

II. Responses to Comments

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A. Introduction

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

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

II. Responses to Comments

B. Matrix of Comments Received on the Draft EIR

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

Letter No.	Commenter	Executive Summary	Project Description	Environmental Setting	Aesthetics	Air Quality	Biological Resources	Cultural Resources	Energy	Geology and Soils (including Paleontological Resources)	Greenhouse Gas Emissions	Hazards and Hazardous Materials	Hydrology and Water Quality—Hydrology	Hydrology and Water Quality—Water Quality	Land Use	Noise	Population and Housing	Public Services—Fire Protection	Public Services—Police Protection	Public Services—Schools	Public Services—Parks and Recreation	Public Services—Libraries	Transportation	Tribal Cultural Resources	Utilities and Service Systems—Water Supply and Infrastructure	Utilities and Service Systems—Wastewater	Utilities and Service Systems—Solid Waste	Utilities and Service Systems—Energy Infrastructure	Cumulative Impact	Alternatives	General/Other	CEQA	Mitigation Measures	Support	
STATE AND REGIONAL																																			
1	Shine Ling, AICP Director, Development Review Team Transit Oriented Communities Metro One Gateway Plaza, MS 99-22-1 Los Angeles, CA 90012-2952															X							X												

II. Responses to Comments

C. Comment Letters

Comment Letter No. 1

Shine Ling, AICP
Director, Development Review Team Transit Oriented Communities
Metro
One Gateway Plaza, MS 99-22-1
Los Angeles, CA 90012-2952

Comment No. 1-1

Please find attached Metro's comment letter on the BLOC DEIR.

Please confirm receipt, and let us know if you have any questions. Thank you!

Response to Comment No. 1-1

This cover email enclosing the comment letter is noted for the administrative record and will be forwarded to the decision-makers for review and consideration. Specific comments raised in the attached comment letter are provided and responded to below.

Comment No. 1-2

[Attachment 1: Comment letter dated May 13, 2024]

Thank you for coordinating with the Los Angeles County Metropolitan Transportation Authority (Metro) regarding the proposed The Bloc (Project) located at 700 South Flower Street, 700 West 7th Street, 711 and 775 South Hope Street in the City of Los Angeles (City). Metro is committed to working with local municipalities, developers, and other stakeholders across Los Angeles County on transit-supportive developments to grow ridership, reduce driving, and promote walkable neighborhoods. Transit Oriented Communities (TOCs) are places (such as corridors or neighborhoods) that, by their design, allow people to drive less and access transit more. TOCs maximize equitable access to a multi-modal transit network as a key organizing principle of land use planning and holistic community development.

Per Metro's area of statutory responsibility pursuant to sections 15082(b) and 15086(a) of the Guidelines for Implementation of the California Environmental Quality Act (CEQA: Cal. Code of Regulations, Title 14, Ch. 3), the purpose of this letter is to provide the City with specific detail on the scope and content of environmental information that should be included in the Environmental Impact Report (EIR) for the Project. In particular, this letter outlines topics regarding the Project's potential impacts on 7th Street/Metro Center Station and Metro Rail lines, which should be analyzed in the EIR, and provides recommendations for mitigation measures as appropriate. Effects of a project on transit systems and infrastructure are within the scope of transportation impacts to be evaluated under CEQA.¹

In addition to the specific comments outlined below, Metro is providing the City and NREA-TRC 700, LLC (Applicant) with the Metro Adjacent Development Handbook (attached), which provides an overview of common concerns for development adjacent to Metro right-of-way (ROW) and transit facilities, available at <https://www.metro.net/devreview>.

Project Description

The Project includes a new high-rise tower (Residential Tower) on the southern half of the Project Site, in conjunction with the enclosure of the rooftop parking level of the existing nine-story podium building and addition of two levels of parking, increasing the podium to 12 stories. The new 53-story high rise tower will be located within and above the expanded parking podium. No changes are being proposed to the existing 7th/Metro rail station.

¹ See CEQA Guidelines section 15064.3(a); Governor's Office of Planning and Research Technical Advisory on Evaluating Transportation Impacts In CEQA, December 2018, p. 19.

Response to Comment No. 1-2

This introductory comment, which defines Transit Oriented Communities and summarizes the Project Description, is noted for the administrative record and will be forwarded to the decision-makers for review and consideration.

Comment No. 1-3

Comments on Draft EIR

1. Page IV.H-25, Metro Regional Connector: In June 2023, the Metro Regional Connector Transit Project opened for revenue service. Consider whether this should be included in the description of existing conditions (instead of future conditions).

Response to Comment No. 1-3

The commenter is referring to Section IV.H, Transportation of the Draft EIR, which discusses the Metro Regional Connector. The Metro Regional Connector was approved subsequent to the Project's Notice of Preparation of Draft EIR (NOP) in December 2022, which is generally the timeframe used to establish existing baseline conditions for the analysis within a Draft EIR under CEQA. In addition, Section IV.H, Transportation of the Draft EIR also reflects the Transportation Assessment, included as Appendix I.1 of the Draft EIR. The Transportation Assessment, including the existing conditions analysis is based on the Memorandum of Understanding (MOU) with the Los Angeles Department of Transportation (LADOT) that was approved in 2022. The City acknowledges that the Metro Regional Transit Connector is now in operation. The operation of the Metro Regional Transit Connector does not change any of the analysis or conclusions of the environmental impact analysis included in the Draft EIR.

Comment No. 1-4**Recommendations for EIR Scope and Content***Bus Service Adjacency*

2. Service: Metro J Line (Silver) and several Metro Bus lines operate on Hope Street, Flower Street, 8th Street, and 7th Street adjacent to the Project. One Metro Bus stop heading westbound on 8th Street is directly adjacent to the Project. Other transit operators such as LADOT may provide service in the vicinity of the Project and should be consulted.

Response to Comment No. 1-4

In consultation with LADOT and based on the methodology set forth in LADOT's Transportation Assessment Guidelines (TAG), public transit service within the Study Area is addressed in the Draft EIR. Refer to pages IV.H-19 through IV.H-22 of Section IV.H, Transportation, of the Draft EIR and to Table 2A and Table 2B of the Transportation Assessment, respectively, for a discussion of transit facilities in the vicinity of the Project Site, including the transit facilities highlighted above (see Comment No. 1-4), which are operated by Metro. As discussed therein, the Project Site is also served by additional public transit options including the LADOT Downtown Area Short Hop, LADOT Commuter Express, Antelope Valley Transportation Authority, Santa Monica Big Blue Bus, Foothill Transit, Orange County Transportation Authority, Montebello Bus Lines, and Torrance Transit.

Comment No. 1-5

3. **Impact Analysis:** The EIR should analyze potential effects on Metro Bus service and identify mitigation measures as appropriate. Potential impacts may include impacts to transportation services, stops, and temporary or permanent bus service rerouting. Specific types of impacts and recommended mitigation measures to address them include, without limitation, the following:
 - a. **Bus Stop Condition:** The EIR should identify all bus stops on all streets adjacent to the Project site. During construction, the Applicant may either maintain the stop in its current condition and location, or temporarily relocate the stop consistent with the needs of Metro Bus operations. Temporary or permanent modifications to any bus stop as part of the Project, including any surrounding sidewalk area, must be Americans with Disabilities Act (ADA)-compliant and allow passengers with disabilities a clear path of travel between the bus stop and the Project. Once the Project is completed, the Applicant must ensure any existing Metro bus stop affected by the Project is returned to its pre-Project location and condition, unless otherwise directed by Metro.
 - b. **Driveways:** Driveways accessing parking and loading at the Project site should be located away from transit stops, and be designed and configured to avoid potential conflicts with on-street transit services and pedestrian traffic to the greatest degree possible. Vehicular driveways should not be located in or directly adjacent to areas that are likely to be used as waiting areas for transit.
 - c. **Bus Stop Enhancements:** Metro encourages the installation of enhancements and other amenities that improve safety and comfort for transit riders. These include benches, bus shelters, wayfinding signage, enhanced crosswalks and ADA-compliant ramps, pedestrian lighting, and shade trees in paths of travel to bus stops. The City should consider requesting the installation of such amenities as part of the Project.
 - d. **Bus Operations Coordination:** The Applicant shall coordinate with Metro Bus Operations Control Special Events Coordinator at 213-922-4632 and Metro's Stops and Zones Department at 213-922-5190 not later than 30 days before the start of Project construction. Other municipal bus services may also be impacted and shall be included in construction outreach efforts.

Response to Comment No. 1-5

As discussed in Response to Comment No 1-4, above, Section IV.H, Transportation, of the Draft EIR and the Transportation Assessment included in Appendix I.1 of the Draft EIR include an evaluation of potential impacts to transit facilities in the vicinity of the Project Site,

including bus stops. As discussed on page 107 of the Transportation Assessment, the existing bus stop adjacent to the Project Site along 8th Street at Flower Street that serves Metro Local 66 would be maintained during construction. In addition, no other existing bus stops are located adjacent to the Project Site along Hope Street, Flower Street, or 7th Street frontages and no bus stops are anticipated to be impacted by the Project. While not anticipated, should construction activities require the temporary interruption of the adjacent Metro bus line, the Applicant will coordinate with Metro Bus Operations Control Special Events Coordinator and Metro's Stops and Zones Department.

As discussed on page IV.H-39 of Section IV.H, Transportation and on page 91 of the Transportation Assessment, the Project would support transit stations and bus stops by providing streetscape features along a portion of Hope Street adjacent to the residential lobby, accessible short-term bicycle parking, and enhanced pedestrian pathways, which would all be accessible from the adjacent sidewalks.

As described in the Transportation Assessment, the Project Site's existing driveways would be maintained without change, and no new driveways are proposed. Specifically, vehicular access for the Project would continue to be provided via existing driveways along Flower Street, 8th Street, and Hope Street. None of these driveways are located immediately adjacent to existing bus stops.

Comment No. 1-6

Subway Adjacency

1. Operations: The Metro B Line, D Line, A Line, and E Line currently operate peak service as often as every ten minutes in both directions. Trains may operate 24 hours a day, seven days a week in the tunnels below the Project.

Response to Comment No. 1-6

This comment provides current service times for the Metro B, D, A and E Lines. The subway tunnels are located under the adjacent streets and do not run under the Project Site. Specifically, the Metro B and D Lines run under 7th Street and the Metro A and E Line run under Flower Street. This comment is noted for the administrative record and will be forwarded to the decision makers for review and consideration.

Comment No. 1-7

2. Impact Analysis: Due to the Project's proximity to the 7th Street/Metro Center Station, the EIR must analyze potential effects on subway operations and identify mitigation measures as appropriate. Critical impacts that should be studied include (without limitation): impacts of Project construction and operation on the

structural and systems integrity of subway tunnels; damage to subway infrastructure, including tracks; disruption to subway service; temporary and/or permanent changes to customer access and circulation to the station; and noise and vibration.

Specifically to the Project site: Subway ventilation shafts allow for continuous air circulation throughout the subway tunnels. Vents and emergency exits are located on the sidewalk on Flower Street and will need to be protected during and after construction.

Response to Comment No. 1-7

As discussed in Section II, Project Description, of the Draft EIR, the new tower would be located on the southern half of the Project Site (the Development Area) within and above the existing nine-story parking/retail podium building. The Development Area is located approximately 250 feet from the portal entry to the 7th Street/Metro Center Station.

