscape and hardscape elements; and removing portions of the perimeter pathways and palm trees." (Court Ruling, page 21)

The court also notes that the recirculated draft EIR states: "The proposed project would introduce a large, modern intrusion into the historic landscape, which would eradicate over one-third of the West Lawn's character-defining features, such as historic circulation, portions of its vegetation, the spatial organization, and the topography. Therefore, this change would contribute to a significant impact on the historical resource." (Court ruling, pages 21-22)

It is state policy under CEQA "to [t]ake all action necessary to provide the people of this state with...enjoyment of aesthetic, natural, scenic, and historic environmental qualities." (Section 21001, subd. (b)) "*Aesthetic issues "include impacts on public and private views and on the historic character of the project site and surrounding area."* (*Preserve Poway v. City of Poway*, supra, 245 Cal.App.4th at 5. 577) page 39 (emphasis added)

"Here the *historic value of the State capitol complex*, the importance of the view of the west facade of the Historic Capitol and the importance of considering the *impact of aesthetic changes on both cannot be overstated*. Indeed, this value is reflected in statutes that govern Capitol area planning." Court ruling, page 39-40) (emphasis added)

#### **Response O2-7**

The comment correctly presents text from the Ruling, but does underline and italicize text for emphasis that is not underlined or italicized in the Ruling.

#### **Comment O2-8**

By focusing only on the scenic view, the draft REIR limits public comments to only this one impact created by the Visitor Center and allows DGS to determine that the Visitor Center has less than significant impact on the West Lawn. DGS continues to ignore ways to reduce impacts to the historic character of the West Lawn. The West Lawn is part of the original park and has been used by the public since 1870s for walking, celebrations, demonstrations, and political protests. While impacts to West Lawn are discussed under Alternative 5, DGS is able to identify problems that seem insurmountable for relocation to the south of the historic Capitol and adopt a finding that impacts were significant but unavoidable. DGS does not consider feasible designs to address identified barriers to relocating the Visitor Center to the south and avoid impacts to the historic West Lawn.

#### **Response O2-8**

There is no determination in the Draft REIR that the impact of the visitor/welcome center on the West Lawn is less than significant. The significant impact determination made in the 2021 EIR and repeated in the ruling as a quote from the 2021 EIR is still in effect. This impact analysis and significant conclusion is not repeated in the Draft REIR because the Ruling does not find any fault with this determination. The impact analysis in the Draft REIR focuses on scenic views as this is directly responsive to direction provided in the Ruling. The analysis of alternative locations for the visitor/welcome center provided in Section 7.4 of the Draft REIR does not identify the alternatives as infeasible or "insurmountable" but does identify environmental effects associated with these alternatives. The analysis of these alternatives does conclude, that when all environmental issue areas and impact mechanisms are considered together, the total environmental impacts of Alternatives 4 and 5 are similar to those of the proposed Project (i.e., visitor/welcome center located on the west side of the Historic Capitol). The comment suggests evaluation of other designs for the visitor/welcome center, but does not offer any information on what these alternative designs might be. Therefore, a response to this item cannot be provided.



**Comment O2-9**

The REIR must evaluate the impacts from the Visitor Center's building expansion and concrete entrance ramp which would eradicate over 35% of the west lawn (from L Street to N Street) and preclude the use of this original historic park.

**Response O2-9**

The proposed visitor/welcome center would not preclude the use of the West Lawn area, but would modify the areas available for use compared to current conditions. Please see Master Response 2 regarding use of the West Lawn area after project implementation.

**Comment O2-10****RELOCATION OF UNDERGROUND PARKING TO 12<sup>TH</sup> STREET**

**DRAFT REIR:** The draft states: "Under CEQA and other legal doctrines, including res judicata, DGS need not address comments on issues that were covered in the 2021 Final EIR and that were not overturned by the Ruling" (page 1).

**COURT RULING:** It is state policy under CEQA "to [t]ake all action necessary to provide the people of this state with...enjoyment of aesthetic, natural, scenic, and historic environmental qualities." (Section 21001, subd. (b)) *Aesthetic issues "include impacts on public and private views and on the historic character of the project site and surrounding area."* (Preserve Poway v. City of Poway, supra, 245 Cal.App.4th at 5. 577) page 39 (emphasis added)

**Response O2-10**

The comment correctly presents text from the Draft REIR and the Ruling, but does italicize text for emphasis that is not italicized in the Ruling.

**Comment O2-11**

The REIR ignores the fact that the public was unable to comment on the relocation of the underground parking garage to 12th Street in the Final EIR because it was added after the comment period closed. DGS must accept public comments on this new location and analyze alternatives that would reduce negative impacts to historic City palms and damage to historic project site. For example, the REIR has not considered a continuous underground tunnel from the Swing Building to the adjacent Legislative Office Building (LOB) and then to the new Annex. This would provide a continuous, safe passage from the Swing Building parking garage to the new Annex. This alternative was never considered even though an EIR appendix states that the LOB will have a tunnel to the Annex when it is renovated in the near future.

**Response O2-11**

The Ruling finds no deficiency in the analysis of the underground parking provided in the 2021 EIR. Therefore, there is no legal requirement for DGS to further evaluate this project element in the REIR. Please see Master Response 1 regarding the legal principle of res judicata. Multiple parking structure alternatives were considered in the original 2019 Draft EIR, including an alternative with no parking garage; an alternative with two separate, smaller underground parking structures, one on the north side of the Historic Capitol and one on the south side; and Alternative 3 includes a two level underground parking structure allowing for a smaller overall footprint. In addition, the inclusion of the 12<sup>th</sup> Street alignment underground parking in the Final EIR provides another alternative relative to the original proposal reflected in the Draft EIR and Recirculated Draft EIR. As stated in CEQA Guidelines section 15126.6(a), "An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation." The Ruling gives no indication that this standard has not been met in the 2021 EIR relative to the parking garage and that further alternatives must be analyzed.

Even though not required, an initial evaluation of the alternative suggested is provided. One method for constructing the suggested tunnel would be to dig a trench along the tunnel path, install the tunnel in the trench, and then refill the trench and restore the ground surface. In downtown Sacramento this would result in street closures, the cutting and repairing of utilities, and substantial ground disturbance, including the removal of trees along the tunnel path. The environmental effects and cost would be substantially more than the underground parking proposals contained within Capitol Park.

Another method would be to use a tunneling machine. For this construction method a trench is dug at the two tunnel endpoints of sufficient depth to intersect the desired tunnel depth. At one, or both endpoints a tunneling machine is installed in the trench. The tunneling machine then works underground and soil excavated by the machine is removed through the entry trench. Using this method would require excavation to a significant depth to avoid the tunneling machine damaging any existing underground utilities. A tunnel at this depth would require installation of an elevator at the tunnel entry points to allow those using the tunnel to reach it, and a method to address ongoing groundwater intrusion. The tunnel path suggested in the comment would require excavating a tunnel entry point trench inside the 10<sup>th</sup> and O office building (Swing Building), inside the LOB, and inside the basement of new Annex or the basement of the Historic Capitol. A tunneling machine would then need to be installed in the trench in at least one of these buildings, requiring either damage to these buildings to bring in such a large device, or assembly and disassembly of the machine in the building. Then a system would need to be installed to remove all soil excavated by the tunneling machine through the building and onto trucks. A method to delivery concrete and other materials to “finish” the tunnel would be required. Finally, an elevator would need to be installed at each tunnel entry point. This alternative would result in substantial disruption and damage to 10<sup>th</sup> and O office building, the LOB, and potentially the Historic Capitol. At one time a tunnel from the LOB to the Annex was considered by the State and the concept was quickly rejected based on cost and questionable feasibility.

#### **Comment O2-12**

I look forward to your broader analysis of the Capitol Annex Project as required by the Court ruling. We urge you to adopt revised project elements that reduce negative impacts to historic resources and can feasibly meet most project objectives.

#### **Response O2-12**

The concept expressed in this conclusory statement are addressed in the responses above.

### **Letter O3 Terra Nova Planning & Research**

Nicole Sauviat Criste  
June 14, 2023

#### **Comment O3-1**

We have been retained by Save Our Capitol! (SOC), an unincorporated association of concerned community members, to review and comment on the adequacy of the analysis contained in the Draft Revised Environmental Impact Report (EIR) for the Capitol Annex Project (SCH No. 2019049066) (Project).

Based on our thorough review of the document, and the requirements imposed by the Court of Appeal for the preparation of an adequate revised EIR, we conclude that the Department has not complied with the Court’s directives, and that the EIR is deficient under CEQA. Our detailed findings are provided below.

#### **Response O3-1**

DGS appreciates Terra Nova Planning & Research’s review and input on the Draft REIR on behalf of Save Our Capitol! The comment provides introductory remarks and an overview of subsequent detailed comments. Please see responses to the detailed comments below.

#### **Comment O3-2**

##### **The EIR’s Project Description Remains Inadequate**

The Court directed the Department to adequately describe the Annex building and its impact on the historic resource that is the Capitol. The Department, however, continues to obfuscate the components of the Project that affect the Capitol, including:

##### **Annex Design Has Once Again Changed**

The current revised EIR describes a “minor” change in the exterior design of the Annex building. However, the graphics clearly show a major change. The previous design, called out as “short pleats,” created the impression of

columns that were meant to echo the columns of the Capitol building, as described in the Final EIR. The Project description now characterizes “full pleats” for an undulating design that completely eliminates any effort at complementing the historic Capitol. The new design has no pleats, short or full. It is an undulating solid wall of glass. Yet the Project description and impact analysis continue to rely on the pleat concept in their discussions of the building’s compatibility with the historic Capitol. For example, the EIR relies on unsubstantiated opinion that “(t)he width and spacing of the glass pleats would be similar to those of the Historic Capitol columns.” (page 3-15)

### **Response O3-2**

DGS disagrees with the characterization that the change from short pleats to full pleats on the Annex exterior is a “major change.” As shown in the images provided in Figure 3-10 of the Draft REIR, there is not a substantial change in appearance between the new Annex design provided in the Final EIR and Draft Revised EIR. Section 3.4.6, “Adjustment to Pleated Glass Design” goes into this topic in detail and provides substantial evidence that for environmental issue areas not evaluated in the Draft EIR, there is no change in environmental effects from what was analyzed and disclosed in the Final EIR. For environmental issue areas addressed in the Draft REIR, the full pleat design is evaluated in detail, disclosing environmental effects to the public and decision makers. Providing further guidance on what may, or may not, be a “major change” is the Ruling, which identifies that “moving the underground parking garage from the south side to the east side of the Annex was not the type of changed project description that thwarted CEQA’s purposes.” (Page 15 of the Ruling). Just as moving the parking garage to the 12<sup>th</sup> Street alignment did not thwart CEQA’s purposes, the shift from short pleats to full pleats also does not. Finally, as shown in Figure 4.12-3 in the Draft REIR, the farthest outward facing peaks of the full pleats, highlighted by fritting in the glass, indicate column spacing. As also shown in Figure 4.12-3, the width and spacing of the vertical columns represented in the pleated glass design is similar to the width and spacing of columns on the exterior of the Historic Capitol. The multiple renderings of the new Annex provided in Chapter 3 of the Draft REIR, and in particular, Figure 3-10, further substantiate this conclusion.

### **Comment O3-3**

In addition, the Department provides Figure 3-5 as a visual simulation of the new Annex, which completely contradicts the assertions in all the versions of the EIR that the building will not be reflective and will not be a hazard to birds. The Project description states that only 25 to 35 percent of visible light will be reflected. However, as clearly depicted in the lower image of Figure 3-5, the building will completely reflect surrounding trees, despite the “fritting” pattern applied to its exterior. Yet the Project description continues to assert that fritting will obscure the glass: “Although fritting may be used throughout the glass surfacing of the new Annex,...more prominent fritting may be used on the outward projecting glass pleats to make the projections appear more ‘solid’ and pillar like...” (page 3-15) Instead, the fritting appears to result in a clear reflection of the surrounding landscape, as shown in Figure 3-5, and there is no question that the analysis in all of the versions of the EIR, and especially in the revised EIR, is not supported by the substantial evidence provided in Figure 3-5. Yet the Project description provides a conclusion and dismisses any further analysis at page 3-15: “Given the characteristics of the glass...there would be no concentrations of reflected light that would change air temperatures for pedestrians or nearby vegetation or be damaging to nearby vegetation.” Conclusions do not belong in a Project Description, but in the impacts analysis. The revised EIR improperly writes off potential impacts without supporting them with facts, and in this case contradicts itself with Figure 3-5.

### **Response O3-3**

The comment addresses one of two images provided in Figure 3-5, the lower image. Contrary to the first sentence of the comment, this image is a rendering rather than a visual simulation. A rendering is an entirely created image, whereas a visual simulation begins with a photograph of existing conditions then inserts rendered project elements into the photograph. The use of an existing condition photograph in a visual simulation allows a direct comparison between pre-project visual conditions and expected conditions with the proposed project in place. For example, the lower image in Figure 3-12 is a visual simulation. The images provided in Figure 3-5, and all similar images showing the new Annex, are renderings that are entirely created with no existing condition photograph as a basis.

In the same paragraph from page 3-15 of the Draft REIR cited in the comment is the following text:

“The appearance of the glass would change over the course of the day and season based on various conditions such as position of the sun, brightness of the sun, cloud cover, and whether the interior

occupant has the shades drawn or the lights on. Depending on the conditions, glass on some parts of the building could appear transparent while glass on other parts of the building may show a muted reflection of the surroundings.”

It is apparent that when the creator of the rendering provided as the bottom image in Figure 3-5 created that rendering, they chose to select conditions when portions of the new Annex surface would create a “muted reflection of the surroundings.” Although renderings are often intended to be accurate representations of conditions when a project is in place, there is latitude in the selection of details in the image. For example, in the two images shown in Figure 3-10, when the top image was created, it was not created specifically for use in the EIR. This rendering was intended to show a clear view of the buildings and not all trees that would be in place were shown to avoid obscuring the buildings. The lower image in Figure 3-10, and all other similar renderings of the new Annex in Chapter 3, were created specifically for the REIR and, as such, show a more realistic post-project view. However, there are still multiple decisions to be made by the image creator, such as the number and location of people to be inserted into the image. Similarly, a decision to be made when making each of these renderings was how to represent the reflectivity of the new Annex’s glass surface given the variability expressed in the quote from the Draft REIR provided above. While there is latitude in determining the specific content for these renderings, they are still useful and accurate tools for envisioning the appearance of the proposed project and supporting a CEQA impact analysis. Among the seven separate rendering images provided in Chapter 3 of the Draft REIR, the commenter only points to one, the bottom image in Figure 3-5, as showing a reflective surface. For the remaining six renderings, the rendering creators decided to show different ways the glass surface might look given the variability in appearance that is built into the project design. The creation of one project rendering among many that shows a “muted reflection of the surroundings” is not evidence that the project description or impact analysis in the Draft REIR is flawed.

Further information on the reflectivity and other characteristics of the new Annex and the lack of significant impacts to birds is provided in the 2021 Final EIR in Chapter 2, “Project Modifications.” Specifically see Section 2.3, “Evaluation of Project Modifications” and within Section 2.3, Section 2.3.11, “Biological Resources” and Section 2.3.13, “Aesthetics, Light, and Glare.”

#### **Comment O3-4**

The current EIR also discloses, for the first time, that “(c)orrugated metal panels behind the glass at the upper levels of the new Annex, in addition to the use of glass at the top of the parapet, would be used to make this top most area appear lighter and correspond to the characteristics in the Historic Capitol balustrade.” (page 3-15) This assertion is made without any supporting evidence, and without a visual simulation to demonstrate the effect. There is also no evidence or analysis in the impacts discussion of how corrugated metal could possibly duplicate the sky visible through the Capitol’s balustrade, or how it would make the building “appear lighter” or be compatible with the historic Capitol. Such an assertion without supporting facts is not allowed under CEQA, and demonstrates the Department’s continued obfuscation of the Project design, thwarting the public’s ability to consider the design and its impacts to the historic Capitol.

#### **Response O3-4**

The following text is provided on page 2-12 of the 2021 Final EIR:

“...the beginning of the top level of the Annex, demarcated by a small ledge surrounding the building, aligns with the beginning of the top level, or entablature, of the Historic Capitol. On the Historic Capitol there is latticework along much of the balustrade creating a lighter appearance. The sky can also be seen “behind” the balustrade through spaces in the latticework. Fritting or other modifications to the glass at the top most portion of the new Annex will be implemented to make this top most area appear lighter, and/or to provide views of the sky behind the glass, to correspond to the characteristics in the Historic Capitol balustrade.”

Provided below is an excerpt from the paragraph on page 3-15 of the Draft REIR quoted in the comment:

“...the top level of the Annex, demarcated by a small ledge surrounding the building, would align with the top level, or entablature, of the Historic Capitol. On the Historic Capitol there is latticework along much of the balustrade creating a lighter appearance. The sky can also be seen behind the balustrade through spaces in the latticework. Corrugated metal panels behind the glass

at the upper levels of the new Annex, in addition to the use of glass at the top of the parapet, would be used to make this top most area appear lighter and correspond to the characteristics in the Historic Capitol balustrade.”

The text from the two documents is almost identical, other than the “Fritting or other modifications to the glass” identified in the Final EIR to make “this top area appear lighter” has been clarified to be “Corrugated metal panels behind the glass.” The placement of material behind the glass at the top of the building (i.e., other modifications to the glass) to make the glass appear lighter is not new information. The renderings of the new Annex provided in Chapter 3 of the Draft REIR reflect this approach and show the effect that is expected to be achieved. The intent of the corrugated metal behind the glass is not intended to “duplicate the sky visible through the Capitol’s balustrade” (emphasis added) as asserted in the comment, but is intended to make this area “appear lighter and correspond to the characteristics in the Historic Capitol balustrade” as identified in the 2021 FEIR and the Draft REIR. The comment gives no evidence that this desired effect will not be achieved by the design put forward by the project architects.

#### **Comment O3-5**

Another error can be found in Figure 3-7. The caption under the top simulation states that the view is taken “Looking East Along North Side of Historic Capitol.” That is blatantly untrue. If the viewer were on the north side of the Capitol and facing east, the Capitol would be on the viewer’s right, not their left. Once again, the Department has misinformed the reader, and caused confusion instead of providing clarity.

#### **Response O3-5**

The comment is correct that there is an error in the caption text for the top image in Figure 3-7. The caption should read “...South Side of Historic Capitol” rather than the current “...North side of Historic Capitol.” This typographical error is correct in this Final REIR in Chapter 5, “Revisions to the Draft REIR.”

#### **Comment O3-6**

Given the substantial changes to the design and the increased impacts that result, the revised EIR should not have been limited to the subjects that the Court identified, but instead requires subsequent evaluation of all environmental impacts, as provided under CEQA Guidelines 15162. In this case, substantial changes in the Project will cause substantial increases in the potential impacts associated with glare and with bird strikes. The Department can no longer assert that it is only required to update the sections that the Court found inadequate. It must complete a comprehensive analysis of all of the impacts affected by this substantial change.

#### **Response O3-6**

See Responses O3-2, O3-3, and O3-4 addressing the minor nature of changes to the new Annex. These changes do not require modifications to the Draft REIR or subsequent analysis per CEQA Guidelines Section 15162. The evaluation provided in Draft EIR Section 3.4.6, “Adjustment to Pleated Glass Design” identifying that the small change in design does not alter past CEQA analyses provides substantial evidence supporting this conclusion. Section 3.4.6 directly addresses both bird strike risk and glare. The information provided in this comment, and previous comments, does not include evidence supporting the contention that further CEQA analysis is needed. Please also see Master Response 1 addressing the legal principle of res judicata.

#### **Comment O3-7**

##### **Visitor Center Description is Incorrect**

The EIR (page 2-4) claims that only “the safety railing and part of the skylight above ground level” would obstruct the view of the Capitol’s façade. Yet Figure 4.15-7b clearly shows that the top facia and walls of the visitor center are not only visible, but completely eliminate the sweeping view of the plaza and steps that currently present an important vista to the visiting public. As the Department has done throughout this process, it attempts to minimize the effects of so-called improvements and changes by providing opinion rather than fact or substantial evidence. Here, the substantial evidence appears later in the document, and refutes the Project description’s assertions. After release of the revised EIR, the Department added an Appendix C to the document, which provides different renderings of the visitor center which clearly show that the building’s structure will significantly block the sweeping view of the Capitol’s

plaza and obliterate the steps leading to the portico. Yet despite these much more specific visual simulations, the Project Description and analysis of the impacts in Section 4.15, Aesthetics, Light and Glare, has not changed. The analysis relies on Figure 3-12, taken at 9th Street, far from the plaza, which is at such a distance that nothing can be accurately analyzed, rather than using the third rendering in Appendix C, which clearly shows the mass of the visitor center structure. Please also see discussion of impact analysis of aesthetics below.

### **Response O3-7**

The excerpt from the Executive Summary of the Draft REIR provided in the comment is part of the following paragraph:

“The lower plaza and associated landscape modifications, the below grade visitor/welcome center, and the upper plaza and associated landscape modifications, would be designed to not visually detract from the Historic Capitol, and would maintain the west façade of the Historic Capitol as a focal point of Capitol Mall. The top of the visitor center roof (ground-level) would be even with, or just below, the base of the west portico steps to allow visibility of the Historic Capitol. The only visitor/welcome center elements that would extend above the base of the west portico steps would be the safety railing along the west edge of the upper plaza, elements of the skylight that extend above the ground surface, and fencing around emergency exits. Only the safety railing and parts of the skylight above ground level would obstruct views of the portico, and only the steps and small portion of the portico just above the base of the steps would be affected.”

Nowhere in this paragraph is the word “façade” used. In fact, the only occurrence of the word “façade” in Chapter 2 of the Draft REIR is in a description of the exterior of the new Annex. What this portion of the Draft REIR states is that “Only the safety railing and parts of the skylight above ground level would obstruct views of the portico,” (emphasis added). This statement is accurate and aligns with the visual simulation provided in Figure 4.15-7b. Figure 3.12 in the Draft REIR provides the same visual simulation images as Figure 4.15-7a and 4.15-7b. The only difference between these two sets of images is that the images in Figures 4.15-7a and 4.15-7b are presented in a larger format to make them easier to see and evaluate in the portion of the document where they are used to support the analysis of Impact 4.15-1: Adverse Effect on a Scenic Vista. The effects of the visitor/welcome center on views of the Historic Capitol, and the appearance of the West Lawn area to the west of the Historic Capitol are thoroughly disclosed in the Draft REIR through images and text in Chapter 3, “Project Description”; Section 4.15, “Aesthetics, Light, and Glare”, and Appendix C, “Visual Renderings of the Visitor Welcome Center.” The information provided in these sections is consistent, as described above.

### **Comment O3-8**

#### **Description of Affected Trees**

The trees surrounding the Capitol and existing Annex are integral to the site’s designation on the federal National Register of Historic Places, and therefore integral to an adequate project description. Yet in the Executive Summary and the Project Description, the Department continues to assert that the Project is “estimated” to affect 127 trees. What the Department fails to disclose is that trees surrounding the building have already been moved, and that this impact is now known and can be clearly quantified. The Project Description should have addressed the conditions of these plantings, as they directly affect the analysis of the impacts of the Project on the historic Capitol.

### **Response O3-8**

The 2021 EIR and Draft REIR provide an estimate of 127 total trees to be affected (i.e., relocated or removed) for the entire project. The Ruling found that 2021 EIR adequately analyzed the effects of the project on trees. (Ruling, *supra*, 87 Cal.App.5th at p. 685-688.) See Master Response 1 addressing the legal principle of res judicata. In addition, it is premature to assess whether more or fewer trees than the total anticipated have been relocated or removed as part of the single early phase of demolition of the Annex. Additional tree relocation or removal beyond what has been conducted to date may be required for construction of the new Annex, the underground parking, and the visitor/welcome center. However, there is no evidence that tree relocation or removal to date has diverged significantly from what was identified in the 2021 EIR and there is no evidence that any additional tree relocation or removal (if needed) would result in a new significant impact or a substantially more severe impact. Details on numbers of trees relocated or removed as part of ongoing Annex demolition activities do not affect the impact analysis or conclusions in the Draft REIR or the ability for the public to evaluate the Draft REIR. Also see Master Response 3 in Chapter 3 of this Final EIR.

**Comment O3-9**

Notably, a Senegal palm was located adjacent to the Capitol, and was to be crated and preserved. In February of 2022, it stood proudly next to the Capitol, as shown in the picture on the left. Shortly thereafter, it was crated. By April of 2022, it was dead, as shown on the right.

**Response O3-9**

Please see Master Response 3 regarding the relocation of trees.

**Comment O3-10**

Yet the EIR continues to rely on “estimates” of impacted trees (page 2-5 and Section 3.4.9), and future mitigation measures that require the preparation of a Landscape Treatment Report. The Project description should have incorporated the current conditions resulting from implementation of the relocation plan, in order to accurately describe how these changes will affect the fabric of the landscape surrounding the historic Capitol, and how the Mitigation Measure has failed to reduce the impact to trees to a less than significant level. Given the substantial evidence provided in the pictures above, Mitigation Measure 4.12-4d as implemented has not been sufficient to protect the plantings that surround the historic Capitol and support the fabric of the Capitol Complex and its historic designation. The revised EIR must correctly analyze the failure of this Mitigation Measure in relation to the impacts to the historic Capitol.

**Response O3-10**

Please see Master Response 3 in Chapter 3 of this Final EIR. The referenced report is under the jurisdiction of the JRC and the release of any material included in the report is at their discretion consistent with any applicable rules, regulations, and laws. Also see Master Response 1 regarding the legal principle of res judicata for an explanation of why general impacts to trees are not required to be addressed in the REIR.

**Comment O3-11**

In addition, the revised EIR continues to suggest that the Department does not yet know how many trees will need to be transplanted. EIR at page 2-5: “with some portion of these 56 trees anticipated to be identified for transplanting once the visitor/welcome center design advances...” Given the level of detail shown in Appendix C, how can there possibly be any question as to which trees will require transplanting because of the visitor center? The EIR must analyze these impacts based on the current condition: the completed design of the visitor center.

**Response O3-11**

Engineering and design plans for the visitor/welcome center are not complete. An arborist has not yet made a complete evaluation of which trees would be suitable for relocation (if any). Some trees may not be suitable for relocation due to size, health, or other factors. At this time, it would not be appropriate to utilize a visual rendering, as suggested, to make any final determination on the number of trees that would be relocated, or removed and replaced, as part of construction of the visitor/welcome center. However, environmental commitment EC-3, included in the MMRP, requires

that impacts to trees in Capitol Park will be minimized to the extent possible. Relocation of a tree results in less of an impact than removal; therefore, any trees suitable for relocation will be relocated. Also see Master Response 3.

### **Comment O3-12**

#### **Lighting**

The EIR states that lighting on and around the Capitol “would be the minimum necessary for security and safety of people and property” (page 2-5), but never provides any description of what type or how many fixtures will be installed, or any analysis to support that assertion. It is not possible for any reader to understand the scope of the Project’s lighting on the historic Capitol from either the Project description or the analysis.

### **Response O3-12**

See Master Response 1 addressing the legal principle of res judicata. The Draft EIR addresses the issues of project lighting required by the court and is not required to address other lighting issues (see Draft REIR Section 4.15).

### **Comment O3-13**

In the original and recirculated EIRs, the Department relied on two mitigation measures to resolve impacts to the historic landscape and the historic Capitol.

Mitigation Measure 4.12-4d requires the preparation of a Landscape Treatment Report to guide the removal, storage, preservation and relocation of plants and trees surrounding the historic Capitol. Since, as described above, plants and trees have clearly been moved, and at least in one case killed by implementation of the Project, the Landscape Treatment Report clearly failed to effectively implement the protection of important plants within the Project area. That analysis should have been provided in the current revised EIR, since it is a clear change in conditions that significantly impacts the historic fabric of the Capitol Complex. Yet the report, which existed at the time the revised EIR was circulated, was not included as an Appendix to the revised EIR, and was only shared by the Department after multiple Public Records Act requests from our colleagues at Public Accountability for our Capitol (PAC), 30 days after the release of the revised EIR. Once again, the Department has, counter to the Court’s directive, thwarted the public’s ability to fully analyze the impacts of the Project by withholding available information and analysis that is critical to a thorough understanding of the Project.

### **Response O3-13**

See Master Response 3 in Chapter 3 of this Final EIR. The referenced reports are under the jurisdiction of the JRC and the release of any material included in these reports is at their discretion consistent with any applicable rules, regulations, and laws. The commenter identifies no legal authority that requires the reports to be made publicly available in the manner they request. (See *El Morro Community Association v. California Dept. of Parks and Recreation* (2004) 122 Cal.App.4th 1341, 1354, fn. 5.)

### **Comment O3-14**

As it relates to the impact to the historic resource that is the Capitol, Mitigation Measure 4.12-4a is supposed to assure that an Existing Historic Structure Report will be updated to analyze the new Annex’s impacts on the historic Capitol. Since the Mitigation Measure states that the document will be updated, it can only be presumed that it existed at the time the original EIR was released. More significantly, since the design of the Annex building has clearly progressed beyond the “schematic” stage, that report must have been prepared, and must be provided to inform the public on how the Department determined that the design complied with the Secretary of the Interior’s Standards. This report is particularly critical since the current revised EIR does not detail, in any meaningful way, how the design of the new Annex is compatible with the existing historic Capitol, and does not explain how the design of the new Annex complies with the Secretary of the Interior’s Standards as they apply to additions and modifications to historic structures.

### **Response O3-14**

The Historic Structures Report has been completed and is under the jurisdiction of the JRC and the release of any material included in the report is at their discretion consistent with any applicable rules, regulations, and laws. The commenter identifies no legal authority that requires the report to be made publicly available in the manner they request. (See *El Morro Community Association v. California Dept. of Parks and Recreation* (2004) 122 Cal.App.4th 1341, 1354, fn. 5.) The report is being referenced by the design team as required by Mitigation Measure 4.12-4a.



**Comment O3-15****The Impact Analysis is Flawed and Does not Comply with the Court's Directives**

The revised EIR repeatedly cites the Court's Ruling, and claims that the Department has complied with it. However, as it relates to basic components of the analysis of impacts, the EIR fails. In the introduction to Section 4.12, Archaeological, Historical, and Tribal Resources, the revised EIR states that the "Ruling also addresses effects on the historic West Lawn from construction of the visitor/welcome center, but this issue arises in the context of the analysis of project alternatives, not the impact analysis." That statement is false. The Ruling states:

"Here, the historic value of the State Capitol Complex, the importance of the view of the west façade of the Historic Capitol, and the importance of considering the impact of aesthetic changes on both cannot be overstated."

The Ruling goes on to read:

"It is difficult to conceive of an instance where the nature of a project would dictate a greater degree of specificity and analysis of a project's visual impacts than this project with its significant effects on the Historic Capitol, the seat of state government. As stated earlier, a project's compatibility with a historical resource "is properly analyzed as an aesthetic impact."

Clearly, the Ruling directed the Department to analyze the effects of construction of the visitor center on the West Lawn, and the Annex on the historic resource that is the Capitol in the impact analysis, not only in the alternatives analysis.

**Response O3-15**

The full paragraph from the Draft REIR that the comment quotes from reads as follows:

The Ruling identifies one item related to the analysis of impacts on archaeological, historical, and Tribal cultural resources (i.e., Section 4.12 of the 2021 EIR) as requiring discussion and analysis; that is the effect of the new Annex, with the identified glass exterior, on the Capitol Complex (i.e., the combined Historic Capitol, Capitol Park, Annex, and Insectary). The Ruling also addresses effects on the historic West Lawn from construction of the visitor/welcome center, but this issue arises in the context of the analysis of project alternatives and not the impact analysis provided in Section 4.12. The issue of the West Lawn and project alternatives is addressed in Chapter 7, "Alternatives" of this REIR.

The paragraph in question, including the sentence quoted in the comment, is focused on the issue of impacts on archaeological, historical, and Tribal cultural resources. However, it is acknowledged that, taken in isolation, the quoted sentence can be interpreted to ignore the issue of aesthetic effects of the visitor/welcome center that the Ruling directs DGS to address; and that is addressed in Section 4.15, "Aesthetics, Light, and Glare" in the Draft REIR. To clarify the sentence quoted in the comment, the sentence is updated to read as follows:

The Ruling also addresses the minimization of effects on the historic West Lawn, as a contributor to the historic landscape, from construction of the visitor/welcome center, but this issue arises in the context of the analysis of project alternatives and not the impact analysis provided in Section 4.12.

See Chapter 5 of this Final EIR for documentation of this change.

**Comment O3-16****Analysis Contained in Section 4.12, Archaeological, Historical, and Tribal Resources is Insufficient**

As described above, the original EIR included Mitigation Measure 4.12-4a, requiring the updating of an Existing Historic Structure Report (HSR). That report was to be completed to Secretary of the Interior standards, and was to evaluate the impacts of the new Annex on the historic Capitol. That analysis should have been the basis for the discussion of impacts to the Capitol, and should have been appended to the current EIR. Instead, the EIR's "analysis" relies on prosaic descriptions of components of the new Annex which in the opinion of the writer make it compatible with the Capitol. The correct method of analysis would have been to use the analysis and presumed findings of the updated HSR to fully disclose the compatibility, or lack of compatibility, of the new Annex building based on the federal standards that govern the Capitol Complex's designation on the National Register of Historic Places.

**Response O3-16**

The analysis of Impact 4.12-4, "Potential for Impacts on Historical Architectural Resources," provides substantial evidence supporting the conclusion that the new Annex meets the SOIS for compatibility with the Historic Capitol. The comment provides no evidence that this analysis is deficient. Also see Response O3-14 and Response I21-7.

**Comment O3-17**

Our colleagues at PAC have been told by the Department that the updated HSR exists, but is in the possession of the Joint Committee on Rules (JRC), not the Department. The Department further directed PAC to request the document from the JRC. Although that request was made, the document has yet to be produced. Once again, the Department, and by extension the JRC, have failed not only in their analysis of impacts to the historic Capitol in the EIR, but also have failed to allow for a complete understanding by the public of the scope of the Annex project. The EIR represents:

"DGS and the JRC shall review and approve the HSR prior to the completion of schematic design and will use the HSR to guide the design of the Annex and ensure that the HSR's historic preservation objectives and treatment requirements for the Historic Capitol are incorporated into the design. DGS and the JRC may consult with staff preservation architects within the Architectural Review and Environmental Compliance Unit of the State Office of Historic Preservation for additional guidance as needed." (page 4.12-26)

As stated above, the document is complete, according to the Department, and must be the basis for the analysis of the impact of the Annex on the historic Capitol.

**Response O3-17**

Please see Response O3-14.

**Comment O3-18**

Similarly, and as described above, the Landscape Treatment Report, which is complete and was made available to our colleagues at PAC 30 days after release of the revised EIR, should have been used in an analysis of the impacts to the historic landscape surrounding the Capitol in the revised EIR. The Report required specific treatment programs to protect plants, which have failed miserably, as shown above, and also as evidenced by the downing of the Schwarzenegger tree and its poor recovery following that event. These are conditions that inform the current impact analysis, and cannot be ignored. If a Mitigation Measure proposed in the original Draft EIR has failed, it is the duty of the Department in this revised EIR to determine what additional or different mitigation measures are needed to protect the components of the historic Capitol Complex that have been damaged by these failed mitigation measures.

**Response O3-18**

Please see Master Response 3 in Chapter 3 of this Final EIR.

**Comment O3-19****Aesthetic Impact Analysis Does Not Address the Ruling's Directive**

Two aspects of the aesthetics analysis were required by the Court to be adequately analyzed in the revised EIR. The Court held that "(t)he aesthetics analysis of the project's impact on the Capitol Mall scenic vista and the Annex's generation of light due to the glass exterior did not satisfy the demands of CEQA."

In both cases, the revised EIR fails to meet the Court's requirements.

**Response O3-19**

The comment lists issues that are addressed in more detail in subsequent comments. See Responses O3-20 and O3-21 below.

**Comment O3-20**

As it relates to impacts of the visitor center on the vista that is the façade of the Capitol, the EIR describes the changes as minor, relying on Figures 4.15-a and b. However, the Figures depict the façade and visitor center from a distance of 600 feet, at 9th Street, where distance makes accurate views impossible. The analysis ignores the simulations in Appendix C, which clearly show the breadth of the elevated plaza and the mass and scale of the visitor

center from 10th Street (in the third image of Appendix C). In the Appendix, the visitor center obliterates the sweeping view of the Capitol's façade. It is clear from the contents of Appendix C, and the lack of analysis of this Appendix in Section 4.15, that the EIR has not analyzed a credible simulation, but rather relied on a Figure that is too distant to be effective. The analysis of the impacts of the visitor center on the scenic vista of the Capitol must be re-written to correctly assess the contents of Appendix C.

### **Response O3-20**

The analysis of views of the visitor welcome center from Capitol Mall in the Draft REIR, as well as the 2021 EIR, is provided in the discussion of Impact 4.15-1, "Adverse Effect on a Scenic Vista." As indicated in the title of this impact discussion, the analysis focuses on the threshold of significance of whether the project would "have a substantial adverse effect on a scenic vista." The only view that qualifies as a scenic vista in the project area is the view down Capitol Mall. This is disclosed in the 2021 EIR and the Draft EIR. The comment provides no evidence to question this analysis approach. Further analysis or visual simulations are not needed to make a thorough assessment of effects on the Capitol Mall scenic vista. The visual simulation provided in Figure 4.15-7b is an accurate representation of a ground level view of the visitor welcome center from the west, as directed by the Ruling. The fact that the visual simulation does not show conditions expected by the commenter does not call into question the simulation's accuracy. The images provided in Appendix C of the Draft REIR are renderings rather than simulations. Please see Response O3-3 for more information on the difference between a visual simulation and a rendering. The aerial view renderings provided in Appendix C rely on the same project design information as the visual simulation provided in Figure 4.15-7b. The aerial view renderings provided in Appendix C are consistent with, and do not contradict the ground level view simulation provided in Figure 4.15-7.

### **Comment O3-21**

As it relates to the impacts of lighting on the historic Capitol, the analysis provides opinion of the lighting impacts of the Annex on the east side of the Capitol and Capitol Park, but never even considers the impacts of a huge skylight on the façade of the Capitol. The discussion of lighting relies on broad statements such as:

"All interior and exterior lighting and fixtures would be selected based on architectural aesthetic, efficiency, maintenance, and glare control. The new visitor/welcome center would include some additional lighting at or near ground level and there could be limited elevated lighting attached to trees and directed at ground level. This lighting regime would be consistent with the existing lighting at the project site." (page 4.15-17)

There is no evidence, however, that these statements are true. Neither this revised EIR nor any of its predecessors provide a photometric plan, lighting locations, light fixture specifications or other facts to support the "analysis" in the revised EIR. Further, the EIR contains absolutely no analysis of the impact of light emanating through the large clear skylight (which is touted as providing a clear view of the Capitol dome for visitors) on the Capitol's portico or plaza. As shown in Figure 4.15-8, that location is currently very dark. Nowhere in Section 4.15 is the impact of light from the visitor center emanating through the skylight analyzed, with the exception of one sentence:

"Additionally, the proposed skylight above the visitor/welcome center would be a new source of light, as well as light seen through the visitor/welcome center doors when viewed from Capitol Mall. This additional lighting would be of less brightness/intensity than the existing lighting used to highlight the Historic Capitol and dome (described above) and would not detract from the prominence of those building elements."

There is no evidence provided to support this conclusion, and judging from Figure 4.15-8, no evidence that the statement is true. The inclusion of a clear skylight will emanate substantial light onto the portico and the plaza, and will change the character of the lighting on the west façade. Yet the revised EIR concludes, without evidence, that this is not the case, and no simulation of the skylight, comparing it to Figure 4.15-8, is provided either in that section, or in Appendix C. The EIR fails to adequately analyze the impacts of light and glare from the visitor center's major source of light.

### **Response O3-21**

The same text quoted from the Draft REIR quoted in the comment is included in the discussion of Impact 4.15-3 in the 2020 Recirculated Draft EIR. The Ruling calls for no corrective action regarding this part of the analysis of Impact

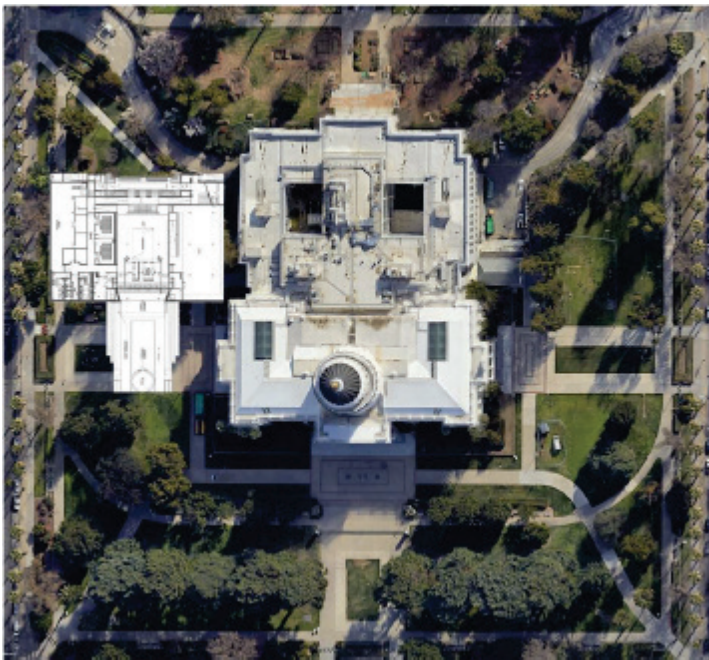
4.15-3. Therefore, per the legal principle of res judicata described in Master Response 1, this issue does not need to be considered further in the REIR.

### **Comment O3-22**

#### **The Added Alternatives are Doomed to Fail**

The revised EIR includes two new alternatives which locate the visitor center on the north and south side of the Capitol, respectively. However, the premise of both alternatives is infeasible: that the visitor center as designed cannot occur on these two sides because the space is too shallow. The only reason the space is too shallow is because the Department assumes that the visitor center would be turned 90 degrees, and oriented in a north-south direction. This assumption creates additional impacts manufactured by the Department to assure that the alternatives are not functional or feasible.

What the alternatives should have proposed, and what would fit both north and south of the Capitol, would be the design of the visitor center in its current east-west configuration, with its entrance in the same direction as currently planned, but north or south of the Capitol's façade, as shown below. This superimposition of the visitor center site plan from the EIR onto an aerial of the Capitol grounds clearly shows that the visitor center could comfortably fit, with its entry ramp to the north or south of the Capitol.



In both cases, there would be sufficient length for the ramps to fit as designed, and the balance of the visitor center would still occur underground. The only difference would be that access from the visitor center to the Capitol building would occur from the side of the relocated visitor center, rather than its rear. By shifting the visitor center to a north-south orientation, the Department assures that greater impacts would occur, and thereby dismisses the alternatives as infeasible. Once again, the Department has precluded the public from understanding and commenting on a credible alternative to the visitor center's location, contrary to the Court's direction. Conflicts with existing underground utilities identified in the analysis of Alternative 4 in the Draft REIR would also occur.

### **Response O3-22**

The Ruling specifically directs that feasible alternatives to the visitor/welcome center be considered, and the analysis of alternatives in the Draft REIR complies with this directive. The analysis of Alternatives 4 and 5 in the Draft REIR does not identify these alternatives as infeasible; the analysis of Alternatives 4 and 5 identifies the challenges of placing a visitor/welcome center design that duplicates the proposed project in these locations. Design modifications are then identified that would make a visitor/welcome center feasible in these locations.

As described in CEQA Guidelines Section 15126.6(a), "An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed

decision making and public participation.” The comment does not provide evidence that this standard has not been met. Regarding the alternative proposed in the comment, this configuration of the visitor/welcome center would result in the removal of the grove of redwoods immediately north of the existing Annex, including the moon tree. A line of four large redwoods north of the moon tree grove would also need to be removed. The alternative proposed in the comment would likely have greater overall environmental effects than Alternative 4 as analyzed in the Draft REIR. The alternatives analysis in the 2021 EIR and Draft REIR meet the requirements of CEQA and the Ruling. Further analysis of the alternative offered in the comment is not required.

### **Comment O3-23**

#### **Conclusion**

The Capitol Annex Project Revised EIR does not meet the basic requirements of CEQA for a comprehensive analysis of all Project impacts and a comprehensive mitigation plan. The EIR should be rewritten, incorporate the analysis required, and recirculated to allow all involved and interested in the Project to make an informed decision about its implementation.

### **Response O3-23**

The comment provides concluding remarks and an overview of the previous detailed comments. Please see responses to the detailed comments above.

## **Letter O4 Sacramento Chapter of Physicians for Social Responsibility**

Bill Durston, MD

June 14, 2023

### **Comment O4-1**

I'm sending this letter on behalf of the Sacramento Chapter of Physicians for Social Responsibility to express our opposition to the plan to completely demolish the existing Capitol Annex building and replace it with an entirely new structure.

