

## II. Responses to Comments

---

### 1. 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 raising significant environmental issues received during the notice comment period and any extensions and may respond to late comments." In accordance with these requirements, this section of the Partially Revised Final EIR (PR-FEIR) for the Partially Recirculated Draft EIR (PR-DEIR) provides the responses prepared by the City of Los Angeles Department of City Planning (City) to each of the written comments received regarding the PR-DEIR.

All comments on the PR-DEIR are included in **Appendix A** to this document. All individual comments are delineated and assigned a number, as applicable. A list of commenters and topics raised are included on **Table II-1, List of Comments and Environmental Topics Raised**. Revisions, clarifications, and corrections to the PR-DEIR resulting from comments and responses to comments are presented in **Section III (Corrections and Additions to the Partially Recirculated Draft EIR)** of this document.

As directed by CEQA Guidelines Section 15088(c), the focus of the responses to comments is on "significant environmental issues." Therefore, detailed responses are not provided for comments that do not relate to environmental issues.

Note that there may be spelling and/or grammar errors in the comment letters. Any such errors have not been corrected in the replication of the comments provided in this section.

**Table II-1  
List of Commenters and Topics Raised**

Commenter	Topics			
	Project Support	CEQA Compliance	Significance Thresholds	GHG Emissions
Alexandra Hack	*			
Anthony Rodriguez, LA Fashion District Business Improvement District	*			
Will Sanchez, Wholesale Flowers	*			
Mark Chatoff, California Flower Mall, Inc.	*			
Estela Lopez, L.A. Downtown Industrial District	*			
Michael and Kwini Reed, Poppy & Rose	*			
Keep the Southern California Flower Market in Los Angeles - 407 Signatories	*			
Preserve Our Jobs - 110 Signatories	*			
Approve the Project and Keep the Flower Market in DTLA! - 49 Signatories	*			
Letter of Support - 21 Signatories	*			
Support and Keep the SoCal Flower Market in DTLA! - 26 Signatories	*			
Dean Wallraff, Advocates for the Environment		*	*	*
Lance Williams, Certified Florist Supplies, Inc. <sup>1</sup>	*			
<sup>1</sup> This comment letter from this commenter was submitted to the City after close of the public review and comment period for the PR-DEIR.				

## 2. Responses to Comments

### Comment Letter 1

*Alexandra Hack*

As a young person who commutes to work in Downtown LA, I am currently looking to move downtown in order to avoid long commute times. Like many others in my age range, however, I am priced out of the expensive Arts District and the South Park area. The Flower Market project appears to provide a new opportunity to live Downtown.

I am resubmitting this letter to the Planning and Land Use Committee to reiterate my strong support for the Southern California Flower Market project and to encourage you to approve the project as proposed. Unfortunately, many young urban residents are limited in the selection of good housing opportunities close to work, especially when it comes to affordability. This project

helps to alleviate such pressures by introducing new affordable housing options into the Flower District neighborhood.

In addition to better housing options in the area, this project will help to improve the livability and walkability of the Flower District. The proposed pedestrian level amenities and open space improve the aesthetic of the streetscape. The project will contribute to the overall improvement of Downtown.

Please support new housing opportunities to benefit the younger residents that are tirelessly searching for affordable options. Please support this project.

### **Response to Comment Letter 1**

This comment letter expresses support for the Project and is not a comment on the environmental analysis in the PR-DEIR. The comment letter will be provided to the decision makers for consideration.

### **Comment Letter 2**

*Anthony Rodriguez, Executive Director  
Fashion District Business Improvement District  
818 S Broadway, Suite 801  
Los Angeles, CA 90014*

On behalf of the LA Fashion District Business Improvement District, we are writing to once again express support for Planning Case# ENV-2016-3991-EIR, Southern California Flower Market located at 709-765 S. Wall Street, 306-326 E. 7th Street and 750-752 S. Maple Ave, Los Angeles, CA 90014. The LA Fashion District BID is a nonprofit organization that represents 4000+ businesses and 700+ property owners. It provides cleaning and security services for the 1 00 block district, including the Flower District.

The Southern California Flower Market project is a transformative project for our district. The project is located adjacent to a "residential hub". The redevelopment is innovative in scope by adding much-needed housing to downtown Los Angeles while maintaining its roots in the flower markets. This project will also add more of a 24/7 vibe to a vibrant, mostly daytime neighborhood.

Since the previous approval two years ago, our neighborhood has seen an increase in homeless impacts, civil unrest, and pandemic that has decimated business. Our District is in need of a project as presented here. This previously approved investment the Flower Market is making is exactly what our neighborhood needs. Vote yes again and allow this project to break ground.

## **Response to Comment Letter 2**

This comment letter expresses support for the Project and is not a comment on the environmental analysis in the PR-DEIR. The comment letter will be provided to the decision makers for consideration.

## **Comment Letter 3**

*Willie Sanchez Wholesale Flowers  
755 Wall Street  
Los Angeles, CA 90014*

My name is Willie Sanchez and I have been a tenant in the Flower Market for over 50 years. As a matter of fact, I was the first Latino tenant permitted to open a wholesale flower business in the Flower Market during the 1970's. Back then, the only tenants in the market were actual flower growers. But because of the relationships I made with a lot of the Japanese American flower growers back then, they advocated for me to have my own space. I am also proud to say my family and me are shareholders in the Flower Market as well.