As shown in Table IV.F-25 of the Draft EIR, construction equipment would generate vibration levels up to 0.089 inch/second (PPV) at a distance of 25 feet from the source. Vibration levels generated by construction equipment would attenuate to approximately 0.003 inch/second (PPV) at a distance of 250 feet, which would be well below the 0.5 inch/second PPV significance threshold (applicable to the Metro subway station). In addition, as noted above in Response to Comment No. 1-6, the Metro A and E Lines subway tunnels are located below Flower Street. The Metro A Line and E Line are located a minimum of 150 feet from the Project construction areas where heavy construction equipment would be utilized. The vibration levels at a distance of 150 feet would be approximately 0.006 inch/second (PPV), which would be well below the 0.5 inch/second (PPV) significance threshold (applicable to the Metro subway tunnels). The vibration levels at the Metro B and D lines, which run under 7th Street, would be significantly lower given the more distant location from the Development Area. While additional work related to the seismic retrofit of the existing non-ductile concrete podium building (required by Ordinance No. 183,893) will take place within 100 feet of the Metro right-of-way, this work will utilize small pieces of construction equipment. Most of this equipment would be hand-held and not heavy equipment. Nevertheless, if heavy equipment is used along Flower Street for the seismic retrofit, vibration impacts would not result in significant impacts, as the Metro A and E Lines subway tunnels would be more than five feet below grade surface. With respect to noise, Project construction is not anticipated to generate noise levels inside the 7th Street/Metro Center Station/portal, as they are below grade and would be shielded from the Project construction area. The Project would not result in significant noise and vibration impacts to the nearby Metro facilities.

Overall, It is not anticipated that Project construction would disrupt subway service as construction activities would be primarily contained within the Development Area, which does

not include components of the subway system. Construction fencing may temporarily encroach into the public right-of-way and the adjacent sidewalk, parking/right-turn lane and one travel lane on Hope Street would temporarily be utilized as a staging area for construction equipment adjacent to the Development Area. Temporary traffic controls would be provided to direct traffic and/or pedestrians safely around any closures, as required in the Construction Traffic Management Plan (CTMP) that would be prepared pursuant to Project Design Feature TR-PDF-1. The public right-of-way would be maintained along the Flower Street, 7th Street, and 8th Street Project frontages throughout the construction period. Pedestrian access will remain during all phases of construction. It is anticipated that a temporary pedestrian overhead protection or other similar measure would be provided during construction to the podium building along Flower Street and 8th Street, as needed. With respect to subway ventilation shafts and emergency exits on Flower Street, the Project does not propose construction or construction staging in the location of any ventilation shafts or emergency exits. Nonetheless, the Applicant will comply with all applicable safety requirements related to ventilation shafts and emergency exits.

Comment No. 1-8

The following provisions should be used to develop a mitigation measure that addresses these potential impacts:

- a. Technical Review: The Applicant shall submit architectural plans, engineering drawings and calculations, and construction work plans and methods, including any crane placement and radius, to evaluate any impacts to Metro Rail infrastructure in relationship to the Project. Before issuance of any building permit for the Project, the Applicant shall obtain Metro's approval of final construction plans.

Response to Comment No. 1-8

This comment does not identify any potentially significant impact that would require mitigation, and no mitigation is required. However, the Applicant will coordinate with Metro prior to construction and will comply with all applicable Metro review requirements. Coordination with Metro will be incorporated as a condition of approval for the Project.

Comment No. 1-9

- b. Subway Station Ventilation Shafts and Emergency Exits: The Applicant shall take all necessary measures to protect the subway vents and emergency exits from damage due to Project activities during and after construction. The Applicant shall label all Metro Station ventilation shafts and emergency exits on the demolition and construction plans.

Response to Comment No. 1-9

As noted in Response to Comment No. 1-7, above, the Project does not propose construction or construction staging in the location of any ventilation shafts or emergency exits and no mitigation is required. The Applicant will coordinate with Metro prior to construction and will comply with all applicable safety requirements for ventilation shafts and emergency exits. In addition, the Applicant will label Metro Station ventilation shafts and emergency exits on the demolition and construction plans as applicable. Coordination with Metro as well as the labeling of Metro Station ventilation shafts and emergency exits on the demolition and construction plans as applicable will be incorporated as a condition of approval for the Project.

Comment No. 1-10

- c. **Construction Safety:** The construction and operation of the Project shall not disrupt the operation and maintenance activities of 7th Street/Metro Center Station or the structural and systems integrity of Metro's tunnels. Not later than two months before Project construction, the Applicant shall contact Metro to schedule a pre-construction meeting with all Project construction personnel and Metro Real Estate, Construction Management, and Construction Safety staff. During Project construction, the Applicant shall:
- i. Work in close coordination with Metro to ensure that station access, visibility, and structural integrity are not compromised by construction activities or permanent build conditions;
 - ii. Notify Metro of any changes to construction activity that may impact the use of the ROW;
 - iii. Permit Metro staff to monitor construction activity to ascertain any impact to the 7th Street/Metro Station.

Response to Comment No. 1-10

This comment outlines construction safety requirements for work near the Metro right-of-way. As discussed in Response to Comment No. 1-11 below, while construction activities would be primarily contained within the Development Area, the seismic retrofit required for the existing podium building will take place within 100 feet of the Metro right-of-way. The Applicant will coordinate with Metro prior to construction and will comply with all applicable Metro safety and inspection requirements. Coordination with Metro will be incorporated as a condition of approval for the Project.

Comment No. 1-11

3. Advisories to Applicant: The Applicant is encouraged to contact the Metro Development Review Team early in the design process to address potential impacts. The Applicant should also be advised of the following:
 - a. Occupational Safety and Health Administration (OSHA) Requirements: Construction and excavation work in proximity to Metro right-of-way (ROW) with potential to damage subway tracks and related infrastructure may be subject to additional OSHA safety requirements.
 - b. Technical Review: Metro charges for staff time spent on engineering review and construction monitoring.
 - c. Right of Way (ROW) Entry Permit: For temporary or ongoing access to Metro ROW for construction, and/or maintenance activities, the Applicant shall complete Metro's Track Allocation process with Metro Rail Operations and obtain a Right of Entry Permit from Metro Real Estate. Approval for single tracking or a power shutdown, while possible, is highly discouraged; if sought, the Applicant shall apply for and obtain such approval not later than two months before the start of Project construction. The Applicant shall apply for and obtain approval for any special operations, including the use of a pile driver or any other equipment that could come in close proximity or encroach on the tunnels or related structures, not later than two months before the start of Project construction.
 - d. Cost of Impacts: The Applicant will be responsible for costs incurred by Metro resulting from Project construction/operation issues that cause delay or harm to Metro service delivery or infrastructure, including single-tracking or bus bridging around closures. The Applicant will also bear all costs for any noise mitigation required for the Project.

Response to Comment No. 1-11

The Applicant will coordinate with Metro prior to submittal of building plans for the new tower and prior to construction activities for the new tower and will comply with all applicable regulatory requirements during construction. Coordination with Metro will be incorporated as a condition of approval for the Project.

With respect to Metro's Right of Way Entry Permit, the seismic retrofit required for the existing podium building will take place within 100 feet of the Metro right-of-way. Pursuant to Zoning Information File No. 1117, the Project would be required to obtain clearance from Metro. The Applicant will comply with applicable Metro permitting requirements.

Comment No. 1-12**Transit Supportive Planning: Recommendations and Resources**

Considering the Project's adjacency to 7th Street/Metro Center Station, Metro would like to identify the potential synergies associated with transit-oriented development:

1. **TFAR Public Benefit Payment; 7th Street/Metro Center Station Renovations:** Metro is currently planning a major capital improvement project to renovate 7th Street/Metro Center Station, which is a key regional transit hub and Metro's busiest station. The project will include updates to all architectural finishes, art works, signage, furnishings, lighting, customer communications equipment, information and retail kiosks, security roll-down portal gates, and digital displays for customer information and advertising. The project is currently in the preliminary design and engineering phase, and pending dedicated funding, is projected to begin construction as early as Spring 2026.

A Transfer of Floor Area Rights (TFAR) request is one of the approvals requested by the Project. Metro strongly recommends that the City and Applicant designate funds from the Project's required TFAR Public Benefit Payment towards this station renovation project. Metro looks forward to further discussing the renovation project with City staff and the Applicant.

Response to Comment No. 1-12

This comment does not raise an environmental issue specific to CEQA or the Draft EIR and the environmental impacts addressed therein. The comment is noted for the administrative record and will be forwarded to the decision-makers for review and consideration.

Comment No. 1-13

2. **Transit Connections and Access:** Metro strongly encourages the Applicant to install Project features that help facilitate safe and convenient connections for pedestrians, people riding bicycles, and transit users to/from the Project site and nearby destinations. The City should consider requiring the installation of such features as part of the conditions of approval for the Project, including:
 - a. **Walkability:** The provision of wide sidewalks, pedestrian lighting, a continuous canopy of shade trees, enhanced crosswalks with ADA-compliant curb ramps, and other amenities along all public street frontages of the development site to improve pedestrian safety and comfort to access the nearby bus stops and 7th Street/Metro Center Station.

Response to Comment No. 1-13

As discussed in Section II, Project Description and in Section IV.H, Transportation, of the Draft EIR, the Project would enhance pedestrian activity on and around the Project Site by introducing a new residential entrance, as well as a new storefront for relocated retail space and a relocated pedestrian passageway to the existing interior retail plaza, at the ground level along the Hope Street frontage of the existing podium building. The Project would also include enhanced sidewalk paving and five new replacement street trees in landscape tree wells within a 190-foot portion of Hope Street, adjacent to the Project Site, further activating the streetscape and improving the pedestrian environment. Project lighting for the residential use would incorporate low-level exterior lights on the building and along pathways for security and wayfinding purposes. Existing mirrors at the driveways would remain and would continue to make drivers aware of approaching pedestrians. Furthermore, pursuant to Project Design Feature TR-PDF-2, the Project would install signalized alert systems at all four existing vehicle parking garage driveways, to warn pedestrians and bicyclists of vehicles exiting Project driveways. As discussed in the Transportation Assessment, additional dedication or easements to widen sidewalk along 8th Street and Hope Street cannot be provided due to the existing improvements and infrastructure, which will remain on the Project Site. In addition, the Project only proposes development on the southern half of the Project Site, would not modify the existing building lines, and the existing conditions along the Project frontages would remain. As such, the Applicant's request for an approval of a Vesting Tentative Tract Map includes requests pursuant to the Los Angeles Municipal Code (LAMC) Sections 17.03 and 17.15, for specific sidewalk waivers, and waivers of all street dedications and sidewalk easements required by the Mobility Plan. Therefore, with approval of the entitlement requests, the Project would not conflict with applicable sidewalk width requirements set forth in the Mobility Plan. As such, there are no identified environmental impacts and neither mitigation measures nor additional conditions of approval are required.

Comment No. 1-14

- b. **Transfer Activity**: Given the Project's proximity to the Metro Bus stop for Lines 51 and 66 and 7th Street/Metro Center Station, the Project design should consider and accommodate transfer activity between bus/bus and bus/rail lines that will occur along the sidewalks and public spaces. Metro has completed the Metro Transfers Design Guide, a best practices document on transit improvements. This can be accessed online at <https://www.metro.net/about/station-design-projects/>.

Response to Comment No. 1-14

The Project Site contains an existing portal to the Metro 7th Street/Metro Center Station. As such, due to short walking distance, transfers to this facility are not necessary.

In addition, bus transfers to/from the existing bus stops serving Metro Local 51 and 66 would be accommodated by the existing sidewalks and crosswalks. Therefore, there are no identified environmental impacts and neither mitigation measures nor additional conditions of approval are required.