### **Response O4-1**

DGS appreciates Sacramento Chapter of Physicians for Social Responsibility's review and input on the REIR. The comment does not address the analysis or conclusions in the REIR or the adequacy of the document. No further response is required.

### **Comment O4-2**

The existing Annex was built in 1952 and was carefully designed to blend architecturally with the original buildings built in 1874. The Annex has been accurately described as “an inseparable part of the Historic Capitol.” The proposed new annex building would be much larger and more luxurious than the old one and would have an exterior consisting almost entirely of glass panels attached to a steel frame, earning it the nickname, the “Crystal Palace.”<sup>i</sup> (I will refer to the plan completely demolish the existing Capitol Annex building and replace it with an entirely new structure as the “Crystal Palace Project” in the remainder of this letter.)

<sup>i</sup> The original “Crystal Palace” was an enormous glass and cast iron structure erected in London's Hyde Park for a world's fair in 1851. The event was touted as “The Great Exhibition of Works of Industry of All Nations,” and it was attended by six million visitors. Charles Dickens parodied the exhibition in his novel, Bleak House, in which he imagined “another Exhibition – for a great display of England's sins and negligences...this dark Exhibition of the bad results of our doings!” In Bleak House, Dickens described the squalid conditions under which many Londoners lived, not unlike the squalid living conditions of the homeless people in Sacramento who California legislators would be looking down upon from their own “Crystal Palace” if the proposed project comes to fruition.

### **Response O4-2**

The comment provides information on the existing Annex and remarks related to the use of the term “Crystal Palace” to describe the new Annex in the remainder of the comment letter. The comment does not address the analysis or conclusions in the REIR or the adequacy of the document. No further response is required.

**Comment O4-3**

As you know, the Crystal Palace Project plans also include removing or replanting approximately 25% of the trees in Capitol Park in order to make room for the new, larger annex building and a new underground parking garage; and much of this tree removal and/or replanting has already taken place. Also, for unknown reasons, the Crystal Palace Project plans also includes replacing the historic West Steps and adjoining plaza in front of the Capitol Dome with a "visitor's center." For more than a century, the West Steps and plaza have served as a venue for the citizens of California to peacefully and publicly exercise their First Amendment rights of freedom of speech, freedom of assembly, and freedom to petition the government for a redress of grievances. In recent years, PSR members have participated in numerous demonstrations and rallies on the West Steps and adjacent plaza.

**Response O4-3**

The comment provided background information that supports subsequent comments. See responses to comments below. No further response is required here.

**Comment O4-4**

We don't dispute the fact that the existing Annex needs renovation and modernization, but there's reasonable doubt as to whether the main movers behind the Crystal Palace Project – the Department of General Services and the legislature's Joint Rules Committee – ever seriously considered renovating the existing Annex instead of demolishing it and building an entirely new one. From just the point of view of preserving the urban forest in Capitol Park, we object to the fact that the Crystal Palace Project jeopardizes 25% of the trees in Capitol Park, some of which are over 100 years old and represent rare species gifted to California from other countries. From a broader environmental perspective, though, we agree with the position of the National Trust for Historic Preservation that renovating an existing building "is often less expensive, less disruptive, and less time-consuming than new construction;" and that "reuse avoids the significant carbon emissions that occur when materials for a new structure are mined, manufactured, transported, and assembled." The National Trust estimates that it may take up to 80 years "to overcome the carbon debt that is incurred when an existing structure is replaced, even if the new building is highly energy efficient."

**Response O4-4**

See Master Response 1 regarding the legal concept of res judicata for an explanation of why alternatives to the new Annex, such as renovation, and general impacts to trees are not required to be addressed in the REIR. Regarding the statement that the project would "...jeopardizes 25% of the trees in Capitol Park...;" an arborist report evaluating trees in Capitol Park prepared in 2019 states that there are "approximately 850 trees within Capitol Park." (Up A Tree Arborist Services 2019; see page 6). As stated in Section 3.4.9 of the Draft EIR, it is estimated that the proposed project will affect (i.e., relocate or remove) a total of 127 trees. Trees that are removed would be replaced in-kind by new trees within Capitol Park. The total number of trees in Capitol Park would remain the same. The proposed project does not come close to "jeopardizing" 25% of the trees in Capitol Park.

**Comment O4-5**

From the due process point of view, the way in which the Crystal Palace Project has been advanced suggests a deliberate attempt by the proponents of the project to avoid public scrutiny. For example, an exemption for the Crystal Palace Project to the requirement to get the approval of the State Historic Preservation Officer, which is required for all construction projects that would modify or destroy historic state structures, was passed late at night by the legislature as a rider to a budget bill with no opportunity for public comment. When the Historic State Capitol Commission, charged with preserving key historic elements of the State Capitol, tried to interview Capitol staff to determine the full extent of the proposed Crystal Palace Project, the Commission found that staff had been coerced into signing non-disclosure agreements. The Department of General Services (DGS) didn't reveal the final design of the visitor's center and the proposed new annex building until the opportunity for public comment had ended. A survey conducted by Save Our Capitol, a group opposing the Crystal Palace Project, found that once details of the project were revealed, 76% of members of California's general public who were informed about the project opposed it.

**Response O4-5**

Portions of the comment address actions taken by the legislature outside the CEQA process. These issues do not relate to the analysis or conclusions in the REIR or the adequacy of the document. No further response is required on these items. Similarly, results of surveys and polls outside the CEQA process require no further response. Unsupported assertions that, outside the CEQA process, Capitol staff had been “coerced into signing non-disclosure agreements” regarding the project likewise require no response. The comment is accurate in identifying that more design detail for the new Annex was provided in the 2021 Final EIR, after the comment period on the 2020 Recirculated Draft EIR had closed. This is addressed in the Ruling and rectified by distribution of the Draft REIR for public comment. However, the proposed design for the visitor/welcome center was included in the 2020 Recirculated Draft EIR and did not change in the Final EIR. Therefore, there was an opportunity for the public to comment on the visitor/welcome center design. Finally, Public Resources Code (PRC) sections 5024 and 5024.5, including any required coordination with the State Historic Preservation Officer (SHPO), do not apply to the Capitol Annex Project. Save Our Capitol! (Petitioner) litigated on the issue of project review by the SHPO. PRC sections 5024 and 5024.5 address SHPO coordination by State agencies. The Superior Court of the County of Sacramento ruled in favor of defendants (DGS and JRC) clarifying that JRC, the project proponent, is not a State agency. Furthermore, in the 2021-2022 Legislative session, Senate Bill 189 amended Government Code section 9112 to clarify that all work performed pursuant to that article was exempt from compliance with PRC sections 5024 and 5024.5.

**Comment O4-6**

Despite public opposition to the project and ongoing lawsuits, the DGS and the legislature’s Joint Rules Committee (JRC), chaired by former California Assembly Member Ken Cooley, proceeded with the project anyway. In November of 2021, members of the legislature and their staff began moving to a brand new 10 story state building – known as the “swing space” – a block away from the Capitol, constructed at a cost of \$424 million just for the purpose of the transition from the existing Annex to a new one. And early last year, the process of replanting trees in Capitol Park began. Although the demolition of the exterior of the existing Capitol Annex hasn’t started yet, a chain link fence has been placed around Annex and both the general public and opponents of the project have been barred from entering to see what if any demolition has already begun inside the building.

**Response O4-6**

The comment provides remarks related to the State office building at 10<sup>th</sup> and O street as well as details regarding initial Annex demolition activities; however, it does not provide specific comments on the analysis or conclusions in the Revised Draft EIR. No further response is required.

**Comment O4-7**

The lawsuits that were filed in opposition to the Crystal Palace Project were initially unsuccessful. Courts ruled in initial judgements that plaintiffs had not succeeded in proving that any laws had been violated. The Crystal Palace Project was officially put on hold, though, on December 6, 2022 when a three judge panel of the state’s Third Court of Appeals ruled that the DGS and JRC had not fully complied with CEQA in moving forward on the project. Specifically, the Court stated that DGS, “may have misled the public about the nature of the Annex’s design and adversely affected their ability to comment on it;” and furthermore, that “DGS’s method for selecting alternatives to be considered also thwarted informed decision-making and public participation on this project.” In a controversial and seemingly contradictory subsequent opinion issued in January of this year by the same three judge panel, however, the Court clarified that while construction of the new Annex could not move forward until CEQA requirements were met, demolition of the existing Annex could proceed. The Court’s reasoning for this apparent contradiction was that plaintiffs hadn’t proved that renovation of the existing Annex was a viable option. It’s important to note that the failure of plaintiffs to prove that renovating the existing Annex was a viable option is not equivalent to the DGS and JRC proving that they had fully considered this option before rejecting it.

**Response O4-7**

See Master Response 1 regarding the legal concept of res judicata for an explanation of why alternatives to the new Annex are not required to be addressed in the REIR. Also, the following statement quoted from the Ruling “DGS’s

method for selecting alternatives to be considered also thwarted informed decision-making and public participation on this project” is directed at the analysis of the visitor/welcome center and not the Annex.

#### **Comment O4-8**

In addition to the issues discussed above, we also opposed moving forward on the Crystal Palace Project for the following reasons:

- There is no urgency in renovating or rebuilding the Annex or in providing additional parking. Legislators and their staff already have a brand new 10 story office building to work in just a block away from the Capitol with plenty of onsite parking. It may be a bit more convenient in some regards for legislators and their staff to be headquartered in an annex directly connected to the main Capitol building, but it’s not essential. Most members of the U.S. Congress are headquartered in office buildings that are much farther away from the U.S. Capitol than the “swing building” is from the California State Capitol.

#### **Response O4-8**

The comment offers the ongoing use of the 10<sup>th</sup> and O Street office building as an alternative to a new Annex. See Master Response 1 regarding the legal concept of res judicata for an explanation of why alternatives to the new Annex are not required to be addressed in the REIR.

#### **Comment O4-9**

- A new model for office work of the type done by legislative staff has evolved since the Covid pandemic with much of this work being done outside of a formal office setting. If a new annex building on the scale of the planned Crystal Palace were built, it’s likely that much of the office space would be unoccupied most of the time.

#### **Response O4-9**

The comment provides remarks related to the merits of the project and conjecture regarding future demand for office space, The comment does not address the analysis or conclusions in the Draft REIR. No further response is required.

#### **Comment O4-10**

- The scope of any renovation or rebuilding project for the Capitol Annex should also take into consideration the fact that California is facing a projected \$22 billion budget deficit in the coming year and that there are many higher priorities than creating luxurious new offices for legislators and their staff. These priorities include, but are not limited to:
  - Providing housing and support services for the nearly 10,000 homeless persons in Sacramento and the more than 100,000 homeless persons in the rest of the state.
  - Providing adequate funding for public education. (California currently ranks 33rd in the nation in per student funding.)
  - Providing access to necessary medical care for all Californians. (It’s estimated that over 3 million Californians lack adequate health insurance.)

#### **Response O4-10**

Please see Master Responses 4, in Chapter 3 of this Final EIR.

#### **Comment O4-11**

In summary, we believe that the Crystal Palace Project should be put on an indefinite hold until our state legislators have thoroughly considered the more fiscally, socially, and environmentally responsible alternative of renovating the existing Capitol Annex.

#### **Response O4-11**

The comment provides conclusory remarks listing themes and topics provided in the previous comments. See responses to individual comments provided above.



## Letter O5 Public Accountability for Our Capitol

June 14, 2023

### Comment O5-1

The organization Public Accountability for our Capitol has created alternatives for analysis in finalizing the EIR and design of the Capitol Annex Project. The attached flyer notes how the PAC alternatives meet the Project Goals and have other additional benefits. Please review the flyer and if DGS does not agree that the Pac alternatives meet the Project Goals, please respond with the DGS reasons why not.

### CAPITOL ANNEX BUILDING ALTERNATIVE

#### Legislature's Plan



#### PAC Plan



### Response O5-1

The comment provides introductory remarks and includes two graphics showing a proposed alternative for the new Annex. Based on the images and the information provided in Comments O5-2 and O5-3, it appears that the offered alternative is intended to match the size and configuration of the proposed new Annex in many ways. The main difference is in the outside appearance of the new Annex, as shown in the provided image.

As described in CEQA Guidelines Section 15126.6(a), "An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation." The comment does not provide evidence that this criteria has not been met.

CEQA Guidelines Section 15126.6(b) states, "...the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effect of the project." Both the 2021 EIR and the Draft EIR identify no significant effects directly associated with the exterior appearance of the Annex as currently proposed. This comment letter provides no evidence challenging this conclusion. Although DGS appreciates the input provided by Public Accountability for our Capitol (PAC), this alternative need not be evaluated further in this EIR. Further comments are provided regarding this alternative and responses are provided below.

**Comment O5-2****LEGISLATURE'S PROJECT OBJECTIVES:**

- Provides accessible and safe environment for employees, elected officials and public.
- Provides meeting and office space of sufficient size to support performance of state business.
- Continues to provide Annex facilities directly adjacent to the Historic Capitol.
- Integrates new Annex with existing surroundings.

**Response O5-2**

Assuming that the suggested alternative to the proposed Annex provided in these comments would have the same interior facilities as the proposed Annex, then it appears that all the objectives listed in the comment would be met under this alternative.

**Comment O5-3****Public Alternative for our Capitol (PAC) ALTERNATIVE MEETS PROJECT OBJECTIVES ABOVE, PLUS:**

- Keeps 525,000 square feet of functional office and meeting space.
- Keeps the Double T building design so all offices have windows.
- Maintains same floor connections.
- Keeps Galleria entrance and view of 1870 Capitol dome, but reduces its width.
- Ensures Secretary of Interior's Standards met by using similar construction materials to historic Capitol and reducing Annex size.
- Incorporates historic Capitol's architectural rhythm of color, columns, windows to ensure integration of new Annex with existing surroundings.

**Response O5-3**

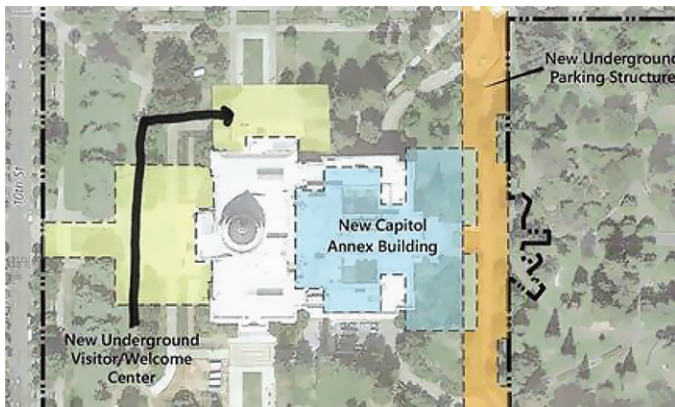
As the commenter created the suggested alternative, it is assumed that the information on the size, shape, and characteristics of the proposed structure are accurate. An evaluation of the interior configuration of the offices and other facilities would need to be conducted to evaluate whether all offices would have windows. It is clear from the images provided in Comment O5-1 that any offices with windows under the commenter's proposal would have less access to natural light than under the proposed project. A detailed analysis would be required to assess whether the proposal would meet SOIS; however, such an analysis need not be conducted as part of this REIR (see Response O5-1). Based on a very cursory evaluation it does not seem like the proposal incorporates columns as indicated in the last bullet item.

**Comment O5-4****VISITOR CENTER ALTERNATIVE**

## Legislature's Plan



## PAC Plan

**Response O5-4**

The comment includes two graphics provided by PAC that show the proposed project location of the Visitor/Welcome Center, located west of the Historic Capitol, and PAC's proposed location of the Visitor/Welcome Center, north of the Historic Capitol. The footprint of the PAC proposal is much smaller than the proposed project. These images support the subsequent comments regarding the visitor/welcome center. See responses to those comments below.

**Comment O5-5**

**LEGISLATURE'S PROJECT OBJECTIVE: Promote education, hospitality and a welcoming environment for the visiting public**

**Response O5-5**

The comment correctly represents one of the project objectives identified in the 2021 EIR and the Draft REIR.

**Comment O5-6**

**PAC ALTERNATIVE MEETS PROJECT OBJECTIVE ABOVE, PLUS:**

- Moves Visitor Center to north of historic Capitol and connects to basement.
- Similar 30,000 square feet for meeting rooms, displays, lectures to educate the public
- Separate entrance from Annex, with shorter ramp and recessed elevator.

- Entrance close to 10th Street so existing bus stops can be used.
- Keeps security area outside of Center to maintain security.
- Minimizes the Center's visibility above ground.

#### **Response O5-6**

Given the limited information provided in the comment letter, DGS cannot confirm that the visitor/welcome center alternative on the north side of the Historic Capitol identified in the comment can provide 30,000 square feet of facilities. It cannot be determined from the information provided where the "shorter ramp" would be located or where a "recessed elevator" would be located and how it would function. It is also unclear where a security area would be located if it would be feasible if it was "outside of the Center." If this alternative has an elevator and security is outside the visitor/welcome center, it is not clear how minimizing above ground visibility is achieved. As stated above in Response O5-1, "An EIR need not consider every conceivable alternative to a project." Evaluation of a visitor/welcome center alternative to the north of the Historic Capitol is included in the Draft REIR. Further evaluation of a variation on a north side visitor/welcome center alternative does not add to the consideration of "a reasonable range of potentially feasible alternatives" in the REIR.

#### **Comment O5-7**

##### **PAC ALTERNATIVE MEETS COURT'S RULING**

- Find an alternative that minimizes impacts to historic West Lawn
  - Eliminates all impacts to West Lawn by moving Center north of historic Capitol.
  - Eliminates a new structure to primary entrance of historic Capitol (west elevation).
  - Places Visitor Center underground.
  - Retains original park (West Lawn), pedestrian walkways and topography built at the same time as the historic 1870 Capitol.
  - Reduces need for 280 foot (length of football field) concrete ramp which eliminates 35% of West Lawn.
  - Eliminates need for upper terrace which blocks view of 1870s historic Capitol steps
  - Retains open space to continue large celebrations, protests, events, etc.

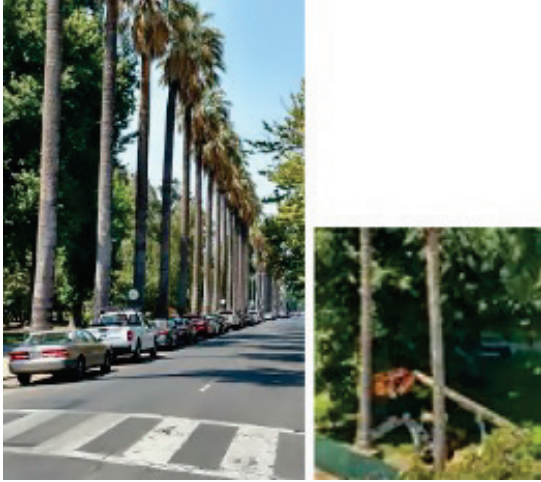
#### **Response O5-7**

Any alternative to the visitor/welcome center that is not located on the west side of the Historic Capitol would meet the criteria listed above. This includes Alternatives 4 and 5 evaluated in the Draft REIR. The comment does not provide new information not already included in the Draft REIR. Note that some places where these criteria imply certain characteristics of the proposed visitor/welcome center, they are incorrect. For example, in the discussion of Alternative 5 in the Draft REIR (Section 7.4.5) it is identified that the universal access ramp design for the west entry visitor/welcome center requires a minimum of 174.1 feet of space. This corresponds to the actual design length. There is no 280-foot concrete ramp proposed as part of the visitor/welcome center. In addition, nowhere in the 2021 EIR or the Draft EIR is there an estimate of 35% of the West Lawn being eliminated, nor any estimate of the percentage of West Lawn disturbance specifically connected to the proposed ramp or any other visitor/welcome center facility. No information is provided in the comment regarding how the provided estimate of disturbance/elimination percentage was derived.

#### **Comment O5-8**

##### **PARKING GARAGE ALTERNATIVE**

## Legislature's Plan Affects 43 Historic Palms



### PAC Plan Uses Existing Parking



**LEGISLATURE'S PROJECT OBJECTIVE:** Continue to provide secure parking for legislative and executive branch officials

### **PAC ALTERNATIVE MEETS PROJECT OBJECTIVE ABOVE, PLUS:**

- Current CAP proposal requires massive excavation east of the Annex for underground multi-level parking garage. This would require moving 43 California fan palms on L and N Streets surrounding the Capitol complex. These trees are over a century old. Experience moving other palms in the park show that survival of all the palms is extremely unlikely. The Capitol Annex Project work already completed has caused the death of numerous unique and historic trees.
- The existing paid-for swing space parking is steps away from the Capitol. This space is currently being used for legislative and executive branch officials. Traveling from this parking to the Annex/Capitol can be done on the sidewalk or by secure tunnel is a far less costly, less environmentally damaging alternative.
- Planning and budgeting for a future renovation of the Legislative Office Building (LOB) at 10th and N Streets already contemplates the tunnel from the Annex to the LOB. There are certainly numerous tunnels used for utilities under the Capitol Complex area.
- Using the Swing Space Building parking avoids the security risk of poison gas or explosive concealed in underground private vehicles immediately adjacent to the Annex building.
- The Appeals Court said in its ruling "The final EIR announced for the first time the new Annex's exterior design and the parking garage's new location."

**Response O5-8**

Regarding the first bullet item provided in the comment, the proposed project includes a single level of underground parking, not a “multi-level parking garage.” Also see Master Response 3 regarding effects to trees. Also, the relocation of perimeter palm trees was addressed in the 2021 EIR; see Master Response 1 regarding the legal principle of res judicata. Regarding the second bullet item, Comment O2-11 also presents a parking alternative involving a tunnel connecting the 10<sup>th</sup> and O Street office building to the Historic Capitol. See Response O2-11.

Addressing the third bullet item, any existing underground utility tunnels are designed and sized for that purpose. To modify those tunnels as regularly used passageways for movement of people would require a significant increase in size, installation of ventilation systems to support regular human use, and major modifications to allow safe passage adjacent to whatever utilities may be present (e.g., electrical, sewage, natural gas).

Addressing the fourth bullet item, the proposed underground parking has been designed in close coordination with the California Highway Patrol (CHP) staff responsible for security at the Capitol and the State Assembly and Senate Sergeant-at-Arms Departments. All security needs are adequately addressed in the proposed design and operation of the planned underground parking.

Addressing the last bullet item, the quote from the Ruling is accurate, but the comment does not identify that the sentence is from a section of the Ruling providing background information. The Ruling identifies no deficiencies in the 2021 EIR’s analysis of the underground parking or the analysis of alternatives related to the underground parking. Please see Response O2-11 and Master Response 1 on the legal issue of res judicata.

**Letter O6 Public Accountability for Our Capitol**

Karen Jacques  
June 15, 2023

**Comment O6-1****IRREVERSIBLE NEGATIVE IMPACT OF VISITOR CENTER ON HISTORIC RESOURCES**

The State Capitol is arguably the most important historic resource in California. The Visitor Center as currently proposed destroys the historic setting of the west (primary) facade of the 1874 Historic Capitol Building. The huge ramp that will run from street level at 10th St. to 20 ft below grade at the entrance to the Visitor Center obliterates the West Plaza, including the terracing that is part of the original landscaping of the Capitol. As the REIR states (4.12.4 pg. 70) “The Beaux Arts circulation and landscaping of the stepped terraces are character defining features of the West Lawn ....once constructed the new Visitor Center entrance and interior subterranean space would create the most substantial change to the western entrance of the Capitol Building and western blocks of Capitol Park since the buildings completion in 1874.” It also states (4.12.4 pg. 71) “Overall, the new Visitor Center would alter the historic landscape features of the West Lawn of the Capitol and reduce the ability of the resource to communicate its’ period of significance. The proposed project would introduce a large, modern intrusion into the historic landscape that would remove almost one third of the West Lawn’s character defining features, such as historic circulation, portions of its vegetation, the spatial organization and the topography”. There is no way to mitigate this. Why is this level of irreparable destruction even being considered? The people of California did not ask for this and do not deserve this.

**Response O6-1**

The comment accurately provides information from the analysis of Impact 4.12-4, “Potential for Impacts on Historic Architectural Resources” that is included in both the 2020 Recirculated Draft EIR and the current Draft REIR. Both documents identify Impact 4.12-4 as significant and unavoidable because there is no feasible mitigation to reduce the impact to a less than significant level. Effects on the West Lawn are identified as contributing to this significant and unavoidable impact. The comment does not provide information that contradicts information already provided in the 2020 Recirculated Draft EIR and the Draft REIR. The decision to include the visitor/welcome center as part of the proposed project is a policy decision made by the JRC, as the project proponent. See Master Response 4 for information on why policy decisions such as this are not part of the CEQA review process.

**Comment O6-2**

In addition to destroying the historic integrity of the west side of Capitol Park, locating the entrance to the Visitor Center below the Historic Capitol Building, drastically changes the appearance of its west (primary) facade. It is no longer the front of a beautiful 1874 building with stairs leading up to a grand portico and equally grand entrance doors. Instead, it is an 1874 building siting incongruously on top of the 21st century entrance to the Visitor Center, the flat roof of which has a large skylight in the center of it and expands out into what once was the Historic West Plaza. Looking east down Capitol Mall from several blocks away, a person probably can't see the ramp and below grade entrance to the Visitor Center so, from that distance, the visual impact may be "less than significant" as the REIR claims. But the closer a person gets, the more significant the visual impact of the Visitor Center becomes with its huge entry ramp, gaping entry space and large sign. The REIR (4.12.4 pg.74) describes it quite accurately as follows: "the lower plaza would create a void below grade level visible from nearby viewpoints and the safety railings and proposed skylight . . . would introduce visual interruptions at the Capitol". By the time a person walking east on Capitol Mall reaches 10th St. the impact of the Visitor Center would have gone from "less than significant" to character destroying. There is no mitigation for this kind of damage. An alternative that retains the historic integrity of the 1874 Capitol and Capitol Park absolutely must be found.

**Response O6-2**

The analysis of views of the visitor welcome center from Capitol Mall in the Draft REIR, as well as the 2021 EIR, is provided in the discussion of Impact 4.15-1, "Adverse Effect on a Scenic Vista." As indicated in the title of this impact discussion, the analysis focuses on the threshold of significance of whether the project would "have a substantial adverse effect on a scenic vista." The only view that qualifies as a scenic vista in the project area is the view down Capitol Mall. As identified in the Section 4.15.2, "Environmental Setting," of the 2019 Draft EIR, 2020 Recirculated Draft EIR, and the Draft REIR, "Long distance and undisturbed views along Capitol Mall are recognized as a scenic vista." Foreground or close-in views are not part of a scenic vista. The comment does not call into question this analysis approach. In addition, because this analysis approach of distinguishing between impacts on a scenic vista (Impact 4.15-1) and more general aesthetic effects that would include foreground views (Impact 4.15-2) was included in the 2021 EIR, and was not found to be deficient in the ruling, it is not available for further comment in this Revised EIR (see Master Response 1). In addition, the Ruling itself identifies that the need for additional information is related to the "scenic vista" and not foreground or other views; for example (emphasis added):

The visitor center, with its above-ground entrance ramps, open-air lower plaza, higher upper plaza, and a skylight and railings, and its modifications to the West Lawn's historic landscape will alter the **scenic vista** from Capitol Mall. Without a depiction of how the visitor center will alter the **scenic vista**, decision-makers and the public, those who did not participate in the EIR's preparation, were without sufficient information to understand and consider meaningfully the project's impact on the **vista**. (pages 41 and 42)

The aesthetics analysis of the project's impact on the Capitol Mall **scenic vista** and the Annex's generation of light due to the glass exterior did not satisfy the demands of CEQA (page 43).

The Ruling clearly directs the provision of additional information related to "scenic vista" views and not foreground views. Given these conditions, the comment does not provide information that calls into question the less than significant impact conclusion for Impact 4.15-1.

Impacts related to "historic integrity" resulting from the visitor/welcome center are addressed in the discussion of Impact 4.14-4 in the Recirculated Draft EIR and the Draft REIR as described above in Response O6-1. The requested alternatives to the visitor/welcome center location on the west side of the Historic Capitol are provided as Alternatives 4 and 5 in the Draft REIR.

**Comment O6-3****IRREVERSIBLE NEGATIVE IMPACT ON ABILITY OF THE PUBLIC TO GATHER AND EXERCISE FIRST AMENDMENT RIGHTS AT THE CAPITOL**

The West Plaza has been the site of historic demonstrations and other public events for decades. It is a symbol of free speech. Thousands of people have marched down Capitol Mall to the West Plaza to express their opinions and

concerns, to protest and to celebrate. Many speakers, including legislators and other elected officials have stood on the West Steps to address them. The Visitor Center will obliterate most of the space where they assembled. People cannot gather on the Visitor/Welcome Center entry ramp, nor can they gather in any significant number on the roof of the below grade Visitor Center which has a large skylight in the middle of it and doesn't even appear to be accessible from the west side of Capitol Park. The REIR doesn't address the loss of this important free speech gathering place where people have come for generations to petition our government. Former Assembly Member Ken Cooley, who was instrumental in planning the Annex Project, called the Capitol "The People's House" which begs the question, how can you have a "People's House" if the people lose their most important gathering space?

### **Response O6-3**

See Master Response 2 regarding use of the West Lawn area.

### **Comment O6-4**

#### **IMPACT ON TREES NOT ADEQUATELY DESCRIBED**

Page 48-49 of the REIR lists specific trees located near construction that are intended to be protected and saved. Most of the trees listed are trees located near other parts of the project but the list does include "four deodars" There are ten historic deodars on the west lawn of Capitol Park. Is the REIR referring to the four of these closest to the Visitor Center ramp, two on either side of it? What kind of protection will these trees receive so that they don't die like so many other trees have died since preparation for the Annex project began. The same section on trees says that 56 trees are slated for removal and that 32 of those are in the area of the Visitor/Welcome Center. Which specific trees are they? How large is the area from which trees will be removed because of Visitor Center construction? What will these losses do to shade and to people's experience of Capitol Park?

### **Response O6-4**

See Master Response 3 for information on project effects to trees, and in particular the first portion of the Master Response addressing the application of the principal of res judicata to effects on trees and effects from removal of trees. There are no pages 48 or 49 in the Draft REIR. This response assumes that the comment is referring to the sequence of pages as viewed as a .pdf file and that pages 48-49 equate to the discussion of trees in Section 3.4.9, "Landscaping, Lighting, and Memorials" on pages 3-23 and 3-24 of the Draft REIR. This text corresponds to text provided in Chapter 2 of the Final EIR, with some minor updates. Figure 2-9 in the Final EIR shows that the four deodar cedars referenced are the four trees closest to the visitor/welcome center, two to the north and two to the south. Not all the deodars in this part of Capitol Park are specifically referenced for protection because others are too far away from project activities to be adversely affected or in need of protection. Trees that are specifically identified for protection will be protected through implementation of ANSI A300 standards as identified in Section 3.4.9 of the Draft REIR. Regarding effects on trees related to the visitor/welcome center, as also identified in Section 3.4.9 of the Draft REIR, as well as the 2021 Final EIR, preparation of a detailed landscape plan for the visitor/welcome center will allow for a more accurate assessment of trees to be relocated and removed during construction of this project element. This landscaping plan has not yet been prepared, but will address all requirements provided in EIR mitigation measures and environmental commitments, such as meeting ANSI A300 standards.

### **Comment O6-5**

#### **INACCURACY OF MITIGATION MEASURES**

In the section of the REIR on mitigation measures, sub-section 4-12-4.d reference is made to working with the State Historic Capitol Commission. The Commission has not been meeting for some time because it lacks sufficient members for a quorum. Why is working with it on mitigation included in the REIR when it effectively no longer exists? Why was no effort made to work with it earlier in the planning process when it had a quorum and was meeting regularly? This failure led to the resignation of two Commission members because lack of requested material about the Annex Project let them unable to do their jobs.



**Response O6-5**

There is no mention of the State Historic Capitol Commission in Mitigation Measure 4.12-4d. For purposes of this response, it is assumed that the commenter is referring to the identification of the State Historic Capitol Commission in Mitigation Measure 4.12-4e. Mitigation Measure 4.12-4e reads as follows (reference to the State Historic Capitol Commission is underlined):

**Mitigation Measure 4.12-4e: Develop and Implement a Plan for Protection, Monitoring, and Repairs for Inadvertent Damage to the Historic Capitol Building**

Prior to commencement of any ground disturbing activities, DGS and the JRC shall oversee a SOIS qualified specialist team in the preparation of a Plan for the Protection, Monitoring, and Repair of Inadvertent Damage to the Historic Capitol Building. The plan shall be prepared by an interdisciplinary team, including (but not limited to) as appropriate, an architectural historian, architect, photographer, structural engineer, and acoustical engineer with expertise in ground-borne vibration. Protection measures would be developed in consultation with the Historic State Capitol Commission. The plan shall record existing conditions in order to (1) establish a baseline against which to compare the building's post-project condition, (2) to identify structural deficiencies that make the building vulnerable to project construction related damage, such as vibration, and (3) to identify stabilization or other measures required to avoid or minimize inadvertent impacts. The plan shall describe the protocols for documenting inadvertent damage (should it occur), and shall direct that inadvertent damage to historic properties shall be repaired in accordance with the Secretary of the Interior's (SOI) Standards for the Treatment of Historic Properties (U.S. Department of the Interior, 1995). DGS and the JRC will review and approve the plan for protection, monitoring, and repairs for inadvertent damage prior to the completion of design development.

When Mitigation Measure 4.12-4e was initially written, the Historic State Capitol Commission was meeting on a regular basis. Although it would have been ideal to have Commission input into the "Plan for the Protection, Monitoring, and Repair of Inadvertent Damage to the Historic Capitol Building," that input is not necessary in order to have an effective plan that meets the objectives of Mitigation Measure 4.12-4e. The performance criteria provided in the latter portion of the mitigation measure can be met by the participation of the "qualified specialist team" identified in the measure. The retention or removal of the reference to the Historic State Capitol Commission in Mitigation Measure 4.12-4e does not alter the effectiveness of the mitigation measure.

The JRC and their representatives are responsible for the preparation of the Plan for the Protection, Monitoring, and Repair of Inadvertent Damage to the Historic Capitol Building. How the timing of preparation of this plan or other actions by the JRC may have affected actions of State Historic Capitol Commission members is outside the scope of a CEQA analysis.

**Comment O6-6**

FAILURE TO PROVIDE CREDIBLE ALTERNATIVES FOR LOCATION OF VISITOR CENTER

The negative impacts the proposed Visitor Center will cause to Capitol Park and the west (primary) facade of the Historic 1874 Capitol Building can't be mitigated in a way that meets Secretary of Interior Standards and are unacceptable. If the Visitor Center is to be built, a less destructive alternative must be found. The REIR offered only two alternatives, both of which were problematic and both of which it rejected. No consideration was given to locating the Visitor Center under the new Annex Building or to entering and exiting in any way other than by ramp. Additional alternatives must be analyzed. Again, the people of California do not deserve this.

**Response O6-6**

The two alternative visitor/center locations evaluated in the Draft REIR, Alternatives 4 and 5, are not "rejected" in the Draft REIR. It is not a function of an EIR to reject feasible alternatives but to disclose the environmental effects of an alternative relative to the environmental effects of the proposed project. This is the approach taken in Draft REIR Section 7.4, "Alternatives Selected for Detailed Analysis." Also included in the Draft REIR are evaluations of a No Visitor/Welcome Center alternative, a Basement Visitor/Welcome Center Alternative (in the basement of the Historic Capitol), and a Visitor/Welcome Center East Entry alternative where the visitor/welcome center is located east of the new Annex. These evaluations repeat analysis of the same alternatives in the 2021 EIR with minor updates incorporated as necessary. These

alternatives were initially considered and then not evaluated further in the 2021 EIR and the Draft REIR for reasons described in these documents. The comment does not question the analysis or conclusions provided in these alternative discussions. The proposed visitor/welcome center in the 2019 Draft EIR provided entry via elevators and stairs rather than ramped entry. Therefore, a visitor/welcome center alternative without ramped entry has been completed.

As described in CEQA Guidelines Section 15126.6(a), “An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation.” The comment does not provide evidence that this criteria has not been met.

## **Letter O7 Save Our Capitol!, Public Accountability for Our Capitol, and Capitol Historic Preservation Society**

Maria Nicholas Kelly

June 15, 2023

### Comment O7-1

#### **Preserving the People’s Capitol**

##### *Mandates Requiring Historic Preservation of California’s Historic Capitol*

The People of the State of California, through their elected representatives in the Legislature, have demonstrated repeatedly, unequivocally, their desire that historically significant landmarks be preserved and protected. The Capitol Building—the most significant historical building in the State—has been the subject of special legislation designed specifically to preserve its integrity for future generations:

- The Historic State Capitol Commission, created for advisory review of any changes to the Capitol in order to preserve the original building and grounds;
- The California Constitution, Article 4, Section 28, which limits the Legislature’s ability to alter or modify certain historically restored portions of the State Capitol;
- State Historical Building Code (SHBC) containing special regulations for Health and Safety compliance.

### Response O7-1

The comment provides introductory text and background information does not provide input on the analysis or conclusions of the REIR. No further response is required.

### Comment O7-2

The importance of the historic California State Capitol was underscored by Lead Justice Harry E. Hull, Jr. at the November 14, 2022 hearing on Save Our Capitol!’s CEQA challenge to the Capitol Annex Project:

“We’re not dealing with an apartment complex or a shopping center here.

We’re dealing with the State Capitol. . . .

It doesn’t belong to the Legislature or the Executive. It belongs to the people of California.”

*Save Our Capitol! v. Dept. of Gen’l Servs., Case No. C096617* (Nov. 14, 2022).

Commenting on this case, Los Angeles Times political columnist George Skelton wrote:

“CEQA is often pesky and blatantly abused. But in this case, it’s a godsend.”

The state “didn’t truthfully describe” its “monstrous state Capitol construction project.”

The public was denied knowledge that the east wing replacement of the historic Annex “would have a glass exterior incompatible aesthetically” with the original granite Capitol.

No mention was made to the public that the west side, the historic site of protests, rallies, and major events of our time, “would be practically obliterated by installation of a visitors center.”

“The court voided the state’s approval of the project...and ordered...a new Environmental Impact Report with more candid details and to assess realistic alternatives.”

George Skelton, Column, “A costly project showed California politicians think they own the Capitol. A court reminded them they don’t.”  
Los Angeles Times (Dec. 11, 2022).

### **Response 07-2**

The comment provides statements from others supporting themes expressed in more detailed comments below. See responses below.

### **Comment 07-3**

For more than 50 years, CEQA has provided important safeguards for California’s natural and historical resources. The Environmental Impact Report (EIR), which is “the heart of CEQA,” serves as the “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.” *Sierra Club v. State Bd. of Forestry* (1994) 7 Cal.4th 1215, 1229. The EIR provides the public with “the information needed to make informed decisions, thus protecting ‘not only the environment but also informed self-government.’” *In re Bay-Delta Etc.* (2008) 43 Cal.4th 1143, 1162.

### **Response 07-3**

The comment provides information from CEQA court cases that support themes expressed in more detailed comments below. No further response is required.

### **Comment 07-4**

As George Skelton noted, CEQA is a “godsend” to citizens committed to protecting and preserving California’s historic Capitol in perpetuity. Because of CEQA and Save Our Capitol!’s lawsuit which is forcing DGS to comply with the law, the public now has another chance to challenge parts of the Capitol Annex Project.

“This case concerns significant impacts to a treasured historic resource, the historic Capitol,” wrote Justice Hull.

### **Response 07-4**

The comment provides background information and accurately quotes a statement from the Ruling. The comment does not provide input on the analysis or conclusions of the REIR. No further response is required.

### **Comment 07-5**

If the State’s project is built as proposed, it will negatively impact and radically alter the entire Capitol site—forever:

- Demolition by neglect on the East;
- Decimation by intent on the West;
- Damage or death during the decade ending 2023 of a minimum of 141 Capitol Park trees—approximately 30%—as a result of the Capitol Annex Project. This tree analysis is compiled by Paula Peper, Urban Ecologist, U.S. Forest Service retired, and member of the Historic State Capitol Commission who resigned April 2021 to protest government secrecy surrounding the Capitol Annex Project.

### **Response 07-5**

The comment provides generalized opinions regarding effects of the proposed project. The “damage or death” of 141 trees does not agree with the assessment provided on page 3-24 of the Draft REIR of 127 trees being affected by project activities, with 56 being removed and replaced 71 trees transplanted to new locations. The comment provides no evidence directed at the information or analysis provided in the Draft REIR. Please see Response O4-4 regarding the assertion that the project would affect 30% of Capitol Park trees.

**Comment 07-6**

Regrettably, from the start, the State has been peddling the false and misleading narrative that the Capitol Annex could not be rehabilitated and, instead, needed to be completely destroyed. The State simply refused to consider the feasible and financially responsible historic preservation alternative.

**Response 07-6**

The 2019 Draft EIR contains analysis of "Alternative 2: Capitol Annex Renovation Alternative." This would seem to qualify as a "historic preservation alternative."

**Comment 07-7**

Also horrifying is the proposed visitor center, which will destroy the most important façade of the Capitol—the main entrance which includes the West Lawn, West Plaza, and West Steps.

The west side of the Capitol is the designated site where large numbers of people are permitted peaceably to assemble, to celebrate, to protest, and to participate in self-governance.

It is the site most chosen by past Governors, and our current Governor, to take their oaths of office.

As currently proposed for the west side, a bizarre, complex design of the visitor center directs visitors down a 20-foot ramp underground facing a large glass skylight through which to view the Capitol dome.

**Response 07-7**

See Master Response 2 regarding use of the West Lawn area.

**Comment 07-8**

The iconic dome—beacon of democracy—is designed to be viewed from outside, freely and openly from all sides, rain or shine. The proposed design offers a view of our historic Capitol dome that is little better than viewing it on television.

**Response 07-8**

The comment provides a personal opinion on one element of the visitor/welcome center design and does not address environmental effects or other EIR related issues. No further response is required.

**Comment 07-9**

For the visitor center and the controversial new glass Annex, California taxpayers will have to pay upwards of \$1.2 billion.

**Response 07-9**

Please see Master Response 4.

**Comment 07-10**

The proposed visitor center should be re-located on the south side, or the north side, or underneath the final replacement of the historic Annex, leaving the west side to retain its historical significance.

**Response 07-10**

See Response 06-6 for a review of all visitor/welcome center alternatives that have been evaluated in the 2021 EIR and Draft REIR and an evaluation of the adequacy of that alternatives analysis.

**Comment 07-11**

The battle which citizens currently are waging to save our Capitol is about protecting the physical site of the east side Annex, the open, expansive historic West Lawn, West Plaza, and West Steps, and all trees throughout Capitol Park.

Save Our Capitol! also is dedicated to upholding the principles upon which our nation is founded and upon which self-government is to be preserved.

The following are three essential principles which speak to informed self-government.

The First Amendment in the Bill of Rights of our Constitution grants:

"Freedom of religion, freedom of speech, freedom of the press, the right peaceably to assemble, and to petition the government for redress of grievances."

U.S. Const., amend. I.

Another cornerstone of our heritage in self-governance is memorialized by President Abraham Lincoln at the dedication of the cemetery on the battlefield of Gettysburg during the Civil War:

"We here highly resolve . . . that this nation, under God, will have a new birth of freedom—and that government of the people, by the people, for the people shall not perish from the earth."

President Abraham Lincoln, Gettysburg Address (Nov. 19, 1863).

In addition, Dr. Carl G. Jung, pioneering Swiss physician and researcher into the nature of the human psyche maintained that—not the state—but . . .

. . . "the individual is the carrier of life. . ." and with that life is given "the eternal right to freedom and the equally eternal duty of individual responsibility."

C. G. Jung, author, *The Undiscovered Self*, at pp. 38-39 (©1957, 1958).

### **Response 07-11**

The comment provides an expression of Save Our Capitol's! motives for participating in the CEQA process. No further response is required.

### **Comment 07-12**

Each individual participant who has demonstrated at the Capitol to focus attention of the public, the media, and elected representatives on major issues of our time has hallowed this historic site.

It is the eleventh hour—not yet too late—for the people and elected representatives to work together to enforce existing constitutional and statutory mandates to preserve both the historic site and the historic principles upon which our form of self-government is built.

Once again, the words of Justice Hull speak to the imperative of the people's right to participate in self-governance at the people's Capitol. As the Court of Appeal, Third Appellate District emphasized in a published opinion, the California State Capitol

**"is truly the people's capitol."**

*Save Our Capitol! v. Dep't of Gen. Servs.* (2023) 87 Cal.App.5th 655, 676.

As both center of our working government and as symbol of the Great American Experiment in Freedom, the historic Capitol must be protected and preserved for the generations to come.

### **Response 07-12**

The comment continues to provide an expression of Save Our Capitol's! motives for participating in the CEQA process as well as expressing a desire to work with elected representatives regarding the project. These are issues outside the scope of an EIR. No further response is required.