Since I am a first-generation Mexican immigrant, my experience is very similar to the Japanese immigrants who came before me in the early 1900's. That is why I believe they gave me a chance to open a business in the market. Today, almost half of our tenant base is of Latino descent. Therefore, it is vital to the entire community that you approve this project.

Since my son and daughter have taken over the business, it is important the Flower Market survives so their children will have the same opportunities given to me and my family. Please approve this project so our traditions and cultural values will live on for the next 100 years.

## **Response to Comment Letter 3**

This comment letter expresses support for the Project and is not a comment on the environmental analysis in the PR-DEIR. The comment letter will be provided to the decision makers for consideration.

## **Comment Letter 4**

*Mark Chatoff  
California Flower Mall  
825 South San Pedro Street, Suite 200  
Los Angeles, CA 90014*

I hope this letter finds you well as we all endured and prepare for the end of an almost 2-year global pandemic that has impacted us all immensely. I am once again writing to you today, during the second Comment Period for this project and almost two years since my last letter to reiterate my unequivocal support for the previously approved Southern California Flower Market project (ENV-2016-3991-EIR) and to again encourage you approve the project as unanimously approved by Council on 11/26/2019.

I have owned and operated several family businesses in downtown since 1986 and my family has been in business in the area since 1948. Currently, I'm a board member of the LA Fashion District (BID) and the owner of the California Flower Mall located within two blocks of the Project Site. As a neighboring property owner, we welcome and clamor for the improvements this project will bring to the neighborhood as they will have numerous positive effects on my business as well as the overall area.

For many years, we have worked very hard with our fellow business owners along with the Fashion District (BID) to provide a clean and safe environment for business to survive and supporting our local economy, despite the day-to-day issues we all face. These issues have only continued to explode since this project's previous approval due to the impacts of Covid and rising housing costs. The day-to-day issues we face cannot be addressed by one project, but the investment the Flower Market brings will help to move our local businesses and residents in the right direction. We understand no one is an island, and this positive investment improves the quality of life for all local stakeholders.

By once again supporting this previously approved development, you support the much-needed attention and investment in and around our neighborhood. This project, like many others close by, will increase business vitality and local amenities in our area, provide much needed housing in the downtown *core*, and most importantly provide a clean and safe environment for the area and stakeholders.

We look to you to approve this project again and let the positivity of investment finally take shape in a neighborhood that for far too long has been neglected.

Vote yes and support our neighborhood.

## **Response to Comment Letter 4**

This comment letter expresses support for the Project and is not a comment on the environmental analysis in the PR-DEIR. The comment letter will be provided to the decision makers for consideration.

## **Comment Letter 5**

*Estela Lopez, Executive Director  
L.A. Downtown Industrial District*

On behalf of the Central City East Association and the Downtown Industrial Business Improvement District (BID), we are writing to once again express support for the previously approved Southern California Flower Market mixed use investment project, Planning Case # ENV-2016-3991-EIR.

The L.A. Downtown Industrial District Business Improvement District (BID) was formed in 1998 by the Central City East Association (CCEA). CCEA is a 501(c)(6) not-for-profit business corporation – the principal advocate for property owners, businesses, employees and residents on 50 blocks of Downtown Los Angeles. CCEA administers the BID, spanning the area from San Pedro Street to Alameda; 3rd to 8th and a portion of Olympic Blvd. The BID is widely recognized as the leading advocate for improving the public safety and maintenance of the industrial area. Our coalition of 600 area property owners invest more than \$3 million annually to supplement City services in an effort to maintain the safety and cleanliness of a business district.

The Southern California Flower Market investment is a game-changing project that shows how far the Flower District has come and the promise of the Flower District to serve future generations of Angelenos. Recognizing that, our BID Board voted its unanimous support of this project on August 29, 2017, and we restate our support now.

The BID urges the City Council to take this opportunity to strongly support housing, investment, and stakeholder amenities that will help the Flower District thrive.

## **Response to Comment Letter 5**

This comment letter expresses support for the Project and is not a comment on the environmental analysis in the PR-DEIR. The comment letter will be provided to the decision makers for consideration.

## **Comment Letter 6**

*Michael & Kwini Reed  
Poppy + Rose*

I write to you today to once again voice my support for the proposed Southern California Flower Market project. I encourage you and the full City Council to approve this project.

My wife Kwini and I have owned and operated the Poppy & Rose restaurant in the SoCal Flower Market for over 7 years. We have been touted (numerous times) as one of the best Brunch restaurants in the greater Los Angeles area and pride ourselves as a black owned business. While running my high-end catering company eight years ago, I sought to look for a kitchen to continue growing my business. In 2014, the Flower Market took a chance and leased space to us, and Poppy + Rose was birthed. We have not looked back since and we are in the process of opening our third location in the new San Pedro waterfront development.

Any improvements to the neighborhood that will have a positive impact on our business (which this investment certainly will have) is always welcomed.

For years, we have worked with our fellow business owners to support our local economy while addressing the day to day issues we all face in the area.