Comment No. 1-15

- c. **Bicycle Use and Micromobility Devices**: The provision of adequate short-term bicycle parking, such as ground-level bicycle racks, and secure, access-controlled, enclosed long-term bicycle parking for residents, employees, and guests. Bicycle parking facilities should be designed with best practices in mind, including highly visible siting, effective surveillance, ease to locate, and equipment installation with preferred spacing dimensions, so bicycle parking can be safely and conveniently accessed. Similar provisions for micro-mobility devices are also encouraged.

Response to Comment No. 1-15

Consistent with this recommendation, the Project proposes to provide short-term and long-term bicycle parking as required by the LAMC. Overall, the Project would provide short-term and long-term spaces compliant with the LAMC. The short-term bicycle parking spaces would be located in and outdoors. The long-term bicycle parking stalls and bicycle storage would be located on Level A with direct access through the residential lobby elevator.

Comment No. 1-16

- d. **First & Last Mile Access**: The Project should address first-last mile connections to transit and is encouraged to support these connections with wayfinding signage inclusive of all modes of transportation. For reference, please review the First Last Mile Strategic Plan, authored by Metro and the Southern California Association of Governments (SCAG), available on-line at: http://media.metro.net/docs/sustainability_path_design_guidelines.pdf.

Response to Comment No. 1-16

As discussed in Section IV.H, Transportation of the DEIR and in the Transportation Assessment, the Project would support "first-mile, last-mile solutions" by developing a high-density residential project located in an active Downtown area adjacent to multiple Metro bus stops and the 7th Street/Metro Center Station. The existing sidewalks would accommodate all first- and last-mile activity, and wayfinding signage currently exists on the Project Site. Additionally, the Project design includes transportation demand management measures that will encourage the use of transit and other alternative modes of transportation. As such,

there are no identified environmental impacts and neither mitigation measures nor additional conditions of approval are required.

Comment No. 1-17

3. **Parking**: Metro encourages the incorporation of transit-oriented, pedestrian-oriented parking provision strategies such as the reduction or removal of minimum parking requirements and the exploration of shared parking opportunities. These strategies could be pursued to reduce automobile-orientation in design and travel demand.

Response to Comment No. 1-17

As shown in Table II-4 in Section II, Project Description, of the Draft EIR, with respect to residential parking, LAMC Section 12.21 A.4(p)(1) provides for a parking requirement of one space per unit with three habitable rooms or less, or 1.25 spaces per unit with more than three habitable rooms, which would result in a total of 511 parking spaces if applied to the Project's proposed 466 units. As also shown in Table II-4 in Section II, Project Description, of the Draft EIR, the LAMC provides for a parking requirement of 1,385 spaces for the existing hotel and commercial uses to remain on the Project Site. In addition, 251 spaces are required by existing parking covenants AFF 81-31644 and AFF 89-94331. Together the LAMC parking ratios and parking covenant requirement total 2,147 spaces. However, the Applicant proposes to provide a reduced parking supply as compared to the parking ratios of the LAMC and parking covenants and proposes to provide a total of 1,948 automobile parking spaces for all proposed uses, including both new uses existing uses to remain and parking covenants. This total accounts for the removal of 464 existing parking spaces as part of the seismic retrofitting of the existing podium building and includes the 251 covenanted spaces required by existing parking covenants.

The Applicant's request for reduced parking supply of 1,948 automobile parking spaces relies on Assembly Bill (AB) 2097, signed by Governor Newsom on September 22, 2022, which prohibits a public agency from imposing or enforcing any minimum automobile parking requirement on any residential or commercial development project that is within one-half mile of a Major Transit Stop. Therefore, pursuant to AB 2097, the Project's proposed reduced parking would be consistent with the applicable vehicle parking provisions of the LAMC.

Comment No. 1-18

4. **Wayfinding**: Any temporary or permanent wayfinding signage with content referencing Metro services or featuring the Metro brand and/or associated

graphics (such as Metro Bus or Rail pictograms) requires review and approval by Metro Signage and Environmental Graphic Design.

Response to Comment No. 1-18

This comment informs the Applicant that any wayfinding signage referencing Metro or including its logo is subject to review and approval. The Applicant will comply with all applicable review requirements.

Comment No. 1-19

5. Transit Pass Programs: Metro would like to inform the Applicant of Metro's employer transit pass programs, including the Annual Transit Access Pass (A-TAP), the Employer Pass Program (E-Pass), and Small Employer Pass (SEP) Program. These programs offer efficiencies and group rates that businesses can offer employees as an incentive to utilize public transit. The A-TAP can also be used for residential projects. For more information on these programs, please visit the programs' website at <https://www.metro.net/riding/eapp/>.

Response to Comment No. 1-19

This comment, which informs the Applicant of Metro's employer transit pass programs, is noted for the administrative record and forwarded to the decision-makers for review and consideration.

Comment No. 1-20

If you have any questions regarding this letter, please contact me by phone at 213.547.4326, by email at DevReview@metro.net, or by mail at the following address:

Metro Development Review One Gateway Plaza
MS 99-22-1
Los Angeles, CA 90012-2952

Response to Comment No. 1-20

The City appreciates the feedback provided by Metro and will contact Metro as indicated with any comments or questions. This comment will be forwarded to the decision-makers for review and consideration.

Comment No. 1-21

Attachment—Metro Adjacent Development Handbook: A Guide for Cities and Developers, February 2021 [48 pages]

Link—Adjacent Development Handbook: <https://www.metro.net/devreview>

Response to Comment No. 1-21

The attachment has been addressed in the comments above.

Comment Letter No. 2

Jonathan Montano
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Comment No. 2-1

Please find attached our office's comment letter submission for The Bloc DEIR—ENV-2021-9959-EIR.

Please confirm receipt of this email and the attached letter.

Response to Comment No. 2-1

This cover email enclosing the comment letter is noted for the administrative record and will be forwarded to the decision-makers for review and consideration. Specific comments raised in the attached comment letter provided and responded to below.

Comment No. 2-2

[Attachment 1: Comment letter dated May 13, 2024]

On behalf of the Western States Regional Council of Carpenters (“**Western Carpenters**” or “**WSRCC**”), our firm is submitting these comments for the City of Los Angeles’s (“**City**”) Draft Environmental Impact Report (“**DEIR**”) for The Bloc 700 West 7th St. project, Case #ENV-2021-9959-EIR (“**Project**”).

The Western Carpenters is a labor union representing approximately 90,000 union carpenters in 12 states, including California, and has a strong interest in well-ordered land use planning and in addressing the environmental impacts of development projects.

The DEIR describes the proposed Project as follows:

The Project would develop 466 residential units within a new high-rise tower (Residential Tower) on the southern half of the Project Site (Development Area), in conjunction with the enclosure of the rooftop parking level of the existing nine-story podium building and addition of two levels of parking, increasing the podium to 12 stories. The 53-story high-rise tower would be located within and above the expanded parking podium (Residential Tower). The existing hotel, office and commercial uses on the Project Site would be retained, with the exception of some existing parking uses and 24,342 square feet of existing commercial floor area in the podium building that would be converted to residential uses, including a new residential lobby. Residential uses would comprise a total of 495,016 square feet in the Residential Tower. The basement levels below the podium building would be retained. Upon completion of the Project, the Project Site would include a total of 1,894,988 square feet of floor area on a 186,674-square-foot (4.2-acre) site. A Sign District would be implemented to allow for a comprehensive signage program and would include digital displays, digital kiosks, and off-site advertising.

(DEIR Notice of Completion and Availability, p. 1.)

Response to Comment No. 2-2

This comment, which introduces the commenter and summarizes the Project Description, is noted for the administrative record and will be forwarded to the decision-makers for review and consideration.

Comment No. 2-3

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

The WSRCC expressly reserves the right to supplement these comments at or prior to hearings on the Project, and at any later hearing and proceeding related to this Project. Gov. Code, § 65009, subd. (b); Pub. Res. Code, § 21177, subd. (a); see *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1199-1203; See also *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal.App.4th 1109, 1121.

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

Moreover, the WSRCC requests that the City provide notice for any and all notices referring or related to the Project issued under the California Environmental Quality Act (**CEQA**) (Pub. Res. Code, § 21000 *et seq.*), and the California Planning and Zoning Law (“**Planning and Zoning Law**”) (Gov. Code, §§ 65000–65010). California Public Resources Code Sections 21092.2, and 21167(f) and California Government Code Section 65092 require agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency's governing body.

Response to Comment No. 2-3

This comment stating that the commenter reserves the right to supplement its comments is noted for the administrative record and will be forwarded to the decision-makers for review and consideration. Note that the commenter is already part of the City's list to receive notices regarding the Project.

Comment No. 2-4**I. THE CITY SHOULD REQUIRE THE USE OF A LOCAL WORKFORCE TO BENEFIT THE COMMUNITY'S ECONOMIC DEVELOPMENT AND ENVIRONMENT**

The City should require the Project to be built using a local workers who have graduated from a Joint Labor-Management Apprenticeship Program approved by the State of California, have at least as many hours of on-the-job experience in the applicable craft which would be required to graduate from such a state-approved apprenticeship training program, or who are registered apprentices in a state-approved apprenticeship training program.

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

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

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

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

[L]abor should be considered an investment rather than a cost—and investments in growing, diversifying, and upskilling California’s workforce can positively affect returns on climate mitigation efforts. In other words, well-trained workers are key to delivering emissions reductions and moving California closer to its climate targets.¹

Furthermore, workforce policies have significant environmental benefits given that they improve an area’s jobs-housing balance, decreasing the amount and length of job commutes and the associated greenhouse gas (GHG) emissions. In fact, on May 7, 2021, the South Coast Air Quality Management District found that that the “[u]se of a local state-certified apprenticeship program” can result in air pollutant reductions.²

Locating jobs closer to residential areas can have significant environmental benefits. As the California Planning Roundtable noted in 2008:

People who live and work in the same jurisdiction would be more likely to take transit, walk, or bicycle to work than residents of less balanced communities and their vehicle trips would be shorter. Benefits would include potential reductions in both vehicle miles traveled and vehicle hours traveled.³

Moreover, local hire mandates and skill-training are critical facets of a strategy to reduce vehicle miles traveled (VMT). As planning experts Robert Cervero and Michael Duncan have

noted, simply placing jobs near housing stock is insufficient to achieve VMT reductions given that the skill requirements of available local jobs must match those held by local residents.⁴ Some municipalities have even tied local hire and other workforce policies to local development permits to address transportation issues. Cervero and Duncan note that:

In nearly built-out Berkeley, CA, the approach to balancing jobs and housing is to create local jobs rather than to develop new housing. The city's First Source program encourages businesses to hire local residents, especially for entry- and intermediate-level jobs, and sponsors vocational training to ensure residents are employment-ready. While the program is voluntary, some 300 businesses have used it to date, placing more than 3,000 city residents in local jobs since it was launched in 1986. When needed, these carrots are matched by sticks, since the city is not shy about negotiating corporate participation in First Source as a condition of approval for development permits.

Recently, the State of California verified its commitment towards workforce development through the Affordable Housing and High Road Jobs Act of 2022, otherwise known as Assembly Bill No. 2011 ("AB2011"). AB2011 amended the Planning and Zoning Law to allow ministerial, by-right approval for projects being built alongside commercial corridors that meet affordability and labor requirements.

The City should consider utilizing local workforce policies and requirements to benefit the local area economically and to mitigate greenhouse gas, improve air quality, and reduce transportation impacts.