### **Comment 07-13**

The Capitol and its incomparable Park, as listed in the California Register of Historical Resources and the National Register of Historic Places, has been deemed to be of singular historical significance.

It must remain a reflection of our architectural heritage and of our living legacy of freedom through self-governance.

It must not be decimated.

It must not be desecrated.

It must be defended.

**Response 07-13**

The comment provides generalized opinions regarding the value and treatment of Capitol Park. No further response is required.

**Comment 07-14**

**“The State Capitol . . .  
doesn’t belong to the  
Legislature or the Executive.  
It belongs to the  
People of California.”**

*—Court of Appeal, Third Appellate District, C096617  
November 14, 2022*



Photo by Stan Drury

This site has been hallowed by each individual who has demonstrated at the Capitol to focus the attention of the public, the media, and elected representatives on major issues important to all of California.



Photo by Neil Moura, Sactown Magazine

Both the 1952 East Wing Annex and the 1935 Tower Bridge were designed by State Architect Alfred W. Eichler. Both the Capitol and the Tower Bridge are today's symbols of Sacramento as the Capital City of California.

**Response 07-14**

The comment provides information and images regarding the State Capitol and the existing Annex. The material does not pertain to the analysis or conclusions of the REIR. No further response is required.

**Comment 07-15**



The historic East Wing Annex (at right) is consistent with the restored West Wing, allowing the Capitol Dome to remain preeminent.

**Response 07-15**

The comment provides a figure and text related to the Historic Capitol and existing annex (i.e., existing condition information). No further response is required.

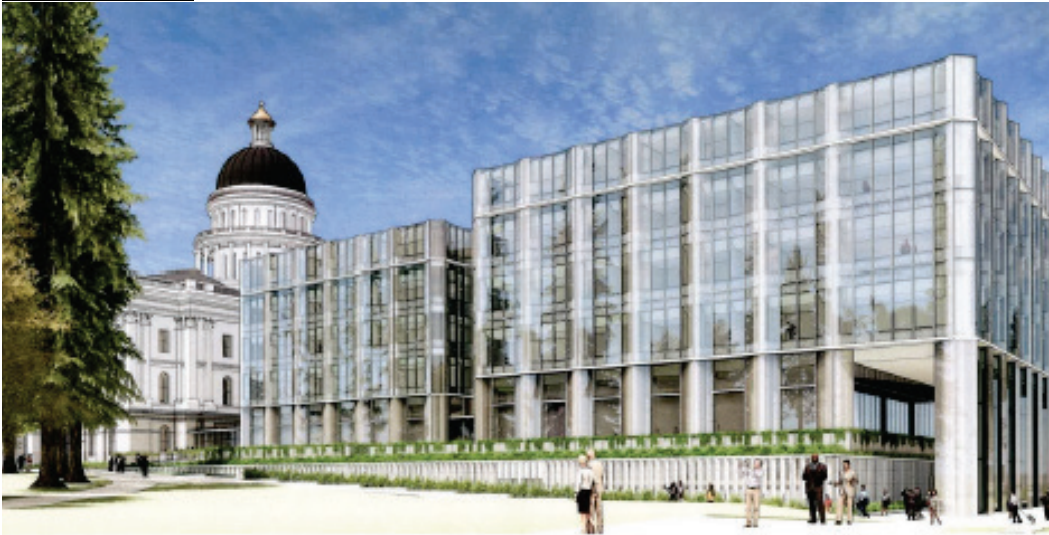
**Comment 07-16**

Photo by Steve Davis Media Services

For decades, the Legislature has failed to fund necessary repairs and maintenance and is responsible for demolition by neglect. The historic Annex could have been rehabilitated using the State Historical Building Code ("SHBC") to provide health and safety compliance.

**Response 07-16**

The comment addresses past actions by the Legislature that are outside the scope of the REIR. Also see Master Response 4. As stated previously, the 2019 Draft EIR included an evaluation of Alternative 2: Capitol Annex Renovation Alternative.

**Comment 07-17**

Rendering released by California Department of General Services, March 22, 2021

The Legislature's Capitol Annex Project overpowers the historic Capitol. Questions remain unanswered, including, "Where is the security assessment confirming that the proposed glass building would be safer than the historic stone Annex?"

**Response 07-17**

Evidence is not provided in the comment supporting the conclusion that the new Annex "overpowers" the Historic Capitol; nor are the characteristics that might provide this "overpowering" effect identified. See the evaluation of Impact 4.12-4 in the Draft REIR for an evaluation of the new Annex's compatibility with the Historic Capitol. The new Annex has been designed in close coordination with the CHP staff responsible for security at the Capitol and the State Assembly and Senate Sergeant-at-Arms Departments. All security needs are adequately addressed in the proposed design and operation of the planned Annex.



**Comment O7-18**

Photo by Stan Drury



Photo by Stan Drury

"The California Capitol building, including the mid-20th century East Wing, is indisputably the heart of a mile-long Capitol Historic District." Preservation Architect Mark Hulbert, October 8, 2021 Letter to Governor Gavin Newsom

**Response O7-18**

The comment includes a quote from preservation Architect Mark Hulbert, however, does not address the analysis or conclusions of the Draft REIR. The evaluation of historic architectural resources in the 2021 EIR and the Draft EIR identify a "Capitol Extension Group" and a "California State Government Building District". It is assumed that one or both of these districts equate to the "Capitol Historic District" identified in the quote as there were no comments on the 2019 Draft EIR or 2020 Recirculated Draft EIR identifying that an analysis of a "Capitol Historic District" was also required. The 2021 EIR and Draft REIR identify that the proposed project has a less than significant impact on the Capitol Extension Group and the California State Government Building District.

**Comment 07-19**

The west side of the Capitol is where Californians traditionally exercise our constitutional freedoms in large numbers, including the right peaceably to assemble, and to petition the government for redress of grievances.



Heroic events achieved and long remembered include the 340-mile march by farm workers led by Cesar Chavez from Delano, CA to the West Steps of the Capitol in 1966.

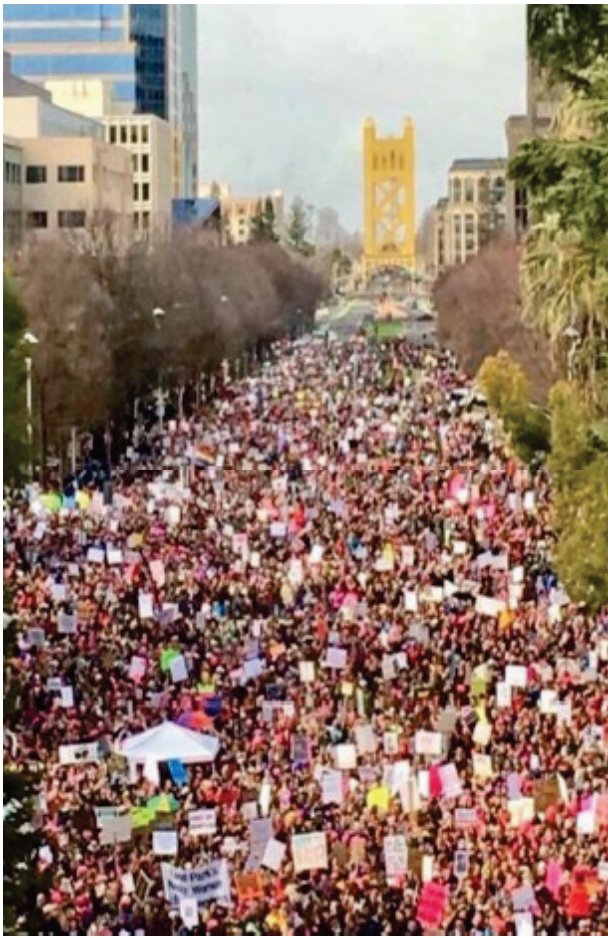


Photo by Margaret Morneau

The Women's March in 2017 was a world-wide event advocating for human rights, women's rights, and individual rights with responsibility. Participants filled most of the mall and the west entrance to the Capitol.

**Response 07-19**

Please see Master Response 2 in Chapter 3 of this Final REIR.

**Comment 07-20**

The construction of the Visitor Center on the west side will negatively impact the roots and ultimately the historic Deodora Cedars, planted in 1872 at the origination of Capitol Park.



Photo by Paula Pepper

**Response 07-20**

The 2021 EIR and Draft REIR identify the retention and protection of the deodar cedars near the visitor/welcome center. The comment provides no evidence that this commitment cannot be achieved. Also see Master Response 3.

**Comment 07-21**

The Court of Appeal, Third Appellate District, has ordered the State to provide more details about the impact of the proposed visitor center.

**Response 07-21**

The Ruling calls for providing a visual simulation of the visitor/welcome center as seen from a ground level view from the west, as well as an evaluation of feasible visitor/welcome center alternatives that minimize or avoid impacts to the West Lawn. Both these items are addressed in the Draft REIR.

**Comment 07-22**

Photo by Stan Drury

The west side of the Capitol is the site most chosen by past Governors, and our current Governor, to take their oaths of office.

**Response 07-22**

The comment provides information on an existing use of west side of the Historic Capitol. The comment does not address the analysis or conclusions of the Draft REIR. No further response is required.

**Comment O7-23**

Revisions to Capitol Annex Project Draft REIR rendering made by Public Accountability for Our Capitol May 2023

Renderings of the structure below ground and above ground present a major obstacle to the access and use by the public of the historic West Lawn, West Plaza, and West Steps.

**Response O7-23**

Please see Master Response 2. Note that the provided rendering was created by Public Accountability for Our Capitol. It is suggested that renderings and visual simulations provided in the Draft REIR be relied upon for visual expressions of the proposed project. As described in Response O3-3, there is latitude in what the creator of a rendering includes. For example, in this provided rendering, not all trees that would be retained are shown. However, with the absence of those trees existing concrete pathways that would lead to the upper plaza from the north and south would be visible, but are not included in this image.

## Letter O8 Trees for Sacramento

Kate Riley

June 15, 2023

### Comment O8-1

The 2021 FEIR on the Capitol Annex Project provided an estimated number of trees that will be affected by the Project. Trees affected include those that are removed, moved and transplanted, or protected in place. Since that document was published and the Project has begun, many trees have been affected by the Project. The elements of the Project being considered in this DREIR will affect additional trees.

### Response O8-1

Please see Master Response 3 in Chapter 3 of this Final REIR.

### Comment O8-2

In order for the public and decision-makers to understand fully the likely outcome of the Project on trees not yet affected, information on the outcomes on trees already affected by the Project is essential. For that reason, the following information for all trees affected by the Project up to the publication date of the Draft REIR should be made public.

#### **Data on Tree Outcomes from beginning of Project activities until May 2023**

Number of trees removed

Number of trees moved and transplanted

Number of trees protected in place

Of the trees moved and transplanted, how many trees have not survived? Of the trees protected in place, how many have not survived?

Total number of trees affected

Total number of trees that have not survived

### Response O8-2

Please see Master Response 3.

### Comment O8-3

Note that CEQA Guideline Section 15088.5 requires the lead agency "to recirculate an EIR prior to certification when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term 'information' can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not 'significant' unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement."

### Response O8-3

Please see Master Response 3.

### Comment O8-4

Other commenters have noted the extensive and profoundly damaging results of Project activities to this point on the trees surrounding the Project area. This includes damage and loss of a number of significant historical trees.

The tree survival data heretofore will indicate the likelihood of survival of historic Deodar Cedars that are adjacent to the proposed ramp into the Visitor Center. Those Cedars will have roots cut for the Visitor Center. Note that the Judge called for a more accurate rendering of the Visitor Center for public review. If the Cedars do not survive the proposed VC construction, that will have a major impact on the West Plaza in future.

We are requesting that the data from the prior project activities is made available, and that the EIR is recirculated after that data is made public for public review before certification of the DREIR.

Thank you for your attention to this CEQA-related question.

**Response O8-4**

Please see Master Response 3.

**Comment O8-5**

The Rules Committee, the Legislature, the Governor, and Department of General services do not own the Capitol and Capitol Park. Instead, you are stewards – caring for both during the time of your responsibility. The people of California own the Capitol and Park. As stewards, you have had an extraordinary responsibility during the Capitol Annex Project process.

**Response O8-5**

The comment addresses the broad concepts of the relationship between the government and the citizenry and the use of State property. These topics are outside the scope of an EIR.

**Comment O8-6**

Let's talk about your stewardship of the trees. The message from Californians in the CAP process has been clear: preserve the trees, they are irreplaceable. How has that message been put into practice? So far there is a striking pattern of poor practice in terms of tree mortality, tree care (following arborists' best practices, as outlined in ANSI standards), and complying with mitigation measures.

**Response O8-6**

Please see Master Response 3.

**Comment O8-7**

The 2021 FEIR on the Capitol Annex Project provided an estimated number of trees that would be affected by the Project, including trees (1) protected in place, (2) transplanted on site, (3) additional trees considered for transplanting – and otherwise to be removed, (4) removed and replaced with another tree, and, (5) City of Sacramento street trees.

Since the FEIR was certified on July 7, 2021, and the Project has begun, many trees have already been affected by the Project. Still more trees will be impacted as the Project continues.

A reasonable question to ask is: How have the trees fared to date? The answer to that question should provide key information to decision makers – and the public – as we consider the Draft Revised EIR

(DREIR). Earlier, we requested information about the status of all trees in the five categories described in the EIR ((1) protected in place, (2) transplanted on site, (3) additional trees considered for transplanting – and otherwise to be removed, (4) removed and replaced with another tree, and, (5) City of Sacramento street trees). We have not received any response to that request. We believe that information is crucial to a thoughtful analysis of the DREIR. We look forward to that information being provided.

**Response O8-7**

Please see Master Response 3. Information related to the ongoing implementation of the Annex demolition process is under the jurisdiction of the JRC and the release of any material related to that process is at their discretion consistent with any applicable rules, regulations, and laws.

**Comment O8-8**

In the meantime, we are deeply concerned that the Project sponsors have not met their own standards of care for the trees that have already been impacted by the Project. This raises concern about the other on-site trees. (See attached poster "A Pattern of Tree Mortality")

There is concerning observational and expert evidence; for example,

- "Of the first 15 trees relocated in early 2022, 6 have died—including the 5 Japanese Memorial Trees and one Senegal Palm. The non-cabled and -braced (violation of ANSI Standards) Schwarzenegger Oak fell over two



weeks after transplanting. The Schwarzenegger Oak is doing very poorly as is the saucer magnolia that was just east of the north kiosk and which was transplanted about 100 feet farther east from its original site.” – letter from Paula Peper to Stephanie Coleman, May 15, 2023

#### **Response O8-8**

Please see Master Response 3.

#### **Comment O8-9**

- “The five Japanese Memorial cherries [have been] replaced with only 3 trees, different cultivars from original” – letter from Paula Peper

#### **Response O8-9**

Please see Master Response 3.

#### **Comment O8-10**

- The EIR proclaims “even large palm trees may be transplanted with a high degree of success. Large palm trees are regularly transplanted as a part of new landscaping for businesses, restaurants, and other developments.” (EIR p. 3-13) Local expert data differs: experience in 2000 on the State Capitol East End Project showed that 118-year-old palms are very difficult to transplant. (See letter from Dan Pskowski, Trees for Sacramento, and former Sacramento City Arborist). Certainly years of drought as well as the aging process will make these trees even more vulnerable. “In fact, fewer than 50% of much smaller relocated palms have survived in Sacramento after relocation.” (Letter from Paula Peper).

#### **Response O8-10**

Information provided in this comment and other comments on the Draft REIR related to past challenges with relocation of palm trees have been conveyed to the JRC and their representatives. This information will be used to inform palm tree relocation efforts implemented as part of the Capitol Annex project. Arborists leading the palm tree relocation effort for the Capitol Annex project are aware of the challenges associated with this activity and are implementing best practices to maximize the survivorship of relocated trees. However, as described in more detail in Master Response 3, the 2021 EIR and the Draft REIR both identify the realistic potential for some trees to not survive relocation and provide monitoring and replacement protocols to address this event. DGS appreciates commenters providing detailed information on past palm tree relocation efforts in the project area in the event that arborists leading the Capitol Annex relocation efforts were not already aware of this information.

#### **Comment O8-11**

The survival of the transplanted palm trees and the historic Deodar Cedars adjacent to the proposed ramp into the Visitor Center is in question. As of June 13, 2023, there are signs that the already-transplanted California fan palms are dying (see attached photos). The Cedars will have roots cut for the Visitor Center, and may be subject to grade changes due to the Upper Plaza elevation change. Care of trees being moved has been extraordinarily inadequate. Overall quality of arborist care has been substandard.

#### **Response O8-11**

Please see Master Response 3.

#### **Comment O8-12**

These actions and comments show that project sponsors are undervaluing the remarkable trees that surround the Capitol. Follow-up maintenance of the transplanted trees has been inadequate. Overall quality of arborist care has been substandard. The mitigation measures established by the final EIR have not been followed.

The project sponsors can modify the project to provide better protection of the trees – especially the two Deodar Cedars adjacent to the Visitor Center ramp, in addition to the trees on the West Lawn and Palms on L Street and N Street that would need to be moved under the current Project plan. Locating the Visitor Center on the Capitol Lawn and the Parking Garage on the 12th Street right of way will endanger additional trees.

**Response O8-12**

Please see Master Response 3.

**Comment O8-13**

If trees already moved are not surviving, that can be seen as **significant new information**.

CEQA Guideline Section 15088.5 requires the lead agency “to recirculate an EIR prior to certification when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term ‘information’ can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not ‘significant’ unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project’s proponents have declined to implement.”

**Response O8-13**

Please see Master Response 3.

**Comment O8-14**

There are viable alternatives that will reduce negative impacts to historic resources:

- 1) Building the Visitor Center on the north or south side of the historic capitol would not disturb the Cedars, and would not lead to removal of additional trees including Palm Trees.
- 2) Retaining parking for Annex users in the Swing Space Building would not require the relocation of as many palms.

**Response O8-14**

Please see Response O6-6 for a review of all visitor/welcome center alternatives that have been evaluated in the 2021 EIR and Draft REIR and an evaluation of the adequacy of that alternatives analysis. Please see Master Response 1 regarding the legal principle of res judicata. The Ruling did not call for further evaluation of alternatives to the underground parking; therefore, this issue need not be addressed in this REIR. In addition, continued use of the parking at the 10<sup>th</sup> and O Street office building (the swing space) would generate security, operational, and logistical issues related to legislators moving between the Capitol and the 10<sup>th</sup> and O Street building on a permanent basis.

**Comment O8-15**

**We fully endorse and support the comment letter submitted by Paula Peper May 15, 2023, regarding the RDEIR.**

We urge you to adopt the proposal to build the Visitor Center away from the West Lawn, and the proposal to retain parking in the Swing Space Building for users of the Capitol Annex Building.

**You can’t bring back the trees that have been cut down. You can save many trees that remain.**

**Response O8-15**

The comment expresses an opinion regarding a preferred approach to project implementation and alternatives. No further response is required.

**Comment 08-16**

**IMAGES OF TREE FAILURES AND ENDANGERED TREES**



PHOTOS FROM THE FIRST GROUP OF CALIFORNIA FAN PALMS ALONG N STREET TRANSPLANTED AROUND MAY 22, 2023 (photos taken week of June 11, 2023)



**Response O8-16**

Please see Master Response 3.

**Comment O8-17**

I was a Sacramento City Arborist for 29.5 years before retiring in April 2020. I am deeply concerned about the relocation of 40, California fan palms (*Washingtonia filifera*) and 3, Mexican fan palms (*Washingtonia robusta*). These palms are in the park strip between the curb and the sidewalk along L Street and N Street. This palm relocation is for the entry and exit ramps on L Street and N Street to access the underground parking for the new annex building. The existing underground parking at the State Capitol had two driveways that cars used to enter and exit. The driveway on L Street was 27-foot wide. The proposed ramps are 627-foot long. The existing driveway system should be incorporated into this project and not the proposed entry and exit ramps.

**Response O8-17**

This comment is the first of a comment letter from a different author attached to the Trees for Sacramento comment letter. The comment is an introductory statement expressing the qualifications of the commenter and providing information regarding palm trees on the project site. The comment also suggests an alternative configuration for the underground parking entry/exit. Please see Master Response 1 regarding the legal principle of res judicata. The Ruling did not call for further evaluation of alternatives to the underground parking; therefore, this issue need not be addressed in this REIR.

**Comment O8-18**

These palms should not be relocated for the following reasons.

- This new entry and exit ramp proposal will destroy the integrity and intent of the original Capitol design. These 141-year-old, 50- to 65-foot-tall palms are like Greek and Roman columns which were symbols of power and agelessness. These palms are the sentinels for the fourteen city blocks that surround the State Capitol and Capitol Park. They provide an important separation for pedestrians from parked cars and the street traffic (Figure 1). Hundreds of downtown employees walk around Capitol Park during their lunch break. Downtown residents also take advantage of walking or jogging along this outdoor corridor.

**Response O8-18**

Effects on trees contributing to the historic landscape of Capitol Park is addressed in the discussion of Impact 4.12-4 in the 2021 EIR and the Draft REIR. See Master Response 1 regarding the legal principle of res judicata for an explanation of why project effects on Capitol Park recreational opportunities and operations are not required to be addressed in the REIR.

**Comment O8-19**

- This new ramp proposal will result in the permanent loss of over 45 on-street downtown parking spaces with no plan to replace them.

**Response O8-19**

Parking spaces that will be affected by the proposed project are under the jurisdiction of the City of Sacramento. The JRC and their representatives have been and will continue to work closely with the City of Sacramento regarding any losses of parking spaces attributable to the Capitol Annex project and compensation for these losses. The loss of parking spaces itself is not a physical effect on the environment that must be addressed in a CEQA document. The comment does not tie the loss of parking to a physical environmental effect.

**Comment O8-20**

- Stability and survivability are why these palms should not be relocated. Due to the soil type the root ball is smaller than what is required to support the palms that are currently being transplanted (Figure 2). This poses a substantial risk of the palm falling during winds greater than 25 MPH. These palms are 141 years old and do not have the vitality to withstand root loss due to relocation. The palms that were transplanted just last week are showing signs of stress (Figure 3).

**Response O8-20**

Please see Response O8-10.

**Comment O8-21**

I have experience transplanting palms at this site. In May 2000, during the demolition for the State of California East End project, a row of ten, 40- to 48-foot-tall CA fan palms in the city park strip were slated for removal. The idea of relocating them was explored. Mark Robinson of MTR Horticulture, a palm expert from southern California, indicated it was feasible and wrote up transplanting specifications. The Department of General Services agreed to transplant these ten city CA fan palms to fill in gaps along the streets around the State Capitol and Capitol Park. Mark Robinson was hired to oversee this relocation project. Due to the Columbia fine silt loam soil which resulted in very little horizontal rooting, the recommended root ball size of 10 ft long by 7 ft. wide by 6 ft. depth was reduced to 8 ft. by 6.5 ft. wide and 6 ft. deep. This reduction in size meant less weight to hold the palm in the ground. The downward rooting structure also resulted in the death of the first two palms that were transplanted. This was a result of strap damage caused by the crane trying to break the roots. This resulted in a modification on how the palms were dug for relocation. This reduction in root ball soil volume would affect the stability of the palms during high winds until new roots developed in the surrounding soil to properly anchor them. Working with the Capitol Park arborist we put in place a plan to address the risk of a palm listing or falling over. Since the transplanted palms were installed between existing ones a support system could be installed from the existing adjacent palms. The palms were monitored for 5 years when winds exceeded 20 MPH.

There were also health issues with these palms. Shortly after they were transplanted the tied-up heads had completely fallen over which was caused by loss of turgor pressure in the vascular system of the fronds. Wooden stakes were put in place to maintain the heads upright. A drip irrigation system was installed around the base of the palms. A PVC tube had been placed in the planting pit to carefully monitor the watering and to ensure the bottom of the planting pit did not start filling up with water.

**Response O8-21**

Please see Response O8-10. In addition, the 5-years of monitoring of relocated trees called for in the 2021 EIR and the Draft REIR (see Master Response 3) aligns with the 5-years of monitoring identified in the comment

**Comment O8-22****Related questions:**

1. Since these palms are city property and they will be relocated onto State of California property, shouldn't the State of California reimburse the City of Sacramento for the appraised value of the 43 palms?

2. Since the proposed ramps will result in the permanent loss of on street parking spaces, shouldn't the State of California reimburse the City of Sacramento for the loss of parking revenue?

**Response O8-22**

The act of completing financial or real estate transactions for the transfer of materials or property do not result in a physical change in the environment and are therefore outside the scope of a CEQA document. However, as identified in Master Response 3, for many of the perimeter palms that have been relocated to date, the land the trees were located on was transferred to the State from the City of Sacramento in a real estate transaction prior to the trees being moved. Therefore, the State had ownership of these trees prior to relocation. The JRC and their representatives have been coordinating closely with the City of Sacramento on multiple items and any compensation to the City is being resolved through this coordination.

See Response O8-19 regarding the loss of parking spaces.

**Comment O8-23**

Additional plant survival concern:

The proposed visitor center will have a negative impact on the two deodar cedars (*Cedrus deodara*) which measure 60 and 65 inches in diameter respectively. The plan indicates there will be a soil cut within the dripline of these two cedars. A scaled drawing should be reviewed and approved by an ISA certified arborist with construction experience before this plan is approved and executed.

**Response O8-23**

The JRC and their representatives have arborists under contract advising and directly tree protection activities. Also see Master Response 3. As stated near the beginning of Master Response 3, the effects on trees in Capitol Park were analyzed and disclosed in the 2021 EIR. The Ruling found no deficiencies in the analysis of trees in the 2021 EIR. Therefore, per the legal principle of res judicata described in Master Response 1, the REIR is not required to revisit environmental effects related to trees as part of project implementation.

Comment 08-24



Figure 1



Figure 2





Figure 3

**Response O8-24**

Please see Master Response 3.

## Letter O9 Trees for Sacramento

Kate Riley

June 15, 2023

### Comment O9-1

**CEQA Comment re Trees especially with respect to Mitigation Measures in various CEQA documents for the Capitol Annex Project**

One of the mitigation measures in the EIR is that ANSI standards will be followed (Appendix C):

"American National Standards Institute (ANSI) 300A tree protection standards would be implemented to protect trees that are retained within the construction activity area." (Findings of Fact and Statement of Overriding Considerations for the Capitol Annex Project, p. 5, Appendix A Mitigation Measure Implementation Plan p A-14). 1)

Another commitment in MMIP is "As part of the design and construction of the Project, disturbance of the perimeter palm trees will be minimized to the extent possible." MMIP p. A-14.

There are issues both with the construction of and the enforcement of these mitigation measures. We believe the project sponsors have not constructed adequate mitigation measures, nor have they enforced the existing measures. This lack of compliance will have a major significant impact on the outcome of the Project.

### Response O9-1

Please see Master Response 3 in Chapter 3 of this Final REIR.

### Comment O9-2

#### **Question:**

Will project sponsors and contractors demonstrate their commitment to the CEQA process by correcting the pattern of neglect and mistreatment that has been shown thus far with respect to the trees which are a crucial part of the Historic Landscape of the Capitol?

### Response O9-2

Please see Master Response 3.

### Comment O9-3

#### **Re Trees in Project Area**

- 1) "American National Standards Institute (ANSI) 300A tree protection standards would be implemented to protect trees that are retained within the construction activity area." (Findings of Fact and Statement of Overriding Considerations for the Capitol Annex Project, p. 5, Appendix A Mitigation Measure Implementation Plan p A-14).

### Response O9-3

The comment correctly expresses the commitment to implementing ANSI A300 standards.

### Comment O9-4

#### **Questions:**

- 1) What is the specific performance standard that is enforceable for this measure?
- 2) How will this measure be monitored and enforced?
- 3) Observers of the project have documented numerous violations of this measure to date (see letters from Paula Peper and Dan Pskowski for examples), but have no recourse for correction.

### Response O9-4

The performance standard is provided by the ANSI A300 standards. The published ANSI A300 standards are being implemented and compliance with the ANSI A300 standards is being monitored and enforced by the JRC and its

representatives. DGS is tracking compliance as part of implementation of the adopted MMRP. Also see Master Response 3.

#### **Comment O9-5**

- 4) Shouldn't project sponsors provide the following information for all trees in the project area:
  - a. Current status (e.g., healthy, not healthy, in place or relocated; if relocated, where?)
  - b. Which trees are yet to be moved or removed?

#### **Response O9-5**

Various reports and data associated with project implementation are under the jurisdiction of the JRC. Release of any of these materials is at the JRC's discretion consistent with any applicable rules, regulations, and laws. Also see Master Response 3.

#### **Comment O9-6**

##### **Re Palm trees**

- 1) The FEIR declares "As part of the design and construction of the Project, disturbance of the perimeter palm trees will be minimized to the extent possible." The criterion "minimized to the extent possible" is undefined, not capable of enforcement, and lacks a specific performance measure. "Minimized to the extent possible" does not mitigate for the project impact on the tree resource of the park, the city's investment in street trees surrounding the park, and the function of those trees to shade pedestrian use of the sidewalk.

#### **Response O9-6**

See Master Response 3. In addition, the definition of mitigation in CEQA Guidelines Section 15370 includes "Minimizing impacts by limiting the degree or magnitude of the action and its implementation." Therefore, "minimizing to the extent possible" does qualify as mitigation under CEQA. However, as the comment points out, this statement does not provide a performance measure, therefore an EIR should not rely solely on a measure such as this to reach a less than significant impact conclusion. This is the approach taken in the 2021 EIR and the Draft REIR. These documents rely on a comprehensive suite of mitigation measures and ECs focused on the protection of trees. Minimizing disturbance "to the extent possible" is one contributing element to multiple commitments directed towards the protection of trees in Capitol Park.

#### **Comment O9-7**

- 2) The EIR fails to establish that demolition cannot be accomplished without relocating palms, yet the Department is relocating palms under this mitigation measure in order to facilitate demolition truck access to the site.

#### **Response O9-7**

The Court proceedings permit activities necessary for demolition of the Annex. The relocation of trees needed to accomplish demolition is consistent with the Court's direction. There is no violation of CEQA or the Court's direction.

#### **Comment O9-8**

##### **Questions:**

- 1) Tell us how mitigation standards are being implemented and enforced?
- 2) Is a qualified specialist on these unique trees on-site whenever transfers are occurring?

#### **Response O9-8**

See Master Response 3 and Response O9-4.

#### **Comment O9-9**

The project sponsors have not adequately measured the impact of their tree treatments to date, nor have they provided accurate information about their plans to protect, transplant, or remove additional trees. These failures are significant and should be corrected before the EIR is adopted.

**Response O9-9**

See Master Response 3.

**Comment O9-10**

There are viable alternatives to the current Project that would greatly reduce negative impact to historical resources in Capitol Park. This is why Trees for Sacramento supports the alternative proposals for the Parking Garage (continuing use of the Swing Space Building Parking Garage), and the Visitor Center (to be located on either the north side or the south side of the Historic Capitol, thus protecting trees and usage patterns of the West Lawn and Plaza).

*See following background for relevant regulations and history.*

Thank you for your attention to this comment

**Response O9-10**

The comment expresses an opinion regarding a preferred approach to project implementation and alternatives. Also see Response O8-14.

**Comment O9-11****Background**

California Code of Regulations, Title 14, § 15126.4. Consideration and Discussion of Mitigation Measures Proposed to Minimize Significant Effects.

(a) Mitigation Measures in General. (1) An EIR shall describe feasible measures which could minimize significant adverse impacts, including where relevant, inefficient and unnecessary consumption of energy. (A) The discussion of mitigation measures shall distinguish between the measures which are proposed by project proponents to be included in the project and other measures proposed by the lead, responsible or trustee agency or other persons which are not included but the lead agency determines could reasonably be expected to reduce adverse impacts if required as conditions of approving the project. This discussion shall identify mitigation measures for each significant environmental effect identified in the EIR. (B) Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures should not be deferred until some future time. However, measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way. The specific details of a mitigation measure, however, may be developed after project approval when it is impractical or infeasible to include those details during the project's environmental review provided that 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 measure. Compliance with a regulatory permit or other similar process may be identified as mitigation if compliance would result in implementation of measures that would be reasonably expected, based on substantial evidence in the record, to reduce the significant impact to the specified performance standards. (C) Energy conservation measures, as well as other appropriate mitigation measures, shall be discussed when relevant. Examples of energy conservation measures are provided in Appendix F. (D) if a mitigation measure would cause one or more significant effects in addition to those that would be caused by the project as proposed, the effects of the mitigation measure shall be discussed but in less detail than the significant effects of the project as proposed. (*Stevens v. City of Glendale* (1981) 125 Cal.App.3d 986.) (2) Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments. In the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design. (3) Mitigation measures are not required for effects which are not found to be significant. (4) Mitigation measures must be consistent with all applicable constitutional requirements, including the following: (A) there must be an essential nexus (i.e. connection) between the mitigation measure and a legitimate governmental interest. *Nolan v. California Coastal Commission*, 483 U.S. 825 (1987); and (B) The mitigation measure must be "roughly proportional" to the impacts of the project. *Dolan v. City of Tigard*, 512 U.S. 374 (1994). Where the mitigation measure is an ad hoc exaction, it must be "roughly proportional" to the impacts of the project. *Ehrlich v. City of Culver City* (1996) 12 Cal.4th 854. 33 (5) If the lead agency determines that a mitigation measure cannot be legally imposed, the measure need not be proposed or analyzed. Instead, the EIR may simply reference that fact and briefly explain the reasons underlying the lead agency's determination.

**Response O9-11**

The comment quotes from the CEQA Guidelines. No further response is required.

**Letter O10 Save the Capitol, Save the Trees**

Luree Stetson  
June 15, 2023

**Comment O10-1**

These comments are submitted on behalf of Save the Capitol, Save the Trees, an unincorporated association of concerned community members. The association is commenting on the adequacy of the analysis contained in the Draft Revised Environmental Impact Report (REIR) for the Capitol Annex Project (SCH No. 2019049066) (Project).

Our comments focus on the significant impacts to the West Lawn from the proposed Visitor Center/Welcome Center (west entrance) and the clear feasibility to relocate the Center north (Alternative 4) or south (Alternative 5) of the historic Capitol. In addition, we have provided an alternative to the on-site underground parking garage.

**Response O10-1**

The comment is an introductory statement, including a list of topics addressed in the remaining comments. See responses to the more detailed comments below.

**Comment O10-2****I. PROPOSED VISITOR CENTER REMAINS ON WEST SIDE DESPITE SIGNIFICANT IMPACTS**

DGS continues to support a visitor center that significantly impacts the aesthetics of the West Lawn, the only original part of the historic Capitol park that remains intact. Instead of moving the center to the north or south of the historic Capitol, modifications have been proposed to the universal access ramp entrance from 10th Street to the Capitol basement (approximately 18 feet below grade and 280-feet long). However, the changed ramp with elevated walls creates an unsafe environment when large demonstrations march down the Capitol Mall to the historic Capitol. People will try to demonstrate near the Visitor Center ramp which can only be used for visitors to the Visitor Center. This will create conflicts between visitors trying to enter the Visitor Center and public demonstrators and create a public safety issue. In addition, the EIR fails to describe how the public can get to the top tier (the roof of the Visitor Center). It appears there are no steps from 10th Street to the top tier.



**Response O10-2**

The universal access ramp has been part of the visitor/welcome center proposal since the 2020 Recirculated Draft EIR. However, visual simulations and renderings have been provided for the first time in the Draft REIR. The Upper Plaza of the visitor/welcome center may be accessed from the north and south by walking across lawn area as well as by ADA compliant pathways. Also see Master Response 2.

**Comment O10-3****II. ALTERNATIVE 4: VISITOR/WELCOME CENTER NORTH ENTRY (Draft REIR, pages 7-8 to 7-12)**

The REIR fails to recognize that placing the Visitor Center on the north or south side of the historic Capitol would eliminate all significant impacts to the West Lawn and to the façade to the historic 1874 Capitol. The REIR analyzes both north and south alternatives, but lists a series of barriers, implying that these locations are not feasible; thus, continuing to place the Visitor Center in front of the historic Capitol (west side) and destroying 35 % of the West Lawn.

**Response O10-3**

In the analysis of Alternative 4 on page 7-12 of the Draft REIR is the statement "Alternative 4 would eliminate the impacts to the West Lawn..." In the analysis of Alternative 5 on page 7-16 of the Draft REIR is the statement "Like the north entry alternative evaluated above, this alternative would eliminate the impacts to the West Lawn portion of Capitol Park..." The analysis of alternative locations for the visitor/welcome center provided in Section 7.4 of the Draft REIR does not identify the alternatives as not feasible or infeasible but does identify environmental effects associated with these alternatives. The analysis of these alternatives concludes, that when all environmental issue areas and impact mechanisms are considered together, the total environmental impacts of Alternatives 4 and 5 are similar to those of the proposed Project (i.e., visitor/welcome center located on the west side of the Historic Capitol).

**Comment O10-4**

Barriers:

1. REIR states that there is not enough room for a 280-foot universal accessible ramp on either the north or south sides of the historic 1874 Capitol. The distance from the north and south side of the historic Capitol is approximately the same as the West side. In addition, there is no project objective that requires the use of a universal accessible 280-foot ramp. As stated in 7.4.4 Alternative 4, number 4 e, page 7-8 states loop ramps are evaluated as the proposed approach and results in no new permanent above ground facilities and ground disturbance immediate adjacent to the Historic Capitol is minimized. Maximum excavation depths would be the same as the west project – approximately 20 feet. ADA compliance can be met through a loop ramp as proposed in the 2020 or other ramp types such as a switchback ramp. Explain why the loop ramp or similar ADA access cannot be implemented with the Center.

**Response O10-4**

Using the measuring tool provided with Google Earth, the distance from the center of the 10<sup>th</sup> Street sidewalk to the edge of the Historic Capitol building is approximately 270 feet. The distance from the center of the L Street and N Street sidewalks to the edge of the Historic Capitol building is approximately 230 to 240 feet. There is at least 30-foot less space available between L Street and N Street and the Historic Capitol compared to the distance between 10<sup>th</sup> Street and the Historic Capitol. Information provided by the Google Earth tool, which can be replicated by commenters, generally agrees with information provided by the project design team that was incorporated into the Draft EIR. A loop ramp could be implemented as part of the visitor/welcome center on the west side of the Historic Capitol, and, in fact, loop ramps were part of the visitor/welcome center proposal included in the 2020 Recirculated Draft EIR and 2021 Final EIR. The loop ramps are no longer part of the proposed project as it was found that the central ramp was sufficient to provide access to the visitor/welcome center and the loop ramps were not needed. The comment, in effect, offers various design alternatives for a visitor/welcome center located on the west side of the Historic Capitol. However, as described in CEQA Guidelines Section 15126.6(a), "An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation." For a visitor/welcome center on the west side of the Historic Capitol, a design with stairs and elevators was evaluated in the 2019 Draft EIR. A design with loop ramps,

a central ramp, and approximately 40,000 square feet of interior space was evaluated in the 2020 Recirculated Draft EIR. The Draft REIR provides a design without loop ramps and approximately 30,000 square feet of interior space. A reasonable range of alternatives for a visitor/welcome center on the west side of the Historic Capitol has been evaluated and consideration of further design iterations for a visitor/welcome center at this location is not required.

#### **Comment O10-5**

2. The REIR states that bus parking is not feasible on L Street because of its one-way status. The REIR assumes that visitors want to be dropped at the immediate entrance of the Visitor Center. For Alternative 4, it assumes L Street. This is not a project objective and both alternatives actually reduce the existing walking distance from 10th Street bus drop offs to the main entrance at the existing Annex. Thus, both alternatives improve the distance to enter the Visitor Center even if buses are unloaded on 10th Street. School buses that unload on 10th Street would allow the children to use the original West Lawn for lunches, assembly etc. Loop and other smaller ramp alternatives are feasible. Please explain why they were not selected.

#### **Response O10-5**

The analysis of Alternative 4 in the Draft REIR identifies the issue of bus parking and the distance visitors would walk between a bus drop off and the visitor/welcome center entrance. This is a disclosure of facts regarding the alternative. No negative conclusions regarding the feasibility of this alternative are made based on this information. It is reasonable to assume that a shorter distance for school children to walk between their bus drop off point the visitor/welcome center entrance would be preferable to a longer distance, especially during days with rainy weather or high temperatures. The intent of an EIR alternatives analysis is to compare the alternatives to the proposed project, not to compare the alternatives to existing conditions. That is why in the Draft REIR the travel distance to reach the Alternative 4 visitor/welcome center entrance is compared to the travel distance under the proposed project. Loop ramps are identified as feasible options for Alternatives 4 and 5 in the Draft REIR, and as stated previously, loop ramps were originally considered as part of the proposed visitor/welcome center in the 2020 Recirculated Draft EIR.

#### **Comment O10-6**

3. The REIR states that Alternative 4 (north) requires more relocation of facilities and equipment that operates the Historic Capitol. If placed on the north side, most of the center's square footage would be outside of the footprint of the 1874 Capitol and not require relocation within the Capitol. There are offices on the north side of the Capitol's basement that can be moved to allow access to the basement. Please identify what would have to be relocated and their current locations.

#### **Response O10-6**

Any underground visitor/welcome center alternative that provides entry at the basement of the Historic Capitol will require a penetration through the basement wall and a clear path for visitors to move through the basement. This creation of an entry and clear passage into the basement is what creates disturbance to existing facilities in the basement of the Historic Capitol. Further detail on the "facilities and equipment that support operation of the Historic Capitol" is not provided for security reasons. However, generally speaking, ductwork; HVAC equipment; and equipment related to water, communications, electrical, and other utilities would describe the general type and scale of equipment that would need to be relocated.

#### **Comment O10-7**

4. The REIR states that Alternative 4 requires rerouting of significant underground utilities and connecting them to the historic Capitol and annex at new locations. Even though it results in more disturbance to the basement, you do not say that it is not feasible. The only identified problem is the "potential" for utility service disruptions as these reroutes and relocations are completed (emphasis added). It is feasible and would eliminate "significant impacts" to the West Lawn. The process of moving utilities is reversible. The loss of the plaza and West Lawn and Steps would be irreversible. Please identify the utilities that would have to be relocated and a site plan of their locations.

**Response O10-7**

For security reasons further details on the underground utilities on the north side of the Historic Capitol are not provided here. However, the underground utilities referenced in this part of the Alternative 4 analysis are outside the Historic Capitol, underneath Capitol Park, between the Historic Capitol and L Street. Other than implying that the referenced underground utilities were in the basement of the Historic Capitol, the content of this comment aligns with the analysis of Alternative 4 provided in the Draft REIR.

**Comment O10-8**

5. The REIR states that Air Quality (page 7-10) would have greater construction/ground disturbance to accommodate the loop ramps and relocation of the utilities. Therefore construction-related air emission would be greater than the project's less than significant emissions. However, it still remains less-than-significant. Thus, this is similar to the west side.

**Response O10-8**

An impact can be greater and still not exceed significance thresholds. For example, a hypothetical project alternative could generate more vehicle miles travelled (VMT) than the proposed project. Although VMT generation would be greater, sufficient VMT may not be generated under the proposed project or the alternative to cross significance thresholds and generate a significant impact. However, this does not change the fact that the alternative contributes more VMT than the proposed project and has a greater impact related to VMT generation. This is the case for construction emissions for Alternative 4 compared to the proposed project. Identifying a greater air quality impact under Alternative 4 compared to the proposed project is an appropriate conclusion.

**Comment O10-9****7.4.5 ALTERNATIVE 5: VISITOR/WELCOME CENTER SOUTH ENTRY (Draft REIR, pages 7-13 to 7-17)**

1. As explained in Alternative 4 above, an elongated 280-foot universal accessible ramp is not required by the project's objectives. The REIR states loop ramps proposed for the 2020 Recirculated Draft EIR could be an option. In addition, Alternative 5 suggests that if stairs and elevators were provided, similar to the 2019 Draft EIR, ADA would be accomplished, but would increase impacts on the park because of permanent above ground feature (elevator) in the park. An option would be to locate the elevator within the "causeway" between the 1874 Capitol and the new Annex. Using these creative ADA accesses would eliminate the need for a 280-foot-long ramp and eliminate the need to narrow or expand the Visitor Center square footage and damage any redwood trees. Alternative 5 evaluated loop ramps and determined that all project objectives would be met with no new above ground facilities needed and minimizing ground disturbance. Please explain why this alternative cannot be selected.

**Response O10-9**

Please see Responses O6-6 and the latter half of Response O10-4. No information in the Draft REIR prevents Alternative 5 from being selected. As required by CEQA, the alternatives analysis in the Draft EIR provides an evaluation of the environmental effects of Alternative 5 compared to the proposed project and finds the overall environmental effects to be similar. Challenges associated with implementing Alternative 5 are identified, as is appropriate, but Alternative 5 remains a feasible alternative.