By supporting this development, you support the natural growth occurring in and all around our downtown Los Angeles area. This project will not only increase business and local amenities in our area but will provide much needed housing that meets the income level our area desperately needs. Most importantly, this project will provide an increase in security and safety for all neighboring stakeholders by revitalizing the neighborhood.

Please support this project as it encourages the organic and continued growth of our local neighborhoods.

## **Response to Comment Letter 6**

This comment letter expresses support for the Project and is not a comment on the environmental analysis in the PR-DEIR. The comment letter will be provided to the decision makers for consideration.

## **Comment Letter 7**

### *Keep the Southern California Flower Market in Los Angeles 407 Signatories*

As members of the local Asian American community, we submit this petition and urge the City Council to approve the Flower Market project. In the 1940's, the Japanese families who owned the market nearly lost the property when they were imprisoned in internment camps. They are at risk of losing the property again as they can no longer afford to maintain the upkeep of their old buildings.

PLEASE DO NOT hold the Asian American owners of the Flower Market to a higher standard than applied to other projects. Approve this project today and help the flower market continue on with its storied legacy!

## **Response to Comment Letter 7**

This comment letter expresses support for the Project and is not a comment on the environmental analysis in the PR-DEIR. The comment letter will be provided to the decision makers for consideration.

## **Comment Letter 8**

### *Preserve Our Jobs 110 Signatories*

Preserve our Jobs!!

If you do not approve the Flower Market project, they will consider a land sale to the highest bidder. If such is the case, our jobs will be lost forever. By approving this project, it will not only retain our jobs, but create hundreds of new jobs based on the project's description and scope.

## **Response to Comment Letter 8**

This comment letter expresses support for the Project and is not a comment on the environmental analysis in the PR-DEIR. The comment letter will be provided to the decision makers for consideration.

## **Comment Letter 9**

*Approve the Project and Keep the Flower Market in DTLA!  
49 Signatories*

APPROVE THE PROJECT AND KEEP THE FLOWER MARKET IN DTLA!

We urge you to approve the Flower Market project and keep it in DTLA. We use the market almost daily and it is imperative to our business that the flower market remain in a central location. If it were to move (i.e. to Orange County), this would be devastating to us since any place else would be too far to travel.

Please add me to the list of supporters and count on my support with future efforts that will keep the Flower Market in DTLA.

## **Response to Comment Letter 9**

This comment letter expresses support for the Project and is not a comment on the environmental analysis in the PR-DEIR. The comment letter will be provided to the decision makers for consideration.

## **Comment Letter 10**

*Letter of Support  
21 Signatories*

As members of the local Asian American community, we submit this petition and urge the City Council to approve the Flower Market project. In the 1940's, the Japanese families who owned the market nearly lost the property when they were imprisoned in internment camps. They are at risk of losing the property again as they can no longer afford to maintain the upkeep of their old buildings.

Please Do Not hold the Asian American owners of the Flower Market to a higher standard than applied to other projects. Approve this project today and help the flower market continue on with its storied legacy!

## **Response to Comment Letter 10**

This comment letter expresses support for the Project and is not a comment on the environmental analysis in the PR-DEIR. The comment letter will be provided to the decision makers for consideration.

## **Comment Letter 11**

### *Support and Keep the SoCal Flower Market in DTLA! 26 Signatories*

The Southern California Flower Market has been a mainstay of the Fashion and Flower District of Los Angeles for 100 years. In 2016, the Market faced a life changing decision-*move* out of the City to address rising costs or look to the future and redevelop the property to ensure our health and longevity. We chose to stay and build upon our legacy and future.

Two years ago our families, which make up the ownership of the Market, were granted permission by the LA City Council to redevelop the property while maintaining our wholesale flower operations. This unique process helps us modernize, expand, and keep the hundreds of jobs that surround our operations on a daily basis. This approval for the addition of 323 new and much needed housing units 64,363 square feet of office, 13,420 square feet of neighborhood service restaurant space, and approximately 25,000 square feet of multipurpose commercial space while maintaining Market operations in the City for another 100 years.

Our approval has been in jeopardy through a frivolous lawsuit and now it's our chance to share our voices publicly!

After years of litigation, the Judge has ruled we can move forward finally with minor technical tweaks to our Environmental Impact Report (EIR). Now, our previously approved project, returns to the City Council for two more hearings.

## **Response to Comment Letter 11**

This comment letter expresses support for the Project and is not a comment on the environmental analysis in the PR-DEIR. The comment letter will be provided to the decision makers for consideration.

## **Comment Letter 12**

*Dean Wallraff, Executive Director  
Advocates for the Environment  
10211 Sunland Blvd.  
Shadow Hills, CA 91040*

### **Comment No. 12-1**

On June 4, 2021, the Court, in *AIDS Healthcare Foundation v. City of Los Angeles*, Los Angeles Superior Court Case # 19STCP05445, entered judgment in favor of Petitioner AHF in a CEQA lawsuit challenging the Environmental Impact Report (EIR) for the Flower Market Project (Project). The Project is a mixed-use project to develop 323 residential units and 167,248 square feet of commercial space on a site near Skid Row in Los Angeles.

The Court's judgment ordered the City to set aside its approvals of the Project, based on the Court's finding defects in the EIR's GHG and Noise sections. Respondent Southern California Flower Growers, Inc. has appealed the judgment.