- ¹ California Workforce Development Board (2020) Putting California on the High Road: A Jobs and Climate Action Plan for 2030 at p. ii, *available at* <https://laborcenter.berkeley.edu/wp-content/uploads/2020/09/Putting-California-on-the-High-Road.pdf>.
- ² South Coast Air Quality Management District (May 7, 2021) Certify Final Environmental Assessment and Adopt Proposed Rule 2305—Warehouse Indirect Source Rule—Warehouse Actions and Investments to Reduce Emissions Program, and Proposed Rule 316—Fees for Rule 2305, Submit Rule 2305 for Inclusion Into the SIP, and Approve Supporting Budget Actions, *available at* <http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2021/2021-May7-027.pdf?sfvrsn=10>.
- ³ California Planning Roundtable (2008) Deconstructing Jobs-Housing Balance at p. 6, *available at* <https://cprroundtable.org/static/media/uploads/publications/cpr-jobs-housing.pdf> [sic]
- ⁴ Cervero, Robert and Duncan, Michael (2006) Which Reduces Vehicle Travel More: Jobs-Housing Balance or Retail-Housing Mixing? *Journal of the American Planning Association* 72 (4), 475–490, 482, *available at* <http://reconnectingamerica.org/assets/Uploads/UTCT-825.pdf>.

Response to Comment No. 2-4

This comment suggests the City require local hire and skilled workforce provisions to reduce vehicle miles traveled (VMT) and associated air quality and GHG impacts. However, as set forth in Sections IV.H, Transportation; IV.A, Air Quality; and IV.D, Greenhouse Gas

Emissions, of the Draft EIR, the Project would not result in any significant VMT, air quality, or GHG impacts. CEQA Guidelines Section 15126.4(a)(3) provides that mitigation measures are not required for effects determined to be less than significant. Therefore, no mitigation measures are warranted for VMT, air quality, or GHG impacts. Nevertheless, this comment regarding community benefits is noted for the administrative record and will be forwarded to the decision-makers for review and consideration.

Comment No. 2-5

II. THE CITY SHOULD IMPOSE TRAINING REQUIREMENTS FOR THE PROJECT'S CONSTRUCTION ACTIVITIES TO PREVENT COMMUNITY SPREAD OF COVID-19 AND OTHER INFECTIOUS DISEASES

Construction work has been defined as a Lower to High-risk activity for COVID-19 spread by the Occupational Safety and Health Administration. Recently, several construction sites have been identified as sources of community spread of COVID-19.⁵

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

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

Construction Site Design:

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

- There will be clear signage posted at the project site directing you through temperature screening.
- Provide hand washing stations throughout the construction site.

Testing Procedures:

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

Planning

- Require the development of an Infectious Disease Preparedness and Response Plan that will include basic infection prevention measures (requiring the use of personal protection equipment), policies and procedures for prompt identification and isolation of sick individuals, social distancing (prohibiting gatherings of no more than 10 people including all-hands meetings and all-hands lunches) communication and training and workplace controls that meet standards that may be promulgated by the Center for Disease Control, Occupational Safety and Health Administration, Cal/OSHA, California Department of Public Health or applicable local public health agencies.⁶

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

WSRCC has also developed a rigorous Infection Control Risk Assessment (“**ICRA**”) training program to ensure it delivers a workforce that understands how to identify and control infection risks by implementing protocols to protect themselves and all others during renovation and construction projects in healthcare environments.⁷

ICRA protocols are intended to contain pathogens, control airflow, and protect patients during the construction, maintenance, and renovation of healthcare facilities. ICRA protocols prevent cross contamination, minimizing the risk of secondary infections in patients at hospital facilities.

The City should require the Project to be built using a workforce trained in ICRA protocols.

⁵ Santa Clara County Public Health (June 12, 2020) COVID-19 CASES AT CONSTRUCTION SITES HIGHLIGHT NEED FOR CONTINUED VIGILANCE IN SECTORS THAT HAVE REOPENED, *available at* <https://www.sccgov.org/sites/covid19/Pages/press-release-06-12-2020-cases-at-construction-sites.aspx>.

⁶ See also The Center for Construction Research and Training, North America's Building Trades Unions (April 27 2020) NABTU and CPWR COVID-19 [sic] Standards for U.S [sic] Construction Sites, *available at* https://www.cpwr.com/sites/default/files/NABTU_CPWR_Standards_COVID-19.pdf; Los Angeles County Department of Public Works (2020) Guidelines for Construction Sites During COVID-19 Pandemic, *available at* https://dpw.lacounty.gov/building-and-safety/docs/pw_guidelines-construction-sites.pdf.

⁷ For details concerning Southwest Carpenters' ICRA training program, see <https://icrahealthcare.com/>.

Response to Comment No. 2-5

To the extent that COVID-19 remains a significant health risk at the time of Project construction, which is speculative, it would represent an impact of the then-existing environment on the Project. CEQA is concerned with a project's impacts on the existing physical environment and not the environment's impacts on a project. Therefore, the EIR does not have to analyze the impact of COVID-19 on the Project. Moreover, in the absence of any applicable methodology, such an analysis would be speculative. The State and local government implement the regulation and enforcement of safe working conditions for construction sites during public health emergencies, including but not limited to the COVID-19 pandemic. The Project would comply with all applicable safety regulations if COVID-19 risks persist at the commencement of construction of any Project phase. This comment is noted for the administrative record and will be forwarded to the decision-makers for their review and consideration.

Comment No. 2-6

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

A. Background Concerning the California Environmental Quality Act

The California Environmental Quality Act (“**CEQA**”) is a California statute designed to inform decision-makers and the public about the potential significant environmental effects of a project. 14 California Code of Regulations (“**CEQA Guidelines**”), § 15002, subd. (a)(1).⁸ At its core, its purpose is to “inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR ‘protects not only the environment but also informed self-government[.]’ *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.

1. Background Concerning Environmental Impact Reports

CEQA directs public agencies to avoid or reduce environmental damage, when possible, by requiring alternatives or mitigation measures. CEQA Guidelines, § 15002, subds. (a)(2)-(3); *See also Berkeley Keep Jets Over the Bay Committee v. Board of Port Comes* [sic] (2001) 91 Cal.App.4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; *Laurel Heights Improvement Assn.*, 47 Cal.3d at p. 400. The EIR serves to provide public agencies and the public in general with information about the effect that a proposed project is likely to have on the environment and to “identify ways that environmental damage can be avoided or significantly reduced.” CEQA Guidelines, § 15002, subd. (a)(2). If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns” specified in Public Resources Code section 21081. *See* CEQA Guidelines, § 15092, subds. (b)(2)(A)-(B). The EIR has been described as “an environmental ‘alarm bell’ whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.” *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm’rs.* (2001) 91 Cal. App. 4th 1344, 1354 (“*Berkeley Jets*”); *County of Inyo v. Yorty* (1973) 32 Cal. App. 3d 795, 810.

Further, it is the duty of the lead agency, not the public, to conduct the proper environmental studies. “The agency should not be allowed to hide behind its own failure to gather relevant data.” *Sundstrom, supra*, 202 Cal.App.3d at p. 311. “Deficiencies in the record may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” *Ibid*; *See also Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1382 (lack of study enlarges the scope of the fair argument which may be made based on the limited facts in the record).

Thus, refusal to complete recommended studies lowers the already low threshold to establish a fair argument. The court may not exercise its independent judgment on the omitted material by determining whether the ultimate decision of the lead agency would have been affected had the law been followed. *Environmental Protection Information Center v. Cal. Dept. of Forestry* (2008) 44 Cal.4th 459, 486 (internal citations and quotations omitted). The remedy for this deficiency would be for the trial court to issue a writ of mandate. *Ibid.*

While the courts review an EIR using an ‘abuse of discretion’ standard, the reviewing court is not to *uncritically* rely on every study or analysis presented by a project proponent in support of its position. *Berkeley Jets*, 91 Cal.App.4th at p. 1355 (quoting *Laurel Heights Improvement Assn.*, 47 Cal.3d at pp. 391, 409 fn. 12) (internal quotations omitted). A clearly inadequate or unsupported study is entitled to no judicial deference. *Id.* Drawing this line and determining whether the EIR complies with CEQA’s information disclosure requirements presents a question of law subject to independent review by the courts. *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 515; *Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal.App.4th 48, 102, 131. As the court stated in *Berkeley Jets*, prejudicial abuse of discretion occurs if the failure to include relevant information precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process. 91 Cal.App.4th at p. 1355 (internal quotations omitted).

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

A strong presumption in favor of requiring preparation of an EIR is built into CEQA. This presumption is reflected in what is known as the “fair argument” standard under which an EIR must be prepared whenever substantial evidence in the record supports a fair argument that a project may have a significant effect on the environment. *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602; *Friends of “B” St. v. City of Hayward* (1980) 106 Cal.3d 988, 1002.

The fair argument test stems from the statutory mandate that an EIR be prepared for any project that “may have a significant effect on the environment.” PRC, § 21151; see *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.App.3d 68, 75; accord *Jensen v. City of Santa Rosa* (2018) 23 Cal.App.5th 877, 884. Under this test, if a proposed project is not exempt and may

cause a significant effect on the environment, the lead agency must prepare an EIR. PRC, §§ 21100 (a), 21151; CEQA Guidelines, § 15064 (a)(1), (f)(1). An EIR may be dispensed with only if the lead agency finds no substantial evidence in the initial study or elsewhere in the record that the project may have a significant effect on the environment. *Parker Shattuck Neighbors v. Berkeley City Council* (2013) 222 Cal.App.4th 768, 785. In such a situation, the agency must adopt a negative declaration. PRC, § 21080, subd. (c)(1); CEQA Guidelines, §§ 15063 (b)(2), 15064(f)(3).

“Significant effect upon the environment” is defined as “a substantial or potentially substantial adverse change in the environment.” PRC, § 21068; CEQA Guidelines, § 15382. A project may have a significant effect on the environment if there is a reasonable probability that it will result in a significant impact. *No Oil, Inc.*, 13 Cal.3d at p. 83 fn. 16; see *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 309. If any aspect of the project may result in a significant impact on the environment, an EIR must be prepared even if the overall effect of the project is beneficial. CEQA Guidelines, § 15063(b)(1); see *County Sanitation Dist. No. 2 v. County of Kern* (2005) 127 Cal.App.4th 1544, 1580.

This standard sets a “low threshold” for preparation of an EIR. *Consolidated Irrigation Dist. v. City of Selma* (2012) 204 Cal.App.4th 187, 207; *Nelson v. County of Kern* (2010) 190 Cal.App.4th 252; *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928; *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, 580; *Citizen Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754; *Sundstrom*, 202 Cal.App.3d at p. 310. If substantial evidence in the record supports a fair argument that the project may have a significant environmental effect, the lead agency must prepare an EIR even if other substantial evidence before it indicates the project will have no significant effect. See *Jensen*, 23 Cal.App.5th at p. 886; *Clews Land & Livestock v. City of San Diego* (2017) 19 Cal.App.5th 161, 183; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150; *Brentwood Assn. for No Drilling, Inc. v. City of Los Angeles* (1982) 134 Cal.App.3d 491; *Friends of “B” St.*, 106 Cal.App.3d 988; CEQA Guidelines, § 15064(f)(1).