**Comment O10-10**

2. The REIR argues that buses couldn't park on N Street because of its one-way status. Yet, it states that the City has plans to convert N Street to two-way, in which case buses could drop off visitors along N Street. Even though the City doesn't have a schedule for two-way conversion, buses could continue to park along 10th Street until that occurs. (See Alternative 4, #2 above for additional reasons this is feasible.)

**Response O10-10**

The information provided in the comment aligns with the information and analysis included in the Draft REIR.



**Comment O10-11**

3. The REIR states that the south location would require relocation of the restaurant and its kitchen and result in more disturbance than the west side. The restaurant has a large dining area which is accessible. And even though it would require more disturbance than the west entrance, this Alternative would eliminate a significant impact to the West Steps. The Court directed DGS to do consider ways to reduce the negative impacts to the West Lawn.

**Response O10-11**

The information provided in the comment aligns with the information and analysis included in the Draft REIR. The points related to the analysis of environmental effects are the same as those identified in the Draft REIR.

**Comment O10-12**

4. The REIR states that Alternative 5 is located near residences and would cause greater noise and vibration impacts. While this may be true, the demolition of the 1952 Annex is also close to residences but is being implemented. Noise impacts can be minimized by setting operational hours for heavy equipment, sound levels, etc. Explain why this isn't being suggested as mitigation.

**Response O10-12**

The intent of a CEQA alternatives analysis is to compare the alternative to the proposed project. In this case, Alternative 5 involves a different location for the visitor/welcome center and its environmental effects are compared against those of the proposed visitor/welcome center on the west side of the Historic Capitol. As Alternative 5 is located closer to residences, those residences would experience higher noise levels during construction than from construction of the proposed visitor/welcome center. The comment does not refute this conclusion. This is the extent of the analysis on this topic, a comparison of Alternative 5 to the proposed project, which is consistent with the requirements of CEQA. Regarding construction noise from the Annex, the objective is not to compare Alternative 5 to another component of the proposed project that does not change as part of Alternative 5. Alternative 5 consists of the proposed new Annex, the proposed underground parking, and a visitor/welcome center on the north side of the Historic Capitol. The proposed project consists of the same new Annex as Alternative 5, the same underground parking as Alternative 5, and a visitor/welcome center on the west side of the Historic Capitol. Between Alternative 5 and the proposed project there is no change in the Annex component of the project or the underground parking; therefore these elements of the project do not provide any differing conditions for comparison as part of the alternatives analysis.

**Comment O10-13**

5. The REIR states that Alternative 5 could result in more destruction, alteration of pre-historic or historic resources due to a greater excavation footprint. These can be mitigated. The project currently has an agreement with the Indian communities to have a tribal expert on site and established rules on ways to handle any discoveries of pre-historic or historic resources. Why isn't this existing agreement listed as a mitigation for this issue? How much greater is the foot print of the south center compared to the west Visitor Center extension into the west lawn?

**Response O10-13**

The description of Alternative 5 does not identify any difference in mitigation measures from the proposed project; therefore, all mitigation measures identified for the proposed project would also be applied to Alternative 5. This is the case for the analysis of all alternatives; what is different from the proposed project under the alternative is identified, and all that is not different is assumed to be the same as the proposed project. This does not change the fact that a project element with a larger excavation area will have a greater potential to encounter any subsurface pre-contact or historic resources that may be in the soil. This is disclosed in the analysis of Alternative 5. Although the difference in excavation area between the proposed visitor/welcome center and Alternative 5 has not been quantified. However, given a similar excavation area for the underground structure component of both alternatives, a shorter straight entry ramp for Alternative 5, but the addition of loop ramps to Alternative 5 similar to those identified in the Recirculated Draft EIR, it is accurate to conclude that the overall excavation area would be larger under Alternative 5.

**Comment O10-14**

6. The REIR states that Alternative 5 would introduce a large, modern addition into the historic landscape and thus contribute to the significant impact to the Capitol Complex historic resource. Yet, the proposed Visitor Center on the west side of the historic Capitol creates even more impacts to the Capitol Complex by demolishing approximately 34% of the West Lawn. The proposed Visitor Center in front of the historic Capitol covers the original Greek Revival architecture and destroys the west Plaza and capitol steps. The existing west facade of the historic Capitol as it looks down Capitol Mall to west Sacramento is the only remaining original part of the park. The Secretary of Interior Standards (SOIS) does not recommend putting a new, large building in front of a historic building. SOIS states "constructing a new addition on or adjacent to a primary elevation of the building which negatively impacts the building's historic character" is not recommended. Thus, Alternative 4 and 5 would eliminate significant impacts to the west Lawn and historic 1874 Capitol.

**Response O10-14**

The information provided in the comment does not contradict the analysis of Alternatives 4 and 5 provided in the Draft REIR. The contribution of the proposed visitor/welcome center to the significant and unavoidable impact on historic architectural resources through changes to the West Lawn is identified in the discussion of Alternative 4.12-4. The avoidance of this environmental effect is identified in the analysis of Alternatives 4 and 5. However, Alternatives 4 and 5 would have their own effect on the historic landscape in Capitol Park. As identified on page 7-12 of the Draft REIR for Alternative 4 and page 7-16 for Alternative 5, effects on the historic landscape would be slightly reduced under Alternatives 4 and 5 because the impact of disturbance of the West Lawn would be greater than the effect of disturbance north of the Historic Capitol or south of the Historic Capitol. However, the impact, although less, would remain significant and unavoidable. These conclusions align with the information provided in the comment.

**Comment O10-15**

Please identify all SOIS standards that were used to justify that this project meets the SOIS standards.

**Response O10-15**

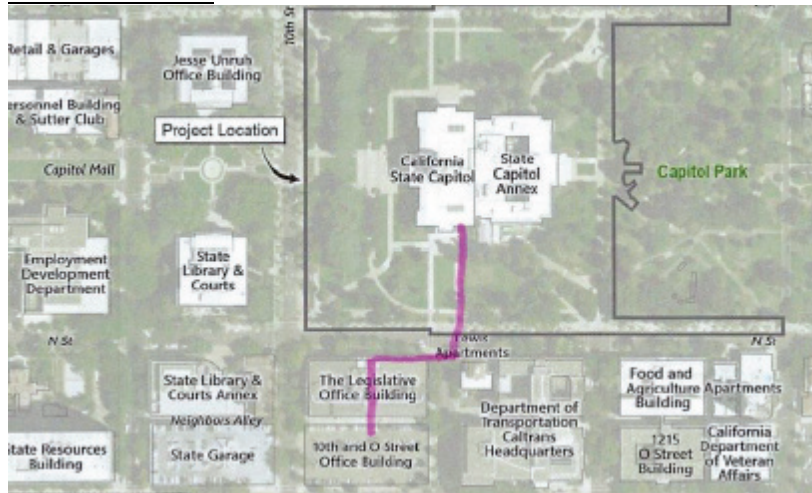
An analysis of the project's achievement of SOIS standards is provided in the discussion of Impact 4.12-4 in the Draft REIR. The SOIS standards considered in the analysis are identified there on pages 4.12-21 and 4.12-22.

**Comment O10-16****II. PARKING GARAGE ALTERNATIVE**

The Appeals Court said in its ruling "The final EIR announced for the first time the new Annex's exterior design and the parking garage's new location. The Public did not have a chance to comment on the new Proposed Parking Garage location along the 12th Street Corridor. Yet the Revised Draft EIR does not offer or analyze reasonable alternatives to the parking garage. Please analyze the existing paid-for swing space parking connected by secure tunnels to the Capitol as a less costly, and less environmentally damaging alternative. It will avoid the security risk of poison gas or explosive concealed in underground private vehicles immediately adjacent to the Annex building. It will save removal of many trees from Capitol Park. It will eliminate the need to move the many stately, fragile City palm trees which may not survive being moved.

**Response O10-16**

Similar issues and the same tunnel alternative are presented in Comment O2-11. Please see Response O2-11.

**Comment O10-17**

The EIR states that the Legislative Office Building (LOB), when renovated, contemplates a tunnel from the LOB at 10th and N Streets to the Annex. Adding a tunnel connection from the Swing Building (10th & O) to the adjacent LOB would be easy to implement in a future renovation of the LOB at 10th and N Streets. Thus, a secure tunnel from the Swing Building to the LOB and then to the Annex would create a safe connection between all three buildings. The Joint Rules Committee signed a memorandum of understanding with Department of General Services that states the Legislature will have permanent staff in the Swing Building – thus creating a Legislative “Campus” with the Annex, LOB and Swing Building. By choosing this alternative, the Project can reduce number of California Highway Patrol staff assigned to protect Legislators and staff.

**Response O10-17**

Please see Response O2-11.

**Comment O10-18**

In closing, the current proposed project does not meet the basic requirements of CEQA and fails to reduce the significant impacts to the west lawn and steps, as directed by the Court ruling. The REIR must do a more thorough justification of north and south alternatives so that the West Lawn’s impacts are eliminated and other alternatives are adopted and implemented.

**Response O10-18**

The comment is a concluding statement that summarizes the main topics presented in the previous comments. Please see responses to the individual comments provided above.

**INDIVIDUALS****Letter I1 Steve McQuillin**

April 15, 2023

**Comment I1-1**

As a professional historic preservationist who has worked on the rehabilitation of public buildings including successfully advocating for saving the old Judiciary Annex of the Ohio Statehouse years ago, I wish to express opposition to the current project. It is too massive, destroying a good portion of Capitol Park plus its great bulk diminishes the presence of the historic magnificent Capitol. Its design is too contemporary. Glass is not an appropriate treatment to juxtapose with a landmark building.

**Response I1-1**

The commenter expresses opposition to the project, however, does not address the analysis or the conclusions of the REIR. No further response is required.

**Comment I1-2**

The preferred option would be to remove the present 1950 annex and restore the historic Capitol, including reconstructing its lost apse-like center wing. Committee rooms and other spaces can be made easily accessible via an underground transit system, as at the U. S. Capitol.

**Response I1-2**

The comment provides an alternative that incorporates components of the Fully Detached/Partially Detached Annex Alternative and the Split Annex Functions Alternative considered in the 2019 Draft EIR. The alternative proposed in the comment would not meet the project objective of continuing to provide Annex facilities directly adjacent to the Historic Capitol. See Response O2-11 regarding the significant challenges of constructing underground tunnels in downtown Sacramento.

**Comment I1-3**

My advocacy against the use of glass for an addition to the Ohio Statehouse was backed up by the National Park Service, which wrote that such a move might jeopardize its National Historic Landmark status. That seems like a possibility in this situation.

**Response I1-3**

The commenter's past experience is noted. However, the discussion of Impact 4.12-4 in the Draft REIR identifying that the project is consistent with SOIS indicates that the outcome identified in the comment is highly unlikely for the Capitol Complex.

**Letter I2 Lee Miller**

April 15, 2023

**Comment I2-1**

I am writing to urge you to pair down the proposed changes for the State Capitol. Our state is in a financial crisis, and it would be irresponsible of elected officials not to consider how this project will impact our budget. This project has an enormous price tag attached that could be better used elsewhere.

We need creative solutions that address both our current financial situation and long-term goals for improving infrastructure across our state. There are other ways we can make improvements without breaking the bank – like utilizing existing resources or finding more cost-effective alternatives than what's currently being proposed. By reducing costs now, we can ensure there is still money available later on when needed most by taxpayers.

**Response I2-1**

Please see Master Response 4 in Chapter 3 of this Final REIR.

**Comment I2-2**

As you are aware, there is a proposal to build an underground garage near the Capitol. While this may seem like a convenient solution for those who drive to work every day, it will be incredibly costly and bring more traffic into the downtown area.

We urge our elected officials to consider alternative transportation methods when commuting instead of driving their cars. There is already a light rail system in place that could easily be utilized by many members of our legislature. Those who do not live within walking distance can also ride their bikes or take advantage of public transit options such as buses and taxis if necessary. This would save taxpayers money on construction costs while helping reduce congestion in our city streets and highways at the same time!

**Response I2-2**

Please see Master Response 1 regarding the legal principle of res judicata for an explanation of why traffic impacts need not be considered further in the REIR. Please see Master Response 4 regarding consideration of project costs in a CEQA document.

**Comment I2-3**

What is especially appalling is that there is NO consideration for the old-growth trees at the state capitol. Old-growth trees are essential for maintaining healthy ecosystems and providing clean air, water, food sources, and habitat for wildlife. They also absorb carbon dioxide from the atmosphere which helps mitigate climate change impacts on our planet. In addition, many of these old-growth trees have been gifted by past generations and should be preserved in their beauty so that future generations can enjoy them too!

**Response I2-3**

Please see Master Response 1 for an explanation of why general impacts on trees and carbon sequestration by trees need not be considered further in the REIR.

**Comment I2-4**

As you know, the state is considering building an Annex to provide office space in the downtown area. While this may seem like a good idea on paper, it doesn't make much sense when we look at it more closely. The state already owns so many buildings in that same area and they are mostly empty right now! It would be far more cost-effective to use those buildings as office space instead of constructing something new from scratch. With the state budget in bad shape, its time to get creative with our spending habits instead of just throwing at a project without considerable thought beforehand!

**Response I2-4**

Please see Master Response 4 regarding consideration of project costs in a CEQA document. Please see Master Response 1 for an explanation of why offsite alternatives for the Annex need not be considered further in the REIR.

**Comment I2-5**

There is no need for large meeting spaces if people can attend meetings via Zoom or other technology platforms - just like during the height of COVID restrictions last year! This could save us a lot of money while still allowing everyone to participate in meetings remotely from their own homes or offices with minimal disruption. Change the rules for the Brown Act to allow virtual meetings and virtual public comments at public hearings.

**Response I2-5**

The comment brings up issues of project cost, changes to State law, policy decisions, and the legislative process. Please see Master Response 4.

**Comment I2-6**

We all want our state's buildings and infrastructure to look their best but we must prioritize what is most important right now: taking care of people who need help first and foremost. I believe that if we focus on providing assistance where it's needed most, then everyone will benefit from improved morale as well as financially sound decisions being made by our state government leaders.

Thank you for your consideration of my opinion on this matter; I hope you can see why reallocating funds away from the proposed renovation makes sense in today's climate of economic uncertainty and limited resources available

**Response I2-6**

Please see Master Response 4.

**Letter I3 Molly Lewis**

April 18, 2023

**Comment I3-1**

I oppose the plan to demolish the historic Capitol and remove old growth landscaping! Do not ruin our beautiful Capitol grounds!

**Response I3-1**

The comment expresses opposition to the proposed project, however, does not address the analysis or conclusions of the REIR. No further response is required.

**Letter I4 Robert Millsap**

May 1, 2023

**Comment I4-1**

That no one would even know of a project with such historic, architectural and environmental importance as this unless they drove by, saw what is obviously a project in total disarray and wondered what the hell is going on is, itself, glaring proof that this is a slap-dash, ill-conceived, unmitigated disaster—even in its most recent iteration. The fact that the first, most important comment period had already passed before i even knew about it is outrageous. Projects of this public significance are usually widely advertised and frequently involve design competitions where the most prominent architects are invited to submit conceptual designs depicting their visions for the project. Those, then, are advertised to the public with invitations for comment and the contract awarded to the winning entry. The public is not competent to design this project anymore than they are competent to perform surgery. That the west elevation of the capitol would be obstructed in such a hasty, unprofessional manner borders on the criminal. This is a job for professionals augmented by public comment. My comment is: STOP WHERE YOU ARE; RE-START THE DESIGN PROCESS; AND DO THIS RIGHT AS IT SHOULD HAVE BEEN IN THE FIRST PLACE.

**Response I4-1**

Please see Section 1.1, "Background and Purpose of this Draft REIR" for a description of the CEQA documents and public review processes that have been completed for the project since 2019. All public notices were published in the Sacramento Bee, mailed or emailed to interested parties and agencies on the project mailing list, and mailed to properties within 500 feet of the project site. This exceeds the public noticing requirements of CEQA. Also see Master Response 4 for an explanation of why policy decisions related to the project design process are outside the scope of the REIR.

**Letter I5 Sam Nicholas**

May 4, 2023

**Comment I5-1**

Please reconsider the decision to rely so heavily on glass windows when building the new Capitol Annex. I don't think the glass integrates well with the historic white building that we currently have. So please consider building a new Capitol that combines the best of both the old building and the new one. Thank you.

**Response I5-1**

The comment provides personal opinions regarding the proposed project but does not reference the content or analysis of the Draft REIR. See the discussion of Impact 4.12-4 in the Draft REIR for an evaluation of the compatibility of the new Annex with the Historic Capitol.

**Letter I6 John Hingtgen**

May 8, 2023

**Comment I6-1**

I read that you are considering siting very modern office buildings near the historic state Capitol. I think that would be a mistake and would damage the aesthetics and historical value of the Capitol. The Capitol should stand alone in the

space, without other buildings built close to it. Further, any building sited near it should be built in the same architectural style, so as to reinforce the Capitol aesthetically and symbolically. A very modern office building basically represents the mundane functioning of state government, rather than the stability, permanence, and authority of the state.

#### **Response I6-1**

The comment provides personal opinions regarding the proposed project but does not reference the content or analysis of the Draft REIR. See the discussion of Impact 4.12-4 in the Draft REIR for an evaluation of the compatibility of the new Annex with the Historic Capitol. See Section 4.15, "Aesthetics, Light, and Glare" in the 2020 Recirculated Draft EIR and in the Draft REIR for the analysis of project's aesthetic impacts.

#### **Comment I6-2**

There are many other office buildings in the area that could house state offices, and there are many other sites that could handle new, modern office buildings without architectural and aesthetic impacts.

#### **Response I6-2**

The alternatives proposed in the comment would not meet the project objective of continuing to provide Annex facilities directly adjacent to the Historic Capitol. Also see Master Response 1 regarding the legal principle of res judicata for an explanation of why further evaluation of Annex location alternatives need not be considered in the REIR.

#### **Comment I6-3**

Please do not build adjacent to the Capitol, and only build near it with buildings in the same architectural style.

#### **Response I6-3**

The comment conveys themes presented in the previous comments. See responses above.

### **Letter I7 Clara Smith**

May 14, 2023

#### **Comment I7-1**

How sad I am to learn my tax dollars have gone to paying the wages of anyone who could think the nightmare of a glass cancerous add on to our beautiful building could possibility be an improvement.

In the trades we refer to such things as an architect's nightmare.

I hope enough people pouring out their broken hearts to you will stop this horrific waste/destruction.

#### **Response I7-1**

The comment conveys an opinion about the project but does not address the analysis or conclusions of the REIR. Also see Master Response 4 regarding the expenditure of State tax revenue in the context of a CEQA analysis.

### **Letter I8 Luree Stetson**

May 14, 2023

#### **Comment I8-1**

1. The RDEIR states (Alternative 5, Aesthetics, Light and Glare, page 7-17) that "both visitor/welcome centers designs would not be readily visible unless the viewer were close to each facility (less than approximately 300 feet) or from an elevated position.

Question: To allow the public and decisionmakers an understanding of impacts within 300 feet or in an elevated position, to comply with CEQA doesn't the RDEIR need to provide a visual from those vantage points? Please so provide, or if not, explain why not.

#### **Response I8-1**

Please see Response O6-2.

**Comment I8-2**

2. The Court Ruling (page 54) states: "But it can hardly be doubted that moving the visitor center to the south side would lessen the project's impacts on the West Lawn as a historical resource. And unlike the other visitor center alternatives DGS considered, the proposed alternative would also meet the project objective of providing a visitor center without affecting the Historic Capitol's historic architecture or the ability to have a modern Annex and a parking garage."

Question: Doesn't Alternative 5 (south entrance for the Visitor Center) meet fundamental objectives for the VC and lessen the significant impacts to the west Lawn? If not, how not?

**Response I8-2**

As identified in the analysis of Alternative 5 in the Draft REIR, this alternative is feasible and would avoid impacts on the West Lawn area. The evaluation of Alternative 5 does not identify any project objectives that would not be met by this alternative.

**Comment I8-3**

3. Question: What specific trees would have to be removed for the entrance to the Visitor's Center to relocate to the south side?

**Response I8-3**

Without a significant investment of time and resources to create a more specific design for Alternative 5, identifying all individual trees that might be affected by this alternative would require a great deal of speculation. As identified in the discussion of Alternative 5 in the Draft EIR, this alternative would require removal of some, if not all, of the large redwoods to the south of the Historic Capitol and Annex. Like the visitor/welcome center on the West of the Historic Capitol, most, if not all of the trees directly adjacent to the south side of the Historic Capitol would likely need to be relocated or removed. Other trees in the South Lawn area may also need to be relocated or removed depending on the location, configuration, and size of loop ramps included with the alternative.

**Comment I8-4**

4. What is the exact height of the proposed new Annex building?

**Response I8-4**

It is difficult to express an exact height for the new Annex as it will be built on a slope and the ground surface, as a point of reference, changes as one moves from west to east. As shown in the top image provided in Figure 3-9 of the Draft REIR, there is less distance between the ground surface and the top of the new Annex on the west side of the building and more distance between the ground surface and the top of the of the new Annex on the east side of the building. However, as shown Figure 3-9, and written at the top of 3-13 of the Draft REIR, the height of the new Annex "would be no taller than the parapet of the historic capitol and/or the base of the existing Capitol Dome." This height is shown as the "125' Line" in Figure 3-9. The 125 foot measurement is based on the ground level at the Historic Capitol.

**Letter I9 Sharyn Kaplan**

May 16, 2023

**Comment I9-1**

My name is Sharyn Kaplan and I live in Curtis Park. I am writing to object strongly to the demolition of the Annex, the elimination of beautiful trees and the elimination of the West Steps of the Capital.

**Response I9-1**

The comment expresses opposition to the proposed project, however, does not address the analysis or conclusions of the REIR. No further response is required.

**Comment I9-2**

Sacramento is the Capital with an iconic and beautifully preserved historic landmark serving as the figurehead of this lovely State. Why would there be any serious consideration given to altering our Capital building when the annex can



be rehabilitated and it is cost effective to do so? Tearing down rather than renovating is a terrible idea with no going back later. Have we not learned from history in our City that it is a horrible idea to knock down historically important buildings or features in or on historically important buildings? Why must the history of mistakes repeat itself?

**Response I9-2**

Renovation of the existing Annex was evaluated in the 2019 Draft EIR as part of Alternative 2: Capitol Annex Renovation Alternative. The Ruling finds no deficiency in this element of the 2021 EIR analysis. Therefore, based on the legal principle of res judicata described in Master Response 1, this alternative need not be reconsidered in the REIR. See Master Response 4 regarding the topic of project costs.

**Comment I9-3**

Sacramento hosts so many political and historic gatherings on the steps of the Capital, how can it make sense to eliminate the gathering space? What are the proponents of this terrible idea thinking?

**Response I9-3**

Please see Master Response 2 in Chapter 3 of this Final REIR.

**Comment I9-4**

As for the enormous loss of trees in our capital which is known as “The City of Trees” which would occur as a byproduct of the Capital Annex Project, I must again ask what kind of a horrible idea is that? We sadly lost so many gorgeous trees this winter as a result of weather that was not in our control. That was so sad but what is much worse is purposeful plannful elimination of trees! Unnecessary, ruthless and a huge mistake!

**Response I9-4**

See Master Response 1 regarding the legal principle of res judicata for an explanation of why impacts to trees need not be considered further in the REIR.

**Comment I9-5**

“City of Trees” is part of why I moved to Sacramento. The Capital in all of its architectural beauty was another reason why I moved to Sacramento. Soon I won’t recognize the any of the reasons I moved here.

**Response I9-5**

The comment provides a personal opinion not related to the REIR. No further response is required.

**Comment I9-6**

Please stop this reckless elimination of nature, history and architecture before it is too late!

**Response I9-6**

The comment conveys a desire for the project to not move forward. No further response is required.

**Letter I10 Mark Schneider**

May 16, 2023

**Comment I10-1**

My name is Mark Schneider and I have lived in Sacramento in Curtis Park for 38 years. I am writing to voice my objection to every aspect of the Capitol Annex demolition project. When renovation and rehabilitation of an iconic building is an option and a financially viable option then I is a huge mistake to alter our precious Capital Building!

**Response I10-1**

The comment expresses opposition to the proposed project, however, does not address the analysis or conclusions of the REIR. Renovation of the existing Annex was evaluated in the 2019 Draft EIR as part of Alternative 2: Capitol Annex Renovation Alternative. The Ruling finds no deficiency in this element of the 2021 EIR analysis. Therefore, based on the legal principle of res judicata described in Master Response 1, this alternative need not be reconsidered in the REIR. See Master Response 4 regarding the topic of project costs.

**Comment I10-2**

In addition to altering and architecturally significant building for our entire state, the plan as I understand, it is going to be eliminating many beautiful trees on the Capitol grounds. This is absolutely unacceptable. In every respect.

**Response I10-2**

See Master Response 1 regarding the legal principle of res judicata for an explanation of why impacts to trees need not be considered further in the REIR.

**Comment I10-3**

Lastly, I have a lot of concerns about eliminating gathering areas where people can voice their views, and where people in California have always been able to voice their views.

**Response I10-3**

Please see Master Response 2 in Chapter 3 of this Final REIR.

**Comment I10-4**

As a taxpayer and a proud Sacramento resident, I am both appalled and embarrassed that the Capitol Annex demolition project is getting any serious attention at all. Yes make the changes within the structures that already exist but don't take away our history and our beautiful trees.

I am absolutely opposed to the Capitol Annex, demolition project!

**Response I10-4**

The comment is a conclusory statement, listing topics brought up in previous comments and expressing opposition to the project. See responses to the previous comments provided above.

**Letter I11 Ilsa Hess**

May 26, 2023

**Comment I11-1**

Please consider another option instead of the demolition of the Capitol building annex.

**Response I11-1**

The comment expresses an opinion regarding the project without addressing the analysis or conclusions of the REIR. No further response is required.

**Comment I11-2**

There are many other less expensive options to update the annex building. So many Californians are dealing with homelessness and other financial issues. The money could be used for much better things than rebuilding a very strong annex.

**Response I11-2**

Please see Master Response 4 in Chapter 3 of this Final REIR.

**Comment I11-3**

In addition, tearing down so many special trees and plants in order to do this demolition is very sad and unnecessary. These were gifts from other countries and important people. They should stay for our future generations to enjoy.

**Response I11-3**

Please see Master Response 3.

**Comment I11-4**

All of these issues could be avoided if the annex is just remodeled. Please consider other options then destroying our states past.

**Response I11-4**

An Annex renovation alternative was evaluated as Alternative 2 in Section 7.4.2 of the 2019 Draft EIR. The Ruling did not find any part of this analysis deficient under CEQA. Please see Master Response 1 in Chapter 3 of this Final REIR regarding the legal issue of res judicata.

**Letter I12 Phyllis Ehlert and Dennis Blegen**

May 31, 2023

**Comment I12-1**

With the state of California in a budget shortfall, it seems particularly appropriate that we use public money wisely. One opportunity to do this is to reconsider the plans for the Capitol Annex and the visitor plaza. Refurbishing them would save at least half a billion dollars, and this is premised on present estimates; and everyone knows that nothing comes in on budget!

**Response I12-1**

Please see Master Response 4 in Chapter 3 of this Final REIR.

**Comment I12-2**

The proposed glass structure would waste money on energy. A White House security expert says a glass building and underground parking lot are dangerous. The plan would kill historic trees and be dangerous to birds. The atrium is an arrogant waste of space.

**Response I12-2**

Please see Master Response 4 regarding issues related to project cost and design decisions. As described in the 2021 EIR and the Draft REIR, the new Annex will meet or exceed LEED v4 Silver certification, which includes strict energy efficiency standards. The proposed new Annex and underground parking have been designed in close coordination with the CHP staff responsible for security at the Capitol and the State Assembly and Senate Sergeant-at-Arms Departments. All security needs are adequately addressed in the proposed design and operation of the new Annex and planned underground parking. Please see Master Response 1 and Master Response 3 for an explanation as to why general effects to trees and effects on biological resources need not be considered further in the REIR.

**Comment I12-3**

The present building was designed by a noted architect and is on a historic register and did not pass CEQA approval for destruction. The proposed glass structure would dwarf the more important, older Capitol and conflict with its style. Preservation architect Mark James observed that the Library and Courts Buildings are excellent examples of reusing old buildings to accommodate present standards. The "greenest" building is one that uses "embodied energy," the materials and energy that produced the original structure, instead of hauling it all away to a landfill at PUBLIC expense.

**Response I12-3**

The Ruling did find the 2021 EIR was sufficient to provide CEQA compliance for demolition of the Annex. This is why demolition has been authorized to proceed while the REIR process was underway. Please see the discussion of Impact 4.12-4 in the Draft REIR for an analysis of the new Annex's compatibility with the Historic Annex. An Annex renovation alternative was evaluated as Alternative 2 in Section 7.4.2 of the 2019 Draft EIR.

**Comment I12-4**

Another aspect of the planned enterprise is the new massive parking structure. We already have adequate parking, as exemplified by interim parking plans during construction. Our legislators might show their constituents that they want to fight pollution and not increase parking capacity. Legislators can walk across the street rather than dig a pit for parking that could be flooded.

**Response I12-4**

Please see Response O2-11 regarding the proposed underground parking garage. See Master Response 1 regarding the legal principle of res judicata for an explanation of why flood risk need not be considered further in the REIR.

**Comment I12-5**

The west plaza has long been used for public gatherings whether in celebration or protest. It is California's counter to the Washington D.C mall, so important for public participation. An underground visitor center on the west side with a gaping maw would ruin the welcoming façade of the building, presently like a *champs elysee* running from the Tower Bridge to the Capitol. We don't want to lose what we already have.

**Response I12-5**

Please see Master Response 2.

**Letter I13 Kevin Concolino**

June 3, 2023

**Comment I13-1**

I am writing you today to urge you to consider better alternatives for the California Capitol Annex Project. While the Capitol needs improvements, it's imperative that they are done with the best intentions of all stakeholders and a transparency for all to see. There are several concerns with the current design:

**Response I13-1**

Please see Chapter 7 of the 2019 Draft REIR, as well as the project description provided for the new Annex in the 2021 Final EIR and the Draft REIR for information on all the Annex alternatives that have been considered in the CEQA process to date. See Draft REIR Section 1.1, "Background and Purposed of this Draft REIR," for a listing of all public involvement steps that were completed for the 2021 EIR and Section 1.3, "Environmental Review Process for the REIR" for information on the public meetings that were held for the Draft REIR.

**Comment I13-2**

- With the proposed demolition of the iconic West Steps, we lose a piece of history. Since the 1860s, the West Steps and Plaza have been iconic symbols for free speech, demonstration, and gathering through protests, rallies, and events. Not only does the current design eliminate the West Steps and replace them with a visitor's center, but CHP informed the public that groups will not be able to gather on the west side of the building due to the close proximity of the new visitor's center. This design is not only changing the iconic and symbolic West Facade of the Capitol, but also eliminating a gathering space without providing any reasonable alternative location for either a gathering space or visitor's center.

**Response I13-2**

Please see Master Response 2 in Chapter 3 of this Final EIR.

**Comment I13-3**

- The construction of the new Annex building plans to demolish numerous trees in Capitol Park. Most of these trees have been around for decades (if not longer) and the project team should consider all options that allow the preservation of the existing trees (or at the very least and plan to plant and replace them) and reduce the negative impacts to Capitol Park. In the DEIR, it is unclear how many trees will need to be removed for the expanded underground parking facility and if any new trees will be planted to minimize the impact.

**Response I13-3**

Please see Master Responses 1 and 3 regarding effects on trees and an explanation of why general effects on trees need not be considered further in the REIR.

**Comment I13-4**

- The inclusion of a large, underground parking facility is concerning. With the majority of state workers almost entirely working remotely, the decision to include a large, underground parking facility is puzzling. A new parking garage at the "Swing Building" is a half block away, but additional parking is still being required as part of the current design of this facility. Reducing or removing this parking element can also allow more trees to remain

and aid in reducing the negative impacts to Capitol Park. Additionally, the cost savings can help lower the overall cost of the project and save taxpayer money at a time when the state is facing a significant deficit.

#### **Response I13-4**

Please see Response O2-11. Please see Master Response 4 regarding project costs.

#### **Comment I13-5**

- California has long been trying to lead by example with sustainability goals for our state and this building should be no exception. Sustainability goals and energy efficiency should be a significant factor in the overall design of this project and I urge you to keep them at the forefront of all critical decisions that are made.

#### **Response I13-5**

Please see Master Response 1 regarding the legal principle of res judicata for an explanation of why energy efficiency need not be considered further in the REIR. However, as described in the 2021 EIR and the Draft REIR, the new Annex will meet or exceed LEED v4 Silver certification, which includes strict sustainability standards.

#### **Comment I13-6**

The California Capitol is of immense historical significance and I urge you to do what is best for all stakeholders.

#### **Response I13-6**

Potential effects of the proposed project on the historical significance of the Capitol Complex (i.e., Historic Capitol, Annex, Capitol Park, and Insectary) is addressed in Section 4.12, "Archaeological, Historical, and Tribal Cultural Resources" in the 2019 Draft EIR, the 2020 Recirculated Draft EIR, and the current Draft REIR.

## **Letter I14 Kathleen D. Green**

June 10, 2023

#### **Comment I14-1**

This is the worst Preservation project I have seen in many years and when it involves our State Capitol it gives pause as to WHY this is necessary and at this incredibly expense to California tax payers.

The new DEIR should include an alternative cost analysis of:

- 1) Not doing the "Visitors Entrance" on the west steps;
- 2) The cost of locating the Visitors Entrance on the North and South side of the Capitol building;
- 3) An engineers description of the original foundation that will have to be taken out- And how far down will it have to go?;
- 4) what happens to the 3 medallions - California Seal, the Mexican Seal, and the American Indians seal?
- 5) the purpose of the sky light and cost of air conditioning it almost year around!
- 6) and where does the annual Christmas tree go?.
- 7) A detailed cost comparison of restoring the Historic East Annex as compared to building the inappropriate glass new Annex.
- 8) There should be an analysis of the purpose for the Swing Building if this project is completed and the Legislators move into the new Annex.

#### **Response I14-1**

The comment asks for a cost analysis for each of the listed items. Please see Master Response 4 regarding project costs. For clarification purposes, the three bronze seals references in Question #4 will be removed, stored, and replaced consistent with Mitigation Measure 4.12-4b and EC-9n included the MMRP for the project. Although not an issue for the EIR, the project design team are determining a location for the annual Christmas tree compatible with the operation of the new visitor/welcome center.

**Comment I14-2**

Why it cant be seen Like the Rayburn Bldg in Washington DC, they have their new roomy office with parking down below. And they cant walk two blocks????

**Response I14-2**

Please see Response O2-11.

**Comment I14-3**

I would like to see the comments in this DEIR of the Judges of the 3rd Court of Appeals about the proposed Visitors Entrance, particularly! - Their recommendation against it. Also Huel Hauser's televised comments that the West steps of the Capitol building is the "Front Door of California." A Visitor Entrance damages the viewshed from the bridge down Capitol Mall!.

**Response I14-3**

All direction from the Ruling is addressed in the REIR. Please also see Master Response 2 in Chapter 3 of this Final REIR and the further evaluation of project effects on the Capitol Mall corridor scenic vista provided in the discussion of Impact 4.15-1 in the Draft REIR.

**Comment I14-4**

The landscaping and removal of so many trees and the relocating some of the trees I will look for details in the DEIR. Moving mature tree is seldom successful. What special efforts are taken to nurse them along for months after moving?

**Response I14-4**

Please see Master Response 1 regarding the legal principle of res judicata for an explanation of why effects on trees need not be considered further in this REIR. Please also see Master Response 3.

**Comment I14-5**

There should be comments from the State Office of Historic Preservation, Julie Palonco

**Response I14-5**

Actions taken, or not taken, by specific individuals is outside the scope of the CEQA process. Also see Response O4-5.

**Comment I14-6**

I look forward to seeing the NEW DEIR.

**Response I14-6**

DGS and the JRC believe that certification of this REIR will conclude the CEQA process for the Capitol Annex project.

**Letter I15 Richard Cowan**

June 13, 2023

**Comment I15-1**

At the Public Hearing on May 16th, Sean Bechta, the Ascent representative of DGS, iterated more than once that the Visitor Center location on the West Façade and gathering Place had the greatest impact on architectural history compared to alternate locations on the north and south of the 1860's capitol, but that it had the least impact of those three locations when one considered "all environmental impacts together."

**Response I15-1**

Reviewing the transcripts of May 16 public hearing, Mr. Bechta did identify that the proposed visitor/welcome center on the west side of the Historic Capitol did have greater impacts on historic architectural resources than Alternative 4 (visitor/welcome center on the north side of the Historic Capitol) and Alternative 5 (visitor/welcome center on the south side of the Historic Capitol). However, Mr. Bechta did not say that the proposed visitor/welcome center, or Alternative 4 or 5, had "the least impact". Mr. Bechta's statements were consistent with the conclusion in the Draft

REIR that, when all environmental issue areas were considered together, that Alternatives 4 and 5 had impacts similar to those of the proposed west side visitor/welcome center.

### **Comment I15-2**

Studying table 7-1, Summary of Environmental Effects of the Alternatives Relative to the Proposed Capitol Annex Project, it is extremely difficult to support that assertion.

We request that the Final EIR refute this assertion and disclose an open and transparent scoring of the three alternatives including all the impacts that were scored along with architectural history, the weighting factors assigned to each impact, and the score given to each alternative.

### **Response I15-2**

See Response I15-1 identifying a misinterpretation of Mr. Bechta's statements at the May 16 public hearing. Because of this misinterpretation, it is not surprising that Table 7-1 would be interpreted as not supporting the conclusion that any one of the three visitor/welcome center alternatives considered (i.e., proposed visitor/welcome center, Alternative 4, Alternative 5) would have "the least impact." The contents of Table 7-1 support the conclusion provided in the Draft REIR that the proposed visitor/welcome center, Alternative 4, and Alternative 5 have similar impacts. Regarding the provision of supplemental information, Table 7-1 is not intended to be taken in isolation. Table 7-1 summarizes the analysis of Alternative 4 and 5 provided on pages 7-8 through 7-17 of the Draft REIR. Please see the discussion of each environmental issue area (e.g., Hydrology and Water Quality; Archaeological, Historical, and Tribal Cultural Resources) for the analysis supporting the less, similar, or greater impact conclusion for each environmental issue area.

### **Comment I15-3**

CEQA Comment—Revised Draft EIR for the Capitol Annex Project

Milford Wayne Donaldson, FAIA 916 534 8004 mwdonaldson13@yahoo.com

At the June 6 Public Hearing, the representative from Ascent stated that the Proposed Annex exterior design met a requirement of the Secretary of the Interior Standards to "represent today's architecture."

This assertion is not correct. There is nothing in the Secretary of the Interior's Standards that says specifically the new design of the addition should "represent today's architecture."

There is a preface on page 26, to the SOI's Standards, that they may be pulling from to create a spin (attached)

*New additions and related new construction that meet the Standards can be any architectural style—traditional, contemporary, or a simplified version of the historic building.*

*However, there must be a balance between differentiation and compatibility to maintain the historic character and the identity of the building being enlarged.*

*New additions and related new construction that are either identical to the historic building or in extreme contrast to it are not compatible.*

And then there is the section on additions, pages 156-162:  
NEW EXTERIOR ADDITIONS TO HISTORIC BUILDINGS AND  
RELATED NEW CONSTRUCTION

*Ensuring that the addition is subordinate and secondary to the historic building and is compatible in massing, scale, materials, relationship of solids to voids, and color.*

*Ensuring that the addition is stylistically appropriate for the historic building type (e.g., whether it is residential or institutional)*

These are NOT RECOMMENDED

*Designing a new addition that is significantly different and, thus, incompatible with the historic building.*

*Duplicating the exact form, material, style, and detailing of the historic building in a new addition so that the new work appears to be historic.*

We request that the Final EIR admit that the Proposed Annex exterior design does not meet the SOI standards and revise the exterior design to follow suggestions in other comments for a compatible and less overwhelming exterior design

#### **Response I15-3**

The comment is precipitated by one statement made during the June 6, Public Hearing. However, reviewing the transcripts of the June 6 public hearing, the statement provided in the comment, "represent today's architecture" was not made. The issue of the new Annex's compatibility with the SOIS is addressed in detail in the analysis of Impact 4.12-4 in the Draft REIR. Please see the discussion of Impact 4.12-4. Please also see response I21-7.

### **Letter I16 J. C. Zdyrka**

June 13, 2023

#### **Comment I16-1**

THE steps ARE THE Face of the CA STATE CAPITOL!!! For a Parking garage and a Visitor center —NUTS!

#### **Response I16-1**

It is assumed that the comment is referring to the west steps of the Historic Capitol. Note that the proposed underground parking will have no effect on the west side of the Historic Capitol. The comment expresses a personal opinion and does not address the analysis or conclusions in the EIR.

#### **Comment I16-2**

Parking has been ruined for local residents see\* - so now you are willing to tear up an iconic building so congress members can park. Let them park in the \*expensive parking nearby & bus them over if they can't walk a block! Same for the Visitor's Center!

#### **Response I16-2**

Please see Response O2-11.

#### **Comment I16-3**

I live in Sacramento and I'm tired of having downtown ruined for local residents. Loss of trees and historical look of a beautiful building for visiting congress members?

#### **Response I16-3**

Please see Master Response 1 regarding the legal principle of res judicata for an explanation of why general effects on trees and aesthetic impacts (other than the supplemental information called for in the Ruling) need not be considered further in the REIR.

#### **Comment I16-4**

Hell no! I would rather see the capitol moved before this result.

#### **Response I16-4**

The comment expresses a personal opinion. No further response is required.

### **Letter I17 Rick Stevenson**

June 14, 2023

#### **Comment I17-1**

The original California State Capitol building dates from a construction period of the 1860s to the early 1870s. A couple of decades ago it underwent major restoration, and the result has received accolades from around the world. After WWII that building was expanded eastward to accommodate a new Governor's office and other statewide



officials and to a growing staff. That architecturally compatible expansion was termed the “new building,” now termed the Capitol “annex,” to distinguish it from the original Capitol, the “old building.”

#### **Response I17-1**

The comment is an introductory statement providing background information regarding the history of the Historic Capitol and the Annex. No further response is required.

#### **Comment I17-2**

There is no need for replacement of the Capitol new building. Instead, it should be restored and updated such has been beautifully accomplished with the original Capitol structure. Fine examples of neighboring structures that underwent that process are the State Library and Courts Building and the privately owned Senator Hotel, both older than the Capitol new building. The Tower of London has been upgraded for a thousand years and is one of the most visited, functional, and secure structures in the world.

#### **Response I17-2**

An Annex renovation alternative was evaluated as Alternative 2 in Section 7.4.2 of the 2019 Draft EIR. The Ruling did not find any part of this analysis deficient under CEQA. Please see Master Response 1 in Chapter 3 of this Final REIR regarding the legal issue of res judicata.

#### **Comment I17-3**

The proposed replacement of the new building is a glass monstrosity that is grossly out of scale and character to the original Capitol to which it would be attached, along with being a huge maintenance liability and security risk due to the predominantly glass exterior. Further, the replacement projected cost is well over a billion dollars.

#### **Response I17-3**

Please see the discussion of Impact 4.12-4 in the Draft REIR for an analysis of the compatibility of the new Annex with the Historic Capitol. The proposed new Annex has been designed in close coordination with the CHP staff responsible for security at the Capitol and the State Assembly and Senate Sergeant-at-Arms Departments. All security needs are adequately addressed in the proposed design and operation of the planned new Annex. Long-term maintenance requirements have also been incorporated into the design and planning for the new Annex. Please see Master Response 4 regarding the consideration of project costs in an EIR.

#### **Comment I17-4**

##### **Capitol West Steps Visitor’s Center**

Plans include a major alteration of the original Capitol front entrance and west steps, the site of inaugurations for many governors and the place of officially receiving foreign dignitaries and leaders. It is also the traditional place where hundreds of public demonstrations have been held where the public has made elected officials aware of important of issues over the last century and a half, and the site of President Ronald Reagan’s last political rally the day before his reelection. Plans would make that site a visitor’s center, a use that can be easily accommodated elsewhere.

#### **Response I17-4**

Please see Master Response 2 in Chapter 3 of this Final EIR. Please see Response O6-6 for a review of all visitor/welcome center alternatives that have been evaluated in the 2021 EIR and Draft REIR, including locations other than the west side of the Historic Capitol.

#### **Comment I17-5**

##### **Office Needs**

The claim has been made that more office space is needed to accommodate expanding legislative and other staff. The fact that abundant state office space is already available for additional staff is proven by vacant downtown Sacramento state office buildings that are now being considered for conversion to housing. Therefore, the expanding staff claim to justify demolition of the historic new building and constructing a flashy ultra-modern styled replacement is clearly false. The Ruling found there was substantial evidence supporting the EIR’s statement that the

number of visitors and employees working in the Annex will not change due to the project. Please see Master Response 1 in Chapter 3 of this Final REIR regarding the legal issue of res judicata.