On September 16, 2021, the City issued a Notice of Completion and Availability of a Partially Recirculated Draft Environmental Impact Report (PR-DEIR) for the Project. The PR-DEIR contains revisions to the EIR chapters on GHG Emissions and Noise. The purpose is to fix the defects the Court found in the original EIR.

The purpose of this letter is to comment on the PR-DEIR on behalf of our client, AIDS Healthcare Foundation.

### **Response to Comment No. 12-1**

This comment provides introductory remarks about the trial court ruling (Court Ruling) in *AIDS Healthcare Foundation v. City of Los Angeles*, L.A. Superior Court Case No. 19STCP05445, the Flower Market project (Project), and the Partially Recirculated Draft Environmental Impact Report (September 2021) (PR-DEIR). This comment is not a comment on the environmental analysis in the PR-DEIR. However, this comment is acknowledged.

### **Comment No. 12-2**

#### ***Failure to Comply with Writ***

The Writ of Mandate in the Case ordered the City to: "Decertify the environmental impact report for the Project, including the Draft EIR, No. ENV-2016-3991-EIR (SCH No. 2017051068), dated September 20, 2018, and the Final EIR, dated April 12, 2019, and

set aside your approval of the Mitigation Monitoring Program and Mitigation Measures for the Flower Market Mixed Use Project.”

In recirculating just the GHG and Noise chapters, the City is ignoring the Court’s order to decertify the entire EIR. If the entire EIR was decertified, the City should be recirculating the whole EIR for comments and re-approval.

### **Response to Comment No. 12-2**

In preparing and publishing the PR-DEIR, the City complied with the requirements of the California Environmental Quality Act (CEQA) (Cal. Public Resources Code Sections 21000 et seq.), as well as the Court Ruling. The Court Ruling only identified two defects in the Environmental Impact Report (2019 EIR) previously certified by the City for the Project. Those two defects were: 1) the conclusion stated in the 2019 EIR that the Project would be consistent with the goal of reducing greenhouse gas (GHG) emissions by a certain amount by the year 2030 as set forth in a State law known as Senate Bill 32 (SB 32) (codified at California Health and Safety Code sections 38566 et seq.) was not supported by substantial evidence (April 2021 Court Order, pp. 6-9.), and 2) a mitigation measure (Mitigation Measure I-2) identified in the 2019 EIR to reduce noise impacts attributable to the construction of the Project was insufficiently worded so as to be vague as to the nature of that mitigation measure. (April 2021 Court Order, pp. 19-21.). Correcting those two deficiencies only required modification to the EIR’s analyses of impacts associated with the Project’s GHG emissions and construction noise impacts. CEQA Guideline 15088.5, which sets forth the process for recirculation of an EIR, provides in subsection (c) that “if the revision is limited to a few chapters or portions of the EIR, the lead agency need only recirculate the chapters or portions that have been modified.” Accordingly, the City only published and recirculated the chapters of the 2019 EIR that had been revised to address the Court Ruling, namely the GHG Emissions and Noise sections of the 2019 EIR. In addition, the PR-DEIR informed the public that the entire 2019 EIR could be reviewed at <https://planning.lacity.org/development-services/eir> or by contacting Erin Strelch at [Erin.Strelch@lacity.org](mailto:Erin.Strelch@lacity.org) to schedule an appointment to review those documents in person. (Refer to PR-DEIR at p. 1)

With respect to the Court Ruling, the Court issued a Peremptory Writ of Mandate (Writ) on June 17, 2021 that required that the City decertify the EIR and file a return to the Writ (Return) within 120 days stating that the City complied with the Writ. That deadline to file a Return to the Writ was extended to December 14, 2021 per order of the Court entered on June 17, 2021. As indicated on the Notice of Completion and Availability of the PR-DEIR dated September 16, 2021, “the City Council, through its Planning, Land Use and Management Committee (“PLUM”), will hold a public hearing to consider reinstating the Project Entitlements.” As stated in the notice published on November 5, 2021 for the hearing to be held by the City Council’s PLUM Committee on November 30, 2021, the

City Council may at a single hearing decertify the 2019 EIR and consider certification of the PR-DEIR and PR-FEIR and reinstatement of the Project Entitlements.

### **Comment No. 12-3**

#### ***Improper Use of Appendix G as Threshold of Significance***

The PR-DEIR states, at page 4.F-33, that the “City has adopted the thresholds set forth in Appendix G of the CEQA Guidelines as its project specific thresholds of significance.” The City Planning Department, in early 2019, decided, without City Council approval, to adopt Guidelines Appendix G as the City’s CEQA thresholds. This decision violated the law. CEQA Guidelines § 15064.7 sets forth the requirements for a City’s adoption of thresholds of significance “that the agency uses in the determination of the significance of environmental effects.” Such thresholds must be adopted by ordinance, resolution, rule or regulation. No such formal adoption occurred in this case. Since the City did not follow the requirements of Guidelines § 15064.7 in adopting Appendix G as the City’s CEQA thresholds, the previous thresholds—those adopted in 2006—remain in effect. There are no thresholds for GHG emissions in the 2006 City of Los Angeles CEQA thresholds.