Both the review for failure to follow CEQA’s procedures and the fair argument test are questions of law, thus, the de novo standard of review applies. *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435. Whether the agency’s record contains substantial evidence that would support a fair argument that the project may have a significant effect on the environment is treated as a question of law. *Consolidated Irrigation Dist.*, *supra*, 204 Cal.App.4th at p. 207; Kostka and Zischke, *Practice Under the Environmental Quality Act* (2017, 2d ed.) at § 6.76.

⁸ The CEQA Guidelines, codified in Title 14 of the California Code of Regulations, section 15000 *et seq.*, are regulatory guidelines promulgated by the state Natural Resources Agency for the implementation of CEQA. Cal. Pub. Res. Code, § 21083. The CEQA Guidelines are given “great weight in interpreting CEQA except when ... clearly unauthorized or erroneous.” *Center for Biological Diversity v. Dept. of Fish & Wildlife* (2015) 62 Cal.4th 204, 217.

Response to Comment No. 2-6

This comment sets forth general legal arguments and citations and makes reference to various CEQA provisions and case law regarding the preparation of an EIR in compliance with CEQA in general. However, the discussion is not specific to the Project, and does not raise an issue under CEQA or specific to the Draft EIR and the environmental impact analyses addressed therein. This comment is noted for the administrative record and will be forwarded to the decision-makers for review and consideration.

Comment No. 2-7

B. The DEIR Improperly Mischaracterizes Mitigation Measures as “Project Design Features”

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

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

Here, the DEIR improperly recasts a wide array of mitigation measures as “Project Design Features” or “PDFs.” Relying on the extensive list of PDFs for the Project, the DEIR then concludes in many instances that the Project’s impacts are less than significant, and that no mitigation is required.

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

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

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

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

Specifically, the DEIR delineates the following sixteen (16) distinct PDFs to be applied to the project, all of which amount to mitigation measures under CEQA:

Regarding Air Quality Impacts:

Project Design Feature AQ-PDF-1: The following equipment used during Project construction activities shall be electric-powered: air compressor, aerial lift, cement mixer, concrete saw, tower crane, excavator, forklift and welder. (Fn. 4—This PDF is included in the quantitative analysis.)

(DEIR at pp. I-13, IV.A-47-48.)

Regarding Greenhouse Gas (“GHG”) Emissions Impacts:

Project Design Feature GHG-PDF-1: The design of the new building will incorporate the following sustainability features:

- a. U.S. Green Building Council’s Leadership in Energy and Environmental Design (LEED®) program to meet the standards of LEED Silver® or equivalent green building standards;
- b. Use of Energy Star-labeled products and appliances;
- c. Use of light-emitting diode (LED) lighting or other energy-efficient lighting technologies, such as occupancy sensors or daylight harvesting and dimming controls, where appropriate, to reduce electricity use;
- d. Fenestration designed for solar orientation; and
- e. Pedestrian- and bicycle-friendly design with short-term and long-term bicycle parking.

(DEIR at pp. I-13, IV.D-55–56.)

Regarding Noise Impacts:

Project Design Feature NOI-PDF-1: Power construction equipment (including combustion engines), fixed or mobile, will be equipped with state-of-the-art noise shielding and muffling devices, consistent with manufacturers’ standards. All equipment will be properly maintained to ensure that no additional noise due to worn or improperly maintained parts will be generated.

Project Design Feature NOI-PDF-2: Project construction will not include the use of driven (impact) pile systems.

Project Design Feature NOI-PDF-3: Outdoor mounted mechanical equipment will be enclosed or screened by the building design (e.g., a roof parapet or mechanical screen) from view of off-site noise-sensitive receptors. The equipment screen will be impermeable (i.e., solid material with minimum weight of 2 pounds per square foot) and break the acoustic line-of-sight from the equipment to the off-site noise-sensitive receptors.

Project Design Feature NOI-PDF-4: Outdoor amplified sound systems, if any, will be designed so as not to exceed the maximum noise level of 80 dBA (Leq-1ru) at a distance of 25 feet from the amplified speaker sound systems at Level 12 outdoor spaces and 85 dBA (Leq-1ru) at a distance of 25 feet from the amplified speaker sound systems at Level 51 outdoor spaces. A qualified noise consultant will provide written documentation that the design of the system complies with this maximum noise level.

(DEIR at pp. I-13-14, IV.F-30.)

Regarding Public Services-Police Protection Impacts:

Project Design Feature POL-PDF-1: During construction of the new building, the Applicant will implement temporary security measures, including security fencing, lighting, and locked entry of construction areas.

Project Design Feature POL-PDF-2: During operation, the Project will provide a dedicated security team for the new tower.

Project Design Feature POL-PDF-3: During operation, the Project will include a closed-circuit security camera system for the new tower.

Project Design Feature POL-PDF-4: The Project will provide lighting of building entries and walkways to provide for pedestrian orientation and clearly identify a secure route to the points of entry into the building.

Project Design Feature POL-PDF-5: The Project will provide lighting of parking areas, elevators, and the residential lobby to maximize visibility and reduce areas of concealment.

Project Design Feature POL-PDF-6: The Project entrances to and exits from the new tower, open spaces around new tower, and the relocated pedestrian walkway along Hope Street will be designed, to the extent practicable, to be open and in view of surrounding sites.

Project Design Feature POL-PDF-7: Upon completion of construction of the new building and prior to the issuance of a building permit for the new building, the Project Applicant will submit a diagram of the Development Area to the LAPD Central Area Commanding Officer that includes access routes and any additional information [sic] that might facilitate police response.

(DEIR at pp. I-14, IV.G.2-11-12.)

Regarding Transportation Impacts:

Project Design Feature TR-PDF-1: A detailed Construction Traffic Management Plan (CTMP), including haul routes and staging plan, will be prepared and submitted to LADOT for review and approval prior to commencing construction for the new building. The CTMP will formalize how Project construction will be carried out and identify specific actions that will reduce effects on the surrounding community. The CTMP will be based on the nature and timing of the specific construction activities and other projects in the vicinity of the Project Site and will include, but not be limited to, the following measures:

- Advance, bilingual notification of adjacent property owners and occupants of upcoming construction activities, including durations and daily hours of operation;
- Prohibition of construction worker or equipment parking on adjacent streets;
- A Traffic Control Plan formalizing the planning and scheduling of construction activities and identifying specific actions that will be undertaken to facilitate the flow of traffic on surrounding streets during construction. The Traffic Control Plan will be submitted to LADOT for
- review and approval prior to the issuance of demolition and grading permits for the new building;
- Scheduling of construction activities to reduce the effect on traffic flow on surrounding Arterial Streets;
- Containment of construction activity within the Project Site boundaries, to the extent feasible;
- Implementation of safety precautions for pedestrians and bicyclists through such measures as alternate routing and protection barriers;
- Scheduling of construction-related deliveries, haul trips, etc., to occur outside the commuter peak hours to the extent feasible;
- Spacing of trucks so as to discourage a convoy effect;
- Sufficient dampening of the construction area to control dust caused by grading and hauling and reasonable control at all times of dust caused by wind;
- Maintenance of a log, available on the job site at all times, documenting the dates of hauling and the number of trips (i.e., trucks) per day; and
- Identification of a construction manager and provision of a telephone number for any inquiries or complaints from residents regarding construction activities posted

at the site readily visible to any interested party during site preparation, grading, and construction.

Project Design Feature TR-PDF-2: Prior to issuance of a certificate of occupancy for the new building, the Project will install vehicle signalized alert systems at all four existing parking garage driveways.

(DEIR at pp. I-14-15, IV.H-33-34.)

Regarding Utilities and Service Systems—Water Supply and Infrastructure Impacts:

Project Design Feature WAT-PDF-1: [sic] As part of the construction of the new building, a portion of the existing 8-inch water main on Hope Street will be upgraded to a 12-inch main. The upgrade will include approximately 710 feet of 12-inch ductile iron (DI) water main from the intersection of Hope Street and 8th Street to a point 710 feet northeast of 8th Street. Due to the mainline upgrade, the existing 8-inch water main will be cut and plugged in two locations and three existing fire hydrants will be re-tapped. System upgrades will require repaving, which will be paid for by the Project Applicant via the City of LA Bureau of Engineering Street Damage Restoration Fee.

Project Design Feature WAT-PDF-2: [sic] The design of the new building will incorporate the following additional water conservation features:

- High-efficiency Energy Star–rated residential clothes washers.
- High-efficiency Energy Star–rated residential dishwashers, should dishwashers be provided.
- Drip/Subsurface Irrigation (Micro-Irrigation).
- Proper Hydro-Zoning/Zoned Irrigation (groups plants with similar water requirements together).
- Drought-Tolerant Plants

(DEIR at pp. I-16, IV.J.1-32-33.)

Response to Comment No. 2-7

This comment incorrectly states that the Draft EIR mischaracterizes mitigation measures as Project Design Features (PDFs), and incorrectly suggests they are unenforceable. As discussed in Section II, Project Description, of the Draft EIR, PDFs are elements or components of a project that contribute to the physical design of a project, such as the installation of solar panels, and/or establish non-tangible parameters of the project

such as the maximum number of people permitted to attend an event. PDFs may be shown on a project's plan set and/or establish a restriction that a project must comply with, but they cannot be implemented solely to reduce a project's potentially significant impact. In contrast, mitigation measures are tailored to address specific impacts and provide reductions of a specific impact, whereas PDFs are project elements that provide environmental benefits intrinsically but are not designed specifically to address or reduce a project impact.

The PDFs identified in the Draft EIR are all elements or components of the proposed Project and are not mitigation measures. This comment lists the Project's PDFs, but does not provide any evidence or argument as to any deficiency in the analysis in the Draft EIR, or identify any way in which the inclusion of PDFs improperly interferes with the identification of a potential environmental impact or precludes or obfuscates required disclosure of the project's environmental impacts and analysis of potential mitigation measures.

With respect to the enforceability of PDFs, they are part of the proposed Project and in addition, as is the case with every EIR published by the City, PDFs, like mitigation measures, are included in Project's Mitigation Monitoring Program (see Section III, Mitigation Monitoring Program, of this Final EIR). As such, as with mitigation measures and other project components, PDFs are fully enforceable. In addition, separate from the CEQA requirement of enforceability of a Mitigation Monitoring Program, the City's standard project conditions include the enforcement of the entirety of the Mitigation Monitoring Program.

Comment No. 2-8

Notably, the December 2022 Initial Study ("IS") for the Project determined that the Project presented potentially significant environmental impacts for a variety of environmental factors, including but not limited to the following: Air Quality, Cultural Resources, Energy Use, GHG Emissions, Land Use Planning, Noise, Public Services, Transportation, Tribal Resources, and Utilities & Service Systems. (IS at pp. 48, 55, 57–58, 66–67, 76, 85–88, 91–92, and 99–106.) Fast-forwarding to the publication of the Project's DEIR, the DEIR then determines that the Project would have less than significant impacts on Air Quality, Energy Use, GHG Emissions, Land Use Planning, Noise (in certain respects), Public Services, Transportation, Tribal Resources, and Utilities & Service Systems. According to the DEIR, the once-potentially significant impacts for each of these environmental factors have been miraculously cured via the incorporation of the Project's purported PDFs.