#### **Response I17-5**

Nowhere in the CEQA record for the Capitol Annex project is there an indication that the new Annex is needed to accommodate “expanding” staff needs. In fact, it is clear in the 2021 EIR and the Draft REIR that the new Annex is intended to accommodate the same number of individuals as the existing Annex, but provide additional meeting room space, office space, and other improved services.

#### **Comment I17-6**

##### **Arboretum Destruction**

The building replacement project will also entail destroying major tree specimens of the Capitol Park arboretum. Many of those trees are from around the world and are highly unusual to prosper in this climate. At best it would take numerous decades for replacement trees to mature to the level that the public now enjoys.

#### **Response I17-6**

Please see Master Responses 1 regarding the legal principle of res judicata for an explanation of why general tree impacts need not be considered further in the REIR. Also see the initial discussion in Master Response 3.

#### **Comment I17-7**

##### **Legislator Parking**

Much of that pointless arboretum destruction is to allow for an expanded underground parking lot. There is a large city owned parking lot across L Street from the Capitol. The state could trade the city that parking lot for another state owned downtown property that can accommodate the same number of parking spots. If desired, a tunnel running under L Street can be constructed, similar to the tunnel under N Street between the Library and Courts building and the new State Library.

#### **Response I17-7**

Please see Response O2-11.

#### **Comment I17-8**

##### **Equal Treatment**

Once again, elected officials hold themselves aloof from the laws that all others must follow.

The Legislature controls only one state owned property, the state Capitol building and grounds. Further, the Legislature has removed the Capitol building and park from the historic preservation and environmental laws that apply to all other state, local government, federal government, and privately owned structures. As with people, historic buildings should be treated equally and comply with the same laws.

#### **Response I17-8**

Please see Master Response 4 and Response O4-5.

#### **Comment I17-9**

##### **Do Not Repeat Past Blunders**

Savannah and Charleston are destinations to see the large historic homes and gardens built before the Civil war. Sacramento once had just as many of that era but short sighted destruction of architectural gems has been a hallmark of government impact on Sacramento’s central city. The 1850s Sacramento County Courthouse was beautiful inside and out, served as the state capitol until the present structure was built, and hosted exhibits for early state fairs, so the historical significance was beyond question. It was demolished in 1970. In 1891 the Sacramento Bee printed a series of over eighty illustrations and descriptions of mansions of the city, and stated the series would continue the next year, which did not happen, but does serve as evidence the residences were well over one hundred in number. Today there are about a half dozen survivors. The sites of many became state parking lots.

**Response I17-9**

The comment lists past actions taken by others. The information is outside the scope of the EIR. No further response is required.

**Comment I17-10**

Governor's Office in the Capitol's new building was used by Earl Warren and Ronald Reagan, the two most impactful Americans in the second half of the 20th century. That fact alone renders that building of major historical significance.

**Response I17-10**

As identified in the 2021 EIR and the Draft REIR, the Capitol Complex, comprised of the Historic Capitol, the Annex, Capitol Park, and the Insectary, is listed on the National Register of Historic Places. Applicable impact analyses in the 2021 EIR and the Draft REIR take this designation into account.

**Comment I17-11****What Study?**

State Legislature's leadership has claimed that a study showed that the Capitol new building demolition is more efficient than renovation. That elusive "study" has never been made public in response to numerous requests. That begs the question of the reality of that alleged "study." There is no proof that the claimed study was ever performed. If it is real, it should be a document readily available to the public.

**Response I17-11**

From the information in the comment it is impossible to confirm which study is being referred to. Based on the reference in the comment to the "State Legislature's leadership" reference to the report, it is likely that the referenced report is under the jurisdiction of the JRC and the release of the report would be at the JRC's discretion consistent with any applicable rules, regulations, and laws.

**Comment I17-12****Conclusion**

The Legislature would best serve the public by heeding numerous local, statewide, and federal government precedents; restore the new building to present day functional use, and save a half billion dollars or so of taxpayer money, save important trees of the renowned arboretum, save the historic Capitol west steps as a public venue, and save us all from a glass monstrosity eyesore.

**Response I17-12**

The comment is a conclusory statement that lists topics addressed in the previous comments. See the responses to the comments above.

**Letter I18 John Allen**

June 15, 2023

**Comment I18-1**

My name is John Allen and have been a resident of Sacramento for nearly seventy years. Some my earliest childhood memories are of the Capitol and its Park. As a historian, I have also other a book on the history of the Capitol and its Park.

It is about my grave concerns about the prosed East Annex Project that lead me to make some observations on this flawed project.

I have attached my response on the attached document.

I can be reached at this email address or (916) 737-6222. My address is 540 46th Street, Sacramento, CA 95819.

Thank you for your full consideration of my response.

- Chemical and biological agents being dispersed in the underground entrance to the West side of the building. One has to only look at the 1995 terrorist attack on the Tokyo subway by a small group from a doomsday cult. [https://en.wikipedia.org/wiki/Tokyo\\_subway\\_sarin\\_atack](https://en.wikipedia.org/wiki/Tokyo_subway_sarin_atack) Even though dozens died and thousands were affected, it

was basically an amateur-hour attack. Even though their limited use of Sarin gas was somewhat effective when used in an enclosed space, their bungled attempt to deploy anthrax with the potential of killing tens of thousands failed because of ineptitude.

As a Cold War veteran, who went through extensive NBC (Nuclear, Biological and Chemical) warfare training, I am particularly concerned by chemical and biological threats and their potential use today. The security risk regime used by Capitol staff is so-20th century. Yes, guns and knives are still a threat. But the potential for the use of these unseen and undetected agents poses a far greater risk today. I very much fear that these dangerous weapons will become more and more the choice by both domestic and foreign terrorists. One has to only recall the anthrax attacks following after the 9-11 attacks.

#### **Response I18-1**

The topics of emergency services and security were addressed in the 2019 Draft EIR in Section 4.14, "Public Services and Recreation." The topics of emergency response and emergency evacuation plans were addressed in Section 4.11, "Hazardous Materials and Public Health." Therefore, based on the legal principle of res judicata, described in Master Response 1, these topics need not be addressed further in the REIR. Although not necessary under CEQA, DGS has elected to provide additional information in response to this comment letter to further address these important topics.

All elements of the Capitol Annex project have been, or are being designed in close coordination with the CHP staff responsible for security at the Capitol and the State Assembly and Senate Sergeant-at-Arms Departments. All security needs are adequately addressed in the proposed design and operation of the project. It would degrade the effectiveness of the security plan to release details of the security measures; however, consideration of chemical and biological agents is part of the security planning.

#### **Comment I18-2**

- The war in Ukraine has now shown us the full potential from unmanned drones. These stealthy small delivery systems make any structure a target. No longer will terrorists need vehicles to deliver explosive charges to a building, as was the case of the Oklahoma Federal Building bombing. Such an attack can easily be delivered by a guided or pre-programmed drone or series of them.

The proposed all-glass curtain wall that will encase the East Annex wing would be an ideal target for such an attack. Al-Qaeda's horrid attacks on the US embassies in East Africa showed how deadly shattered glass can be in such attacks where hundreds of the building's occupants were shredded and killed by the flying shards. This could also apply to the proposed skylight over the underground West entrance. A hand dropped satchel bomb, or one dropped from a drone could kill hundreds of unsuspecting visitors.

#### **Response I18-2**

Please see Response I18-1. Threats from explosives and drones are also part of the coordination with security personnel and security planning for the proposed project.

#### **Comment I18-3**

- Egress from the Capitol will also be very limited during an emergency evacuation from the building when using the underground West entrance, especially considering having only 4 elevators to deliver the evacuees to the basement exit.

#### **Response I18-3**

Evacuation planning is part of both security planning and compliance with fire codes. The capacity and methods for evacuation of the Capitol Annex project will meet or exceed all applicable standards.

#### **Comment I18-4**

All of these potential security risks need to be factored into any design proposal for the East Annex project. Sadly, these are the sort of things that continue to haunt my thoughts at times.

**Response I18-4**

Please see the responses above.

**Comment I18-5**

"Genius loci. The Guardian spirit of a place; amongst the ancients every spot or locality in town or country, buildings, mountains, rivers, woods, etc., was believed to have its own peculiar genius or presiding spirit." (A Dictionary of Roman and Greek Antiquities, 1881)

**Response I18-5**

The comment consist of a quote that provides background regarding a part of Comment I18-6. Please see Response I18-6 below.

**Comment I18-6**

And finally on another note, the massive underground visitor center would completely change the special space in front of the West Portico which has served as a backdrop for countless events and ceremonies for more than 150 years. The late Huell Howser, in one of his "California Gold" episodes, described the Capitol Park as California's "front yard." So by extension, the West Portio is California's "front porch." So why put a massive hole in the ground and fill it in with concrete and steel in our front yard?

Countless events have taken place over the last century: funerals, weddings, concerts, protests, rallies, religious services, ceremonies for returning war veterans, the reception of world leaders, the inauguration of governors. The list goes on.

For all practical purposes, this space has served as the city's real town square or plaza. Also, if the city of Sacramento had any claim to having a "sacred space" it would be the West steps.

The ancient Romans had a special concept of space known as *genius loci*. Though the word simply means "the spirit of the place," it is nearly impossible to fully translate. In one sense, the term recognizes the collective experiences and energy that people over time have left at special locations. The West side is one such place.

The West side of the Capitol in some ways may be the repository of the collectives spirit of the hundreds of thousands of those who have gathered there over the centuries.

As a practicing historian, I have come to realize that my primary duty is not to the living but instead to those who are no longer with us. So, my task here is to speak on their behalf. In other words, to make sure their pasts have a future.

It is so ironic that the project's advocates want to destroy the historicity of this important site in the name of creating a visitor's center that is supposed to present the Golden State's history. Build it somewhere else and leave the collective spirits of the dead alone!

**Response I18-6**

Please see Master Response 2. Concepts such as "sacred space," "spirit of the place," and "*genius loci*" are outside the scope of an EIR analysis.

**Letter I19 Ann Amato**

June 15, 2023

**Comment I19-1**

I have been a resident of Carmichael, California for 23 years and prior to that I lived in the City of Sacramento since 1978. I am wanting to express my horror in hearing about the Visitor Center plans which involve destruction of the Capitol Annex, and changing the face of the west entrance of our historic 1874 Capitol Building and its grounds. My understanding is that this project was developed without consultation with the Historic Preservation office as well as the State Historic Capitol Commission. I learned of the CEQA lawsuit and the fact that environmental and historical compatibility issues are a major problem with this project.

**Response I19-1**

The comment initially provides a personal opinion regarding the project. Please see Response O4-5. The Legislature directed the participation of the Historic State Capitol Commission in project planning. Please see Master Response 4. That said, CEQA has no requirement for participation by such a commission for an EIR to be considered adequate.

**Comment I19-2**

I was appalled to find out that trees were being removed necessitated by plans to build a new capitol garage, that the newer Annex Building is being destroyed, as well as a new visitor's center is to be built that does not fit historically with the original capitol building. In addition, these actions are counter to what is needed to address climate change, as well as the public's need and right for an historic site of assembly to exercise free speech on the west Capitol steps. These trees, planted in 1874 are a resource we are needing to preserve for historical reasons, as well as for the planet's survival. Replacing them with new trees does not provide the same sequestration that huge, older trees can.

**Response I19-2**

Please see Master Response 1 in Chapter 3 of the Final REIR regarding the legal principle of res judicata for an explanation of why general impacts on trees, climate change, and carbon sequestration by trees need not be evaluated further in the REIR. Compatibility of the new Annex with the Historic Capitol is addressed in the discussion of Impact 4.12-4 in the in the Draft REIR. Please also see Master Response 2.

**Comment I19-3**

I feel it would make much more sense to revamp the current Annex Building, rather than spend funds to destroy a building and all the expense and resources it took to build it. The elected officials already have a parking area one half block from the Capitol. My understanding is a tunnel could be built to this area at much less expense, especially when funds need to be put toward climate saving action vs new construction and destruction of large historic trees we need for their beauty and sequestration benefits. I understand 56 more trees are slated for removal and that some of these trees that have been removed have died and that arborists are saying appropriate standards for tree care are not being followed. I am also extremely concerned about the effects on the Park's ecosystem if these and more trees are removed.

**Response I19-3**

Please see Master Response 4 regarding project costs. An Annex renovation alternative was evaluated as Alternative 2 in Section 7.4.2 of the 2019 Draft EIR. Please see Response O2-11 as well as Master Response 3. Please see Master Response 1 for an explanation of why biological resources impacts need not be considered further in the REIR.

**Comment I19-4**

At a time of climate crisis, this project is a disaster. The public has not been given sufficient time to respond to these actions and we will lose too many resources that are important for our residents' and the planet's health. This project feels like it is planned to benefit a narrow group of individuals, perhaps the developers and the elected officials who created this project, at the expense of the public, in an approaching recession and a present climate emergency. I feel it was planned without regard for "the people" who are supposed to be represented and for the planet we are struggling to save.

**Response I19-4**

Please see Master Response 1 for an explanation of why climate change impacts need not be considered further in the REIR. See Draft REIR Section 1.1, "Background and Purposed of this Draft REIR," for a listing of all public involvement steps that were completed for the 2021 EIR and Section 1.3, "Environmental Review Process for the REIR" for information on the public meetings that were held for the Draft REIR. These efforts have exceeded the minimum CEQA standards. Please see Master Response 4 regarding addressing project costs and government policy decisions under CEQA.

**Letter I20 Milford Wayne Donaldson, FAIA**

June 15, 2023

**Comment I20-1**

In the face of climate change, the Governor has created a California State Adaption Strategy. One of the key tracks of the Strategy is the Built Environment, due to the built environment's significant energy consumption, too often of

energy generated by fossil fuels resulting in climate change. Among the Goals of the Strategy is to “Operationalize Climate Science into Decision Making.”

California Launches Updated Climate Adaptation Strategy to Protect Communities from Accelerating Impacts | California Governor (available at <https://www.gov.ca.gov/2022/04/04/california-launches-updated-climate-adaptation-strategy-to-protect-communities-from-accelerating-impacts/>)

### Response I20-1

The comment provides background information relevant to Comment I20-3. See Response I20-3 below.

### Comment I20-2

California State Adaptation Strategy

Extreme Heat Workshop Series:

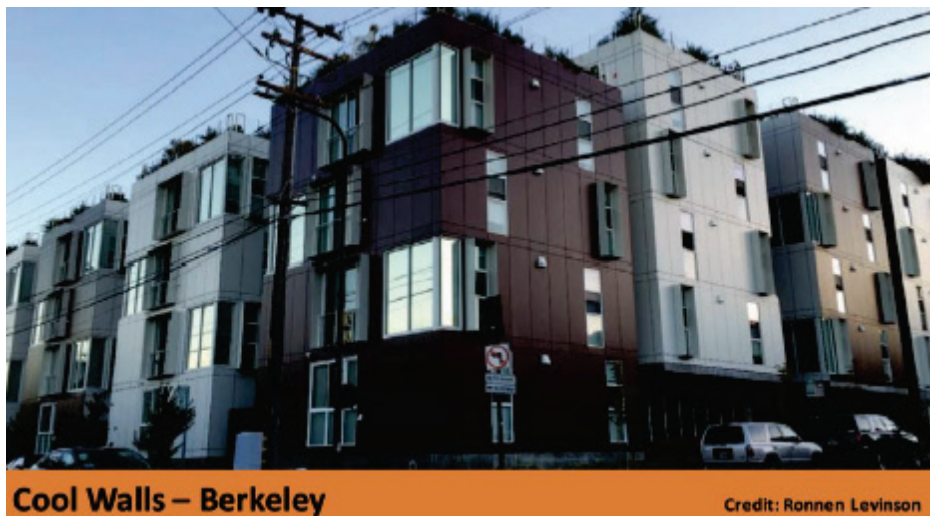
Built Environment

August 19, 2021

Cited in the website are workshops which itemize the opportunities for improving the Built Environment’s resilience to heat and reducing the demand for air conditioning. A term used for one of the opportunities is a “cool wall.”.



Walls which lower demand for energy were described in a case study. The walls use minimal glazing and opaque, well insulated materials.



**Response I20-2**

The comment provides further background information relevant to Comment I20-3. See Response I20-3 below.

**Comment I20-3**

The science of wall design and effectiveness in reducing energy consumption has advanced steadily. The scientific literature is replete with advice to NOT design using glass exterior skins.

Why Buildings Shouldn't Be Made of Glass

Experts call for ban on glass skyscrapers to save energy in climate crisis

Please explain why the Capitol Annex Project is not aligning its glass skin design with the Governor's California State Adaptation Strategy and why it is not following the science in the cooling demand operation of this proposed new building.

**Response I20-3**

As described in the 2021 EIR and the Draft REIR, the new Annex will meet or exceed Leadership in Energy and Environmental Design (LEED) v4 Silver certification, which includes strict energy efficiency standards. This is consistent with California Governor's Executive Order B-18-12: Green Building Action Plan, which calls for new and major renovated State buildings larger than 10,000 square feet to achieve LEED silver certification or higher. The "cool walls" cited in the comment are not the only way to achieve energy efficiency in building design. Glass walls, when designed properly (e.g., double-pane, energy saving films), which is the case for the new Annex, are capable of achieving significant energy efficiencies.

**Letter I21 Milford Wayne Donaldson, FAIA**

June 15, 2023

**Comment I21-1**

Mr. Donaldson is president of award-winning Architect Milford Wayne Donaldson, FAIA, Inc. since 1978, specializing in historic preservation services. He is licensed to practice architecture in California, Nevada and Arizona and holds a certified license from the National Council of Architectural Registration Boards. Mr. Donaldson is affiliated with several historical and preservation organizations and is a past president of the California Preservation Foundation (CPF) and past chairs of the State Historical Building Safety Board and currently sits on the Board, the State Historical Resources Commission, and is a past member of the Historic State Capitol Commission.

Milford Wayne Donaldson served as the California State Historic Preservation Officer (CA SHPO) from 2004-2012. Mr. Donaldson was appointed and served as the Chair of the Advisory Council on Historic Preservation by President Barack Obama from 2010-2019.

Over the last 45 years, Mr. Donaldson has established himself as a leader in Historic Preservation and adaptive reuse of existing structures. In 1991, The California Council of the American Institute of Architects acknowledged Mr. Donaldson for his statewide leadership in the interpretation of the California Historical Building Code that allowed the rehabilitation of historic buildings. In 1992, the American Institute of Architects inducted Mr. Donaldson into the College of Fellows, only 3% of licensed architects hold the title of FAIA.

Mr. Donaldson is very familiar with the historic California State Capitol and has commented as CA SHPO on several projects throughout his career as well as associated state buildings and Capitol Park. Milford Wayne Donaldson FAIA is qualified under the *Secretary of the Interior's Qualification Standards*

**Response I21-1**

The portion of the comment letter establishes the expertise of the author. No further response is required.

**Comment I21-2****Overview**

The year 2016 marked the 50th anniversary of the passage of the National Historic Preservation Act on October 15, 1966. The Act increased the scope and responsibilities of the National Park Service regarding the preservation of



cultural resources. The National Historic Preservation Act charges the National Park Service (through authority delegated by the Secretary of the Interior) to establish and administer a national historic preservation program and to develop and promulgate standards and guidelines for the treatment of historic properties.

The *Secretary of the Interior's Standards for Historic Preservation Projects* were first issued in 1978. In 1979 they were published with *Guidelines for Applying the Standards* and reprinted in 1985. The Standards were revised in 1992, when they were retitled *The Secretary of the Interior's Standards for the Treatment of Historic Properties*.

The Standards were codified in the Federal Register in 1995, the same year that they were published with guidelines as *The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings* (Standards and Guidelines). These Standards and Guidelines provide a critical part of the framework of the national preservation program. They are widely used at the federal, state, and local levels to guide work on historic buildings, and they also have been adopted by Certified Local Governments and historic preservation commissions across the nation.

Under the California Environmental Quality Act (CEQA), a project that has been determined to conform with the *Secretary of the Interior's Standards for the Treatment of Historic Properties* can generally be a project that will not cause a significant impact to a historic resource (14 CCR Section 15126.4(b)(1)). In fact, in most cases if a project meets the Secretary of the Interior's Standards for the Treatment of Historic Properties it can be considered categorically exempt from CEQA (14 CCR Section 15331). [https://ohp.parks.ca.gov/?page\\_id=21727](https://ohp.parks.ca.gov/?page_id=21727)

In each of the four chapters of the Standards and Guidelines, the "Recommended" and "Not Recommended" treatments have been periodically updated and revised through-out to ensure that they continue to promote the best practices in preservation. Rehabilitation is defined as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values. The *Rehabilitation Standards* acknowledge the need to alter or add to a historic building to meet continuing or new uses while retaining the building's historic character.

### **Response I21-2**

This comment provides the author's understanding of the National Historic Preservation Act and the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings. The comment provides background information supporting other comments provided below. See Responses below.

### **Comment I21-3**

Analysis can only be made on four renderings of the proposed project, three exterior perspectives of the new Annex and the new Visitors Center Entryway at the west facade. After repeated asks for information to obtain Preliminary and Design Development Construction Documents showing the evolution of the design strategy as based on the High-Level Space Program (Annex Overview and Sequence Report) dated August 16, 2019, showing intended uses, square footage required, security and ADA issues, no construction documents were received.

### **Response I21-3**

This portion of the letter does not raise a CEQA issue. CEQA requires a lead agency to publicly disclose a proposed project, the analysis of environmental effects of that proposed project, and alternatives that could reduce environmental impacts. While preliminary design or construction documents may be useful for design review under local design or preservation ordinances, CEQA does not require disclosure of preliminary design or the evolution of a design strategy. The JRC, as the project applicant, developed project information and designs that were used to create the project description in the 2021 EIR and Draft REIR. Information regarding the development of the project design is under the jurisdiction of the JRC and the release of any material related to this topic is at their discretion consistent with any applicable rules, regulations, and laws. The commenter identifies no legal authority that requires this information to be made publicly available in the manner they request. (See *El Morro Community Association v. California Dept. of Parks and Recreation* (2004) 122 Cal.App.4th 1341, 1354, fn. 5.) Finally, the comment undercounts the information provided in the Draft EIR. For the visitor/welcome center, a visual simulation is provided as Figure 4.15-7b and three renderings are provided in Appendix C. Seven renderings of the new Annex exterior are provided in Chapter 3 of the Draft REIR.

**Comment I21-4**

Excerpts have been taken from the Standards & Guidelines and are shown in the Table below. Access to the site can be found at:

<https://www.nps.gov/subjects/historicpreservation/standards.htm>

NEW EXTERIOR ADDITIONS TO HISTORIC BUILDINGS AND RELATED NEW CONSTRUCTION	
RECOMMENDED	NOT RECOMMENDED
<b>New Additions</b>	
Placing functions and services required for a new use (including elevators and stairways) in secondary or non-character-defining interior spaces of the historic building rather than constructing a new addition.	Expanding the size of the historic building by constructing a new addition when requirements for the new use could be met by altering non-character-defining interior spaces.
Constructing a new addition on a secondary or non-character-defining elevation and limiting its size and scale in relationship to the historic building.	Constructing a new addition on or adjacent to a primary elevation of the building which negatively impacts the building's historic character.
Constructing a new addition that results in the least possible loss of historic materials so that character-defining features are not obscured, damaged, or destroyed.	Attaching a new addition in a manner that obscures, damages, or destroys character-defining features of the historic building.
Designing a new addition that is compatible with the historic building.	Designing a new addition that is significantly different and, thus, incompatible with the historic building.
Ensuring that the addition is subordinate and secondary to the historic building and is compatible in massing, scale, materials, relationship of solids to voids, and color.	Constructing a new addition that is as large as or larger than the historic building, which visually overwhelms it (i.e., results in the diminution or loss of its historic character).

**Response I21-4**

This comment provides a link to the SOI Standards references in Comment I21-2 and an excerpt from the associated guidelines. No further response is required.

**Comment I21-5**

The following analysis identifies those major flaws in the new Annex design and compliance with the *Standards & Guidelines*.

**EXISTING HISTORIC 1952 ANNEX**

**RECOMMENDED**

- *Not expanding the size of the historic building by constructing a new addition when requirements for the new use could be met by altering non-character-defining interior spaces.*

The existing 1952 historic Annex designed by Alfred W. Eichler; the California State Architect (1925-1963) can easily be modified to accept program modifications by altering non-character defining interior spaces. To date there has not been an analysis made for an adaptive reuse of the historic Annex. Eichler’s architecture respects and honors the original design of the 1874 Capitol, now restored. The historic East Wing Annex does not compete with or overpower the Capitol’s iconic Dome. Eichler’s architecture anchors the iconic Tower Bridge and the Capitol with its iconic Dome. Today, the Tower Bridge and the Capitol are the symbols of Sacramento as the Capital City of California.

Eichler’s architecture of the East Wing Annex complements the West Wing, allowing the Capitol Dome to remain preeminent. The Capitol is the most significant governmental landmark in California’s history. Its architectural integrity is as important as that of the United States Capitol—after which it was designed. The Capitol and Capitol Park have earned the highest designation at the city, state, and national levels for protection and historic preservation As architect Mark Hulbert has noted, “The California Capitol Building including the mid-20th century East Wing is indisputably the heart of the mile-long Capitol Historic District.”



The existing historic Capitol and 1952 Annex designed by Alfred W. Eichler. Photo by Mark Hulbert.



The existing historic Capitol and 1952 Annex designed by Alfred W. Eichler, looking west.

"The California State Capitol Complex is one of the state's most prominent historic places, containing notable examples of architecture and landscape design and the shared memories of many historic events. The West Steps of the 1874 State Capitol building, with their view down the Capitol Mall to the Tower Bridge, are a particularly important site of civic protest, engagement, and celebration. The 1952 Annex is an early example of contextual design, compatible in form and detailing to the 1874 State Capitol, while also clearly reflecting its mid-century era of construction. Changes to these resources should be considered with the greatest care, inspired by the state's legacy of restoration and stewardship of the 1874 State Capitol Building." National Trust for Historic Preservation letter to Governor Newsom, March 7, 2023.

#### **Response I21-5**

This portion of the letter advocates for the retention of the historic 1952 annex as an alternative that would maintain the pre-eminence of the 1874 Capitol building. An Annex renovation alternative was evaluated as Alternative 2 in Section 7.4.2 of the 2019 Draft EIR. Please see Master Response 1 in Chapter 3 of this Final EIR regarding the legal principle of res judicata and an explanation of why further Annex renovation alternatives need not be considered in this REIR. In addition, the Ruling authorized the demolition of the existing Annex and at the time of publication of this Final EIR that demolition will be complete. The Annex is no longer available for renovation.

**Comment I21-6****ANALYSIS OF THE PROPOSED WEST ENTRANCE TO THE NEW VISITORS CENTER**

The new West Entrance for the Visitors Center covers the original Greek Revival architecture including the columns, capitals, cornice, doors, and other historic and significant features. The proposed West Entrance destroys the existing historic west steps, the west lawn, plaza, and the major entry to the Capitol. The West Plaza and Capitol Steps of the original restored Capitol – the site of innumerable marches, speeches, and celebrations —will be eliminated by a Visitor Center with a theme-park-style entrance.

This existing historic entry is on the most significant main facade of the Capitol as it looks down Capitol Mall to West Sacramento across the iconic Tower Bridge, also designed by state architect Alfred W. Eichler.

***NOT RECOMMENDED***

- *Constructing a new addition on or adjacent to a primary elevation of the building which negatively impacts the building's historic character.*
- *Attaching a new addition in a manner that obscures, damages, or destroys character-defining features of the historic building.*
- *Designing a new addition that is significantly different and, thus, incompatible with the historic building.*



The meeting and gathering area for large events is necessary to promote the democratic processes.



Proposed New Visitors Center at the Main West Entry eliminates public gathering on a large scale. It also provides a 280-foot ramp with high terraced sides not usable by the public for large events.

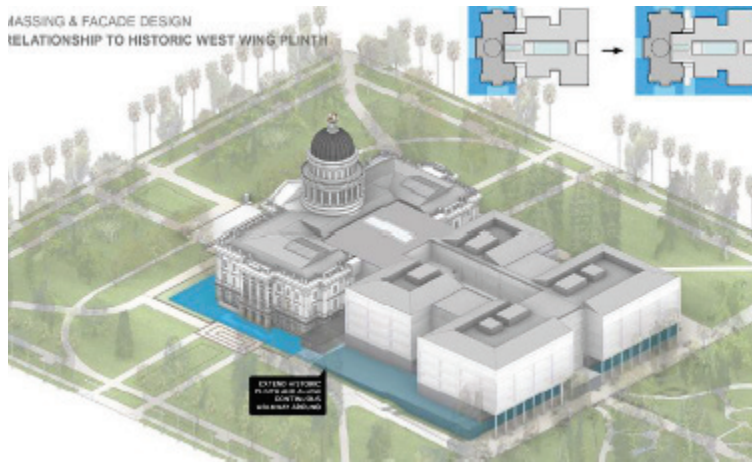
**Response I21-6**

The 2020 Recirculated Draft EIR and Draft REIR both recognize the visitor/welcome center's contribution to the significant unavoidable impact on the Capitol Complex. The comment provides information that aligns with the content of the Draft REIR. Please also see Master Response 2.

**Comment I21-7****ANALYSIS OF THE PROPOSED NEW ANNEX*****NOT RECOMMENDED***

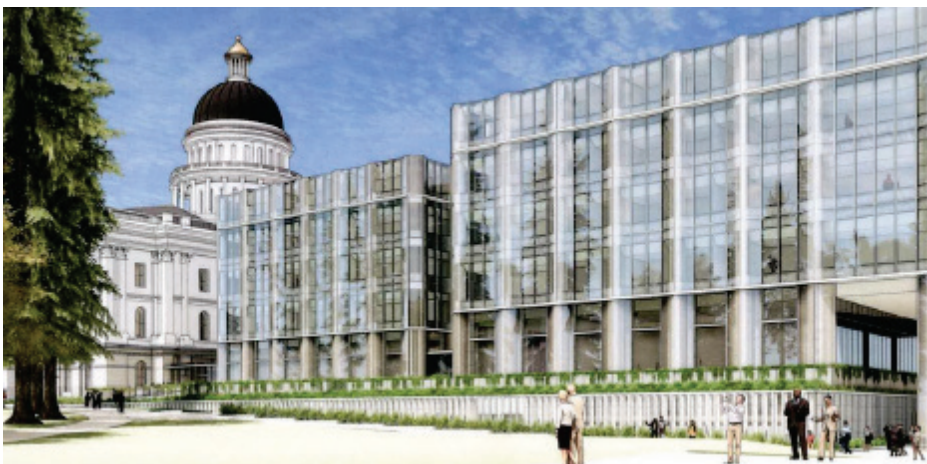
- *Constructing a new addition that is as large as or larger than the historic building, which visually overwhelms it (i.e., results in the diminution or loss of its historic character).*
- *Placing new construction too close to the historic building so that it negatively impacts the historic building's character, the site, or setting.*

The new Annex disrespects and overshadows the iconic dome with its large size and reflective glass facade. It denigrates the most important historic governmental landmark in California. The new Annex is substantially over size for the existing historic Capitol and results in the diminution and loss of the historic character of the Capitol. The edges of the new Annex stick out beyond the footprint of the Capitol making the new Annex superior and overbearing to the Capitol.



The proposed new Annex greatly impacts the east, north and south elevations of the 1860-1874 Capitol by introducing a large reflective glass structure and the historic Greek Revival style of the historic Capitol. The new proposed Annex also is one story higher than the existing historic Annex and impacts the historic 1874 Capitol dome.

The new addition is significantly different in terms of materials (granite, concrete and stucco versus reflective glass), openings (no defined openings are visible compared to the window and doorway openings of the historic Capitol), the architectural rhythm of the colonnades, and the horizontal lines and the roofline that define the Capitol. The large glass facade is so foreign to the materials and openness of the historic Capitol that it is significantly different and incompatible. The large glass structure is not consistent with the architecture and stature of the original Capitol.



**Proposed New Glass Annex**



South Facade of Proposed New Glass Annex protrudes beyond the Historic 1874 Capitol.



West Entrance, Proposed New Glass Annex

#### Response I21-7

This portion of the letter selects two of the ‘not recommended’ guidelines for understanding the SOI Standards and provides the author’s opinion that the proposed Annex would overshadow the dome on the 1874 Historic Capitol, is over-sized compared with the Historic Capitol, and that the proposed Annex would be different in terms of materials, opening, architectural rhythm, and materials. The comment does not provide any statements regarding the adequacy of the analysis in the Draft REIR.

Each of these design aspects of the proposed Annex are analyzed against the SOI Standards in the discussion of Impact 4.12-4 in the Draft REIR (pages 4.12-20 through 4.12-23). As shown in Figure 4.12-3, the proposed Annex will be the same height as the top of the parapet on the Historic Capitol. The effect will be that the proposed Annex will appear to be the same height as the Historic Capitol and will not overshadow it in any way. In the same way that the Historic Capitol sits below and supports the capitol dome, the proposed Annex, which is the same height as the Historic Capitol, will sit below and appear subservient to the dome. As shown in Figure 3-3, the portion of the proposed Annex closest to the Historic Capitol has a footprint that recedes from the outer line of the footprint of the Historic Capitol and also has deeper recessions immediately adjacent to the historic building, both of which demonstrate the proposed Annex building’s subservience to the Historic Capitol. Figure 3-5, Double-T Perspective View, Looking North and Figure 3-6 Capitol Annex Double-T Design – Reveals Historic Capitol Eastern Facade illustrate how these recessions will allow portions of the east façade that have been obscured by the existing annex for decades to be restored and enjoyed by

the public. The double-T footprint for the proposed Annex effectively considers the guidelines quoted in the comment by placing the larger volume of the new construction farther away from the Historic Capitol.

The following text from the discussion of Impact 4.12-4 speaks further to the compatibility of the new Annex with the Historic Capitol:

The exterior treatment of the new Annex achieves compatibility and deference to the Historic Capitol with its use of horizontal and vertical rhythms that align with the Historic Capitol's exterior rhythms. The new Annex emulates the Historic Capitol's tripartite division of base, middle, and cornice where the pleated glass wall's glass parapet and shadow box aligns with the Historic Capitol's balustrade, a horizontal reveal aligns with the bottom of the Historic Capitol's cornice, and the lowest stack joint aligns with the Historic Capitol's water table (see Figure 4.12-3 and Figure 3-5, bottom image). Similarly, the Historic Capitol's strong vertical rhythm established by the use of Classical columns and the stacked alignment of large windows is emulated by the stone shadow box at the base and white ceramic frit coating in the glass above those shadow boxes that will give an appearance of a curved protrusion that will evoke the columns and pilasters on the Historic Capitol (see Figure 4.12-3).

It should be noted that the figure provided in the comment with the caption "Proposed New Glass Annex" shows an older Annex design and does not show the trees that would be present after project implementation. The two figures at the end of the comment are reproductions of images provided in the Draft REIR and are a more accurate representation of the new Annex's appearance.

#### Comment I21-8

#### PROPOSED RECOMMENDED TREATMENTS FOR THE ALTERNATIVE DESIGN FOR THE ANNEX

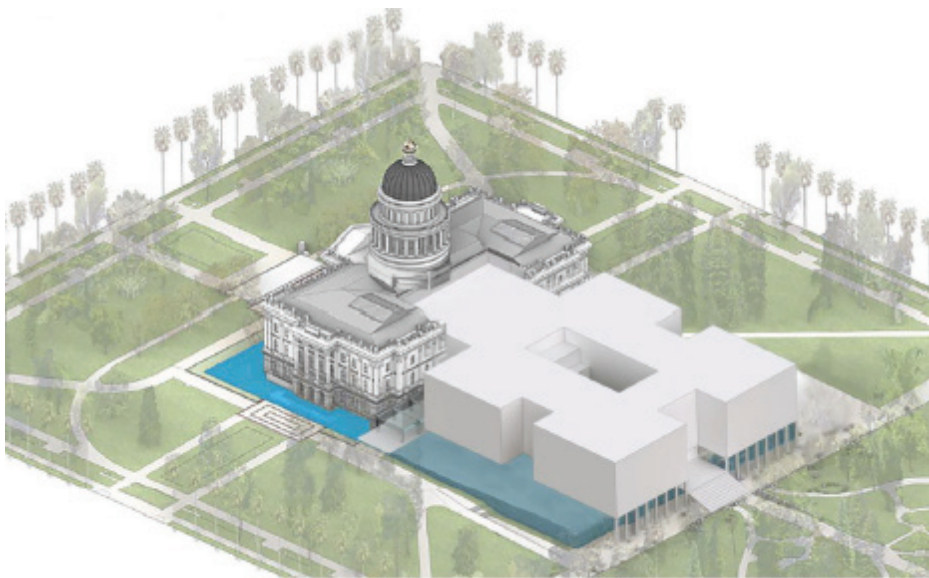
##### ***RECOMMENDED***

- *Ensuring that the addition is subordinate and secondary to the historic building and is compatible in massing, scale, materials, relationship of solids to voids, and color.*

The alternative design for the Annex is much less massive in scale, its footprint is similar but smaller and there are several compatible relationships to the Capitol's solids and voids, materials, and colors.

- *Using the same forms, materials, and color range of the historic building in a manner that does not duplicate it but distinguishes the addition from the original building.*
- *Basing the alignment, rhythm, and size of the window and door openings of the new addition on those of the historic building.*
- *Incorporating a simple, recessed, small-scale hyphen, or connection, to separate the addition physically and visually from the historic building.*
- *Distinguishing the addition from the original building by setting it back from the wall plane of the historic building.*





MASSING AND FACADE  
ALTERNATE ANNEX DESIGN

### Massing and Facade of Alternative Design for the Annex

The alternative design for the Annex is subordinate and secondary to the historic Capitol and is compatible in massing, scale, materials, relationship of solids to voids, and color. The alternative design uses the same forms, materials, and color range as the historic Capitol in a manner that does not duplicate it but distinguishes the addition from the original 1974 Capitol. The design aligns the rhythm and size of the window and door openings to those openings of the historic Capitol. The alternative Annex design incorporates a simple, recessed connection that gently separates the Annex visually from the historic Capitol. The alternative Annex design is distinguished by setting it back from the wall plane of the historic Capitol.



SOUTH FACADE OF CAPITOL WITH NEW ANNEX IN BACKGROUND  
ALTERNATE ANNEX DESIGN

### South Facade of the Capitol with Alternative Design for the Annex in Background

To achieve the maximum space for the new program demanded by the Legislature the alternative Annex design has kept the same square footage, double T design, the galleria, same floor connections, etc. and meets all (or most) of the project objectives of the proposed new annex. However, to not compete visually, the alternative Annex design maintains the same exterior color, pattern of windows, has simple lines as to not overpower the historic Capitol but compliments its 1874 design. The exterior of the alternative Annex design is made of durable materials meant to last, solid concrete and granite. In addition, the alternative Annex design is intended to be protective of its inhabitants and difficult to attack. It is a "one-building" design.

**Response I21-8**

This portion of the comment letter provides suggestions for an alternative design for the new Annex. As described in CEQA Guidelines Section 15126.6(a), "An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation." The comment does not provide evidence that this criteria has not been met and that further alternatives must be considered.

CEQA Guidelines Section 15126.6(b) states, "...the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effect of the project,". Both the 2021 EIR and the Draft EIR identify no significant effects directly associated with the exterior appearance of the Annex as currently proposed (in particular see the discussions of Impact 4.12-4. Although this comment letter disagrees with this conclusion, the responses above, particularly Response I21-7, provide substantial evidence supporting the less than significant impact determination in the REIR. In assessing the significance of an environmental impact, thresholds of significance are identified to aid in this process. Whether an impact is "far from the threshold" or "approaches the threshold," as long as the threshold is not crossed, the impact is considered less than significant. Although the comment provides an alternative that the commenter believes is "better" at meeting SOI Standards than the proposed new Annex, the comments above do not show that the proposed new Annex does not itself meet the SOI Standards (i.e., a threshold of significance). Therefore, although the Annex alternative provided here may better align with the commenter's preferences, it does not result in the substantial minimization or avoidance of a significant adverse environmental affect. DGS appreciates the input provided by commenter; however, this alternative need not be evaluated further in this REIR.

**Comment I21-9*****RECOMMENDED***

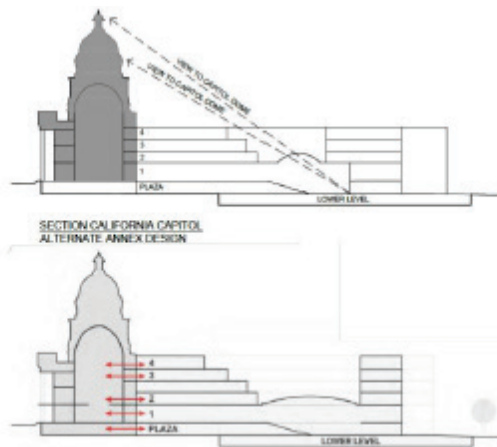
- *Designing new construction on a historic site or in a historic setting that it is compatible but differentiated from the historic building or buildings.*
- *Ensuring that new construction is secondary to the historic building and does not detract from its significance.*

The Capitol View Protection Requirements, Sacramento Zoning 17.216.860 C-3 protects The State Capitol building and the surrounding grounds of Capitol Park by establishing height restrictions, setback requirements, and parking regulations for certain areas of the CBD located near the State Capitol building and Capitol Park. These regulations are designed to provide visual protection to and from the Capitol building and Capitol Park as well as setbacks.



WEST ENTRY CALIFORNIA CAPITOL  
ALTERNATE ANNEX DESIGN

**West Entry California Capitol Alternative Design for the Annex**



### Comparison of Cross Sections showing Spatial and View Requirements

The alternative design for the Annex is on the top and reduces the overall height by one story.

#### Response I21-9

The comment references the Capitol View Protection Act, duplicates images from the Draft REIR, and provides a new image related to the Annex alternative presented in Comment I21-8. The comment does not address the content or analysis in the Draft REIR. The Capitol View Protection Act is described in the Draft REIR in Section 4.15.1, "Regulatory Setting." As identified there, "The Capitol View Protection Act does not provide height restrictions or other limitations in Capitol Park (Figure 4.15-1). For this reason, the project would not be required to comply with the Capitol View Protection Act." (Draft REIR page 4.15-3)

#### Comment I21-10

##### THE DESTRUCTION OF CAPITOL PARK AND THE LOSS OF SIGNIFICANT TREES

- *Considering the design for related new construction in terms of its relationship to the historic building as well as the historic district and setting.*

The project creates irreversible damage to the park and trees. Demolition of the existing Annex would include excavating out the existing underground parking, which would be removed. Note that because a detailed landscape plan has not yet been prepared for the visitor center portion of the project site. Within the City of Sacramento, it is generally expected that the impacts to each individual tree on public property be evaluated by a tree care expert, and the impacts to the individual trees be explicitly disclosed to the public prior to a public project being approved. It is generally expected that decision making bodies are provided with enough information to make an informed decision and provide affirmative consent when trees are being removed.

The draft environmental impact report in its current form is overly general in its treatment of potential impacts to trees and does not provide enough detail regarding expected tree removal and tree impacts for the public or a decision maker to understand which individual trees would be impacted and the significance of the expected impacts.

Therefore, several trees were identified to be suitable for transplanting have been demolished that were noted in the EIR to remain. The project has affected 150 trees so far, not the originally EIR estimated 133 trees.

150 Trees Targeted for Removal (Destruction) or Relocation (May Not Survive)

- 88 Tree "Relocations" (moved to another area of the park or storage) 11 more than in EIR
- 62 Tree "Removals" (destroyed) 6 more than in EIR.

The national standard for tree preservation during construction is the American National Standards Institute (ANSI) A300 part 5 standards for Management of Trees and Shrubs During Site Planning, Site Development and Construction. Other relevant parts of the ANSI A300 standard for Tree, shrub, and Other Woody Plant Maintenance-Standard Practices are part 1 which deals with pruning, part 2 which deals with soil management, part 6 which deals with planting and

transplanting, part 8 which deals with root management, and part 9 which deals with tree risk assessment. The International Society of Arboriculture publishes Best Management Practices that are intended to be companion publications to the ANSI A300 standards. Best Management Practices exist under the following titles: "Managing Trees During Construction," "Tree Inventories," "Tree Risk Assessment," "Root Management," "Soil Management for Urban Trees," and "Tree Pruning." Having an ISA Certified Arborist who is familiar with construction projects develop and oversee the implementation of a tree protection plan that is consistent with the ANSI A300 standards and recognized Best Management Practices for tree care activities will greatly reduce the likelihood of unnecessary tree removal or damage to trees on the site. The Joint Rules Committees and DGS are not following the ANSI A300 standards.

#### **Response I21-10**

Please see Master Response 3. In addition, an International Society of Arboriculture (ISA) certified arborist is supporting project planning and implementation, including implementation of mitigation measures and environmental commitments. The arborist is also a California Urban Forests Council certified urban forester.