### **Response to Comment No. 12-3**

The Court only found one deficiency in the analysis of the Project’s GHG emissions impacts in the 2019 EIR, namely the sufficiency of the evidence supporting the City’s conclusion that the Project is consistent with SB 32 (Cal. Health & Safety Code Sections 38566 et seq.) Further, the Court’s Ruling expressly upheld the City’s use of Appendix G thresholds with respect to the City’s GHG emissions analysis for the Project, in reliance on CEQA Guidelines Section 15064.4. (April 2021 Court Order, p. 4-21.) The Court also noted that the City has the discretion to select the applicable GHG emissions threshold and is not required to use the same threshold, citing to CEQA Guidelines Section 15064.7(c). (April 2021 Court Order, p. 6-21 [“While the City may have chosen to use the SCAQMD’s guidance as thresholds of significance (as apparently has done [been] done with at least three other projects) in the past, the City as not required to do so.”].) Thus, consistent with CEQA Guidelines 15064.7(b), which expressly recognizes that lead agencies may adopt significance thresholds for general use or “lead agencies may also use thresholds on a case-by-case basis as provided in Section 15064(b)(2)”, the Court found that the City’s use of a qualitative, plan-consistency threshold was supported by substantial evidence.

In addition, the City complied with CEQA in adopting the significance thresholds under Appendix G. As stated in a memorandum dated May 2, 2019 from the City’s Director of Planning, the City’s adoption of Appendix G “complies with CEQA Guidelines Section 15064.7(b) as the Appendix G thresholds were adopted after a public review process,

which included noticed public workshops and hearings on November 28 and 29, 2018, and December 4 and 6, 2018, and a City Planning Commission hearing on February 28, 2019; and pursuant to the Director’s rulemaking authority provided in City Charter Section 506.”<sup>1</sup>

Finally, Comments Nos. 12–3 through 12–9 raise issues that are not related to SB 32. Therefore, any claimed deficiencies in the GHG emissions analysis in the PR-DEIR that are not related to SB 32 are beyond legal challenge under the legal doctrine of *res judicata* and other legal principles. (*Lone Valley Land, Air & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5<sup>th</sup> 165, 170 [*res judicata* barred objections to a county’s recirculated EIR and project approval because objections were, or could have been, litigated and resolved on prior writ petition]; *Citizens for Open Government v. City of Lodi* (2012) 205 Cal.App.4<sup>th</sup> 296, 324-327 [*res judicata* barred parties from raising issues that *could have been raised* in prior litigation]; *Federation of Hillside & Canyon Assns. v. City of Los Angeles* (2004) 126 Cal.App.4<sup>th</sup> 1180, 1202 [*res judicata* barred challenges to city’s findings on wastewater, solid waste, open space, and utilities because challenges could have been raised in prior writ proceeding].)<sup>2</sup> Nothing in the PR-DEIR changes the City’s use of Appendix G as compared to the 2019 EIR. In short, because the selection of Appendix G as the Project’s threshold for GHG emissions impacts was not raised in the prior court action, it cannot be raised now.

## **Comment No. 12-4**

### ***No Substantial Evidence Supporting Choice of Significance Thresholds***

Given that Appendix G has not actually been adopted as a standard threshold by the City, the City needs to support its adoption of the Appendix G standards in this case with substantial evidence, which they haven’t done. The PR-DEIR contains no substantial evidence justifying its choice of GHG thresholds, a CEQA violation.

## **Response to Comment No. 12-4**

The PR-DEIR details the federal, state, regional, and local regulatory framework of the laws, regulations, plans, and programs that were used by the City as the significance thresholds for evaluating the Project’s GHG emissions impacts. (Refer to PR-DEIR at pp. 4.F-8-4.F-32.) The objectives underlying that regulatory framework – reducing GHG emissions – provides the substantial evidence supporting the City’s selection of the significance thresholds for evaluating the Project’s GHG emissions impacts.

<sup>1</sup> A copy of the Director’s May 2, 2019 Memorandum is provided as Appendix B to the PR-FEIR.

<sup>2</sup> This response is incorporated in Responses to Comments Nos. 12-4 through 12-9 by reference.

## Comment No. 12-5

### ***GHG Analysis Time Frame is Too Short***

The PR-EIR's GHG Chapter spends a lot of space analyzing the Project's consistency with AB 32, a GHG-control measure whose time has come and gone. It mandates reductions of the state's GHG emissions levels to 1990 levels by 2020. The goal has been achieved. It would be difficult for the Project to be inconsistent.

Most other analysis in the GHG Chapter looks only ten years into the future. But buildings like the ones proposed for the Project, tend to last at least fifty years. The Project's GHG analysis should extend at least thirty years from Project approval, i.e. to 2050.

### **Response to Comment No. 12-5**

With respect to the inclusion of the analysis of the Project's consistency with AB 32 and related Scoping Plan, that analysis was provided in the PR-DEIR for the year 2020 (which has passed) in order to provide a complete and updated evaluation of the Project's GHG emissions impacts that was initially provided in the 2019 EIR, which was published prior to the year 2020. (Refer to PR-DEIR at p. 4.F-49.) Importantly, the PR-DEIR's analysis did not end with AB 32 and related Scoping Plan, but includes an evaluation of the Project's consistency with a wide variety of GHG emissions reduction plans and policies, with goals set many years in the future. For example, the PR-DEIR adds further analysis of the Project's consistency with SB 32 and the 2017 Scoping Plan, which implements the goals set forth in SB 32. Note that such goals are for 2030, but are midpoints on the trajectory for reaching 2050 goals. (Refer to PR-DEIR at pp. 4.F-15-4.F-17.) No plan yet exists for the steps needed to progress from the 2030 goals in the 2017 Scoping Plan to the 2050 goals. Other GHG emissions reduction plans have differing goal attainment dates, such as SCAG's 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy (2020-2045 RTP/SCS) with an end date of 2045.