Response to Comment No. 2-8

In accordance with CEQA Guidelines Section 15063, "the Lead Agency shall conduct an initial study to determine if the the project **may** have a significant impact on the environment." [emphasis added] Based on the information available at the time of the initial study, it was determined that the Project may have an impact with regard to various

environmental topics including those indicated by the commenter, and that additional environmental analysis is required. The Draft EIR provides the additional more detailed analyses and determines that potential impacts would be less than significant with regard to energy, land use, public services, transportation, tribal resources and utilities. The Draft EIR also determines that implementation of the Project would result in significant and unavoidable impacts regarding on-site noise sources during construction, off-site noise sources during construction (utilities/staging), and off-site vibration with respect to human annoyance during construction. Cumulative impacts regarding on-site noise during construction, off-site noise during construction (haul trucks), and off-site vibration with respect to human annoyance during construction would also be significant and unavoidable. This comment does not provide any evidence or argument as to any deficiency in the analysis in the Draft EIR, or identify any way in which the inclusion of PDFs improperly interferes with the identification of a potential environmental impact or precludes or obfuscates required disclosure of the project's environmental impacts and analysis of potential mitigation measures.

Refer to Response to Comment No. 2-7, above, regarding the Project's PDFs.

Comment No. 2-9

Deploying electrified construction equipment (as opposed to petroleum fuel-powered) to reduce impacts to air quality (per AQ-PDF-1) is not a bona fide feature of "project design." Installing Energy Star appliances and energy-efficient lighting to reduce the Project's GHG emissions (per GHG-PDF-1(b)&(c)) is not a bona fide feature of "project design." Equipping power construction equipment with state-of-the-art noise shielding/muffling devices (per NOI-PDF-1) is not a bona fide feature of "project design." Preparation of a Traffic Control Plan for the Project (per TR-PDF-1) is not a bona fide feature of "project design." These are but a handful of examples of the myriad instances of the DEIR's brazen mislabeling of the Project's mitigation measures. Indeed, mere cursory review of the DEIR reveals that the bulk of the foregoing non-exclusive list of proposed PDFs for the Project are in fact nothing more than a transparent attempt to disguise what are, in fact, mitigation measures for the Project. In turn, the DEIR then premises its analysis regarding the allegedly "less than significant impacts" in the areas of Air Quality, GHG Emissions, Noise (where applicable), Public Services, Transportation, and Utilities and Service Systems on the incorporation of the so-called PDFs. To that end, the impacts analysis put forth in the DEIR is demonstrably tainted and flawed by the improper application of the Project PDFs.

By recasting its mitigation measures in this manner, the DEIR has attempted to skirt its responsibilities to fully analyze the various environmental impacts implicated by the PDFs, as well as the responsibility to monitor and ensure during the course of the Project's development that such mitigation measures are fully implemented. Such an attempt to evade accountability for addressing the Project's environmental impacts directly violates CEQA, and the DEIR cannot permissibly be certified unless and until this deficiency is rectified.

Response to Comment No. 2-9

As discussed above in Response to Comment No. 2-7, the PDFs included throughout the Draft EIR are features that would be implemented as part of the Project and are not designed specifically to reduce a project impact. As such, they were appropriately included as part of the impact analysis for the Project. In addition, to ensure their implementation, the PDFs have also been included as part of the MMP for the Project. This comment makes the conclusory assertion that the PDFs are not “bona fide” but does not provide any evidence or argument to support this general assertion or any deficiency in the analysis in the Draft EIR, or identify any way in which the inclusion of PDFs improperly interferes with the identification of a potential environmental impact or precludes or obfuscates required disclosure of the project’s environmental impacts and analysis of potential mitigation measures.

Comment No. 2-10

C. The DEIR Fails to Conduct Any Analysis of the Project’s Potentially Significant Hazard & Hazardous Materials Impacts

In the IS for the Project, the City determined that the Project may have a significant effect on the environment, such that preparation of an Environmental Impact Report (“**EIR**”) was required. (IS at p. 5) As part of its justification for the preparation of the DEIR, the City identified in the IS the Project’s “Potentially Significant Impact” as to Hazards & Hazardous Materials. (IS at pp. 4–5.) Specifically, the IS found that the Project would have a potentially significant impact on the environment through its potential to “impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.”

Regarding the above-referenced potentially significant hazards impact, the IS for the Project went on to specifically state the following, in relevant part:

Potentially Significant Impact. According to the Safety Element of the City’s General Plan, the nearest designated disaster route to the Project Site is Figueroa Street, which is located approximately 430 feet west of the Project Site. While it is expected that the majority of construction activities for the Project would be confined to the Project Site, limited off-site construction activities may occur in adjacent street rights-of-way during certain periods of the day, which could potentially require temporary lane closures. If lane closures are necessary, the remaining travel lanes would be maintained in accordance with standard construction management plans that would be implemented to ensure adequate circulation and emergency access ... [B]ecause the requested haul route and the Transportation Assessment ... are still under review by the City of Los Angeles Department of Transportation (LADOT), the draft EIR will include a discussion of the site’s emergency access

during construction activities in light of LADOT's review of the haul route and the Transportation Assessment.

(IS at p. 76.)

Despite the foregoing acknowledgement in the IS of a potentially significant impact, the DEIR has proceeded to summarily disavow any potentially significant hazards impacts. The only discussion or analysis whatsoever in the DEIR regarding potential hazards impacts is found in a footnote in Table I-1 of the Executive Summary, wherein the DEIR claims in conclusory fashion that analysis of such impacts is entirely subsumed by the DEIR's analysis of transportation impacts pertaining to emergency access. (See DEIR at p. I-12, fn. B.) Notably, the DEIR contains no discussion of LADOT's review of the haul route and the Transportation Assessment and any of its associated findings with respect to any potential interference by the Project with the Safety Element of the City's General Plan, any designated disaster routes in the vicinity of the Project, any other adopted emergency response plan, or any emergency evacuation plan. In this respect, the DEIR is demonstrably lacking essential analysis and determinations that are required under CEQA.

CEQA requires that an EIR identify and discuss the significant effects of a Project, and how those significant effects can be mitigated or avoided. CEQA Guidelines § 15126.2; PRC §§ 21100(b)(1), 21002.1(a). If a project has a significant effect on the environment, an agency may approve the project only upon finding that it has "eliminated or substantially lessened all significant effects on the environment where feasible" and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns." CEQA Guidelines § 15092(b)(2)(A–B). Such findings must be supported by substantial evidence. CEQA Guidelines § 15091(b).

Here, with regard to its hazards impact analysis, the DEIR completely fails to comply with the requirements of the CEQA Guidelines, and instead attempts to relabel the above-referenced potentially significant hazards impacts as a less than significant transportation impact (i.e., potential impacts of the adequacy of the Project's emergency access). To be sure, an assessment of the ability of emergency vehicles/personnel to access the Project Site is not worthy substitute for an assessment of the Project's impacts on designated disaster routes, emergency response plan(s), or emergency evacuation plan(s) that would otherwise be applicable to it. Rather, these are entirely separate factors that require their own comprehensive, individual analysis in the DEIR. However, the DEIR contains no discussion regarding the Project's potential impacts on these various life-safety considerations.

The DEIR's omission of this information violates CEQA, and at minimum, the DEIR must be revised and recirculated to address these potentially significant impacts. The public is entitled to receive notice of not only the full scope of the Project's potential significant

impacts, but also, the DEIR's intended measures for how those potential significant impacts will be addressed and minimized to the greatest degree possible. By failing, without explanation, to include any analysis regarding the Project's noted potential hazard impacts, the DEIR has denied the public of that important right.

Further still, DEIR concludes that the transportation impacts of the Project with regard to the adequacy of emergency access would be less than significant because the Project will later develop a Construction Traffic Management Plan ("CTMP") pursuant to Project Design Feature TR-PDF-1 (which, in itself, amounts to improperly deferred mitigation, cloaked as a PDF⁹) and will be constructed in compliance with City Building Code and Fire Code requirements. (DEIR at p. 53.) However, to meet CEQA requirements, a determination that regulatory compliance is sufficient to prevent significant adverse impacts must be based on a project-specific analysis of potential impacts and the effect of regulatory compliance. See *Californians for Alternatives to Toxics v. Department of Food & Agric.* (2005) 136 Cal. App. 4th 1; *Ebbetts Pass Forest Watch v Department of Forestry & Fire Protection* (2008) 43 Cal. App. 4th 936, 956. Here, the DEIR's bald assertion that the Project's compliance with Building Code and Fire Code will categorically reduce emergency access impacts (and by extension, hazards impacts) below the threshold of significance, without supporting analysis, violates CEQA.

Given the foregoing, the DEIR must, at a minimum, be revised and recirculated to address these deficiencies in its analysis of hazard and hazardous materials impacts.

⁹ See DEIR at pp. 33-34 ("Project Design Feature TR-PDF-1: A detailed Construction Traffic Management Plan (CTMP), including haul routes and staging plan, **will be prepared** and submitted to LADOT for review and approval prior commencing construction for the new building."); emphasis added.)

Response to Comment No. 2-10

This comment mischaracterizes the conclusion of the Initial Study with respect to Hazards and Hazardous Materials. An analysis of the Project's impacts with Hazards and Hazardous Materials, including interference with an adopted emergency response or evacuation plan, is provided in the Initial Study prepared for the Project, included as Appendix A of the Draft EIR. The Initial Study provided a Project-specific analysis and concluded that with compliance with applicable regulatory requirements, the Project would not impede emergency access within the Project site or vicinity that could cause an impediment along City designated disaster routes such that the Project would impair the implementation of the City's emergency response plan. However, the Initial Study conservatively provided for further discussion of emergency access impacts in the Draft EIR since the requested haul route and the Transportation Assessment were under review by LADOT at the time of the NOP. Because emergency access was the only Hazards and Hazardous Materials impact to be further discussed in the Draft EIR, this issue was evaluated in Section IV.H, Transportation, of the Draft EIR, and no separate Hazards and Hazardous

Materials Section was provided. In addition, potential impacts associated with emergency access were also addressed in Section IV.G.1, Public Services—Fire Protection of the Draft EIR. As discussed in both of these sections of the Draft EIR, impacts with regard to emergency access were demonstrated to be less than significant. The Draft EIR’s Hazards and Hazardous Materials analysis was completed in full compliance with CEQA and there is no substantial evidence provided by this comment to demonstrate that impacts associated with emergency access, conflict with an adopted emergency response or evaluation plan, or other Hazards and Hazardous Materials impact, would be significant. Thus, recirculation of the Draft EIR is not required.

Comment No. 2-11

D. The DEIR Improperly Concludes that Fire Protection Impacts Would Be Less Than Significant [sic] and Fails to Incorporate Necessary Mitigation Measures

The written comments submitted by the Los Angeles Fire Department (“LAFD”) in connection with the Project indicate that, based on the proposed Project’s scope and specifications, existing fire protection for the Project would be inadequate and the LAFD has no immediate plans to increase staffing or resources in the area of the proposed Project. (See Appendix H.1 at p.6 [sic] —City of Los Angeles Inter-Departmental Correspondence from Los Angeles Fire Department, dated September 30, 2022.) LAFD’s comments go on to state that inclusion of its recommendations, “along with any additional recommendations made during later reviews of the [Project]” would reduce the fire protection impacts of the Project to “an acceptable level.” (*Id.* at p. 9.) LAFD’s comments apply directly to the DEIR’s analysis of the Public Services-Fire Protection impacts under CEQA.¹⁰

Despite the clear indications and conclusions submitted by LAFD, the DEIR fails to explicitly incorporate LAFD’s recommendations in the Project or otherwise condition the Project on their inclusion. The DEIR merely references the LAFD recommendations, but then fails to state if and how those agency-recommended fire protection measures will be implemented in the Project. Meanwhile, the LAFD comments make clear that, absent inclusion of its written recommendations, along with “additional recommendations,” the Project would present significant and unavoidable fire protection impacts.