#### **Comment I21-11**

##### **USE OF THE MANDATORY CALIFORNIA HISTORICAL BUILDING CODE (CHBC)**

One of California's most valuable tools for the preservation of historic resources is the California Historical Building Code (CHBC), which is defined in Sections 18950 to 18961 of Division 13, Part 2.7 of Health and Safety Code (H&SC). The CHBC is intended to save California's architectural heritage like the State Capitol by recognizing the unique construction issues inherent in maintaining and adaptively reusing historic buildings. The CHBC provides alternative building regulations for permitting repairs, alterations, and additions necessary for the preservation, rehabilitation, relocation, related construction, change of use, or continued use of a "qualified historical building or structure." [https://ohp.parks.ca.gov/?page\\_id=21410](https://ohp.parks.ca.gov/?page_id=21410)

The CHBC's standards and regulations are intended to facilitate the rehabilitation or change of occupancy to preserve their original or restored elements and features, to encourage energy conservation and a cost-effective approach to preservation, and to provide for reasonable safety from fire, seismic forces or other hazards for occupants and users of such buildings, structures, and properties and to provide reasonable availability and usability by the physically disabled.

The statute incorporates the definition of "qualified historical building" in Health and Safety Code § 18955 to include buildings or locations "deemed of importance to the history, architecture or culture of an area by an appropriate local, state or federal governmental jurisdiction" and includes buildings on the National Register of Historic Places and California Register of Historical Resources, among others. State law also established the State Historic Building Commission to manage historic preservation of State buildings. As a historical building on the National Register of Historic Places, the Capitol and Annex, considered as one historic building is subject to the requirements of the CHBC. The heightened standards of the CHBC "are intended to facilitate the rehabilitation, restoration, or change of occupancy so as to preserve their original or restored architectural elements and features."

The People of the State of California, through their elected representatives in the Legislature, have demonstrated repeatedly their desire that historically significant landmarks, including the Capitol Building, be preserved, and protected. By creating the Commission, and as further evidenced by the California Constitution, the special regulations contained within the California Historical Building Code, and its placement on state and national registers of historic places, the Capitol Building has been deemed to be of singular historical significance.

##### **RECOMMENDED CODE-REQUIRED WORK *GUIDELINES***

- *Using relevant sections of existing codes regarding accessibility for historic buildings that provide alternative means of code compliance when code-required work would otherwise negatively impact the historic character of the property.*
- *Complying with life-safety codes (including requirements for impact-resistant glazing, security, and seismic retrofit) in such a manner that the historic building's character-defining exterior features, interior spaces, features, and finishes, and features of the site and setting are preserved or impacted as little as possible.*

- *Removing building materials only after testing has been conducted to identify hazardous materials and using only the least damaging abatement methods.*
- *Working with code officials and historic preservation specialists to investigate systems, methods, or devices to make the building compliant with life-safety codes to ensure that necessary alterations will be compatible with the historic character of the building.*
- *Using relevant sections of existing codes regarding life safety for historic buildings that provide alternative means of code compliance when code-required work would otherwise negatively impact the historic character of the building.*

#### **Response I21-11**

While the CHBC is intended to facilitate rehabilitation, restoration, or change of occupancy so as to preserve the original or restored architectural elements and features of a historic building, the CHBC does not mandate such treatments. The Draft REIR recognizes the purpose and allowances provided in the CHBC in the section titled California Historical Building Code on page 4.12-5. The CHBC would be used as part of an Annex Renovation alternative. See Response I21-5 regarding the Renovation Alternative.

#### **Comment I21-12**

"We recognize that important programmatic and safety issues at the Capitol Complex need to be addressed. The challenges of hazardous materials, lack of accessibility, inefficient systems, and inadequate space are real, but also not uncommon among public buildings in California and across the country. The planning and decision-making for how to improve one of the state's most prominent public building complexes should be a model for other government agencies to follow." National Trust for Historic Preservation letter to Governor Newsom, March 7, 2023.

In conclusion, rehabilitation of the East Wing under the California Historical Building Code (CHBC) appears feasible as well as equivalent to the rehabilitation of other such important mid-20th century historic buildings which are successfully carried out each year throughout California and throughout the nation. As the working location for seven decades of leadership, commencing in 1951 with Governor and future Chief Justice of the United States Earl Warren, countless historic actions have been taken in the offices of California Governors, Lieutenant Governors, and thousands of lawmakers. The East Wing – the historic Capitol Annex – exists today as the foremost example of mid-20th century California design. Its qualities integrate and complement the architecture of the 1860-1874 Capitol. Since 1869, when occupancy of the West Wing began, 30 of the 40 California governors have left their trace on California's history within the halls of the original and restored Capitol and East Wing Annex, including California Governor and 40th President of the United States Ronald Reagan.

From a moral standpoint, it is shameful to continue construction by abolishing historic preservation standards that other entities must follow. The Legislature should at least implement design that is in keeping with Standards, unlike the current proposed Glass Annex. The proposed visitor entrance and destruction of the Annex would not only be a foolish and wanton act but could also signal the beginning of the end of serious preservation activity by the government in California.

#### **Response I21-12**

This comment provides a concluding statement and further supports an Annex Renovation alternative. Please see Response I21-5 regarding the Renovation Alternative.

### **Letter I22 Roxanne Fuentez**

June 15, 2023

#### **Comment I22-1**

I am opposed to this Project. It is a huge waste of taxpayers' dollars at more than \$ 1.2 billion. At a time when the lawmakers are decrying a budget shortfall, it is ridiculous to spend this money on a project which is unnecessary. It is a travesty to spend this money when thousands and thousands of people are living on the streets and virtually nothing has been done to create permanent housing for them.

**Response I22-1**

Please see Master Response 4 in Chapter 3 of this Final REIR.

**Comment I22-2**

This Project would cause the loss of many large trees. These large trees are a huge part of the beauty of the Capitol. Large trees sequester more carbon dioxide than small trees, therefore removing them would contribute to more global warming. Most of the trees were gifts from other countries and cities. These trees represent a relationship between Sacramento and other cities. They are an historic resource.

**Response I22-2**

Please see Master Response 1 regarding the legal principle of res judicata for an explanation of why impacts to trees, and related impacts, such as carbon sequestration by trees, need not be considered further in the REIR.

**Comment I22-3**

Swainson's Hawks, White-tailed Kites, other Raptors, and other Native birds will lose their places to live if these trees are destroyed. Roosting bats will be displaced as well.

**Response I22-3**

Please see Master Response 1 regarding the legal principle of res judicata for an explanation of why biological resource impacts need not be considered further in the REIR.

**Comment I22-4**

The existing Annex can be renovated. It is a false and misleading claim that this is not possible.

**Response I22-4**

An Annex renovation alternative was evaluated as Alternative 2 in Section 7.4.2 of the 2019 Draft EIR. The evaluation of that alternative did not conclude that renovation was "not possible."

**Comment I22-5**

Under this Project, the existing underground parking lot would be abandoned and another underground parking lot would be built. This contradicts the State's push to get people out of their cars and use public transit. Digging deep underground damages large trees' deep roots causing them to die. Currently, 141 year old Palm trees are being removed for no reason. This is the largest collection of Palm trees in California. These trees line the perimeter of Capitol Park and are iconic and beautiful.

**Response I22-5**

Please see Master Response 4 regarding policy decisions by the JRC and CEQA process. See Master Response 3 regarding the current relocation of trees. See Response I22-2 above regarding impacts to trees.

**Comment I22-6**

The proposed Visitor Center would demolish a large area of lawn on the Capitol grounds and many of the large trees. Many of the West steps on the front of the Capitol would be removed. This is where many rallies have been held and people have participated in self-government. Removing these steps would change the face of the historic and iconic Capitol. It would be replaced by a concrete slab which would be ugly and very hot in the summer.

**Response I22-6**

Please see Master Response 2.

**Comment I22-7**

Granite pillars, memorials, and the Great Seal of the State of California would be removed, thus changing the face of the Capitol. Our Capitol is one of the most beautiful Capitols in the United States. Episodes of Dr. Quinn Medicine Woman were filmed at the Capitol since it closely resembles the Nation's Capitol in Washington, D.C.

**Response I22-7**

Granite pillars on the west side of the Historic Capitol will be moved, as reflected in the renderings provided in Appendix C of the Draft REIR. The Great Seal of the State of California (as well as the two other seals located next to it) will be removed, stored, and replaced consistent with Mitigation Measure 4.12-4b and EC-9n included the MMRP for the project. Memorials will be treated as described in Mitigation Measures 4.12-4b and 4.12-4d.

**Comment I22-8**

The only thing that should be done is the renovation of the Annex. The Visitor Center and another underground parking lot should not be built. This would preserve our beautiful Capitol.

**Response I22-8**

See Responses I22-4 and I21-5 regarding renovation of the existing Annex. The comment suggests the No Project alternative as it pertains to the visitor/welcome center and the underground parking. A No Project Alternative was evaluated in the 2019 Draft EIR. The alternative suggested in the comment would not meet the basic project objectives.

**Comment I22-9**

Since taxpayers' money is being used, the people of California should have the right to vote on this project at a regular election.

**Response I22-9**

Please see Master Response 4. The suggested election is outside the scope of the EIR.

**Letter I23 Karen Jacques**

June 15, 2023

**Comment I23-1**

My name is Karen Jacques. I'm a member of Public Accountability for our Capitol (PAC) as well as a board member of Preservation Sacramento which advocates for the Preservation of Sacramento's historic buildings and of Trees4Sacramento which advocates for trees. I'm also a former member of the City of Sacramento's Preservation Commission, and, while not a preservation professional, am quite familiar with the Secretary of Interior Standards.

The following comments include concerns about the Visitor Center that I raised in my testimony at the June 6, 2023 public hearing on the Recirculated Draft Environmental Impact Report (RDEIR) as well as concerns about other aspects of the Capitol Annex Project that I didn't raise at that hearing.

**Response I23-1**

The comment is an introductory statement. No further response is required.

**Comment I23-2**

The State Capitol, which includes the Historic 1874 Capitol Building, the Historic Annex Building and Capitol Park, is arguably the most important historic resource in the state of California. It is on the National Register of Historic Places and changes to it should meet the Secretary of Interior Standards. Despite this, no consideration was given to rehabilitating the Historic Annex Building and neither the State Historic Preservation Officer nor the State Historic Capitol Commission were consulted in developing the Capitol Annex Project. While demolition of the Historic Annex Building has already begun and many Capitol Park trees have already been destroyed or moved, the successful CEQA lawsuit that led to the State Appellate Court decision mandating this RDEIR has created the opportunity for the project to be reassessed and modified so that it meets Secretary of Interior Standards and maintains the historic integrity of the State Capitol. The following issues need to be addressed:

**Response I23-2**

Please see Response I21-5 regarding an Annex renovation alternative. See Response O4-5 regarding coordination with the State Historic Preservation Officer. The Legislature directed the participation of the Historic State Capitol Commission in project planning. Please see Master Response 4. That said, CEQA has no requirement for participation

by such a commission for an EIR to be considered adequate. Please see Master Response 1 regarding the legal principle of res judicata for information on subjects open to reassessment in the REIR.

### **Comment I23-3**

**The New Annex Building must be redesigned to successfully meet Secretary of Interior Standards:** The RDEIR fails to recommend changes to the new Annex Building that would accomplish this and, instead, opts to keep the inappropriate pleated glass exterior while changing the pattern of its pleating. It justifies this on the grounds that the Secretary of Interior Standards call for differentiation between an existing historic building and a new addition. It ignores the fact that, while the Standards do require differentiation, they also require that the new addition be compatible with the existing building in terms of form, massing, and materials and that it be subordinate to the existing historic building. As former State Historic Preservation Officer Wayne Donaldson FAIA pointed out in his testimony at the May 16, 2023 RDEIR hearing, the proposed new Annex Building is not 'subordinate' to the 1874 Capitol Building because it is wider and its height overshadows the Capitol dome. Additionally its' pleated, reflective glass exterior and lack of clearly defined openings have no relationship to the granite, concrete and stucco siding and clearly defined window and door openings of the 1874 Capitol. The ruling by the Appellate Court called for addressing all these issues, but the RDEIR doesn't do so and is, therefore, inadequate. As part of his testimony, Mr. Donaldson presented renderings of what a new annex building that meets the Secretary of Interior Standards could look like. The renderings show an annex building that is respectful of the 1874 Capitol Building in terms of mass, form and materials, but clearly from a more modern era. It is imperative that his design or something close to it be adopted as the design of the new annex building. It should also be mentioned here that building a new building with a glass exterior does not appear to be an appropriate way to address climate change and raises questions about building security in a time of increasing violence.

### **Response I23-3**

On more than one occasion, the comment references testimony provided by Wayne Donaldson during the May 16 Public Hearing. The comments provided in this May 16 testimony are responded to below as "comment letter" PH1-2. Please see those responses. In addition, Mr. Donaldson provided a comment letter that contains much of the same information presented during the May 16 public hearing. That letter is comment letter I21 and responses to the comments in that letter are provided above. Please see in particular Responses I21-7 and I21-8. These responses address the content of Comment I23-3 except the last sentence. Regarding the last sentence, please see Master Response 1 addressing the legal principle of res judicata for an explanation of why climate change need not be considered further in the REIR. In addition, the new Annex has been designed in close coordination with the CHP staff responsible for security at the Capitol and the State Assembly and Senate Sergeant-at-Arms Departments. All security needs are adequately addressed in the proposed design and operation of the new Annex.

### **Comment I23-4**

The new Visitor Center must not be allowed to destroy the west Capitol Park lawn and West Plaza or significantly alter the west (primary) facade of the 1874 Capitol Building: While the RDEIR makes some design changes to the Visitor Center entrance, locating the Visitor Center on the west side of the Capitol, with a long ramp leading up to it, still destroys the historic setting and changes the appearance of the west (primary) facade of the 1874 Capitol Building. The huge ramp that will run from street level at 10th St. to 20 ft below grade at the entrance to the Visitor Center obliterates the West Plaza, including the terracing that is part of the original landscaping of the Capitol. As the REIR acknowledges (4.12.4 pg. 70) *"The Beaux Arts circulation and landscaping of the Center entrance and interior subterranean space would create the most substantial change to the western entrance of the Capitol Building and western blocks of Capitol Park since the buildings completion in 1874."* It also acknowledges (4.12.4 pg. 71) *"Overall, the new Visitor Center would alter the historic landscape features of the West Lawn of the Capitol and reduce the ability of the resource to communicate its' period of significance. The proposed project would introduce a large, modern intrusion into the historic landscape that would remove almost one third of the West Lawn's character defining features, such as historic circulation, portions of its vegetation, the spatial organization and the topography"*. There is no way to mitigate this. Why is this level of irreparable destruction even being considered? The people of California did not ask for this and do not deserve this.



**Response I23-4**

The comment reiterates text and conclusions from the Draft REIR regarding the visitor/welcome center's contribution to the significant and unavoidable impact on historical architectural resources. Note that the visitor/welcome center places project elements in front of the façade of the Historic Capitol, altering the view of the façade compared to existing conditions, but does not alter the exterior of Historic Capitol building itself. Please see Master Response 4 regarding the policy decision by the JRC to include the visitor/welcome center as part of the proposed project.

**Comment I23-5**

In addition to destroying the historic integrity of the west side of Capitol Park, locating the entrance to the Visitor Center below the Historic Capitol Building, drastically changes the appearance of its west (primary) facade. It is no longer the front of a beautiful 1874 building with stairs leading up to a grand portico and equally grand entrance doors. Instead, it is an 1874 building sitting incongruously on top of the 21st century Disneyland like entrance to the Visitor Center, the flat roof of which has a large skylight in the center of it and expands out into what once was the Historic West Plaza. Looking east down Capitol Mall from several blocks away, a person probably can't see the ramp and below grade entrance to the Visitor Center so, from that distance, the visual impact may be "less than significant" as the REIR claims. But the closer a person gets, the more significant the visual impact of the Visitor Center becomes with its huge entry ramp, gaping entry space and large sign. The RDEIR (4.12.4 pg.74) describes it quite accurately as follows: *"the lower plaza would create a void below grade level visible from nearby viewpoints and the safety railings and proposed skylight . . . would introduce visual interruptions at the Capitol"*. By the time a person walking east on Capitol Mall reaches 10th St. the impact of the Visitor Center would have gone from "less than significant" to character destroying. There is no mitigation for this kind of damage. An alternative that retains the historic integrity of the 1874 Capitol and Capitol Park absolutely must be found

**Response I23-5**

Please see Response O6-2 regarding aesthetic impacts of the visitor/welcome center. Effects of the visitor/welcome center on historic architectural resources, including the character of the West Lawn area, are evaluated and disclosed in the discussion of Impact 4.12-4 in the Draft REIR.

**Comment I23-6**

Not only does the proposed Visitor Center destroy the integrity of a major portion of the Capitol, but it destroys the ability of the public to gather and exercise their First Amendment rights at the Capitol - an issue the RDEIR completely ignores. While the RDEIR doesn't talk about it, the West Plaza has been the site of historic demonstrations and other public events for decades. It is a symbol of free speech. Thousands of people have marched down Capitol Mall to the West Plaza to express their opinions and concerns, to protest and to celebrate. Many speakers, including legislators and other elected officials have stood on the West Steps to address them. The Visitor Center will obliterate most of the space where they assembled. Per the Highway Patrol, people cannot gather on the Visitor Center entry ramp because it is a location where people enter and exit. They also cannot gather in any significant number on the roof of the below grade Visitor Center which has a large skylight in the middle of it and doesn't even appear to be accessible from the west side of Capitol Park. Failure of the RDEIR to address the loss of this important free speech gathering place where people have come for generations to petition our government is a huge oversight. Former Assembly Member Ken Cooley, who was instrumental in planning the Annex Project, called the Capitol "The People's House" which begs the question, how can you have a "People's House" if the people lose their most important gathering space and can no longer voice their concerns in the way that they have since the 1874 Capitol was built.

**Response I23-6**

Please see Master Response 2.

**Comment I23-7**

Because of the reasons stated above, a less harmful location for the Visitor Center must be found. The RDEIR does not provide an adequate range of alternatives for location of the Visitor Center or how to enter and exit it. It assumes that, wherever the Visitor Center is located, access can only be by ramp, despite the negative impact of ramps on trees and park space and it concludes that west side remains the least harmful alternative without providing

the reasons for that conclusion. It must look at additional alternatives including locating the Visitor Center in the basement of the new Annex Building and accessing it by elevator/stairs or locating it in the basement of the 1874 Capitol Building and accessing it by elevator/stairs located adjacent to the 1874 Capitol in the new annex building.

#### **Response I23-7**

Please see Response O6-6.

#### **Comment I23-8**

**Public never given the opportunity to comment on relocation of the underground parking garage from south to east side of the Capitol and impacts of east side location have not been adequately analyzed:** Original plans for the Annex Project located a new underground parking garage on the south side of the Capitol. The public did not learn that its' location had been moved to the east side of the Capitol until what was intended (before the lawsuit) to be the final EIR. The public also didn't learn that there would be entrance and exit ramps on L and N Streets until the final EIR and no serious analysis of the impact of those ramps was provided in the final EIR or the RDEIR, despite the fact that the parkway strips on L and N would be removed to accommodate the ramps and would necessitate the removal of 43 historic palms trees that were planted when the 1874 Capitol was built. No analysis was done of the feasibility of relocating the palms, nor was any analysis done of the impact of the loss of on-street parking, the loss of parking revenue to the City of Sacramento or the impact to nearby businesses, including restaurants, whose patrons won't be able to park on a significant portion of L and N Streets adjacent to Capitol Park. An additional unanalyzed issue is pedestrian access to the Capitol. Currently pedestrians have access across L and N Streets at 10th, 11th, 12th, 13th, 14th and 15th Streets. It appears that, due to the entrance and exit ramps, pedestrians will no longer be able to access the Capitol by crossing 11th, 12, or 13th. This will create significant inconvenience for pedestrians, particularly for those with limited mobility. This analysis should have been part of the RDEIR. The failure to include it is made worse by the fact that some of the historic palms in the parkway strip have already been moved and replanted and some already appear to be dead or dying.

#### **Response I23-8**

Please see Master Response 1 regarding the legal principle of res judicata. The Ruling did not call for further evaluation of alternatives to the underground parking; therefore, this issue need not be addressed in this REIR. Please see Section 2.3, "Evaluation of the Project Modifications" in the 2021 Final EIR for an analysis of why the 12<sup>th</sup> Street underground parking alignment does not create any new significant impacts, or substantially more severe significant impacts, from those disclosed in the 2019 Draft EIR or 2020 Recirculated Draft EIR. The analysis in Section 2.3 of the Final EIR addresses effects on trees; on-street parking; and "other transportation modes," which includes pedestrian movement. Please also see Response O8-19 regarding the loss of parking spaces and Response O8-10 and Master Response 3 regarding palm tree relocations. Potential effects of loss of on-street parking on local businesses would only be a CEQA issue if there were a nexus to a change in the physical environment. The comment provides no such nexus. See Master Response 4 regarding the consideration of purely financial issues in a CEQA document.

#### **Comment I23-9**

Despite the significant impacts and expense of locating the underground parking garage anywhere in Capitol Park, no other alternatives were explored. The new "Swing Building is half a block away from the Capitol. Elected officials and staff are currently parking in it and could continue to use it when the Annex Project is completed. It could be connected to the new annex building via a tunnel which would be far less expensive and far less destructive than then putting the parking garage in the park. It is my understanding that a tunnel is already planned for occupants of the Legislative Office Building and such a tunnel could certainly extend to the 'Swing' Building. An additional consideration is the optics of a new parking garage for elected and their staff at a time when average people are being told that, to help address the climate crisis, we need to reduce vehicle miles traveled by getting out of our cars and taking transit, biking or walking. 'Do as I say, not as I do' is never a good optic for government officials.

#### **Response I23-9**

Please see Response O2-11. Please see Master Response 4 regarding policy decisions made by the Legislature.

**Comment I23-10**

**Failure to provide accurate data about impacted trees or minimize tree loss:** I have already discussed the plan to remove 43 historic palm trees in the parkway strips on L and N in order to build entry and exit ramps for a costly, unneeded new underground parking garage in Capitol Park. Those transplanted already appear to be dying. They are being moved and already dying despite the fact that the Court said that, until the CEQA case is resolved, the only Annex Project action that can proceed is demolition of the existing, historic Annex Building. This should not be happening. The palms are an irreparable loss.

**Response I23-10**

Please see Master Response 3.

**Comment I23-11**

The impact to the trees in Capitol Park has already been horrific. Trying to figure out how many trees have been or will be destroyed and how many transplanted has been an ongoing challenge. Some of the trees that have been transplanted have already died, including five Japanese memorial cherry trees and a beloved Senegal Palm. The transplanted Schwarzenegger Oak fell over and has had to be replanted. Local arborists say that appropriate (ANSI) standards of tree care are not being followed. Trees have been transplanted and are being transplanted just as we are starting to get into the heat of summer when nothing should be transplanted. Page 48-49 of the RDEIR lists specific trees located near construction sites that are intended to be protected and saved, but it is unclear if they can be adequately protected or how they will be protected. Most of the trees listed for protection are located near the planned underground parking garage. The RDEIR list also includes "four deodars" There are ten historic deodars on the west lawn of Capitol Park and I assume these are the four of these closest to the Visitor Center ramp, two on either side of it. What kind of protection will these trees and other trees slated for protection receive so that they don't die like so many other trees have already died? There doesn't appear to be any accountability. The same RDEIR section on trees says that 56 more trees are slated for removal and that 32 of those are in the area of the new Visitor Center. Which specific trees are they? How large is the area from which trees will be removed because of Visitor Center construction? What will these losses do to shade and to people's experience of Capitol Park. Where is the analysis that shows how many ecosystem services ( e.g. carbon absorption, shade and cooling, wildlife habitat) are being lost due to the tree removals?

**Response I23-11**

Please see Master Response 3.

**Comment I23-12**

**Promised mitigation measure that can't be carried out:** In the section of the RDEIR on mitigation measures, sub-section 4-12-4.d talks about working with the State Historic Capitol Commission. The Commission has not been meeting for some time because it lacks sufficient members for a quorum. Why is working with it on mitigation included in the REIR when it effectively no longer exists? Why was no effort made to work with it earlier in the planning process when it had a quorum and was meeting regularly? This failure led to the resignation of two Commission members because lack of requested material about the Annex Project left them unable to do their jobs. Are there other mitigation measures that can't or won't be carried out?

**Response I23-12**

Please see Response O6-5. In addition, the Legislature directed the participation of the Historic State Capitol Commission in project planning. Please see Master Response 4. That said, CEQA has no requirement for participation by such a commission for an EIR to be considered adequate.

**Comment I23-13**

**Climate crisis/sustainability issues not adequately considered in Annex Project:** Tearing down the Historic Annex rather than finding ways to rehab it means throwing away all the embodied energy that it contains and disposing of highly carbon intensive materials like steel and cement so that a new bigger fancier building can be built with all the energy and carbon intensive materials that takes, including huge sheets of 'pleated' glass even though it's more energy efficient not to use glass cladding. Climate predictions for California talk about years of extreme drought

alternating with periods of extreme rain that will cause flooding, yet millions will be spent on building a new underground Visitor Center and new underground parking garage. How will they be protected from flooding? What does it say to the public when elected officials are building themselves a fancy new parking garage when they already have a new parking garage half a block away and when Californians are being told that they need to reduce their vehicle miles traveled and ditch their cars in order to meet climate goals. And finally what about the destruction of so many Capitol Park trees, including large old trees at a time when more trees are badly needed to store carbon, provide shade and cooling on ever hotter days, help mitigate local flooding when heavy rains occur and provide habitat for birds at a time when so many of them are dying due to the climate/extinction crisis.

### **Response I23-13**

Please see Master Response 1 regarding the legal principle of res judicata for an explanation of why climate change, energy usage/conservation, general impacts on trees, carbon sequestration by trees, flood risk, and biological resources need not be considered further in the REIR. Please see Master Response 4 regarding policy decisions by the Legislature.

### **Comment I23-14**

**In conclusion:** Since its inception, the Annex Project has been rammed through with very little transparency. Even in a time of budget deficit when badly needed programs are being cut, it continues to be rammed through at a cost of \$1.2 billion and rising? How is it that a new underground garage is to be built for elected officials and their staff when they have a new garage a half a block away and there isn't adequate funding for transit? How is it that work on 12th Street utilities and removal of palm trees is proceeding when the ruling in the CEQA case allowed only for demolition of the Historic Annex Building until the case is resolved? How is it that crucial decisions about a project that has the potential to permanently destroy the historic integrity of the State Capitol were made by the Chair and Vice Chair of Joint rules and a "Representative of the Governor's" office with almost no public hearings let alone votes by the full membership of the Joint Rules Committee? How is it that, despite the State Capitol being an historic resource, there was no consultation with the State Historic Preservation Officer and no analysis of the feasibility of rehabbing the Historic Annex Building? How is it that, as described previously, two members of the State Historic Capitol Commission decided they had to resign because lack of needed information about the Annex Project made it impossible for them to do their jobs? If the new Visitor Center is built on the west side of the Capitol and the public can no longer gather where they have gathered for over 100 years, where will they go and what does that say about the public's right to gather and exercise their First Amendment rights as they have done for more than a century?

Thank-you for this opportunity to comment. I hope that my comments and those of others result in a redesigned Annex Project that reflects public concerns and the need for the state to address the climate crisis in everything that it does.

### **Response I23-14**

The comment reiterates topics and issues raised in the previous comments. Please see Responses above. Please also see Master Response 4 regarding actions taken by Legislature and the State budget. All actions taken to date related to the Annex project have been part of demolition, which is expressly permitted by the Ruling. Please see Response O4-5 regarding coordination with the State Historic Preservation Officer.

## **Letter I24 Gail Kara**

June 15, 2023

### **Comment I24-1**

Hundreds of downtown businesses had broken windows during the protests after George Floyd's horrific death. It only takes one or two determined people with the right tools to blast out glass windows, one after another. How much protection will we need to pay for, to try to keep a glass Annex building out of harm's way? The Sacramento Convention Center, in its remodeling, which took place after those events, redesigned its formerly glass-lined front along J Street, spending a lot of money to change its whole look in the direction of an appearance of impregnability. I predict that, if this glass Annex is built, that at some point, there will be a remodeling done to make it more secure, at great expense, with less glass.

It seems to me that someone should be talking to the people who remodeled the Convention Center to ask why they got rid of their wall of glass on the first floor.

#### **Response I24-1**

The new Annex has been designed in close coordination with the CHP staff responsible for security at the Capitol and the State Assembly and Senate Sergeant-at-Arms Departments. All security needs are adequately addressed in the proposed design and operation of the new Annex.

#### **Comment I24-2**

Also, it is very disappointing that there is very little information that has been provided about the underground garage. If the number of underground parking spaces is not that different than at present, why is it necessary to remove lanes of traffic, and street parking, not to mention the beautiful palm trees that have to be removed and (probably impossibly) relocated.

#### **Response I24-2**

Please see the first portion of Response O2-11.

## **Letter I25 Lisa Krause**

June 15, 2023

#### **Comment I25-1**

Project Alternatives: It is disheartening that alternative 2, Capitol Annex Renovation, was not given genuine consideration. It should have been the project. Instead, the demolition of the Annex and development of a much larger one along with a larger underground parking structure for the same amount of employees is...a colossal waste.

#### **Response I25-1**

The comment provides a personal opinion regarding Alternative 2 evaluated in the 2019 Draft EIR. No further response is required.

#### **Comment I25-2**

When the State Capitol Building Annex Act of 2016 passed, it allowed the Rules Committee to pursue construction or the restoration, rehabilitation, renovation or reconstruction of the Annex. Then AB 2667 (2018) declared that the symbols early Californians incorporated in their Capitol shall be incorporated into the newly constructed or restored, rehabilitated, renovated or reconstructed Annex. The idea of simply "incorporating" symbols into a new, larger open concept structure for the same number of people, most of which are capable of teleworking, rings hollow.

#### **Response I25-2**

Please see Master Response 4.

#### **Comment I25-3**

Saying the new glass Annex symbolizes public transparency in California's democratic process is incorrect. The correct symbolism would be to dig deeper underground with no natural light. But who does that? To get this far it needed trailer bills to follow, aka a lack of public transparency, to get where it is today.

In the end, this Project sends the message that the rest of California needs to save their resources to fight climate change and deforestation, reduce construction and demolition debris from entering landfills, conserve water and energy, but not the state's Rules Committee and its collaborators. It's a giant symbol of waste and that's unfortunate.

#### **Response I25-3**

The comment provides an opinion on past decisions regarding development of the proposed project. Please see Master Response 4.

**Comment I25-4**

This Project, the chosen alternative for California's capitol, requires 133 too many trees to be unnecessarily removed and/or transplanted, the redwood groves and moon tree will (who really knows from the lack of details provided) still be impacted by construction. Under this Project, the removed trees and construction debris will become an actual pile of sticks, aka symbol #4. I implore the Committee to reconsider the chosen Project as a whole in light of how the world has changed since this all began.

**Response I25-4**

Please see Master Response 1 regarding the legal principle of res judicata for an explanation of why impacts on trees need not be considered further in the REIR. The redwood grove that includes the moon tree, as well as the moon tree itself, will be protected and retained as part of the proposed project. This is disclosed on Section 3.4.9, "Landscaping, Lighting, and Memorials," in the Draft REIR as well as in Chapter 2 of the 2021 Final EIR.

**Letter I26 Peggi Martin**

June 15, 2023

**Comment I26-1**

Our California government has an obligation to use our resources wisely, and in the best interests of its citizens. The proposed new Annex building does neither of those primary responsibilities, and also spends exorbitant amounts of money needlessly. There is currently an abundance of office space available around and near the Capitol, including State owned buildings, which can be used to house displaced workers from the old Annex. Intelligent space planning could address proxemic work requirements, and technology can address other work requirements. And at what cost and sacrifice to the environment. It is simply not necessary to have everyone at the Capitol building all of the time. A short walk from one nearby building to another when needed is a reasonable expectation.

**Response I26-1**

Please see Master Response 4. See Master Response 1 regarding the legal concept of res judicata for an explanation of why alternative locations for the new Annex, or Annex functions, are not required to be addressed in the REIR.

**Comment I26-2**

There is currently parking under and near the Capitol that makes the proposed new underground parking simply unnecessary, and contrary to the concept of promoting and using public transportation and a more eco-friendly lifestyle. To uproot trees and destroy the public's Capitol Park to provide parking for the privileged few is a crime. Parking and transportation access should be approached more strategically, taking advantage of existing and new resources. Bicycle riding and bicycle parking should also be an integral part of the plan.

**Response I26-2**

Please see Response O2-11. Please see Master Response 1 regarding the legal principle of res judicata for an explanation of why impacts to trees and use of alternative transportation modes need not be considered further in the REIR.

**Comment I26-3**

The proposed new visitor is absolutely an insult to the people of California and all that our great State stands for. It obliterates the West entry and steps of the Capitol, which is the citizen's front porch, where people gather to celebrate, to protest, and to express free-speech. Countless dignitaries have gathered here to address the people of the State, and this public venue should be preserved as it was intended. It is an iconic architectural piece of our history which should be open and accessible to the people. The proposed visitor center with its skylight viewing is absurd, and the entry closed off without visible access to the Capitol sends the wrong message. This Capitol belongs to the people. While realistic security measures are necessary, this proposed plan is functionally, aesthetically, and principally wrong.

**Response I26-3**

Please see Master Response 2. Also see Response O6-6.

**Comment I26-4**

The vast majority of people in Sacramento and the entire state have no information about what is going on and what is being proposed for this project, and at what cost. The people need to be informed, and presented with options. If this project were up for a public vote, I have no doubt it would fail. This project does not serve the people or the values of our great state. It must be stopped!

**Response I26-4**

See Draft REIR Section 1.1., "Background and Purposed of this Draft REIR," for a listing of all public involvement steps that were completed for the 2021 EIR and Section 1.3, "Environmental Review Process for the REIR" for information on the public meetings that were held for the Draft REIR.

**Letter I27 Michael Silver and Chris Ratekin**

June 15, 2023

**Comment I27-1**

We are writing to express our opposition to the portion of the Capitol Annex Project that involves locating a new visitor center on the west side of the Capitol building. We have examined the visual models for this project, as well as the REIR text, and we have two points of opposition.

1. The models and description reveal a destruction of the architectural design of the original West entrance, with its columns and steps. The current impressive view from the west is replaced by something that looks like the entrance to a county fair.
2. But perhaps more importantly, the proposed design interferes with what has become the site of almost daily marches, speeches, celebrations, and similar events. People come from all over the State, almost daily, to make their public statements and hold important events in front of the seat of our government. The new design "chops up" the public space, in a way that severely limits the size of gatherings. It makes the "plaza" gathering space unviewable from the sunken street level, and prevents larger groups--of which there are many--from spilling over to 10th street. It also breaks up the "plaza" by requiring a fence or barrier around the skylight of the Visitor Center, prohibiting folks from gathering in the very center of the space.

**Response I27-1**

The first portion of the comment expresses an opinion regarding the appearance of the proposed visitor/welcome center but does not address the analysis or conclusions in the Draft REIR. Please see Master Response 2 in regard to the second part of the comment.

**Comment I27-2**

Proposal: If the Visitor Center is built pretty much as envisioned, we request the elimination of the skylight; or the engineering of the skylight in such a way that people can walk on it. Also, we request that the sunken entrance be redesigned to be covered; that is, make it into an underground tunnel rather than an open walkway, so that the entire space from the building to 10th Street is once again available for public gatherings with unrestricted views to the "plaza".

**Response I27-2**

DGS appreciates the suggestions provided in the comment. However, these suggestions would not reduce any significant environmental effects identified for the visitor/welcome center. See Response O6-6 for a review of all visitor/welcome center alternatives that have been evaluated in the 2021 EIR and Draft REIR and an evaluation of the adequacy of that alternatives analysis.

## MAY 16, 2023 PUBLIC HEARING

### Letter PH1.1 Luree Stetson

#### Comment PH1.1-1

My name is Luree Stetson, L-u-r-e-e, last name Stetson, S-t-e-t-s-o-n, and my main comments are on the fact that we want to make sure that this REIR does not limit the comments that we can give based on the court ruling, because we think that some of the language implies that the court only requires discussions on certain items; so for example, limiting public comments to only the glass interior of the new annex building.

#### Response PH1.1-1

Please see Master Response 1 regarding the legal principle of res judicata.

#### Comment PH1.1-2

The draft REIR says the ruling identifies one item related to the analysis of impacts. That is the effect of the new annex with the identified glass exterior on the capitol complex.

We believe that the ruling requires an evaluation of the building's total design. The court said, "We conclude the EIR's project description satisfies the demands of CEQA, except the description of the new annex exterior design." The exterior design is defined as exterior features, architectural style, general design, including texture, building materials, all windows, doors, light fixtures. Design is defined as exterior features, including mass, height, appearance, and texture, color, nature, and composition material; so we'll be commenting on that today.

#### Response PH1.1-2

Please see Response O2-4.

#### Comment PH1.1-3

The other issue that we have is with the visitor center. Seems to be limiting the discussion only on the scenic view, and the court said that the EIR affects 35 percent of the west lawn, and you mentioned that a little bit earlier. The court said, "This case concerns significant impacts to the treasured historical resource, the historic capitol, and the court has also recognized that aesthetic issues to be considered and properly studied under CEQA, including impacts on the public and private views and on the historic character of the project site and their surrounding area."

#### Response PH1.1-3

It is understood that the commenter, providing oral testimony, was quoting the Ruling from memory. The specific text from the Ruling is:

"This case concerns significant impacts to a treasured historical resource, the Historic Capitol. An obvious and key requirement for determining a project's impact on a historical resource is the project's appearance. (See *Preserve Poway v. City of Poway* (2016) 245 Cal.App.4th 560, 577 ["Courts have also recognized that aesthetic issues" to be considered and properly studied under CEQA "include impacts on public and private views and on the historic character of the project site and surrounding area"].)"

This part of the Ruling is addressing the Annex and not the visitor welcome center. The next sentence after the quote above is:

"DGS stated in the draft EIR that it could not fully evaluate the new Annex's impact to the Historic Capitol without knowing the Annex's exterior design."

The Ruling does address two issues related to the visitor/welcome center, and both of these are acknowledged and addressed in the Draft REIR, 1) The provision of a visual simulation to support the aesthetic impact analysis; and 2) Expanding the alternatives analysis to include feasible alternatives that avoid or minimize adverse effects on the West Lawn, a contributor to the historic landscape of Capitol Park. Although the concept of a historic landscape falls within the realm of historic resources that would be addressed in Section 4.12, "Archaeological, Historical, and Tribal Cultural Resources" of the Draft REIR, the remedy directed in the Ruling was the analysis



of additional alternatives. Therefore, this issue is addressed in Draft REIR Chapter 7, "Alternatives." The Draft EIR does not ignore the issue of visitor/welcome center impacts on the West Lawn, but addresses them in the alternatives analysis, as directed by the Ruling.

#### **Comment PH1.1-4**

Finally, we want DGS to look at the use and the topography and look at that analysis. And I know you put that in Alternative 5, but it appears you did that so that you could then say there wasn't significant impacts because you couldn't do the alternative; so we're a little confused about that.

#### **Response PH1.1-4**

The conclusion of the analysis of Alternative 5 in the Draft REIR is that the alternative is feasible, and when all environmental issue areas are looked at together, the environmental effects of Alternative 5 are similar to those of the proposed project. It is unclear how looking at "the topography" would be achieved. The topography of the project area is relatively flat and there are no environmental effects directly linked to topography (e.g., erosion, landslide risk) that would occur. Please see the full analysis of Alternative 5 and the evaluation and selection of an environmentally superior alternative provided in Chapter 7 of the Draft REIR.

#### **Comment PH1.1-5**

Finally, we didn't have a chance to comment on the move of the parking garage to 12th Street. It was put in the final EIR after the comment hearing closed, and we believe you need to comment on -- you need to take comments on that location and its impacts and consider our comments and do an analysis on putting that parking garage off-site. So those are some of the things that --

#### **Response PH1.1-5**

Please see Master Response 1 regarding the legal principle of res judicata for an explanation of why further analysis of the underground parking is not required in the Draft REIR. Also see the first portion of Response O2-11.

## **Letter PH1.2 Milford Wayne Donaldson**

#### **Comment PH1.2-1**

Okay. That will be great. And my name is Milford Wayne Donaldson, M-i-l-f-o-r-d, Wayne, W-a-y-n-e, Donaldson, D-o-n-a-l-d-s-o-n.

I've been a preservation architect for 45 years, licensed in four different states. And I've also served as a California state historic preservation officer servicing two governors from 2004 to 2012. And I was also appointed and served as a chair of the Advisory Council on Historic Preservation, a federal agency, by President Barack Obama from 2010 to 2019, again, serving two presidents.

#### **Response PH1.2-1**

The comment is a listing of the speaker's credentials. No further response is required.

#### **Comment PH1.2-2**

Today, I am going to comment on three major items and then give you some detail behind that. And you folks out there that I just passed out -- I know it's 15 pages long, but if you can follow along, then you have some images there as well, same images I'm presenting here today.

#### **Response PH1.2-2**

The comment is an introductory statement. The handout referenced in the comment is the same material provided in comment letters I21 and PH1-9. See Letter I21, above, for responses to comments provided in this handout. These oral comments provided at the Public Hearing generally align with the content of handout (i.e., Letter I21).

#### **Comment PH1.2-3**

One is a proposed visitor center does not meet the Secretary of the Interior's standards for the treatment of historic properties, along with the guidelines for rehabilitating, restoring historic buildings. The proposed annex does not

meet the Secretary's Interior standards, and we -- as you say, we just call them standards. When I say "standards," I am not going to repeat that and run up all my time.

#### **Response PH1.2-3**

The comment lists two of the three major topics to be addressed in the remaining comments. See the detailed comments and responses below.

#### **Comment PH1.2-4**

And then the third one that we're going to comment and present on is our alternative design for the annex that does mean the standards. And then Dick Cowan is going to follow me up, and he's going to give an alternative for the visitor center. Okay?

#### **Response PH1.2-4**

The comment identifies the third of three major topics to be addressed in the remaining comments. See the detailed comments and responses below.

#### **Comment PH1.2-5**

And if you folks out there -- you heard CEQA, the California Environmental Quality Act, and why there's so much emphasis that was placed on there, because in the 1992 changes to CEQA -- is that the inserted -- the Secretary's interior standards for the treatment, and you can consider to be categories if you will follow, but it does not follow, and I am going to show you why.

#### **Response PH1.2-5**

The comment provides general information regarding CEQA. No further response is required.

#### **Comment PH1.2-6**

By the way, just as a quick comment on the 1952 annex: All of those things that you put on there can be mitigated by the State of California Historical Building Code, a code that we put together in 1976 that preserved the state capitol from being demolished and was used and started the same things back in 1960s. So I think it's important. Even though it's a 1952 building, it's historic, and we've redone them with the help of DGS.

They have been our triumph in past by doing the court's building and the library annex and everything else; so they have been really terrific; so we're not here to get on their case, for sure. It's not unavoidable. Let me tell you, it's not unavoidable. I've done approximately 2,000 buildings in the last 45 years. It is not unavoidable.

#### **Response PH1.2-6**

The comment expresses some of the commenter's past experiences using the California Historical Building Code (CHBC). See Response I21-11 regarding consideration of the CHBC for the proposed project.

#### **Comment PH1.2-7**

However, we're going to focus now on the west entrance for the visitor center. Again, great revival architecture, and this is our meeting ground. Hugh Howser, several times, noted this is the front door to our Congress; this is the front door to our freedom; this is the front door where things are held, people discuss, no distance flat. You can go right up the stairs, right in to your legislators.

Now we've got this humongous entry, and this is the old -- this is the old perspective. But the reason why I'm showing that, the -- the reason why I'm showing you that is because that's a close-up. That disappeared in the revision. They could have made a new one there. Instead, they're looking at a couple hundred feet away when they're looking at this; so you can't really see the detail. All right?

#### **Response PH1.2-7**

The comment is referencing images of the visitor/welcome center provided in the Draft REIR. The visual simulation provided as Figure 4.15-7b in the Draft REIR is responsive to the direction provided in the Ruling. The renderings provided in Appendix C of the Draft REIR are supplemental information.

**Comment PH1.2-8**

However, we do have some images on that, and you can see them back over here. This is an aerial. Okay. You can see them back there. 280 feet, 5 percent slope, takes you down into the basement into the plaza. So what we've attempted to do -- and we'll discuss it later, but when you look at what is not recommended, constructing a new addition or adjacent to a primary elevation of a building, which is -- negatively impacts the building's historic character; attacking a new addition in a manner that obscures damages or destroys the character, defining features -- and "features" meaning that those particular things make it unique for its own period of significance -- and designing a new addition that significantly is different and thus is incompatible with the historic building. Let's go to the next board stick.