In addition to the above, the Project is infill development, which is expressly noted in the 2017 Scoping Plan as a critical component for local agencies to achieve GHG emissions reduction goals. Specifically, the 2017 Scoping Plan states that "The transportation sector has considerable influence" on GHG emissions and other sectors, and that "land use patterns will directly impact GHG emissions from the transportation sector, as well as those associated with the conversion and development of previously undeveloped land."<sup>3</sup> Thus, as infill development, the Project is an important means of both reducing transportation-related emissions and avoiding emissions increases associated with developing previously undeveloped land. Furthermore, the 2017 Scoping Plan outlines

<sup>3</sup> 2017 Scoping Plan at p. 77([https://ww2.arb.ca.gov/sites/default/files/classic/cc/scopingplan/scoping\\_plan\\_2017.pdf](https://ww2.arb.ca.gov/sites/default/files/classic/cc/scopingplan/scoping_plan_2017.pdf)).

recommendations of steps for local agencies, such as the City to take with regard to reducing GHG emissions. Such recommendations are focused on developing local plans to reduce GHG emissions on a community basis. (2017 Scoping Plan at p. 100.) In regard to project-specific actions, the 2017 Scoping Plan focuses on project modifications related to reducing VMT. As infill development in a High Quality Transit Area, the Project meets this goal. (Refer to PR-DEIR at p. F.4-61.) The PR-DEIR determined that the GHG emissions reductions associated with the Project's profile as urban infill development, demonstrating that infill development achieves greater GHG emissions reductions than similarly-sized greenfield development. (Refer to PR-DEIR at pp. 4.F-40, 4.F-44.)

Finally, refer to Response to Comment No. 12-3, as arguments related to the City's use of Appendix G as a threshold are precluded as *res judicata*.

### **Comment No. 12-6**

#### ***Project Suffers from the Same Defect as the Newhall Project***

The primary defect the California Supreme Court found in Newhall's EIR was that the EIR showed the Newhall project's mitigation measures would reduce the project's emissions 31% below a NAT scenario, and AB32's goal was a 29% reduction, so the EIR concluded the project's emissions were below the AB32 threshold and thus not significant. (62 Cal.4th 204, 225.) The Court held that the EIR failed to show that a project-level reduction of 31% corresponds to a state-level reduction of 29% or greater.

Here the EIR claims a 64% reduction from the NAT scenario, compared to SB32's target of reducing statewide GHG emissions by 40%. But there is, just as there was for Newhall, no attempt to show that a 64% reduction is an appropriate component for this project of the state-level 40% reduction. There are many reasons that housing projects like this one might be expected to reduce their GHG emissions by more than the average. There may be other sectors that can't reduce this much, so housing might need to reduce more. And, as the Newhall Court pointed out, retrofitting older construction to reduce its GHG emissions is much more costly than obtaining the same amount of GHG reduction in new construction, so new construction must reduce more than average to do its part.

### **Response to Comment No. 12-6**

The commentator opines that the GHG emissions analysis in the PR-DEIR suffers from the same deficiency in the EIR prepared for the Newhall project that was the subject of the California Supreme Court's decision in *Center for Biological Diversity v. The Newhall Land Farming Company* (2015) 62 Cal. 4th 204 (*Newhall*). (The *Newhall* decision was discussed in detail in the PR-DEIR at pp. 4.F-34-4.F-35.) However, the commentator's opinion is not correct for at least three reasons. First, the Court in *Newhall* expressly held

that a lead agency can evaluate a proposed project's GHG emissions impacts in accordance with CEQA's requirements by evaluating consistency with AB 32's goal in whole or in part by looking at compliance with regulatory programs designed to reduce GHG emissions. (Refer to PR-DEIR at p. 4.F-35.) Further, the Court stated that this consideration favors consistency with AB 32's statewide goals as a permissible significance criterion for project GHG emissions. (Refer to PR-DEIR at p. 4.F-35.) Thus, based on the above legal standards, the City determined that analyzing the Project's GHG emissions through consistency with the plans, policies, and regulations identified above that have been adopted to reduce GHG emissions is the appropriate methodology to analyze the Project's GHG emissions impacts in the context of the GHG emissions threshold questions set forth in Appendix G. Using consistency with statewide goals under AB 32 and SB 32 for GHG emissions reduction, and subsequently adopted plans, programs, policies, standards, and regulations as identified above, rather than a numerical threshold as a significance criterion, is also consistent with the broad guidance provided by Section 15064.4 of the CEQA Guidelines to reflect that there is no iron-clad definition of significance. (Refer to PR-DEIR at p. 4.F-37.)