Given the LAFD’s comments in this regard, the DEIR would have needed to, at minimum, incorporate the LAFD recommendations as express mitigation measures for the Project in order to adequately support its conclusion that the Project’s fire protection impacts (as well as hazards impacts—as to emergency response/evacuation plans) will be less than significant. However, the DEIR does not include the LAFD recommendations as part of any mitigation measures for the Project, or as part of its mislabeled PDFs. Instead, the DEIR improperly relies on its claim of the Project’s anticipated regulatory compliance regarding fire safety issues as a means of disposing of the potential significance of all such impacts without

properly analyzing how regulatory compliance would ameliorate those potential impacts. As discussed above, a DEIR's reliance on satisfaction of regulatory requirements to conclude that impacts are beneath the threshold of significance, without also providing project-specific analysis of how such regulatory compliance will ameliorate any potentially significant impacts, violates CEQA. Accordingly, the DEIR's conclusion that the Project's fire protection impacts (and by extension, hazards impacts) are less than significant lacks substantial evidence and proper analysis, and is demonstrably flawed.

¹⁰ LAFD's comments and recommendations also have direct application to the Project's potential hazards impacts in the context of emergency response/evacuation plans, and by extension, the emergency access aspects of the Project's potential Transportation impacts discussed in Section III(D) above.

Response to Comment No. 2-11

This comment does not provide any evidence or argument that the Project would result in physical impacts associated with the provision of new or physically altered fire facilities, need for new or physically altered fire facilities, the construction of which would cause significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives for fire protection services. The recommendations identified the written correspondence from the LAFD, included as Appendix H.1 of the Draft EIR represent existing LAFD requirements and would be implemented by the Project. Nor does the comment provide any specific argument or evidence of any hazards impact to emergency response/evacuation plans or emergency access. As such, no mitigation measures are warranted.

Comment No. 2-12

E. The DEIR Fails to Set Forth Any Analysis of the Project's Mandatory Findings of Significance

Much like the Project's potential Hazards & Hazardous Materials impacts, the IS for the Project determined that the Project would have "Potentially Significant Impact[s]" as to Mandatory Findings of Significance. (IS at pp. 114-119.) In spite of this acknowledgement in the IS, the DEIR has yet again proceeded to completely ignore any discussion of potentially significant impacts with regard to mandatory findings of significance. Indeed, there is no discussion anywhere in the DEIR regarding mandatory findings of significance under CEQA, nor is there even any general discussion or justification presented for the omission of this analysis. To the extent that the DEIR ultimately reached a conclusion that the impacts posed by the mandatory findings of significance were less than significant, the DEIR is required to set forth that conclusion, along with the justification(s) for it. The DEIR's omission of this information violates CEQA, and at minimum, and for the reasons already discussed at length above, the DEIR must be revised and recirculated to address these potentially significant impacts.

Response to Comment No. 2-12

Contrary to the assertions on this comment, the Project's Mandatory Findings of Significance have been fully analyzed. Section XXI of the Initial Study (pages 114-119) addresses all mandatory findings of significance, explains why some topics did not require further discussion in the Draft EIR and identifies those topics that would receive further discussion in the Draft EIR. All topics identified by the Initial Study for further discussion were addressed in the Draft EIR, in the section specific to each topic. Specifically, with regard to Mandatory Findings of Significance Threshold (a), the Initial Study, on pages 114 and 115, states that potential impacts associated with historical resources would be addressed in this Draft EIR and thus, potential impacts related to historical resources were discussed in IV.B, Cultural Resources of the Draft EIR and were demonstrated to be less than significant.

With regard to Mandatory Findings of Significance Threshold (b) regarding cumulative impacts, the Initial Study, on page 115, states that cumulative impacts associated with cultural resources (historical resources); energy; greenhouse gas emissions; land use and planning; noise; public services (police protection and fire protection); transportation; tribal cultural resources; and utilities and service systems (water supply, electric power, and natural gas systems) would be addressed in the Draft EIR. As such, these impacts were fully addressed in the Draft EIR in the appropriate section for each topic. As stated above and discussed in detail in the Draft EIR, cumulative impacts regarding on-site noise during construction, off-site noise during construction (haul trucks), and off-site vibration with respect to human annoyance during construction were concluded to be significant and unavoidable. The Initial Study, on pages 115 to 119, also discusses those topics for which cumulative impacts do not require further discussion in the Draft EIR.

With regard to Mandatory Findings of Significance Threshold (c) regarding potential for the Project to cause substantial adverse effects on human beings, the Initial Study, on page 119, states that the Draft EIR may result in potentially significant impacts with regard to the following topics: air quality; cultural resources (historic); energy; greenhouse gas emissions; land use and planning (consistency with plans); noise; public services (police protection and fire protection); transportation; tribal cultural resources; and utilities and service systems (water supply, electric power, and natural gas systems). Each of these topics was addressed in detail in the Draft EIR, in the appropriate section for each topic. As discussed above, the Draft EIR concluded that the Project would result in significant short-term impacts associated with construction noise and vibration, and all cumulative impacts would be less than significant.

Thus, no issue related to Mandatory Findings of Significance has been ignored, and the Draft EIR contains discussion of all topics identified in the Initial Study for further consideration in the Draft EIR.

Comment No. 2-13

F. The DEIR's Stated Mitigation Measure Is Insufficient

A fundamental purpose of an EIR is to identify ways in which a proposed project's significant environmental impacts can be mitigated or avoided. Pub. Res. Code §§ 21002.1(a), 21061. To implement this statutory purpose, an EIR must describe any feasible mitigation measures that can minimize the project's significant environmental effects. PRC §§ 21002.1(a), 21100(b)(3); CEQA Guidelines §§ 15121(a), 15126.4(a).

If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has “eliminated or substantially lessened all significant effects on the environment where feasible,”¹¹ that “specific overriding economic, legal, social, technology or other benefits of the project outweigh the significant effects on the environment,”¹² and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns”. CEQA Guidelines § 15092(b)(2)(A–B). “A gloomy forecast of environmental degradation is of little or no value without pragmatic, concrete means to minimize the impacts and restore ecological equilibrium.” *Environmental Council of Sacramento v. City of Sacramento* (2006) 142 Cal.App.4th 1018, 1039.

CEQA mitigation measures proposed and adopted are required to describe what actions will be taken to reduce or avoid an environmental impact. (CEQA Guidelines § 15126.4(a)(1)(B) [providing “[f]ormulation of mitigation measures should not be deferred until some future time.”].) While the same Guidelines section 15126.5(a)(1)(B) acknowledges an exception to the rule against deferrals, such exception is narrowly proscribed to situations where it is impractical or infeasible to include those details during the project's environmental review. Moreover, according to CEQA Guidelines, “[w]hen an EIR has been prepared for a project, the Responsible Agency shall not approve the project as proposed if the agency finds any feasible alternative or feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect the project would have on the environment.” CEQA Guidelines Section 15096(g)(2).

Here, the DEIR's lone mitigation measure fails to adequately mitigate the Project's impacts as follows:

i. Noise

Setting aside that the DEIR has, in the first instance, impermissibly mislabeled numerous noise mitigation measures as PDFs (as discussed in greater above), mitigation measure NOI-MM-1 (again, the only mitigation measure set forth in the entire DEIR) provides as follows:

Mitigation Measure NOI-MM-1: A temporary and impermeable sound barrier shall be erected at the locations listed below during the tower construction. At plan check, building plans shall include documentation prepared by a noise consultant verifying compliance with this measure.

- Along the southern property line of the Project Site between the construction areas and the noise sensitive use on the south side of 8th Street (receptor R1). The temporary sound barrier shall be designed to provide a minimum 13-dBA noise reduction at the ground level of receptor location R2.
- Along the eastern side of the Project's off-site staging area (along Hope Street) between the construction areas and the noise sensitive use on the east side of Hope Street (receptor R2). The temporary sound barrier shall be designed to provide a minimum 13-dBA noise reduction at the ground level of receptor location R2.
- During the off-site utility improvements construction along Hope Street. Provide a temporary moveable noise barrier between the construction equipment and receptor locations R1, R2, and R3, where feasible. The temporary noise barrier shall be designed to provide minimum 3-dBA, 6-dBA, and 2-dBA noise reductions at the ground level of receptor locations R1, R2, and R3, respectively.

(DEIR at pp. I-16-17). However, the measure fails to specify whether the proposed barriers will also reduce noise levels at elevated sources above ground as the building construction progresses. Moreover, there is no indication that the majority of the temporary noise barriers (e.g., those along the southern property line of the Project Site and those along the eastern side of the Project's off-site staging area) will be also moveable to ensure they properly reduce the sound of the construction noise at its source. As noted by the court in AIDS HEALTHCARE FOUNDATION v. CITY OF LOS ANGELES, LASC Case Number: 19STCP05445 (April 5, 2021):

“The City’s response actually concedes the flaw in the efficacy of MM 1-2 as it is written. Effective mitigation to sensitive receptors requires the noise barrier systems to be moved. The City argues MM 1-2 is effective because ‘the noise barriers are moveable, meaning that they move in concert with any piece of construction equipment to ensure the equipment does not operate with an unobstructed line of sight to a receptor.’ (Opposition Brief 35:15-17.) The City recognizes the barriers must be moveable ‘to shield construction activities, no matter where they occur onsite.’ (Opposition Brief 35:18-19.)

Despite the City’s recognition the noise barriers must be moved throughout the Project during construction to effectively mitigate construction-related noise, MM 1-2 does not require such movement. It is not about wordsmithing-it is about enforceability and efficacy. The City’s attempts to distinguish between

'Project boundaries' and 'property boundaries' is unpersuasive.²⁴ [sic] Such a distinction-if there is one-does not resolve the ambiguity. Nothing in MM 1-2 requires any noise barriers to be moved.*²⁵ [sic] Accordingly, the court finds substantial evidence does not support the City's conclusion MM 1-2 is an effective mitigation measure." (**Exhibit D**, p. 20 [Ruling].)

Absent such specifications, the mitigation measure is legally inadequate and cannot support a finding that the Project's noise impacts will be reduced to the maximum extent feasible.

¹¹ PRC §§ 21002; 21002.1, 21081; CEQA Guidelines §§ 15091, 15092(b)(2)(A).

¹² PRC §§ 21002; 21002.1, 21081; CEQA Guidelines §§ 15091, 15092(b)(2)(B).

Response to Comment No. 2-13

As provided in Section IV.F, Noise, of the Project Draft EIR (Page IV.F-50 and 51), feasible noise mitigation measures have been provided to reduce the Project-related construction noise impacts to the extent feasible. Contrary to the comment stating that no specifications were provided for the mitigation measures, the minimum noise reduction to be provided by the temporary construction noise barriers is specified in Mitigation Measure NOI-MM-1. Mitigation Measure NOI-MM-1 also specifies a temporary movable noise barrier for the off-site utility improvements, as construction for the off-site water main would move along Hope Street. Furthermore, construction activities that take place at the upper levels would involve smaller construction equipment (i.e., hand tools), which would generate lower noise levels than the large earth-moving equipment at the ground level. However, as discussed in the Draft EIR, it would not be feasible (i.e., cost prohibitive and impractical) to provide a temporary noise barrier at the upper levels of the adjacent noise sensitive receptors, including the 22-story apartment building (approximately 250 feet tall) south of the Project Site (receptor R1) and the proposed 50-story (approximately 568 feet tall) mixed-use development at 754 Hope Street (receptor R2). The temporary noise barriers would need to be as tall as the buildings in order to be effective, i.e., minimum of 200 feet tall. Construction of a 200-foot-high temporary noise barrier would require deep foundations for the support of the wall, which would also generate new significant construction noise and vibration impacts and would also be cost-prohibitive. Therefore, as concluded in the Draft EIR, there are no other feasible mitigation measures to further reduce the Project-related construction noise levels. Mitigation Measure NOI-MM-1 is clear and enforceable and addresses construction noise impacts to the extent feasible, and the comment provides no substantial evidence to the contrary. With respect to the comment's assertions regarding the Project PDFs, see Responses to Comments 2-7 through 2-9.