**Response PH1.2-8**

The 2020 Recirculated Draft EIR and Draft REIR both recognize the visitor/welcome center's contribution to the significant unavoidable impact on the Capitol Complex. The comment seems to provide information that aligns with the content of the Draft REIR.

**Comment PH1.2-9**

So that's really the biggest impact that we have. And so this thing is huge. Yeah, we'll come back to that.

Okay. So this -- so this thing is huge. You guys can't see that. Okay. This thing is huge. The square footages increases. As you noticed, the demolished trees pushes way out past the annex. It's wider than the building and then also cuts into a floor that the existing annex doesn't even -- the existing annex is only five stories tall. This one goes all the way up, even though they say four, and it basically butts itself into the lower portion of the dome. Next. Yeah, the massing. Okay. This is good.

**Response PH1.2-9**

The comment refers to the size and shape of the new Annex. If the reference to an increase in square footage is in relation to the existing Annex, this is correct and disclosed in the 2021 EIR and the Draft REIR. If the comment is implying that there has been an increase in square footage of the new Annex since the 2021 EIR, this is incorrect. The estimate of the new Annex providing approximately 525,000 gross square feet of space has remained consistent. The height of the new Annex remains consistent with what is shown in Figure 3-9 in the Draft REIR.

**Comment PH1.2-10**

All right. So here we have the glass building. How can you say that this is compatible to the 1874 Greek Revival architecture? It overpowers it, besides being a lot larger than it should; so it's not recommended. Constructing a new addition that is as large or larger than a historic building -- which it is; it is larger, which visually overwhelms it, in other words, results in a diminution or a loss of historic character, placing the new construction too close to historic building so it negatively impacts the historic building character, the site, or setting.

**Response PH1.2-10**

See Response I21-7.

**Comment PH1.2-11**

So here we are trying to understand that this building is so far -- not even close, not even close, nothing lines up, and you'll see in the EIR they attempt to line up these little things from a glass --

So can you imagine January 6th someone wants to do some harm? Holy moly.

**Response PH1.2-11**

See Response I21-7. In addition, the new Annex has been designed in close coordination with the CHP staff responsible for security at the Capitol and the State Assembly and Senate Sergeant-at-Arms Departments. All security needs are adequately addressed in the proposed design and operation of the new Annex.

**Comment PH1.2-12**

So what we're going to do now is look at -- besides of all the elements that we have here and coming down underneath the plaza, destroying the steps, also in addition to that, we lose the connection of ourselves to hold and demonstrate and protest and everything else on the front steps.

Now, in the EIR -- I think I remember, but I am not really sure -- they compare this to the historic nation's capitol because they have a ramp that goes down underneath. Wrong. I helped in that when I was with President Obama on that. That is across the street, almost, from it. And it's done that way in order to bring people in through a good security thing to have meetings down there, and you're not even close to the nation's capitol. And they certainly wouldn't do the primary steps where the new president takes his oath and everything else. Can you imagine, as it faces the National Mall, in coming here and screwing it up for whatever reason I'll never understand?

**Response PH1.2-12**

Please see Master Response 2. Any similarities that may existing between the proposed project and the Capitol in Washington D.C., whether or not such a reference exists in the 2021 EIR or the Draft REIR, does not influence the analysis or conclusions in the 2021 EIR or Draft REIR.

**Comment PH1.2-13**

All right. So we have an alternate, because it's great to complain and all that kind of stuff, but being an architect and working with other architects and other concerned people, we have -- we have an alternate. All right? The first thing -- by the way, we are keeping the same square footage, we're keeping the program requirements, and we're even going beyond that.

So here is part of our new design. We have then taken -- and we don't have a section on here. That, you guys find in your handouts, but, somehow, we didn't get it printed.

**Response PH1.2-13**

The comment presents the same alternative to the new Annex presented in Letter I21.

**Comment PH1.2-14**

We also keep the view to the capitol from the plaza. We're still -- we're still getting the floors connected and everything else because we know we're going to probably lose the annex. The judge is allowing the demolition to go forward, and, if you'll notice, if you go over to the -- to the south side of it, you'll see that it's all in -- the north side is all being raked away.

**Response PH1.2-14**

The comment continues to present the alternative to the new Annex provided in Letter I21. See Response I21-8.

**Comment PH1.2-15**

All right. So here's what we're doing. This is Secretary's of Interior's -- what is recommended: Designing new construction on a historic site or in a historic setting that is compatible but differentiated from the historic building or buildings. It doesn't say anywhere -- thank you. It doesn't say anywhere, "Don't make it look so historic so people are confused." Well, duh. Everything that you build nowadays, unless you're doing a reconstruction, which is part of the Secretary of Interior's -- and that came on after Hurricane Andrew down in the south. When it blew down all the buildings, they went to their legislatures and had it introduced as another treatment, four treatments on that. So here is what we're doing.

**Response PH1.2-15**

See Response I21-8.

**Comment PH1.2-16**

Now, you may say, "Well, gee, that looks really close to the existing annex." Yeah, it does. Even though when Eichler, who is the state architect, designed it at that time -- it was only in 1952. We didn't have a Historic Preservation Act until 1966 when these Secretary of Interior standards were introduced.

**Response PH1.2-16**

Please see Response I21-8. Also see the images of this proposed alternative provided in Letter I21.

**Comment PH1.2-17**

So here you are, the same view that you have looking down, except we've pulled one back, pushed another one out a little bit to keep the same square footage so that it basically is through.

**Response PH1.2-17**

This comment provides further information on the alternative to the new Annex presented by the commenter. Also see the images of this alternative provided in Letter I21.

**Comment PH1.2-18**

We also took a story out because the story, when you see in the cross-section, it's just a portion of that. It's not the entire thing across. Why is that? Because they have a gigantic hole in the middle of the new annex that goes all the way up with glass on the top. Because why? I think because they can do, quote, fundraisers, which is not what you can't -- you can't do fundraisers in the capitol, but you certainly can have your legislative people and all that on the pretence of it. So I don't know why they decided to carve that gigantic hole.

**Response PH1.2-18**

The comment continues to describe the characteristics of the alternative to the new Annex provided by the commenter. Note that the Draft REIR does not identify any uses for the mezzanine proposed as part of the new Annex. Any information the commenter may have received about proposed uses of mezzanine area came from a source other than the Draft REIR.

**Comment PH1.2-19**

And, now, when you notice the detailing of this, again, it's differentiated. The next one is ensuring the new construction that's secondary to the historic building does not distract from its significance. I can't even imagine you're looking at this glass -- this glass creature here -- or it might be glass stained. We're still going to have to go through this. Stay local. Okay?

**Response PH1.2-19**

Please see Response I21-8.

**Comment PH1.2-20**

All right. So look at the difference between these two. Now, they tried a little bit, doing some refreshment, but notice, you know, almost one-third of it is covered by trees. So I had my guy get rid of those trees so that you can see the continuity between our state capitol and the new annex that we came up with.

So we're still having the granite down below, some arches, not historic. Notice all of the -- the capitol, all of the overhang here with the walkway, the fencing, and stuff like that. None of that. Simplified, simple, clean, so it doesn't distract to it, and including the connection that's between the two buildings. Clean. Not a big chunk of glass here.

**Response PH1.2-20**

The commenter is presenting a poster boards showing some of the images provided in Letter I21. See Response I21-8.

**Comment PH1.2-21**

All right. So here is the thing. Let me wrap it up here. A couple minutes? All right. The alternate design that we're proposing is much less massive in scale. Its footprint is similar. It still contains all of their programs -- by the way, we have asked for drawings so we can see what's faced -- associations of theirs so we can actually -- we have not received any drawings. All of this is based upon what we see in their renderings and then a three-year -- a two-year-old 2021 list of square footage.

**Response PH1.2-21**

The material provided in the 2021 EIR and the Draft REIR provides an adequate CEQA analysis of the new Annex. More detailed drawings are not needed to properly assess the environmental effects of the new Annex or to prepare an alternatives analysis suitable for an EIR. Any need for drawings to allow more detailed comparisons of the commenter's proposed alternative and the proposed new Annex is outside the scope of this CEQA analysis. Any drawings and materials related to the new Annex not provided in the CEQA documents are under the jurisdiction of the JRC and the release of any such material is at their discretion consistent with security concerns and any applicable rules, regulations, and laws.

**Comment PH1.2-22**

All right. So let me summarize here. Using the same forms, materials, and color range of the historic building in a manner that does not duplicate -- not duplicate, but it distinguishes the addition from the original building. This does; that doesn't. Basing the alignment, rhythm, and size of the window and door openings of the new addition of those on the historic building -- again, the rhythm, slots of the old historic -- even though it's got a lot of filigree and a lot of stuff around it, over here -- rhythm, boom, boom, boom. The one on the second floor has a small arch, small arch, boom, boom, boom, rhythm. Down below, larger arches, larger arches, boom, boom, boom.

Incorporating a simple recess small scale - or connection to separate the addition physically and visually from the historic building. That's what we have here. The glass here just confuses one as a part of this new glass monstrosity - - sorry about the words there --and distinguishing the addition from the original building by setting it back from the wall plane of the historic building.

This does not. The glass does not. It pops out. Okay. The thing that's closest pops in a little bit, but the other one down the line pops out. So I split the difference so that nothing pops out, still keeping the square footage.

**Response PH1.2-22**

Please see Response I21-8.

**Comment PH1.2-23**

In summary, from a moral standpoint, it is shameless to continue construction by abolishing the historic preservation standards that other entities in the State of California must follow, including cities and counties and people that are doing historical tax credits. The legislature should at least implement a design that is keeping with the standard, unlike the current proposed glass --

**Response PH1.2-23**

The proposed project does not include any modification to historic preservation standards. Also see Response I21-8.

**Comment PH1.2-24**

I think this signals an end to preservation as we know it to the State of California, when the legislators are able to do this to our nation's most famous building in the state. Thank you.

**Response PH1.2-24**

See Master Response 4 regarding the consideration of the actions of the Legislature in a CEQA document.

**Letter PH1.3      Richard Cowan****Comment PH1.3-1**

Okay. Good day. I am Richard Cowan, C-o-w-a-n, past chair of the Historic State Capitol Commission and a junior engineer on the construction of the restoration of the 1860s capitol during the 1970s. I've been given graciously some time by Patricia Gayman, G-a-y-m-a-n; Patty Gregory, G-r-e-g-o-r-y; and a Mary Ann Millin, M-i-l-l-i-n.

**Response PH1.3-1**

The comment is an introductory statement. No further response is required.

**Comment PH1.3-2**

The first comment is that the Appeals Court said in its ruling -- and I'll quote --

"the final EIR announced for the first time the new annex's exterior design and the parking garage's new location." So as Luree mentioned, the public has not yet had a chance to comment on the new proposed parking garage location, but nor are there, in the revised draft EIR, any alternatives for us to consider or that you've analyzed; so no other parking garage alternatives were analyzed.

**Response PH1.3-2**

Please see Master Response 1 regarding the legal principle of res judicata for an explanation of why further analysis of the underground parking is not required in the Draft REIR. Also see the first portion of Response O2-11.

**Comment PH1.3-3**

We'd like for you to analyze one, please, and seriously consider it, and that is to use the parking that is already paid for at the Swing Space Building and use as Washington, DC, uses -- where'd my boards go? Where's my -- there you go. You guys took my easel away.

Okay. So here's our idea. The parking in the Swing Space Building has been paid for already. It's in use now by the legislators, and as is done in Washington, DC, where one goes from the legislative office buildings to the capitol hearing rooms and to the capitol floor, use underground tunnels for great security. We haven't been given the information, but we believe there's already secure communication between the brand new Swing Space Building and the legislative office building, and we are informed that the planning for the renovation of the alleged office building includes planning for the tunnel to the state capitol for secure traffic.

If those are true, as we've been told, then this is basically free to the capitol annex project. And if the POS estimate that was presented is still roughly proportional, about 7 percent of the project budget or about \$83 million could be saved, and we save the palm trees, which do not any longer need to be relocated for entries, and you know only about 50 percent of those palm trees can survive a move inboard into the sidewalks, and we save other trees that have yet to be relocated along the 12th Street line. So we think this is a really good idea and commend it to your serious analysis and review.

**Response PH1.3-3**

Please see response O2-11. Please also see Master Responses 3 and 4.

**Comment PH1.3-4**

Second comment: Alternative feasible locations for the visitor center. The court said -- Appeals Court ruling says, "DGS was thus obligated to identify feasible measures to mitigate significant adverse changes to the State California complex's significance." We're all in agreement that the west facade is statutorily protected and protected in the State Constitution, and the public gathering place in front of it is a big deal. Yet it seems we want to say unavoidable, unavoidable that we could do anything other than destroy our west facade by blocking the view with a visitor's center.

You did end your revised draft saying, "Well, here's some alternatives, and one is we could put it on the south." Now, as I take my scale and I measure the distance from the granite porticos to N Street and the bigger granite portico to 10th Street and the granite portico to L Street, I get substantially the same distance. So I don't know that I think the analysis that said, "Oh, we can't fit the ramp in there" is a very substantial analysis. That's not a very good analysis.

**Response PH1.3-4**

Please see Response O6-6 for a review of all visitor/welcome center alternatives that have been evaluated in the 2021 EIR and Draft REIR and an evaluation of the adequacy of that alternatives analysis. Also see Response O10-4.

**Comment PH1.3-5**

One thing that we could do, the recirculated draft EIR proposed the idea of some stairs and elevators to get people to a basement location. If we were to do that -- that only took 60 feet; so if we did that on L Street, that wouldn't take very much room at all. And then, once you're down there, maybe if you want a flat plaza, okay; maybe you want to bring the stairs and ramps further toward the capitol. I don't know. But it is not sufficient to me. That's not

sufficient analysis to say north and south are not feasible. I think certainly they could be, and we hope you give them a stronger, more deep look, because avoiding the disruption of the western facade is a big deal. It's a really big deal. You should turn every stone you could.

### **Response PH1.3-5**

Please see Response O6-6. In addition, the analysis of Alternatives 5 and 6 in the Draft REIR did not find these alternatives infeasible. In response to the direction in the Ruling to evaluate feasible alternatives to the proposed visitor/welcome center that minimized or avoided adverse effects on the West Lawn, Alternatives 5 and 6 are provided and analyzed as feasible alternatives.

### **Comment PH1.3-6**

Third comment: The appeals court ruled that all other project activities, other than demolition of the annex building itself, including excavation for the new annex foundations, excavation for the new parking garage foundations, could prejudice your review of alternative parking locations and a different massing and structure and shape of the proposed new annex building.

Somehow -- I don't know why this got into your EIR, but it seems like we're trying to change the judge's ruling by beginning to write that the utilities along the 12th Street alignment are part of the demo of the annex building, and I am just -- want you to really reject that. That's a very bad, bad argument. And the reason it is is, just as the justices foresaw, if we don't --you'd put the parking here, if we cut back the new proposed annex building and shrink it in its footprint, these utilities may not have to be disrupted at all. So let's not get ahead of ourselves. Let's wait until you do that thorough review of alternatives, and then these utilities may not need to be relocated.

### **Response PH1.3-6**

When demolition of the existing Annex basement walls and foundation is initiated there will be a need to get heavy equipment into the basement area and to remove large volumes of broken concrete from this area. At the time the Draft REIR was being prepared, an option being considered for providing access to the basement was excavating a ramp down to the basement. There was the potential that a portion of this ramp might extend into the 12<sup>th</sup> Street corridor. Therefore, in an abundance of caution, the Draft REIR identified potential excavation in the 12<sup>th</sup> Street corridor and removal or capping of underground utilities in that corridor as a potential part of demolition activities. Since publication of the Draft REIR, demolition contractors have identified a process for basement demolition that will not require excavation to extend into the 12<sup>th</sup> Street corridor.

### **Comment PH1.3-7**

Last comment: The revised draft EIR lists, as previous EIRs did, mitigation measures that should have been accomplished early in the design process. One is a historic structure report. Should have been done to inform the schematic design. The other is the landscape treatment report, and this should have been done very early in the design and to guide the contracts that are written for tree removal, tree relocation, tree protection. We have asked for these two documents, but as of this morning, when I last checked, they haven't been provided.

### **Response PH1.3-7**

The referenced reports are under the jurisdiction of the JRC and the release of any material included in these reports is at their discretion consistent with any applicable rules, regulations, and laws. Also see Responses O3-13 and O3-14.

### **Comment PH1.3-8**

We request that the date for receipt of public comments be extended past June 15th by the number of days equal to the days from April 5th, when this document was issued, until these two documents are fully available to the public for review.

### **Response PH1.3-8**

The Draft REIR was first made available on April 7, 2023 with a 45-day public review period ending on May 22, 2023. The Draft REIR was re-released on May 1, 2023, with supplemental information, and a 45-day public review period was restarted, ending on June 15, 2023. The supplemental information consisted of three visitor/welcome center renderings provided in Appendix C and minor text updates in the body of the document. The total public review



period, from April 7, 2023 to June 15, 2023, exceeded 2-months. The public review period exceeds the minimum required by CEQA. DGS has not extended the public review period further.

## **Letter PH1.4 Marian Moe**

### **Comment PH1.4-1**

It's M-a-r-i-a-n M-o-e.

-- you may not be able to provide today, but it would be very helpful for those of us who are trying to understand the evaluation and how DGS is applying CEQA to this project if you could provide any additional information.

I understood you to basically concede in your presentation that the visual impacts of locating the visitor's center would be less if it were on the north or the south side rather than the west. And that taking --I think you said something that -- taking into consideration all the impacts, that really wasn't as important; so you could not -- you didn't have to treat that as a significant impact.

And my understanding of CEQA is that it requires any significant -- any and all significant impacts to be considered and minimized, each one of them minimized, not -- including the major visual and historic event type of impacts and the architectural historic significance of the visitor -- of the existing west steps. And I -- I don't think it allows, like, the averaging of impacts; and if it does, it would be helpful if you could tell us where in the CEQA regulation it allows you to disregard these very significant impacts in favor of some other lesser ones. So thank you.

### **Response PH1.4-1**

Individual impacts in an EIR are determined to be less than significant or significant. Mitigation measures are identified for significant impacts. The mitigation measures may reduce an impact to a less than significant level. If there is not feasible mitigation that can reduce a significant impact to a less than significant level, then the impact is identified as significant and unavoidable. This is the approach implemented in Sections 4.12 and 4.15 of the Draft EIR where environmental effects of the proposed project are evaluated. In an alternatives analysis, the environmental effects of the alternative are compared against the environmental effects of the proposed project. Determinations of impact significance under the proposed project are re-considered under the alternative. The analysis identifies whether the significance conclusions under the proposed project change under the alternative. An overall conclusion is then identified for each environmental issue area (e.g., biological resources, air quality, aesthetic resources) identifying impacts from the alternative as being less than, similar to, or greater than the proposed project. This is the approach taken for the evaluation of Alternatives 4 and 5 in Sections 7.4.4 and 7.4.5 of the Draft REIR. The overall impacts of the proposed project and alternatives, all considered together, are then evaluated to determine the environmentally superior alternative. This approach is implemented in Section 7.5 of the Draft REIR. All these impact analysis approaches, as implanted in the Draft REIR, are consistent with the requirements of CEQA.

The analysis of aesthetics, light, and glare impacts for Alternatives 4 and 5 both identify the aesthetic impacts under these alternatives would be less than the proposed project because the visitor/welcome center under these alternatives would not be visible from the Capitol Mall scenic vista.

## **Letter PH1.5 Richard Cowan**

### **Comment PH1.5-1**

The Revised Draft EIR proposes that the Visitor Center remain located on the statutorily protected west side of the Capitol. But the Appeals Court Ruling charged that alternatives were never developed and fairly analyzed. Page 20. "DGS was thus obligated to identify feasible measures to mitigate significant adverse changes in the State Capitol Complex's significance."

### **Response PH1.5-1**

The Ruling directs DGS to analyze feasible alternatives to the proposed visitor/welcome center that avoid or minimize the significant unavoidable impact to historic architectural resources associated with disturbance to the West Lawn area. This direction is implemented with the evaluation of Alternatives 4 and 5 in the Draft REIR.

**Comment PH1.5-2**

One feasible alternative for the proposed west location of the Visitor Center – and most often talked about by the public --- is to place the Visitor Center in the basement of the proposed new Annex within its footprint, not outside its footprint. This is a reasonable alternative that would reduce the environmental impact on the west façade. We request that this alternative be developed and analyzed.

**Response PH1.5-2**

Please see Response O6-6 for a review of all visitor/welcome center alternatives that have been evaluated in the 2021 EIR and Draft REIR and an evaluation of the adequacy of that alternatives analysis.

**Comment PH1.5-3**

The Revised Draft EIR offers reasons as to why Alternative 5 “Visitor/Welcome Center South Entrance, page 7-13 cannot be accomplished. The reasons do not stand scrutiny. The RDEIR considers the proposed footprint of the western location of the Visitor Center with its extremely long down ramp entrance and alleges that neither the north nor south locations is far enough from L or N Street to accept the long downward ramp. However, the distance from the outside face of the granite porticos to the street is substantially the same on the north, west, and east facades of the 1860’s Capitol. So the fit of the ramp should be substantially the same.

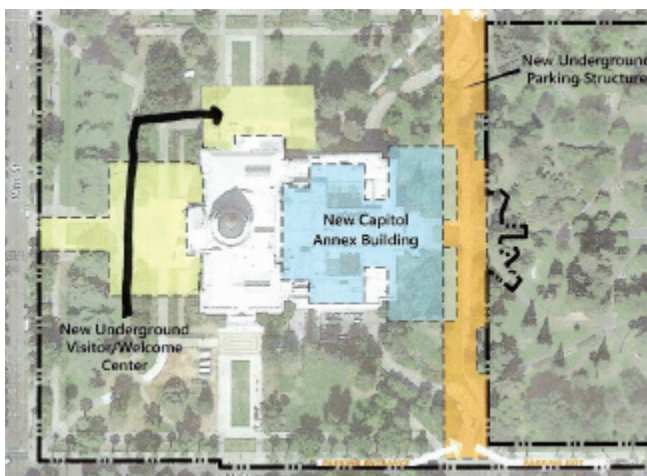
Moreover, the analysis does not but should consider alternates to the ramp entrance. Since the protected west view corridor would not be affected by either a north or south visitor center location, the use of stairways and elevators such as those proposed in the recirculated Draft EIR of January 2020 could be used taking only 60 feet of distance. There is more than enough room for such an entrance on either the north or the south side of the Capitol.

**Response PH1.5-3**

Please see Responses O6-6 and O8-14. In addition, the analysis of Alternatives 5 and 6 in the Draft REIR did not find these alternatives could not be accomplished. In response to the direction in the Ruling to evaluate feasible alternatives to the proposed visitor/welcome center that minimized or avoided adverse effects on the West Lawn, Alternatives 5 and 6 are provided and analyzed as feasible alternatives.

**Comment PH1.5-4**

Or alternatively, the visitors could enter the Capitol Complex along with the other public at the juncture of the 1860’s Capitol and the new proposed Annex, could be screened there by the same staff screening the other public, and could proceed to the Visitor Center on either the north or south side using the same elevators used by the other public, or Capitol employees. This would save the costs of construction and also reduce the number of State employees operating security screening at different locations. A sketch of this possibility which is adjusted for the lesser square footage of the Visitor Center reported in the Revised Draft EIR is here:

**Response PH1.5-4**

Please see responses O5-4, O5-6 and O6-6.

## Letter PH1.6 Richard Cowan

### Comment PH1.6-1

The Appeals Court on page 62 of its ruling ordered " all other project activities, including excavation for the new Annex and the parking garage and the beginning of work on the concrete foundations for those two structures, could prejudice DGS's review of the new Annex's exterior design" to cease. However, Section 3.4.3 (page 3-7) of the Revised Draft EIR appears to attempt to justify adding demolition of utilities to the Annex building's demolition; even though they are located along 12th Street and not within the Annex building. These utilities may or may not have to be relocated depending on an improved exterior design which may be adopted after public comment and on parking garage alternatives which do not affect the Park after public comment. We request that DGS strictly comply with the Court's ruling and stop all other project activity.

### Response PH1.6-1

Please see Response PH1.3-6.

## Letter PH1.7 Richard Cowan

### Comment PH1.7-1

Revised Draft EIR Page 22 Mitigation measure 4.12-4a requires DGS to have contracted with historic preservation specialists to prepare a historic structure report in accordance with National Park Service Preservation Briefs. This should have been completed and used to inform the schematic design very early in the project.

Mitigation measure 4.12-4d requires DGS and landscape specialists to develop a landscape treatment report for protecting memorials in accordance with National Park Preservation Briefs and Secretary of the Interior Standards (SOIS.)

These two documents on which past Certification of the EIR's and approval of the Project relies have been requested but those requests have been unfulfilled.

It may be that the documents were not prepared in violation of CEQA and that the promised mitigation was not undertaken prior to removal of historic fabric from the 1950's Annex and prior to the removal of trees from Capitol Park.

We request that the date for receipt of public comments be extended from June 15 by a number of days equal to the days from April 5 until the two documents are released to the public.

### Response PH1.7-1

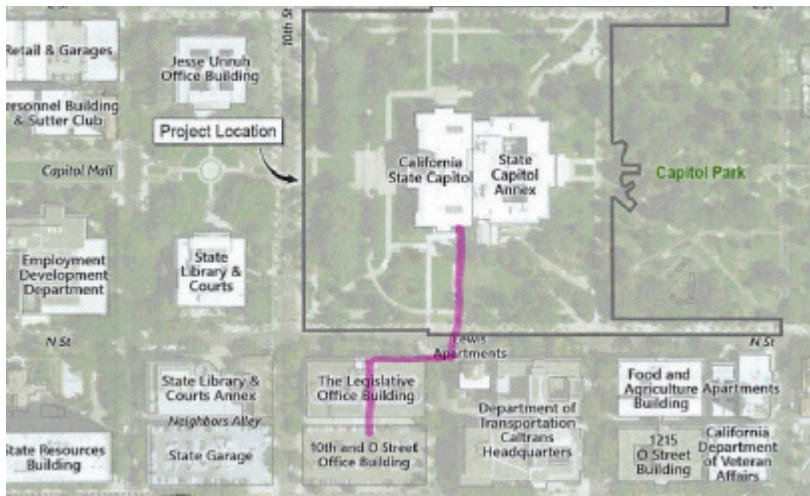
Please see Responses PH1.3-7 and PH1.3-8.

## Letter PH1.8 Richard Cowan

### Comment PH1.8-1

The Appeals Court said in its ruling "The final EIR announced for the first time the new Annex's exterior design and the parking garage's new location. *[emphasis added]*

The Public did not have a chance to comment on the new Proposed Parking Garage location along the 12th Street Corridor. Yet the Revised Draft EIR does not offer or analyze reasonable alternatives to the parking garage. Please analyze the existing paid-for swing space parking connected by secure tunnels to the Capitol as a less costly, and less environmentally damaging alternative. It will avoid the security risk of poison gas or explosive concealed in underground private vehicles immediately adjacent to the Annex building . It will save removal of many trees from Capitol Park. It will eliminate the need to move the many stately, fragile City palm trees which may not survive being moved.



### Response PH1.8-1

Please see Response O2-11. The proposed underground parking has been designed in close coordination with the CHP staff responsible for security at the Capitol and the State Assembly and Senate Sergeant-at-Arms Departments. All security needs are adequately addressed in the proposed design and operation of the planned underground parking.

### Comment PH1.8-2

We are advised that the planning and budgeting for a future renovation of the Legislative Office Building (LOB) at 10th and N Streets already contemplates the tunnel from the Annex to the LOB. Access from the Swing Space building to the LOB may also already exist.

If those are true, the Project can avoid spending about 7% of its \$1.2 Billion cost or about \$83 million.

### Response PH1.8-2

Please see Response O2-11. Also see Master Response 4 in Chapter 3 of this Final EIR regarding project costs.

## **Letter PH1.9 Milford Wayne Donaldson, FAIA**

Letter PH1.9 provides the same comments as Letter I21. See Letter I21 above for the comments and responses applicable to Letter PH1.9.

## **Letter PH1.10 Paula J. Peper**

### Comment PH1.10-1

I am concerned over the discrepancies between the mitigation measures listed in the Draft Revised Environmental Impact Report (DREIR) 4.12.4d and 4e and what has already happened on the ground to the landscape and trees. These discrepancies are violations of the mitigations cited and CEQA. There are already discrepancies between numbers of relocations and removals listed in the RDEIR and what has already occurred. Because of these discrepancies I cannot trust the Joint Rules Committee, MOCA and DGS to do the right thing at all with this project. I oppose the Visitor Center and the underground parking as designed, as well as the exterior glass of the new annex.

### Response PH1.10-1

Please see Master Response 3 in Chapter 3 of this Final EIR.

### Comment PH1.10-2

#### **Removals**

The DREIR (May 23 Update) lists for removal 24 trees for the Annex/Parking area, but the Attorney General provided both map and list of 30 trees for removal for the Annex last year. All but one tree have been removed already. Add the 32 now listed for the Visitor Center and there are a total of 62 trees to be cut down rather than the 56 listed in the RDEIR.

Response PH1.10-2

Please see Master Response 3 in Chapter 3 of this Final EIR.

Comment PH1.10-3**Relocations**

The RDEIR lists for relocation 28 trees but the AG provided a map and list of relocation points that shows 39 trees of trees to be relocated for the Annex/Parking area alone.

Of the first 15 trees relocated in early 2022, 6 have died—including the 5 Japanese Memorial Trees and one Senegal Palm (see Figs.1-4 following letter). The non-cable and braced (violation of ANSI Standards) Schwarzenegger Oak fell over two weeks after transplanting. The relocation contractor re-erected it a week after it fell. He has since placed bracing on all large transplanted trees as should have been done originally. The Schwarzenegger Oak is doing very poorly as is the saucer magnolia that was just east of the north kiosk and which was transplanted about 100 feet farther east from its original site.

Response PH1.10-3

Please see Master Response 3 in Chapter 3 of this Final EIR.

Comment PH1.10-4

There are now 6 fewer palms being moved. However, few if any palms of similar size and age have been relocated successfully. In fact, fewer than 50% of much smaller relocated palms have survived in Sacramento after relocation. A publicly available landscape plan is required to assure the public that DGS and JRC have a solid knowledge of how to move these successfully.

Response PH1.10-4

Please see Master Response 3 and Response O8-10.

Comment PH1.10-5**Mitigation Violation?**

Failed tree transplants are not being replaced in kind as stated they would be in the FEIR and the REDEIR. Different cultivars of cherries replace the Japanese Memorial trees, rather than the original cultivars from the various Japanese entities that gifted them and only 3 of the 5 were replaced. This violates the mitigation measures included in every one of the Annex EIRs documents to date. This is a violation of the planned mitigation.

Also in question is whether the Japanese who gifted these were **actually consulted** prior to the planting of 3 new trees used to replace the 5 transplants that dies **as the RDEIR states will occur**. What was used to replace in kind the 2 additional dead cherries and where were those planted if they were?

Response PH1.10-5

Please see Master Response 3.

Comment PH1.10-6**My Questions**

1. Who is in charge of monitoring the landscape changes and decisions being made on the ground today and for the past year and communicating those changes to the creators of the RDEIR? RDEIR does not state an overall monitor but includes landscape architect, landscape historian, and arborist. Who exactly is making the decisions clearly without a completed plan in place prior to any relocation?

Response PH1.10-6

Please see Master Response 3. The JRC and its representatives are implementing demolition activities and mitigation measures, and reporting mitigation measure compliance to DGS.

**Comment PH1.10-7**

2. Mitigation 4.12.4d states:

“DGS and the JRC shall review and approve the final landscape treatment report prior to the completion of the 50% design development phase.”

DGS and JRC have already had at least 4 years to create a completed Landscape Treatment Report for Capitol Park and apparently have STILL not yet done so. The public deserves to know what is going to occur on their Capitol grounds and who is actually in charge of final decisions. When is the design phase 50% complete given the destruction and relocation of the landscape thus far?

**Response PH1.10-7**

Please see Response PH1.3-7.

**Comment PH1.10-8**

3. Mitigation Measure 4.12.4e states that the Plan for the Protection, Monitoring and Repair of Inadvertent Damage to the Historical Capitol Building protection measures **“would be developed in consultation with the Historic State Capitol Commission.”**

How is this possible?

*That commission has not had a voting quorum and zero representatives appointed by the Senate and Assembly leaders for 3 years. It is essentially defunct. The EIR’s mitigation measure is infeasible and unenforceable.*

**Response PH1.10-8**

Please refer to Response O6-5.

**Comment PH1.10-9**

4. The landscape treatment plan should include the methods you will use to stabilize the 43 huge palms to be moved. Again, relocation failure rate for palms smaller than these huge historic palms is over 50% in the Sacramento area so how will you stabilize them? You should call in a palm expert like Donald Hodel from Southern California.

**Response PH1.10-9**

Please see Master Response 3 and Response O8-10.

**Comment PH1.10-10**

5. Was the current governor of Japan contacted regarding the death and need for replacement of the memorial tree the former governor gifted? Were the others who gifted cherries also contacted?

6. Is former Governor Schwarzenegger aware of what has happened to his tree and will he be contacted regarding a replacement when it fails as is listed in the RDEIR?

**Response PH1.10-10**

Please see Master Response 3.

## JUNE 6, 2023 PUBLIC HEARING

### Letter PH2.1 Karen Jacques

**Comment PH2.1-1**

Good afternoon. I'm Karen Jacques.

**Response PH2.1-1**

The comment is an introductory statement. No response is necessary.

**Comment PH2.1-2**

My remarks today have to do with issues with the visitor center: First, the irreversible negative impact on historic resources.

The State Capitol is arguably the most important historic resource in California. The visitor center, as currently proposed, destroys the historic setting of the west primary facade of the 1874 Historic Capitol building. The huge ramp that will run from street level at 10th Street to 20 feet below grade at the entrance to the visitor center obliterates the West Plaza, including the terracing that is part of the original landscaping of the Capitol.

As the REIR states on page 70, quote, "The Beaux Arts circulation and landscaping of the stepped terraces are character-defining features of the West Lawn. Once constructed, the new visitor center entrance and interior subterranean space would create the most substantial change to the western entrance of the Capitol building and western blocks of Capitol Park since the building's construction in 1874," unquote.

It also states on page 71, quote, "Overall, the new visitor center would alter the historic landscape features of the West Lawn of the Capitol and reduce the ability of the resource to communicate its period of significance. The proposed project would introduce a large modern intrusion into the historic landscape and remove almost one-third of the West Lawn's character-defining features, such as the historic circulation, portions of its vegetation, the spatial organization and topography," unquote.

**Response PH2.1-2**

The comment is consistent with the information provided in Comment O6-1. See Response O6-1.

**Comment PH2.1-3**

There is no way to mitigate this adequately. Why is this level of irreparable destruction even being considered? The People of California did not ask for this, and they don't deserve it.

**Response PH2.1-3**

Please see Response O6-1.

**Comment PH2.1-4**

In addition to destroying the historic integrity of the west side of Capitol Park, locating the entrance of the visitor center below the Historic Capitol building drastically changes that building's appearance. It is no longer -- or it no longer reads as the front of a beautiful 1874 building with stairs leading up to a grand portico and equally grand entrance doors. Instead, it is an 1874 building sitting incongruously on top of the 21st-century entrance to the visitor center, the flat roof of which has a large skylight in the center and expands out onto what was the historic West Plaza.

**Response PH2.1-4**

Please see Response O6-2.

**Comment PH2.1-5**

Looking east down Capitol Mall from several blocks away, a person probably couldn't see the ramp and the below-grade entrance to the visitor center. So from that distance, the visual impact may be quote, "less than significant," as the REIR claims. But the closer a person gets, the more significant the visual impact of the visitor center becomes, with a huge entry ramp, gaping entry space and large, modern sign.

The REIR, on page 74, describes it quite accurately as follows: Quote, "The lower plaza would create a void below grade level visible from nearby viewpoints, and the safety railings and proposed skylight would introduce visual interruptions at the Capitol."

**Response PH2.1-5**

Please see Response O6-2.

**Comment PH2.1-6**

Okay. That ends the quote. And my followup sentence was: By the time a person walking east on Capitol Mall reaches 10th Street, the impact of the visitor center would have gone from less than significant to character-destroying. There is no mitigation for this kind of damage. An alternative that retains the historic integrity of the 1874 Capitol and Capitol Park absolutely must be found.

**Response PH2.1-6**

Please see Response O6-2.

**Comment PH2.1-7**

There's also irreversible impact on the public's right to gather and exercise their First Amendment rights. The West Plaza has been the site of historic demonstrations and other public events for decades. It is a symbol of free speech. Thousands of people have marched down Capitol Mall to the West Plaza to express their opinions and concerns, to protest and to celebrate. Many speakers, including legislators, have stood on the west steps to address them. The visitor center will obliterate most of the space where they assemble. People cannot gather on the entry ramp nor can they gather in any significant number on the roof of the below-grade visitor center, which has a large skylight in the middle of it and doesn't even appear to be accessible from the west side of Capitol Park. And we can't tell where it's accessible.

The REIR doesn't address the loss of this important free speech gathering place where people have come for generations to petition their government.

**Response PH2.1-7**

See Master Response 2 in Chapter 3 of this Final EIR.

**Comment PH2.1-8**

The impact on trees is also not adequately described. It talks about protecting four deodars, but it's not clear. Is it referring to the line of the historic deodars and the two that would be closest to either side of the ramp? And then if they are to be protected, what kind of protection will they receive, given that trees that were supposed to have been protected or successfully prepared to be moved are dying at a great rate as the construction proceeds?

**Response PH2.1-8**

See Response O6-4.

**Comment PH2.1-9**

It also talks about 56 trees that will be removed as part of the project, 32 of which will be in the area where the West Plaza is, but it doesn't spell out which trees nor does it spell out the boundary of the area in which trees will be removed. There's no discussion of what kind of impact that will have on shade as things get hotter. There's no analysis of what that will do to people's experience at Capitol Park, which is a beloved park.

**Response PH2.1-9**

See Response O6-4. Please see Master Response 1 regarding the legal principle of res judicata for an explanation of why changes related to the use of Capitol Park need not be considered further in the REIR.

**Comment PH2.1-10**

There's also an inadequacy in discussing mitigation measures. Subsection 4-12-4, point (d) references working with the State Historic Capitol Commission to address mitigations. But the Capitol Commission is no longer meeting because it no longer has a forum. The two people resigned from it because when it was active and they asked for information about what would be happening with the Annex Project, they were denied that information, and they could no longer ethically continue in their positions. So now there's nothing to ask, but it's cited as a source of mitigations.

**Response PH2.1-10**

Please see Response O6-5.



**Comment PH2.1-11**

And finally, the alternatives that were spelled out in the REIR are completely inadequate. No look was done at locating the visitor center under the new Annex. No look was done at designing it in such a way that it could be accessed by a combination of elevators and stairs -- and elevators would address ADA issues. So we were just told that, basically, nothing can be done, the destruction of -- basically, of the entire west side of the Capitol is the best we can do. And as far as many of us are concerned, it's not the best that you can do and it shouldn't be hoisted on the People of California.

Thank you for your time and for people who donated to my time.

**Response PH2.1-11**

See Response O6-6.

**Letter PH2.2      Assembly Member Josh Hoover****Comment PH2.2-1**

Thank you very much for having me tonight. I'm Assembly Member Josh Hoover, representing District 7, which is in Sacramento County, although it does not cover the Capitol Annex, but definitely wanted to come here as a legislator and as a community member and share some of my thoughts.

**Response PH2.2-1**

The comment is an introductory statement. No response is required.

**Comment PH2.2-2**

I come at this from a somewhat unique perspective. I actually worked in the old Historic Capitol Annex for 11 years. I would be one of the first to tell you that I agree that changes need to be made. It certainly had a number of accessibility issues and issues that -- with asbestos and some things that obviously need to be addressed.

And so I certainly do support the idea of making the Annex better, but I really came here today to just briefly raise some concerns about the west steps of the capitol and the plan for the west steps of the project.

**Response PH2.2-2**

The comment provides opinions related to needed improvements for the Annex that are consistent with the project objectives related to the Annex.

**Comment PH2.2-3**

You know, I am actually very appreciative that the revised EIR looked at alternatives to where the visitor center could go. And I would just urge that you strongly consider either the south or the north side as opposed to the west side. And the big reason for that is that there is a unique characteristic of the west side that I do not think can be replicated in any other way. As the previous speaker was alluding to, it is a place where people have come to petition their government for many, many decades. And it is something, when you have conversations with the California Highway Patrol, who actually give permits for the grounds at the Capitol, they're very concerned about what this new visitor center is going to do for the accessibility of potential rallies and protests and the ability for people to come get a permit to voice their concerns to their government.

**Response PH2.2-3**

The comment expresses a preference for Alternatives 4 and 5 for the visitor/welcome center compared to the visitor/welcome center included in the proposed project. Please also see Master Response 2.

**Comment PH2.2-4**

And so, you know, personally, I think the north side is a good alternative because many people do come from L Street to come into the Capitol. I think the north makes a lot of sense for a visitor center. But I really just would urge DGS and everyone else that's considering this to please strongly consider an alternative to the west side visitor center.

**Response PH2.2-4**

The comment continues to express a preference for Alternatives 4 and 5 and expresses perceived advantages of Alternative 4. No further response is required.

**Letter PH2.3 Roxanne Fuentes****Comment PH2.3-1**

Hi. I'm Roxanne Fuentes.

I'm opposed to this project. It is a huge waste of taxpayer dollars, at more than \$1.2 billion.

**Response PH2.3-1**

Please see Master Response 4 in Chapter 3 of this Final REIR.

**Comment PH2.3-2**

The project will cause the loss of many large trees. These large trees are a large part of the beauty of the Capitol. Large trees sequester more carbon dioxide than small trees; therefore, removing them would contribute to more global warming. Swainson's Hawks, White-tailed Kites, other raptors and native birds will lose a place to live, as will roosting bats. Many trees would be removed. Most were gifts from other countries and cities.

**Response PH2.3-2**

Please see Master Response 1 regarding the legal principle of res judicata for an explanation of why issues such as effects on trees, carbon sequestration by trees, and biological resources impacts need not be discussed further in the REIR.

**Comment PH2.3-3**

The existing Annex should be remodeled instead of being destroyed. Under this project, the existing underground parking lot would be abandoned and a new parking lot built. This flies in the face of the state's push to get people out of their cars and use public transit.

**Response PH2.3-3**

Please see Response I21-5 and Master Response 4.

**Comment PH2.3-4**

The visitor center would demolish a large area of lawn on the west side and many of the large trees. Granite pillars, memorials and the Great Seal of the State of California would be removed, thus changing the face of the Capitol.

Our Capitol is one of the most beautiful capitols in the United States. Episodes of Dr. Quinn, Medicine Woman were filmed at the Capitol since it closely resembles the nation's Capitol in Washington, D.C.

If the unnecessary visitor center is built, many of the west steps on the front of the Capitol would be removed, thus changing the face of the historic and iconic Capitol and removing the west steps as a public meeting place. Where there are trees and grass, there would be concrete.

**Response PH2.3-4**

See Response I22-7 and Master Response 2.

**Comment PH2.3-5**

The only thing that should be done is remodeling the Annex. The visitor center and another parking lot should not be built. This would preserve the beautiful Capitol.

**Response PH2.3-5**

See Response I22-4 regarding renovation of the existing Annex. The comment suggests the No Project alternative as it pertains to the visitor/welcome center and the underground parking. A No Project Alternative was evaluated in the 2019 Draft EIR. The alternative suggested in the comment would not meet the basic project objectives.

**Comment PH2.3-6**

Since taxpayers' money is being used, the people of California should have the right to vote on this project at a regular election.

**Response PH2.3-6**

See Master Response 4.

**Letter PH2.4      Phyllis Ehlert****Comment PH2.4-1**

Thank you to our representative there who observed that the building was crowded. Well, supposedly, since so many people are working from home and stuff like that, there should be a lot of office space available if people -- the legislatures are willing to use space like common people.

And as far as the mall, our mall is like Washington, D.C., and how many things have we seen happen in Washington, D.C., with the people flooding down there and an unlimited capacity?

As far as losing aesthetics, historical, losing trees, birds, waste of energy and creating a ton of landfill, this project never would have gotten underway if it hadn't been for the pandemic. And people weren't involved in the early stages because they were busy buying toilet paper, seeing that their kids got an education and learning how to do their jobs on Zoom, so they weren't involved in it.

And if you ask an average taxpayer, "Are you willing to spend \$100 a month for 30 years so they can have an extravagant, shiny new building?" the taxpayer would say, "Heck no."