Second, the "No Action Taken" or NAT scenario referred to by the commentor and discussed at pages 4.F-39 through 4.F-48 of the PR-DEIR is an approach consistent with the concepts used in the California Air Resources Board's (CARB) *Climate Change Scoping Plan* for the implementation of AB 32 and SB 32. This methodology is used to analyze consistency with applicable GHG emissions reduction plans and policies and demonstrate the efficacy of the measures contained therein, but it is not a threshold of significance. (Refer to PR-DEIR at p. 4.F-40.) The NAT scenario also provides information about the Project's reduced GHG emissions as compared to the regulatory baselines, in accordance with CEQA Guidelines Section 15064.4(b)(1).

Third, the commentor notes that new housing projects should be designed to reduce GHG emissions "by more than average." The GHG emission reduction goal in SB 32 (the subject of the Court Ruling at p. 6-9) is 40 percent below 1990 levels by the year 2030. The updated analysis in the PR-DEIR demonstrates that the Flower Market Project would reduce GHG emissions relative to the relevant regulatory baseline by 64 percent, substantially exceeding the goal in SB 32 of reducing GHG emissions by 40 percent by the year 2030. Such a significant reduction supports the conclusion that the Project is consistent with SB 32 and the 2017 Scoping Plan.

Finally, refer to Response to Comment No. 12-3, as arguments related to the City's use of Appendix G as a threshold are precluded as *res judicata*.

## Comment No. 12-7

### ***The Project is Not Consistent with the 2017 Scoping Plan***

The EIR uses consistency with several plans as the significance threshold. In order for the Project's GHG impacts to be insignificant, the Project must comply with Executive Order B- 30-15, SB 32, and CARB's 2017 Scoping plan, among others. But it's not consistent in several ways, including the following:

The CARB 2017 Scoping Plan contains a target of reducing the state's GHG emissions 80% below 1990 levels by 2050. The PR-DEIR contains no mention of this fact, and no discussion of how the Project would meet this standard.

The CARB 2017 Scoping Plan contains a statewide annual GHG emissions target of 6 MTCO<sub>2</sub>e/capita in 2030, and 2 MTCO<sub>2</sub>e/capita in 2050. The Project is nowhere near meeting these targets. The project will have 323 dwelling units. If they are occupied by an average of 2.99 persons/dwelling unit, 966 persons will occupy the Project. Even using the EIR's lowest estimate of the Project's GHG emissions, and ignoring emissions from the commercial space, the project will have 6,512 MTCO<sub>2</sub>e/year ÷ 966 persons = 6.74 MTCO<sub>2</sub>e/capita/year. In order to be consistent with the 2017 CARB Scoping Plan, the Project would need to have per-capita emissions well below the scoping plan targets, because the plan's targets include all sectors. The per-capita target must include each person's shares of emissions from transportation, electricity generation, and cement manufacture, for example, reducing the portion of each per-capita share that can be allocated towards their housing. The Project's per-capita share greatly exceeds both the 2030 and 2050 target, making the Project inconsistent with the 2017 Scoping Plan.

### **Response to Comment No. 12-7**

The commentor asserts that the PR-DEIR does not mention the goal in the CARB 2017 Scoping Plan of reducing GHG emissions by 80 percent by the year of 2050 or address how the Project is consistent with that goal. However, the PR-DEIR discusses CARB's Scoping Plans for AB 32 and SB 32 in detail at pages 4.F-50 through 4.F-60 of the PR-DEIR. In that discussion, the PR-DEIR discusses the State's goal of reducing GHG emissions by 80 percent from 1990 levels by 2050 and how continued compliance with the Scoping Plans and other regulatory programs will lead to achievement of the goal of reducing GHG emissions by 80 percent from 1990 levels by 2050. For example, the PR-DEIR states the following:

► CARB's 2014 Update to the Climate Change Scoping Plan stated that its purpose was to "highlight California's success to date in reducing its GHG emissions and lay the foundation for establishing a broad framework for continued emission reductions beyond 2020, on the path to 80 percent below 1990 levels by

2050. The First Update found that California was on track to meet the 2020 emissions reduction mandate established by AB 32 and noted that California could reduce emissions further by 2030 to levels squarely in line with those needed to stay on track to reduce emissions to 80 percent below 1990 levels by 2050 if the State realizes the expected benefits of existing policy goals.” (Refer to PR-DEIR at pp. 4.F-14-4.F-15.)

► In CARB’s 2017 Scoping Plan, CARB stated that “many of the emission reduction strategies recommended by CARB would serve to reduce the Project’s post-2020 emissions level to the extent applicable by law and help lay the foundation (for establishing a broad framework for continued emission reductions beyond 2020, on the path to 80 percent below 1990 levels by 2050, as called for in CARB’s First Update to the AB 32 Scoping Plan.)” (Refer to PR-DEIR at pp. 4.F-52- 4.F-53.)

► As stated in the technical report dated August 16, 2021 provided in Appendix F-1 of the PR-DEIR, “independent studies confirm CARB’s determination that the state’s existing and proposed regulatory framework will put the state on a pathway to reduce its GHG emissions level to 40 percent below 1990 levels by 2030, and to 80 percent below 1990 levels by 2050 if additional appropriate reduction measures are adopted. Even though these studies did not provide an exact regulatory and technological roadmap to achieve the 2030 and 2050 goals, they demonstrated that various combinations of policies could allow the statewide emissions level to remain very low through 2050, suggesting that the combination of new technologies and other regulations not analyzed in the studies would allow the state to meet the 2050 target.”