Comment No. 2-14**IV. CONCLUSION**

For all of the foregoing reasons, the City must require the revision and recirculation of the DEIR to adequately address the concerns and deficiencies raised herein, such that the Project's significant environmental impacts are analyzed and mitigated to the maximum extent possible. Absent doing so, any approval of this Project would violate CEQA and subvert the public environmental review process. If the City has any questions or concerns, please do not hesitate to contact this office.

Response to Comment No. 2-14

As demonstrated in the responses to comments above, the Draft EIR is comprehensive and complies with CEQA requirements. No new significant information that would require recirculation of the Draft EIR has been identified. Specifically, upon review of all of the comments received and analyzed, there are no new significant impacts, nor are there any substantial increases in the severity of any of the significant environmental impacts identified in the Draft EIR. No comment has provided substantial evidence that any of the criteria identified in CEQA Guidelines Section 15088.5 has been triggered. As such, recirculation is not warranted. This closing comment is noted for the administrative record and will be forwarded to the decision-makers for review and consideration.

Comment No. 2-15**Exhibit A—SWAPE Letter dated March 8, 2021**

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

Response to Comment No. 2-15

This introductory comment is noted for the administrative record and will be forwarded to the decision-makers for review and consideration. Specific comments regarding the Draft EIR are provided and responded to below.

Comment No. 2-16

Worker Trips and Greenhouse Gas Calculations

The California Emissions Estimator Model (“CalEEMod”) is a “statewide land use emissions computer model designed to provide a uniform platform for government agencies, land use planners, and environmental professionals to quantify potential criteria pollutant and greenhouse gas (GHG) emissions associated with both construction and operations from a variety of land use projects.”¹ CalEEMod quantifies construction-related emissions associated with land use projects resulting from off-road construction equipment; on-road mobile equipment associated with workers, vendors, and hauling; fugitive dust associated with grading, demolition, truck loading, and on-road vehicles traveling along paved and unpaved roads; and architectural coating activities; and paving.²

The number, length, and vehicle class of worker trips are utilized by CalEEMod to calculate emissions associated with the on-road vehicle trips required to transport workers to and from the Project site during construction.³

Specifically, the number and length of vehicle trips is utilized to estimate the vehicle miles travelled (“VMT”) associated with construction. Then, utilizing vehicle-class specific EMFAC 2014 emission factors, CalEEMod calculates the vehicle exhaust, evaporative, and dust emissions resulting from construction-related VMT, including personal vehicles for worker commuting.⁴

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

$$\text{“VMT}_d = \Sigma(\text{Average Daily Trip Rate}_i * \text{Average Overall Trip Length}_i)_n$$

Where:

$$n = \text{Number of land uses being modeled.”}^5$$

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

$$\text{Emissions}_{\text{pollutant}} = \text{VMT} * \text{EF}_{\text{running,pollutant}}$$

Where:

$\text{Emissions}_{\text{pollutant}}$ = emissions from vehicle running for each pollutant

VMT = vehicle miles traveled

$\text{EF}_{\text{running,pollutant}}$ = emission factor for running emissions.”⁶

Thus, there is a direct relationship between trip length and VMT, as well as a direct relationship between VMT and vehicle running emissions. In other words, when the trip length is increased, the VMT and vehicle running emissions increase as a result. Thus, vehicle running emissions can be reduced by decreasing the average overall trip length, by way of a local hire requirement or otherwise.

- 1 “California Emissions Estimator Model.” CAPCOA, 2017, *available at*: <http://www.aqmd.gov/caleemod/home>.
- 2 “California Emissions Estimator Model.” CAPCOA, 2017, *available at*: <http://www.aqmd.gov/caleemod/home>.
- 3 “CalEEMod User’s Guide.” CAPCOA, November 2017, *available at*: http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4, p. 34.
- 4 “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, *available at*: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 14–15.
- 5 “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, *available at*: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 23.
- 6 “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, *available at*: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 15.

Response to Comment No. 2-16

This comment generally summarizes the CalEEMod calculation procedure for evaluating mobile source emissions associated with construction worker trips/VMT and the premise that generally reducing the trip length would also reduce pollutant emissions associated with those trips. However, this comment is not specific to any of the analyses or conclusions contained in the Draft EIR or the associated technical appendices and does not purport to identify any deficiency with the Draft EIR.

Comment No. 2-17

Default Worker Trip Parameters and Potential Local Hire Requirements

As previously discussed, the number, length, and vehicle class of worker trips are utilized by CalEEMod to calculate emissions associated with the on-road vehicle trips required to

transport workers to and from the Project site during construction.⁷ In order to understand how local hire requirements and associated worker trip length reductions impact GHG emissions calculations, it is important to consider the CalEEMod default worker trip parameters. CalEEMod provides recommended default values based on site-specific information, such as land use type, meteorological data, total lot acreage, project type and typical equipment associated with project type. If more specific project information is known, the user can change the default values and input project-specific values, but the California Environmental Quality Act (“CEQA”) requires that such changes be justified by substantial evidence.⁸ The default number of construction-related worker trips is calculated by multiplying the building construction and architectural coating phases.⁹ Furthermore, the worker trip vehicle class is a 50/25/25 percent mix of light duty autos, light duty truck class 1 and light duty truck class 2, respectively.¹⁰ Finally, the default worker trip length is consistent with the length of the operational home-to-work vehicle trips.¹¹ The operational home-to-work vehicle trip lengths are:

“[B]ased on the location and urbanization selected on the project characteristic screen. These values were supplied by the air districts or use a default average for the state. Each district (or county) also assigns trip lengths for urban and rural settings” (emphasis added).¹²

Thus, the default worker trip length is based on the location and urbanization level selected by the User when modeling emissions. The below table shows the CalEEMod default rural and urban worker trip lengths by air basin (see excerpt below and Attachment A).¹³

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

As demonstrated above, default rural worker trip lengths for air basins in California vary from 10.8- to 19.8-miles, [sic] with an average of 16.47 miles. Furthermore, default urban worker trip lengths vary from 10.8- to 14.7-miles, with an average of 11.17 miles. Thus, while default worker trip lengths vary by location, default urban worker trip lengths tend to be shorter in length. Based on these trends evident in the CalEEMod default worker trip lengths, we can reasonably assume that the efficacy of a local hire requirement is especially dependent upon the urbanization of the project site, as well as the project location.

⁷ “CalEEMod User’s Guide.” CAPCOA, November 2017, *available at*: http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4, p. 34.

⁸ CalEEMod User Guide, *available at*: <http://www.caleemod.com/>, p. 1, 9.

⁹ “CalEEMod User’s Guide.” CAPCOA, November 2017, *available at*: http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4, p. 34.

¹⁰ “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, *available at*: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 15.

¹¹ “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, *available at*: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 14.

¹² “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, *available at*: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 21.

¹³ “Appendix D Default Data Tables.” CAPCOA, October 2017, *available at*: http://www.aqmd.gov/docs/default-source/caleemod/05_appendix-d2016-3-2.pdf?sfvrsn=4, p. D-84–D-86.

Response to Comment No. 2-17

This comment generally summarizes the CalEEMod calculation procedure for evaluating mobile source emissions associated with construction worker trips/VMT. In the case of the Project, the default trip length of 14.7 miles is applicable as the Project Site is located within the South Coast Air Basin. However, this comment is not specific to any of the analyses or conclusions contained in the Draft EIR or the associated technical appendices and does not purport to identify any deficiency with the Draft EIR. This comment does not assert or provide substantial evidence to support an assertion that the default CalEEMod setting for the Project should have been modified to rural (or in any other way) and does not reference any discussion within the CalEEMod User’s Guide of a “local hire requirement” as necessary in order to use the default urban setting. The settings used in the Draft EIR analysis were specific to the use and location of the Project specified by CalEEMod, and the comment provides no assertion or substantial evidence to the contrary.

Comment No. 2-18

Practical Application of a Local Hire Requirement and Associated Impact

To provide an example of the potential impact of a local hire provision on construction-related GHG emissions, we estimated the significance of a local hire provision for the Village South Specific Plan (“Project”) located in the City of Claremont (“City”). The Project proposed to construct 1,000 residential units, 100,000-SF of retail space, 45,000-SF of office space, as well as a 50-room hotel, on the 24-acre site. The Project location is classified as Urban and lies within the Los Angeles-South Coast County. As a result, the Project has a default worker trip length of 14.7 miles.¹⁴ In an effort to evaluate the potential for a local hire provision to reduce the Project’s construction-related GHG emissions, we prepared an updated model, reducing all worker trip lengths to 10 miles (see Attachment B). Our analysis estimates that if a local hire provision with a 10-mile radius were to be implemented, the GHG emissions associated with Project construction would decrease by approximately 17% (see table below and Attachment C).

Local Hire Provision Net Change	
Without Local Hire Provision	
Total Construction GHG Emissions (MT CO ₂ e)	3,623
Amortized Construction GHG Emissions (MT CO ₂ e/year)	120.77
With Local Hire Provision	
Total Construction GHG Emissions (MT CO ₂ e)	3,024
Amortized Construction GHG Emissions (MT CO ₂ e/year)	100.80
% Decrease in Construction-related GHG Emissions	17%

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

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

¹⁴ "Appendix D Default Data Tables." CAPCOA, October 2017, *available at*: http://www.aqmd.gov/docs/default-source/caleemod/05_appendix-d2016-3-2.pdf?sfvrsn=4, p. D-85.

Response to Comment No. 2-18

This comment links shorter worker trips with a reduction in pollutant emissions and provides an example of a different project, in a different city. However, the comment is not specific to any of the analyses or conclusions contained in the Draft EIR or the associated technical appendices and does not purport to identify any deficiency with the Draft EIR. The analysis of worker trips in the Draft EIR was based on AQMD factors and protocols. As discussed in Section IV.D, Greenhouse Gas Emissions, of the Draft EIR, GHG impacts for the Project were concluded to be less than significant, mitigation measures are not warranted or required, and the comment provides no assertion or substantial evidence to the contrary. Furthermore, it should be noted that SWAPE's analysis (Attachment B) was conducted using an outdated version of CalEEMod Version 2016.3.2. The City recommends use of the currently available CalEEMod 2022.1 which was used in Appendix B, Air Quality and Greenhouse Gas Emissions, of the Draft EIR.

Comment No. 2-19**Disclaimer**

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

Attachment: Worksheets [233 pages]

Attachment: Exhibit B—Paul Rosenfeld C.V. [11 pages]

Attachment: Exhibit C—Matthew Hagemann C.V. [9 pages]

Exhibit D—AIDS Healthcare Foundation v. City of Los Angeles, Case Number: 19STCP05445, April 5, 2021, Ruling [22 pages]

Response to Comment No. 2-19

This comment does not raise an environmental issue specific to the Project or the Draft EIR and the environmental impacts addressed therein. The comment is noted for the administrative record and will be forwarded to the decision-makers for review and consideration.