**Response PH2.4-1**

Please see Master Response 4 regarding decisions made by the Legislature and project costs. Also see Master Response 2 regarding use of the West Lawn area. Please see Master Response 1 regarding the legal principle of res judicata for an explanation of why topics such as aesthetics (other than specific items addressed in the Ruling), biological resources, energy usage, and landfill capacity need not be evaluated further in this REIR. See Draft REIR Section 1.1., "Background and Purposed of this Draft REIR," for a listing of all public involvement steps that were completed for the 2021 EIR and Section 1.3, "Environmental Review Process for the REIR" for information on the public meetings that were held for the Draft REIR.

**Letter PH2.5      Phillip Guddemi****Comment PH2.5-1**

I agree with pretty much everything that Karen Jacques had to say. But not to be a Lorax about it, I do have something else to speak for the trees and to try to address your categories here; and that is that we should look at them as a historic resource, not just for the ecological value, even though, in some cases, that's far greater.

**Response PH2.5-1**

Trees are looked at as potential contributors to the Historic Landscape of Capitol park in the discussion of Impact 4.12-4. For example, in the assessment of effects of the new visitor/welcome center is the statement "The new hardscape also has the potential displace or damage current tree plantings that contribute to the West Lawn's significance...[.]"

**Comment PH2.5-2**

But in terms of what's being specifically addressed here, we need to see that these trees, the trees of the Capitol Park, specifically, are unique, because each of them represents a relationship of the State of California, as a state, as an entity, as a people, with people all over the world, with nations all over the world.

**Response PH2.5-2**

The value of trees are looked at in multiple ways in the 2021 EIR and the Draft REIR. See Response PH2.5-1 for information on how trees are looked at as a contributor to the historic landscape in the Draft REIR. Trees are also

identified as memorials in the discussion of Impact 4.12-4 in the Draft REIR and the accompanying mitigation measures. Trees are evaluated as a biological resource in the 2021 EIR, for example, as potential nesting habitat for raptors. However, please also see Master Response 1 regarding the legal principle of res judicata for an explanation of why many tree impacts addressed in the 2021 EIR need not be revisited in this REIR.

#### **Comment PH2.5-3**

There was a grove of cherry blossoms that was right up against the Annex. I don't know if those have survived. I don't know where they are. I don't know that the people of Japan will be very happy that we have misplaced them. We have misplaced those cherry blossoms with, you know --

#### **Response PH2.5-3**

Please see Master Response 3.

#### **Comment PH2.5-4**

Now, I must admit, as a local person, I live in the -- my wife and I lived on the border of Midtown and Downtown, and during the pandemic, we would take walks. And very often, they were just around Midtown, but very often, they would come to the Capitol and come to the beautiful Capitol Park, and it meant a lot to us, and it's a unique and very beautiful setting. And the fact that it's a kind of botanical garden with actually labeled trees and talks about their history and talks about why they're there is really significant. It's really important. And it means that -- I would say that seeing all this area enclosed off and seeing the trees being podded in ways that we were never quite sure would really enable them to survive, especially this awful winter -- well, good for our reservoirs, but in other ways, unusual winter. But many of them may not have survived. Many of them may not survive.

#### **Response PH2.5-4**

Please see Master Response 3.

#### **Comment PH2.5-5**

It always seems like more PR in terms of the preservation of the trees rather than to really go the extra mile in terms of how to -- how to keep them alive and find good places for them. So, yes, trees are historic resource. You know, other things can be said and will be said. The west side, I agree.

#### **Response PH2.5-5**

Please see Response PH2.5-1 regarding the consideration of Capitol Park trees as an historic resource. The remainder of the comment conveys personal opinions and require no further response.

#### **Comment PH2.5-6**

The Annex, how can you build it of glass? The other thing that happened, of course, we lived through some difficult times Downtown in terms of public disruption, and it seems to me that a glass building just doesn't seem to make a lot of sense. In fact, it seems that glass has been removed from the Sacramento Convention Center for reasons similar to that. So, you know, that doesn't seem to make a lot of sense either.

So from a resident's point of view, these are my few words. Thank you.

#### **Response PH2.5-6**

The new Annex has been designed in close coordination with the CHP staff responsible for security at the Capitol and the State Assembly and Senate Sergeant-at-Arms Departments. All security needs are adequately addressed in the proposed design and operation of the new Annex.

## **Letter PH2.6      Maria Nichols Kelley**

#### **Comment PH2.6-1**

My name is Maria Nichols Kelley, and I am grateful to have the opportunity to be here and comment tonight. Thank you.

Last December, the Los Angeles Times political journalist, George Skeleton, reported on the Capitol Annex Project and its violation of CEQA laws. CEQA is often pesky and blatantly abused; but in this case, it's a godsend.

**Response PH2.6-1**

The comment provides background information. No further response is required.

**Comment PH2.6-2**

The purpose of CEQA is to protect not only the environment but also to provide the public and decision-makers with verifiable information upon which they can make decisions and thereby, quote, "protect not only the environment but also informed self-government." CEQA is a godsend also to groups of citizens committed to protecting and preserving California's Historic Capitol in perpetuity, as mandated in existing laws intended to safeguard this most important governmental landmark in California's history. Because of protections built into CEQA, the Court of Appeal, Third Appellate District identified violations which the state must correct before proceeding. Because of CEQA, the public has a chance to challenge parts of the Capitol Annex Project.

**Response PH2.6-2**

The comment provides background information characterizing CEQA and the CEQA process for Capitol Annex Project. However, the quoted text regarding CEQA is not found in the CEQA statute or guidelines. The comment does not address the analysis or conclusions in the Draft REIR. No further response is required.

**Comment PH2.6-3**

If the State's project is built as proposed, the administration will negatively impact and radically alter the entire Capitol site forever. Demolition on the east, demolition on the west, and with the decade ending 2023, up to 30% of the trees all around Capitol Park will suffer damage or death, mostly as a result of this project.

**Response PH2.6-3**

Alterations and impacts to Capitol Park are identified in the Draft REIR. Please see Master Response 1 regarding the legal principle of res judicata for an explanation of why general impacts to trees need not be considered further in the REIR.

**Comment PH2.6-4**

Unfortunately, and regrettably, from the start, the Capitol Annex Project has been perpetuated by the false and misleading claim that the Historic Capitol Annex could not be rehabilitated but required demolition without an historic preservation alternative.

**Response PH2.6-4**

Please see Response I21-5.

**Comment PH2.6-5**

Also for a find, we know, of course, that there's the Historic Building Code that allows all old, historic buildings, including the Unruh Building that's being rehabilitated now -- So that premise that it had to be demolished is wrong.

**Response PH2.6-5**

See Response I21-11.

**Comment PH2.6-6**

Also for a find is the proposed visitor center on the west side, which, of course, will destroy the most important facade of the Capitol, the main entrance, which includes the West Lawn, the West Plaza, the west steps.

The west side of the Capitol is the designated side where large numbers of people are permitted to gather peaceably to assemble, to celebrate, to protest, to petition the government for redress of grievances and to participate in self-government. The west side is the site most chosen by the governors to take their oath of office.

As currently proposed for the west side, a bizarre and complex design of the visitor center directs visitors down a 20-foot ramp underground, facing a large glass skylight, through which to view the Capitol Dome. The iconic dome is designed to be viewed from outside, freely and openly from all sides of the Capitol, rain or shine. Instead, the visitor center should be located on the south side or the north side, leaving the west side to retain its historical significance.

#### **Response PH2.6-6**

The comment identifies impacts associated with the proposed visitor/welcome center, which are disclosed in the Draft REIR, presents personal opinions regarding the proposed visitor/welcome center, and expresses support for Alternatives 4 and 5. The comment does not address the analysis or conclusions in the Draft REIR. No further response is required.

#### **Comment PH2.6-7**

In the words of lead Justice Harry E. Hull, Jr., Court of Appeal, Third Appellate District, "The Historic Capitol is a treasured historical resource."

Preservation architect, Mark Hulbert, in a letter to Governor Newsom in 2021, maintains that "Preserving California's Historic Capitol is as important as preserving our Historic Capitol in Washington D.C., after which, in fact, it was designed."

#### **Response PH2.6-7**

The comment provides quotes identifying the importance of the Historic Capitol. This information does not conflict with the content of the Draft REIR.

#### **Comment PH2.6-8**

The battle we are currently waging to save our Capitol is about protecting the physical site of the east side Annex and the open, expansive westside lawn, westside plaza, westside steps.

#### **Response PH2.6-8**

The comment expresses some of the commenter's motives for participating in the CEQA review process. No further response is required.

#### **Comment PH2.6-9**

Saving our Historic Capitol also is about upholding the principles upon which our nation is founded and upon which self-government is to be preserved. The following are three essential principles for sustaining our form of self-governance.

The First Amendment in the Bill of Rights of our Constitution grants us freedom of religion, freedom of speech, freedom of the press, the right peaceably to assemble and to petition the government for redress of grievances. The west side is where most Californians go to exercise their constitutional freedoms. And we have some photos over here, I encourage you to look and see, of the many events, historic events, thousands of people gathering, Cesar Chavez leading marchers 340 miles from Delano and arriving on the west steps. These are heroic, historic events that take place on the west side. The Women's March also from the 2017.

Another cornerstone of our heritage in self-governance was expressed by President Abraham Lincoln in his Gettysburg Address, that, "This nation, under God, shall have a new birth of freedom, and that government of the People, by the People, for the People shall not perish from the earth."

In addition, Dr. Carl Jung, pioneering Swiss physician and researcher into the nature of the human psyche, maintained that not the state but the individual is the carrier of life, and with that life is given the eternal right to freedom and the equally eternal duty to individual responsibility.

#### **Response PH2.6-9**

The comment provides an expression of the commenter's motives for participating in the CEQA review process. No further response is required.

**Comment PH2.6-10**

In the November hearing last year on CEQA, lead Justice Harry E. Hull, Jr., Court of Appeal, Third Appellate District, made clear the importance of the historic Capitol. He said, "We're not dealing with an apartment building or a shopping center here. We're dealing with a state capitol. It doesn't belong to the legislature or the executives. It belongs to the People of California."

**Response PH2.6-10**

The comment provides a quote supporting themes expressed elsewhere in the public hearing testimony. See responses to other portions of the testimony.

**Comment PH2.6-11**

We're in the eleventh hour now, yet not too late for the people and elected representatives to work together to preserve both the physical site and the historic principles upon which our form of government exists. I believe that self-governance is an essential part of the great American experiment in freedom, so every conscious choice by each one of us can and will make a difference in the outcome.

**Response PH2.6-11**

The comment is directed towards the public and elected officials and does not address the analysis or conclusions in the Draft REIR. No further response is required.

**Comment PH2.6-12**

Again, in the words of Justice Harry Hull, Jr., "The Capitol does not belong to the legislature or the executive. It belongs to the People of California."

The California State Capitol is truly the People's Capitol. It must not be decimated. It must not be desecrated.

**Response PH2.6-12**

The comment provides a quote supporting themes expressed elsewhere in the public hearing testimony. See responses to other portions of the testimony.

**Letter PH2.7      Kate Riley****Comment PH2.7-1**

I submitted a request, actually, at the first hearing in this series, at the May hearing, for information on what has happened to the trees that have been affected already by the project, in particular, you know, what's happened to the ones that have been transplanted or otherwise protected. I know I haven't gotten that back, but I'm assuming that folks are busily working on that and it'll be in the new EIR.

**Response PH2.7-1**

Please see Master Response 3 in Chapter 3 of this Final REIR.

**Comment PH2.7-2**

I wanted to start by saying that -- kind of echoing what Ms. Kelley said. In fact, I wrote down here: The Rules Committee, the legislature, the governor and DGS do not own the Capitol and Capitol Park but are stewards instead for -- responsible for caring for it during your time of responsibility. The People own the Capitol and the park. And as stewards, the legislature, the governor, and his executive branch have an extraordinary responsibility.

**Response PH2.7-2**

Please see Master Response 4.

**Comment PH2.7-3**

And I'm here to talk about the stewardship of the trees. The message has been, about this project: Please preserve the trees; they are irreplaceable. But we are deeply concerned about what's happened to the trees so far and our

concern about: Are there any ways that we can change this project to preserve trees and also to ensure the protection of trees that have been moved so far?

**Response PH2.7-3**

Please see Master Response 1 regarding the legal principle of res judicata for an explanation of why general effects on trees need not be considered further in the REIR. Also see Master Response 3.

**Comment PH2.7-4**

What -- You have already received a letter from Paula Peper, who's an ecologist and arborist. She said, of the first 15 trees relocated in 2022, six have died, including five Japanese memorial trees and that one Senegal palm, that is a gorgeous tree, and it's widely pictured as being dead. And also the Schwarzenegger oak fell over in the windstorm because it wasn't cabled and braced as required by ANSI standards, which are supposed to be being followed.

So "Are the ANSI standards being followed?" is a key question here about stewardship.

**Response PH2.7-4**

Please see Master Response 3.

**Comment PH2.7-5**

So let's see. "The five Japanese memorial cherries, which were given by Japanese governors to the state, died, and they have been replaced with three trees, different cultivars from the original." I'm quoting from Paula's letter here.

So these are examples of what we consider to be poor stewardship and also poor actual -- actually following your own requirements in the -- in your mitigation plan.

**Response PH2.7-5**

See Master Response 3.

**Comment PH2.7-6**

So another issue that's very pressing right now is of the palms, the amazing, historical palms that are -- you know, you can't miss them, on L Street and N Street. They're currently being moved, supposedly for --to get the demolition trucks in. But our feeling is that they're not all -- they shouldn't all be being moved at this point.

We know that if you move the visitor center, you would preserve six palms that were -- are slated for being moved. So certainly that's another element. Six palm trees plus about 32 other trees that are gonna be taken out if that visitor center goes in on the west side.

**Response PH2.7-6**

See Master Response 3.

**Comment PH2.7-7**

We think that the -- So I think I'm probably going on and on. I have a written letter.

We think that the decision-making heretofore has undervalued the trees. The trees are critical. They're remarkable. They're a key part of the historical resource. We think that the care of the trees that are supposed to be being preserved has been extraordinarily inadequate and the overall quality of the arboreal service has really been inadequate. We think that the mitigation measures that are in the plan are either not being followed or are, themselves, unenforceable.

**Response PH2.7-7**

See Master Response 3. See Response PH2.5-1 regarding the consideration of Capitol Park trees as an historic resource.



**Comment PH2.7-8**

We request that you adopt the two alternatives that are presented in the back, that you've received from Public Accountability for the Capitol, to put the visitor center on the north and use the existing parking garage in the swing space building and provide some tunneling or pathways to the Capitol.

**Response PH2.7-8**

The comment expresses a preference for Alternatives 4 and 5. See Response O2-11 regarding the parking alternative that is offered in the comment.

**Letter PH2.8 Daniel Pskowski****Comment PH2.8-1**

Good evening. I'm Daniel Pskowski. I'm a grid arborist who's lived and worked in Sacramento for the past 33 years. I'm here tonight on behalf of Trees for Sacramento, which is a nonprofit working toward the preservation and protection of Sacramento's urban forest.

**Response PH2.8-1**

The comment is an introductory statement. No further response is required.

**Comment PH2.8-2**

Thank you for the opportunity to have this revised, because what's happened in July, is they inserted this ingress/egress ramps for the underground parking. That was inserted at the very end, which is gonna warrant the transplanting of 43 of these California fan palms.

**Response PH2.8-2**

The comment provides background information supporting subsequent comments. See responses below.

**Comment PH2.8-3**

Now, this proposal is seriously flawed. It's not viable. And the reason I know that was, as a Sacramento city arborist, I worked on the East End Project back in 2000. And the city arborists, we required the state to move ten of these California fan palms. We hired a palm expert from Southern California, came up. What happened was, when you start digging them, because of our soils here, all the roots went straight down.

So we had big issues: No. 1 was we couldn't capture a big enough ball, root ball, because you have to have a root ball to stabilize the palm in the ground, like the -- when we were moving them back then, they were 25 feet tall, 52,000 pounds. Well, now they're 60-foot tall. And so what they're doing -- the main concern is they could blow over.

So what we had to do was, we had to do extraordinary methods to try and save them: No. 1 is, the heads flopped over because you cut all the roots. They're 141 years old now. You can't be transplanting palms that old. They're not gonna survive the shock of the transplant. Plus, the concern is falling over. They're gonna fall over.

So we were monitoring -- Me and the Capitol Park arborists were monitoring those trees for five years. Every time the wind was over 25 miles an hour, we went out and were looking at them. Now, we took those palms and we staked them where other ones were moved. So our plan was, if they were loose in the ground, we were gonna strap them to each palm on either side. Well, with these, you're doing them all in a row. What are you gonna secure them to if they're loose in the ground.

And so it's a flawed project. We already know this from our experience of moving ten. We lost the first two because the crane put so much pressure on them because the roots are diving straight down.

**Response PH2.8-3**

Please see Master Response 3 in Chapter 3 of this Final EIR and Response O8-10.

**Comment PH2.8-4**

And I've had other palm -- I had more palm failures than I did successes in my years -- in 30 years as a Sacramento arborist. On Broadway, I told them "This is how big you need to do it." They didn't do it. First storm, guess what happened? They both blew over, fell over in the street. They come and pick them up and off they go. Everything gets swept under the carpet.

**Response PH2.8-4**

Please see Master Response 3 and Response O8-10.

**Comment PH2.8-5**

These palms should not be removed, shouldn't be relocated. But guess what they're doing right now. They're relocating them, claiming -- claiming that it's part of the demolition. The building is 260 feet away. You know what they're doing? They want it easier access so they can have the truck staged there. Those palms should not be moved.

**Response PH2.8-5**

See Master Response 3. The demolition process generates truck traffic, largely to remove material generated by demolition of the structure. Creating areas for truck staging, sorting of demolition materials (e.g., steel from concrete to facilitate materials recycling), and other activities is necessary to support an efficient and safe demolition process.

**Comment PH2.8-6**

I went to City Council last week and said that, "Mayor, we need to put a hold on this because it is flawed. It's flawed. It's a flawed proposal, and these palm movers said they can do it, but I know personally from experience that it's not working."

**Response PH2.8-6**

The comment describes actions taken by the commenter unrelated to the CEQA process. No further response is required.

**Comment PH2.8-7**

And the other thing, too, by removing the palms, is you're losing a park strip. Those palms were the largest collection in the State of California, and they lined -- they were the sentinels all the way around the State Capitol. So by taking out the park strip now, you don't have that space for pedestrians to walk.

**Response PH2.8-7**

Please see Master Response 1 regarding the legal principle of res judicata for an explanation of why the topics of general removal and relocation of trees and project effects on pedestrian movements need not be considered further in the REIR. Also see Response O8-19.

**Comment PH2.8-8**

The driveways were there for 50 years. What was wrong with the driveways? The one was 27 feet and the other 57 feet wide. What was wrong with them? How many pedestrians were killed? Now they come in with these ramps that we're losing four city blocks of on-street parking.

**Response PH2.8-8**

See Master Response 4 regarding decisions by the JRC in the development of the proposed project.

**Comment PH2.8-9**

No. 1 is, the palms are -- they're public trees. Now they're going on state property. Is the State gonna reimburse the City for the value of the palms?

**Response PH2.8-9**

See Response O8-22.

**Comment PH2.8-10**

No. 2 is, are we gonna get reimbursed for all the lost revenue from those 50-plus parking spaces every year from now until eternity? Because that's on-street parking downtown, which is rare. It's right across from the new convention center too. Is that gonna be addressed in the EIR? How is the City gonna be reimbursed for the lost revenues for all the parking?

**Response PH2.8-10**

See Response O8-19.

**Letter PH2.9 David Garlic****Comment PH2.9-1**

I'm sure it would be completely ludicrous to build a brand new glass building for the new Annex. I guess, since the Annex was built in 1952 and the old part was built in 1874, I think the new Annex should either be 1874 or 1952 style, either one or the other. I think either way would be relevant to have the new -- the new annex either be 1952 style or 1874 style, one or the other, because I think either way it would be relevant and look kind of nice.

**Response PH2.9-1**

The comment provides suggestions on the Annex design. Please see Master Response 4 in Chapter 3 of this Final EIR regarding decisions by the Legislature regarding the proposed project.

**Comment PH2.9-2**

And I guess there's been enough said about the visitor center and the trees.

**Response PH2.9-2**

No further response is required.

**Comment PH2.9-3**

And I guess all 1952 buildings had pay phones, but, you know, you can't very well have that now, even though there's four pay phones at the Jim Taylor down the street here.

And everybody in this meeting seems to really be nice and sweet and kind to voicing their opinions. So I hope nobody gets nervous. I hope everything turns out right.

And Stephanie Coleman's a very kind, dear lady. She has a lot of patience with me asking her 100 questions.

**Response PH2.9-3**

DGS appreciates Mr. Garlic's participation in the public review process for the Capitol Annex Project and the input he has provided.

**Letter PH2.10 Roxanne Fuentez****Comment PH2.10-1**

I am opposed to this Project. It is a huge waste of taxpayers' dollars at more than \$1.2 billion. This Project would cause the loss of many large trees. These large trees are a huge part of the beauty of the Capitol. Large trees sequester more carbon dioxide than small trees, therefore removing them would contribute to more global warming. Swainson's Hawks, White-tailed Kites, other Raptors, and other Native birds will lose their places to live. Roosting bats will be displaced as well. Many trees would be removed – most were gifts from other countries and cities.

**Response PH2.10-1**

Please see Master Response 4 in Chapter 3 of this Final REIR regarding project costs. See Master Response 1 regarding the legal principle of res judicata for an explanation of why issues such as effects on trees, carbon sequestration by trees, and biological resources impacts need not be discussed further in the REIR.

**Comment PH2.10-2**

The existing Annex can be remodeled instead of being destroyed.

**Response PH2.10-2**

See Response I21-5.

**Comment PH2.10-3**

Under this Project, the existing under-ground parking lot would be abandoned and a new parking lot built. This flies in the face of the State's push to get people out of their cars and use public transit.

**Response PH2.10-3**

Please see Master Response 4 regarding decisions made by the Legislature regarding the proposed project.

**Comment PH2.10-4**

The Visitor Center would demolish a large area of the lawn of the West side and many of the large trees.

**Response PH2.10-4**

These environmental effects of the visitor/welcome center are disclosed in the 2021 Final EIR and the Draft REIR.

**Comment PH2.10-5**

Granite pillars, memorials, and the Great Seal of the State of California would be removed, thus changing the face of the Capitol. Our Capitol is one of the most beautiful capitols in the United States. Episodes of Dr. Quinn Medicine Woman were filmed at the Capitol since it closely resembles the Nation's Capitol in Washington, D.C.

**Response PH2.10-5**

See Response I22-7.

**Comment PH2.10-6**

If the unnecessary Visitor's Center is built, many of the West steps on the front of the Capitol would be removed—thus changing the face of the historic and iconic Capitol and removing the West steps as a public meeting place. Where there are trees and grass there would be concrete.

**Response PH2.10-6**

See Master Response 2.

**Comment PH2.10-7**

The only thing that should be done is the remodeling of the Annex. The Visitors Center and another underground parking lot should not be built. This would preserve the beautiful Capitol.

**Response PH2.10-7**

See Response I22-8.

**Comment PH2.10-8**

Since taxpayers' money is being used, the people of California should have a the right to vote on this project at a regular election.

**Response PH2.10-8**

See Master Response 4.

## **Letter PH2.11 Roxanne Fuentez**

### **Comment PH2.11-1**

I am opposed to this Project. At \$1.2 billion it is a waste of money. This Project would cause the loss of many large trees. These trees are a huge part of the beauty of the Capitol. Most trees were gifts from other countries and cities. They provide homes from raptors and other birds. Bats would also be displaced.

### **Response PH2.11-1**

Please see Response PH2.10-1.

### **Comment PH2.11-2**

The existing Annex can be remodeled instead of being destroyed.

### **Response PH2.11-2**

Please see Response PH2.10-2.

### **Comment PH2.11-3**

Abandoning the existing parking lot in favor of a new one flies in the face of the States push to get people out of their cars and use public transit.

### **Response PH2.11-3**

See Response PH2.10-3.

### **Comment PH2.11-4**

The Visitor Center would destroy a large area of the lawn and many trees.

### **Response PH2.11-4**

See Response PH2.10-4.

### **Comment PH2.11-5**

Granit pillars, memorials, and the Great Seal of the State of California would be removed, thus changing the face of the Capitol. Many of the West steps would be removed—thus changing the historic Capitol and eliminating a public meeting place. Trees and grass would be replace by concrete.

### **Response PH2.11-5**

See Response I22-7.

### **Comment PH2.11-6**

Our Capitol is one of the most beautiful capitols in the United States. Episodes of Dr. Quinn Medicine Woman were filmed at the Capitol since it closely resembles the Nation's Capitol in Washington, D.C.

### **Response PH2.11-6**

See Response I22-7.

### **Comment PH2.11-7**

The only thing that should be done is the remodeling of the Annex. The Visitors Center and new parking lot should not be built. This would preserve our beautiful Capitol.

### **Response PH2.11-7**

See Response PH2.10-7.

### **Comment PH2.11-8**

Since taxpayers' money is being used, the people of California should have a the right to vote on this project at a regular election.

**Response PH2.11-8**

See Response PH2.10-8.

**Letter PH2.12 Public Accountability for Our Capitol**

Letter PH2.12 provides the same comments as Letter O5. See Letter O5 above for the comments and responses applicable to Letter PH2.12.

**Letter PH2.13 Paula J. Peper**

Letter PH2.13 provides the same comments as Letter PH1-10. See Letter PH1-10 above for the comments and responses applicable to Letter PH2.12.

**Letter PH2.14 Daniel Pskowski, Trees for Sacramento****Comment PH2.14-1**

- Relocation of the 40 California fan palms (*Washingtonia filifera*) and 3 Mexican fan palms (*Washingtonia robusta*) along N and L Streets is not viable. Due to their age
- (141 years old), their size (SO -60 ft. tall) but most importantly the lack of stability in high winds. This is caused by the reduced root ball volume due to the lack of horizontal rooting because of the type of soil. Prior relocation of 10 California fan palms on this site for the East End Project in 2000 required extraordinary aftercare and monitoring for 5-years to ensure their survival and that they did not blow over. The first two palms moved died because of undue pressure on the trunks from the crane trying to lift them. Due to the soil conditions the size of the root balls were smaller than the palm consultant from MTR Horticulture had recommended, which affected their stability in the ground.

**Response PH2.14-1**

Please see Master Response 3 in Chapter 3 of this Final REIR and Response O8-10.

**Comment PH2.14-2**

- Project proposal to have ingress/egress ramps for new underground parking structure was inserted at the end of the public comment and the feasibility of moving the palms was not properly vetted.

**Response PH2.14-2**

Please see Master Response 1 regarding the legal principle of res judicata for an explanation of why general impacts to the perimeter palms need not be considered further in this REIR.

**Comment PH2.14-3**

- Proposed ramps require relocation of 43 CA fan palms and the elimination of the park strip. This destroys the visual integrity of the historical landscape. It also makes the sidewalk less pedestrian friendly, not having a clear separation from street traffic.

**Response PH2.14-3**

Effects on the ability of the perimeter palms to contribute to the historic landscape of Capitol Park are addressed in the discussion of Impact 4.12-4 in the Draft REIR. See Master Response 1 regarding the legal principle of res judicata for an explanation of why pedestrian movements need not be considered further in this REIR.

**Comment PH2.14-4**

- What are the conditions of the permit to relocate the city palm trees? Is the City of Sacramento being reimbursed for the appraised value of these palms which is approximately \$600,000.

**Response PH2.14-4**

See Master Response 3.

**Comment PH2.14-5**

- What about the permanent loss of over 45 on-street downtown parking spaces. Will the City of Sacramento be reimbursed annually for the loss of revenue from these parking spaces?

**Response PH2.14-5**

See Response O8-19.

**Letter PH2.15 Kate Riley, Public Accountability for Our Capitol****Comment PH2.15-1**

The 2021 FEIR on the Capitol Annex Project provided an estimated number of trees that would be affected by the Project, including trees (1) protected in place, (2) transplanted on site, (3) additional trees considered for transplanting -and otherwise to be removed, (4) removed and replaced with another tree, and, (5) City of Sacramento street trees. In my comment submitted at the May Public Hearing on the Draft Revised EIR, I requested information about the status of all trees in those categories as of the date of publication of the DREIR. I haven't received any response. I look forward to that information being in the next iteration of the EIR.

**Response PH2.15-1**

Please see Master Response 3 in Chapter 3 of this Final REIR.

**Comment PH2.15-2**

Since the FEIR was certified on July 7, 2021, and the Project has begun, many trees have already been affected by the Project. The elements of the Project being considered in this DREIR will affect additional trees. We are deeply concerned that the Project sponsors have not met their own standards of care for the trees that have already been "affected" by the Project. This raises concern about the trees that are yet to be affected.

There is concerning observational and expert evidence; for example,

- "Of the first 15 trees relocated in early 2022, 6 have died-including the 5 Japanese Memorial Trees and one Senegal Palm. The non-cabled and -braced (violation of ANSI Standards) Schwarzenegger Oak fell over two weeks after transplanting. The Schwarzenegger Oak is doing very poorly as is the saucer magnolia that was just east of the north kiosk and which was transplanted about 100 feet farther east from its original site." -letter from Paula Peper to Stephanie Coleman, May 15, 2023

**Response PH2.15-2**

See Master Response 3.

**Comment PH2.15-3**

- "The five Japanese Memorial cherries [have been] replaced with only 3 trees, different cultivars from original" - letter from Paula Peper

**Response PH2.15-3**

See Master Response 3.

**Comment PH2.15-4**

- The EIR proclaims "even large palm trees may be transplanted with a high degree of success. Large palm trees are regularly transplanted as a part of new landscaping for businesses, restaurants, and other developments." (p. 3-13) Our data differs: experience in 2000 on the State Capitol East End Project showed that massive palms are very hard to sustain after a move. (See letter from Dan Pskowski, former City Arborist, and City of Sacramento). Certainly years of drought as well as the aging process will make these trees even more vulnerable. "In fact, fewer than 50% of much smaller relocated palms have survived in Sacramento after relocation." (Letter from Paula Peper).

**Response PH2.15-4**

See Master Response 3 and Response O8-10.

**Comment PH2.15-5**

The survival of the transplanted palm trees and the historic Deodar Cedars adjacent to the proposed ramp into the Visitor Center is in question. The Cedars will have roots cut for the Visitor Center, and may be subject to grade changes due to the Upper Plaza elevation change. The Visitor Center on the Capitol Lawn and the Parking Garage on the 12th Street will endanger additional trees. If these trees are not likely to survive, that can be seen as significant new information.

**Response PH2.15-5**

See Master Response 3.

**Comment PH2.15-6**

And there are viable alternatives that will reduce negative impacts to historic resources:

- 1) Building the Visitor Center on the north or south side of the historic capitol would not disturb the Cedars, and would not lead to removal Of 32 ADDITIONAL trees including Palm Trees
- 2) Retaining parking for Annex users in the Swing Space Building would not require the relocation of as many palms.

**Response PH2.15-6**

Visitor/welcome center alternatives to the north and south of the Historic Capitol are evaluated as Alternatives 4 and 5 in the Draft REIR. See Response O6-6 for a review of all visitor/welcome center alternatives that have been evaluated in the 2021 EIR and Draft REIR and an evaluation of the adequacy of that alternatives analysis.

**Comment PH2.15-7**

CEQA Guideline Section 15088.5 requires the lead agency "to recirculate an EIR prior to certification when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term 'information' can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not 'significant' unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement."

**Response PH2.15-7**

The comment accurately conveys information from the CEQA Guidelines.

**Comment PH2.15-8**

I urge you to adopt the proposal to build the Visitor Center away from the West Lawn, and the proposal to retain Annex user parking in the Swing Space Building.

**Response PH2.15-8**

The comment expresses preferred project alternatives. No further response is required.



## 5 REVISIONS TO THE DRAFT REIR

This chapter presents revisions to the Draft Revised EIR (Draft REIR) text made in response to comments, or to amplify, clarify or make minor modifications or corrections to information in the Draft REIR. Changes in the text are signified by ~~strikeouts~~ where text is removed and by underline where text is added. The information contained within this chapter clarifies and expands on information in the Draft REIR and does not constitute “significant new information” requiring recirculation. (See Public Resources Code Section 21092.1; CEQA Guidelines Section 15088.5.)

### 5.1 REVISIONS TO THE DRAFT REIR

This section presents specific text changes made to the Draft REIR since its publication and public review. The changes are presented in the order in which they appear in the original Draft REIR and are identified by the Draft REIR page number.

#### 5.1.1 Revisions to Chapter 3, Section 3.4.5 of the Draft REIR

The figure caption text on page 3-11 of the Draft REIR, under Section 3.4.5, “Annex Configuration, Height, Massing, and Architectural Treatments,” is hereby revised as follows:

Capitol Annex Double-T Perspective View, Looking East Along ~~North~~ South Side of Historic Capitol

#### 5.1.2 Revisions to Chapter 4, Section 4.12 of the Draft REIR

The text on page 4.12-1 of the Draft REIR, under Section 4.12, “Archaeological, Historical, and Tribal Cultural Resources,” is hereby revised as follows:

The Ruling also addresses the minimization of effects on the historic West Lawn, as a contributor to the historic landscape, from construction of the visitor/welcome center, but this issue arises in the context of the analysis of project alternatives and not the impact analysis provided in Section 4.12.

This page intentionally left blank.

## 6 REFERENCES

### Chapter 1: Introduction

No sources are cited in this chapter.

### Chapter 2: Project Modifications

No sources are cited in this chapter.

### Chapter 3: Responses to Comments on the Draft REIR

No sources are cited in this chapter.

### Chapter 4: Responses to Comments on the Draft REIR

Up a Tree Arborist Services. 2019 (March 12). 2019 Capitol Park arborist report. Loomis, CA. Prepared for California Department of General Services, Sacramento, CA.

U.S. Department of the Interior. 1995. *The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings*. Washington, DC. Available: <https://www.nps.gov/orgs/1739/secretary-standards-treatment-historic-properties.htm>.

### Chapter 5: Revisions to the Draft REIR

No sources are cited in this chapter.

This page intentionally left blank.

# 7 REPORT PREPARERS

## California Department of General Services (Lead Agency)

Stephanie Coleman..... Senior Environmental Planner  
Daniel O'Brien..... Manager of Environmental Services  
Joel Griffith ..... Capital Outlay Program Manager  
Jason Kenney ..... Deputy Director of the Real Estate Services Division

## California Joint Committee on Rules

Geanie Hollingsworth..... Facilities Director of the Assembly Committee on Rules  
Bob Ruffner ..... Principal Consultant of the Senate Committee on Rules

## MOCA (Project Management for the California Joint Committee on Rules)

David Hart, FAIA ..... Executive Vice President of Services Division  
Talia Rucker ..... Project Manager

## Ascent Environmental, Inc. (CEQA Compliance)

Sydney Coatsworth, AICP ..... Principal-in-Charge  
Sean Bechta..... Project Manager  
Kirsten Burrowes..... Assistant Project Manager  
Gaiety Lane..... Publishing Specialist  
Michelle Mattei..... Publishing Specialist  
Riley Smith..... Publishing Specialist  
Corey Alling..... Graphic Specialist

## ICF International (Historic Architectural Resources)

Susan Lassell ..... Senior Architectural Historian

This page intentionally left blank.

# Appendix A

---

Public Resources Code, Division 13,  
Chapter 6.7, Judicial Review of  
Capitol Building Annex and  
State Office Building Projects





**PUBLIC RESOURCES CODE - PRC**

**DIVISION 13. ENVIRONMENTAL QUALITY [21000 - 21189.57]**

*( Division 13 added by Stats. 1970, Ch. 1433. )*

**CHAPTER 6.7. Judicial Review of Capitol Building Annex and State Office Building Projects [21189.50 - 21189.57]**

*( Heading of Chapter 6.7 amended by Stats. 2018, Ch. 40, Sec. 9. )*

**21189.50.**

As used in this chapter, the following definitions shall apply:

(a) "Capitol building annex project" means any work of construction of a state capitol building annex or restoration, rehabilitation, renovation, or reconstruction of the State Capitol Building Annex described in Section 9105 of the Government Code that is performed pursuant to Article 5.2 (commencing with Section 9112) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code.

(b) "Annex project related work" means all work closely related to the Capitol building annex project, including, but not limited to, any visitor's center or parking facility constructed pursuant to Section 9112 of the Government Code.

(c) "State office building project" means any work of construction, restoration, rehabilitation, renovation, or reconstruction of a state office building that is performed pursuant to Article 5.6 (commencing with Section 9125) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code.

*(Amended by Stats. 2018, Ch. 40, Sec. 10. (AB 1826) Effective June 27, 2018.)*

**21189.51.**

(a) On or before July 1, 2017, the Judicial Council shall adopt a rule of court to establish procedures applicable to actions or proceedings brought to attack, review, set aside, void, or annul the certification of the environmental impact report for a capitol building annex project or the granting of any project approvals that require the actions or proceedings, including any potential appeals therefrom, be resolved, to the extent feasible, within 270 days of certification of the record of proceedings pursuant to Section 21189.52.

(b) On or before July 1, 2019, the Judicial Council shall adopt a rule of court to establish procedures applicable to actions or proceedings brought to attack, review, set aside, void, or annul the certification of the environmental impact report for annex project related work or a state office building or the granting of any project approvals with respect to either that work or building that require the actions or proceedings, including any potential appeals therefrom, be resolved, to the extent feasible, within 270 days of certification of the record of proceedings pursuant to Section 21189.52.

*(Amended by Stats. 2018, Ch. 40, Sec. 11. (AB 1826) Effective June 27, 2018.)*

**21189.52.**

(a) The lead agency shall prepare and certify the record of the proceedings in accordance with this section and in accordance with Rule 3.1365 of the California Rules of Court.

(b) No later than three business days following the date of the release of the draft environmental impact report, the lead agency shall make available to the public in a readily accessible electronic format the draft environmental impact report and all other documents submitted to or relied on by the lead agency in the preparation of the draft environmental impact report. A document prepared by the lead agency after the date of the release of the draft environmental impact report that is a part of the record of the proceedings shall be made available to the public in a readily accessible electronic format within five business days after the document is prepared or received by the lead agency.

(c) Notwithstanding subdivision (b), documents submitted to or relied on by the lead agency that were not prepared specifically for the capitol building annex project, annex project related work, or the state office building project, as applicable, and are copyright protected are not required to be made readily accessible in an electronic format. For those copyright protected documents, the lead agency shall make an index of these documents available in an electronic format no later than the date of the release of the draft environmental impact report, or within five business days if the document is received or relied on by the lead agency after the release of the draft environmental impact report. The index must specify the libraries or lead agency offices in which hard copies of the copyrighted materials are available for public review.

(d) The lead agency shall encourage written comments on the capitol building annex project, annex project related work, and the state office building project, to be submitted in a readily accessible electronic format, and shall make any such comment available to the public in a readily accessible electronic format within five days of its receipt.

(e) Within seven business days after the receipt of any comment that is not in an electronic format, the lead agency shall convert that comment into a readily accessible electronic format and make it available to the public in that format.

(f) The lead agency shall indicate in the record of the proceedings comments received that were not considered by the lead agency pursuant to subdivision (d) of Section 21189.55 and need not include the content of the comments as a part of the record.

(g) Within five days after the filing of the notice required by subdivision (a) of Section 21152, the lead agency shall certify the record of the proceedings for the approval or determination and shall provide an electronic copy of the record to a party that has submitted a written request for a copy. The lead agency may charge and collect a reasonable fee from a party requesting a copy of the record for the electronic copy, which shall not exceed the reasonable cost of reproducing that copy.

(h) Within 10 days after being served with a complaint or a petition for a writ of mandate, the lead agency shall lodge a copy of the certified record of proceedings with the superior court.

(i) Any dispute over the content of the record of the proceedings shall be resolved by the superior court. Unless the superior court directs otherwise, a party disputing the content of the record shall file a motion to augment the record at the time it files its initial brief.

(j) The contents of the record of proceedings shall be as set forth in subdivision (e) of Section 21167.6.

*(Amended by Stats. 2018, Ch. 40, Sec. 12. (AB 1826) Effective June 27, 2018.)*

**21189.53.**

(a) In granting relief in an action or proceeding brought pursuant to this chapter, the court shall not enjoin the capitol building annex project, annex project related work, or the state office building project unless the court finds either of the following:

(1) The continuation of the capitol building annex project, annex project related work, or the state office building project presents an imminent threat to the public health and safety.

(2) The capitol building annex project, annex project related work, or the state office building project site contains unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values that would be materially, permanently, and adversely affected by the continuation of the capitol building annex project, annex project related work, or the state office building project unless the court stays or enjoins the capitol building annex project.

(b) If the court finds that either paragraph (1) or (2) of subdivision (a) is satisfied, the court shall only enjoin those specific activities associated with the capitol building annex project, annex project related work, or the state office building project, as applicable, that present an imminent threat to public health and safety or that materially, permanently, and adversely affect unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values.

*(Amended by Stats. 2018, Ch. 40, Sec. 13. (AB 1826) Effective June 27, 2018.)*

**21189.54.**

(a) The draft and final environmental impact report shall include a notice in not less than 12-point type stating the following:

THIS EIR IS SUBJECT TO CHAPTER 6.7 (COMMENCING WITH SECTION 21189.50) OF DIVISION 13 OF THE PUBLIC RESOURCES CODE, WHICH PROVIDES, AMONG OTHER THINGS, THAT THE LEAD AGENCY NEED NOT CONSIDER CERTAIN COMMENTS FILED AFTER THE CLOSE OF THE PUBLIC COMMENT PERIOD FOR THE DRAFT EIR. ANY JUDICIAL ACTION CHALLENGING THE CERTIFICATION OF THE EIR OR THE APPROVAL OF THE

PROJECT DESCRIBED IN THE EIR IS SUBJECT TO THE PROCEDURES SET FORTH IN SECTIONS 21189.51 TO 21189.53, INCLUSIVE, OF THE PUBLIC RESOURCES CODE. A COPY OF CHAPTER 6.7 (COMMENCING WITH SECTION 21189.50) OF DIVISION 13 OF THE PUBLIC RESOURCES CODE IS INCLUDED IN THE APPENDIX TO THIS EIR.

(b) The draft environmental impact report and final environmental impact report shall contain, as an appendix, the full text of this chapter.

*(Added by Stats. 2016, Ch. 31, Sec. 271. (SB 836) Effective June 27, 2016.)*

**21189.55.**

(a) Within 10 days after the release of the draft environmental impact report, the lead agency shall conduct an informational workshop to inform the public of the key analyses and conclusions of that report.

(b) Within 10 days before the close of the public comment period, the lead agency shall hold a public hearing to receive testimony on the draft environmental impact report. A transcript of the hearing shall be included as an appendix to the final environmental impact report.

(c) (1) Within five days following the close of the public comment period, a commenter on the draft environmental impact report may submit to the lead agency a written request for nonbinding mediation. The lead agency shall participate in nonbinding mediation with all commenters who submitted timely comments on the draft environmental impact report and who requested the mediation. Mediation conducted pursuant to this paragraph shall end no later than 35 days after the close of the public comment period.

(2) A request for mediation shall identify all areas of dispute raised in the comment submitted by the commenter that are to be mediated.

(3) The lead agency shall select one or more mediators who shall be retired judges or recognized experts with at least five years experience in land use and environmental law or science, or mediation.

(4) A mediation session shall be conducted on each area of dispute with the parties requesting mediation on that area of dispute.

(5) The lead agency shall adopt, as a condition of approval, any measures agreed upon by the lead agency and any commenter who requested mediation. A commenter who agrees to a measure pursuant to this subparagraph shall not raise the issue addressed by that measure as a basis for an action or proceeding challenging the lead agency's decision to certify the environmental impact report or to grant one or more initial project approvals.

(d) The lead agency need not consider written comments submitted after the close of the public comment period, unless those comments address any of the following:

(1) New issues raised in the response to comments by the lead agency.

(2) New information released by the public agency subsequent to the release of the draft environmental impact report, such as new information set forth or embodied in a staff report, proposed permit, proposed resolution, ordinance, or similar documents.

(3) Changes made to the project after the close of the public comment period.

(4) Proposed conditions for approval, mitigation measures, or proposed findings required by Section 21081 or a proposed reporting and monitoring program required by paragraph (1) of subdivision (a) of Section 21081.6, where the lead agency releases those documents subsequent to the release of the draft environmental impact report.

(5) New information that was not reasonably known and could not have been reasonably known during the public comment period.

*(Added by Stats. 2016, Ch. 31, Sec. 271. (SB 836) Effective June 27, 2016.)*

**21189.56.**

The provisions of this chapter are severable. If any provision of this chapter or its application is held to be invalid, that invalidity shall not affect any other provision or application that can be given effect without the invalid provision or application.

*(Added by Stats. 2016, Ch. 31, Sec. 271. (SB 836) Effective June 27, 2016.)*

**21189.57.**

Except as otherwise provided expressly in this chapter, nothing in this chapter affects the duty of any party to comply with this division.

*(Added by Stats. 2016, Ch. 31, Sec. 271. (SB 836) Effective June 27, 2016.)*