Therefore, a project’s consistent with the CARB 2017 Scoping Plan demonstrates the project’s consistency with the goal for GHG emissions reduction by the year 2050. At pages 4.F-52 through 4.F-60, the PR-DEIR evaluated the Project’s consistency with that Scoping Plan. Based on that analysis, the Project is consistent with that Scoping Plan. (Refer to PR-DEIR at p. 4.F-53.)

The commentor also discusses the MTCO<sub>2e</sub> per capita figure in the CARB 2017 Scoping Plan. It should be noted that CARB’s recommended per-capita objectives were statewide targets and were “...appropriate for the plan level (city, county, subregional, or regional level, as appropriate), but not for specific individual projects because they include all emissions sectors in the State.” (2017 Scoping Plan, page 99.) It should also be noted that the Court in *Newhall* held that a qualitative analysis that evaluates consistency with GHG emissions reduction plans is a permissible methodology under CEQA instead of relying on numeric threshold. In addition, the commentor’s calculations are not based on the updated analysis of the Project’s net GHG emissions in the PR-DEIR. That updated

analysis concluded that the Project's net GHG emissions would be 5,698 MTCO<sub>2</sub>e/year (not 6,512 MTCO<sub>2</sub>e/year as posited by the commentor). (Refer to PR-DEIR at p. 4.F-45.) Thus, even using the number of persons-per-dwelling-unit ratio assumed by the commentor, the Project's MTCO<sub>2</sub>e/per capita would be 5.89 MTCO<sub>2</sub>e/year, which is below the CARB statewide per-capita figure of 6 MTCO<sub>2</sub>e/year by 2030.

Finally, refer to Response to Comment No. 12-3, as arguments related to the City's use of Appendix G as a threshold are precluded as *res judicata*.

### **Comment No. 12-8**

#### ***The Project is Inconsistent with Executive Order B-55-18***

The PR-DEIR correctly states that Executive Order B-55-18 requires the state to achieve carbon neutrality by 2045. But it doesn't include that order on the list of plans, policies, and regulations the Project must be consistent with in order for its GHG emissions not to be significant. This is an important emission. The adopted threshold is whether the Project would conflict with an applicable plan, policy or regulation adopted for the purposes of reducing the emissions of greenhouse gases. EO B-55-18 is such a policy.

The PR-DEIR violates CEQA by failing to analyze the Project's consistency with EO B-55.18. The Project is not consistent with it because it requires the state to achieve carbon neutrality by 2045. The Project can never achieve carbon neutrality because it would burn natural gas.

### **Response to Comment No. 12-8**

The commentor asserts that the PR-DEIR should have included consistency with Executive Order B-55-18 as a significance threshold for evaluating the Project's GHG emissions impacts.

Executive Order B-55-18, issued in 2018, sets a statewide target to achieve carbon neutrality by 2045. CARB, however, has not yet proposed any regulations to implement this order. A draft regulation is expected to be released in December 2021 or early 2022, as a 2022 Scoping Plan. CARB is still holding workshops as to such a potential plan.<sup>4</sup> However, it should be noted that, as recognized by state and local GHG emissions reduction plans, urban infill development projects are critical to the goals of reducing GHG emissions and achieving carbon neutrality. The Project, as an urban infill development, would facilitate meeting those goals.

CEQA Guidelines Section 15064.4(c) also expressly recognizes that "the lead agency has discretion to select the model or methodology it considers most appropriate to enable decision makers to intelligently take into account the project's incremental contribution to

<sup>4</sup> <https://ww2.arb.ca.gov/our-work/programs/ab-32-climate-change-scoping-plan>

climate change.” In exercising its discretion, the lead agency must make a “good faith effort” to describe the Project’s GHG emissions impacts. (CEQA Guidelines §15064.4(a).)

Here, the City selected a broad set of state and local laws, regulations and plans aimed at reducing GHG emissions as the basis for the significance threshold to evaluate the Project’s GHG emissions impacts. (Refer to the 10 laws, regulations, and plans at PR-DEIR p. 4.F-33.) Given that comprehensive set of law and regulations used for the significance thresholds, the City acted in good faith in exercising its discretion in not including Executive Order B-55-18 in the significance threshold used in the PR-DEIR. That decision is bolstered by the fact that neither CARB nor any other agency has adopted a plan to implement the goal in Executive Order B-55-18.

Finally, refer to Response to Comment No. 12-3, as arguments related to the City’s use of Appendix G as a threshold are precluded as *res judicata*.

### **Comment No. 12-9**

#### ***The Project is Inconsistent with the L.A. Green New Deal Sustainability Plan 2019***

The PR-DEIR claims the project is consistent with the City of Los Angeles Green New Deal Sustainability Plan 2019. That plan sets a goal of reducing building energy use per square foot for all building types 22% by 2025; 34% by 2035; and 44% by 2050 from a baseline of 68 mBTU/sqft in 2015. In other words, its goal is for buildings to use no more than 53 mBTU/sqft/year in 2025, 45 mBTU/sqft/year in 2035, and 38 mBTU/sqft/year in 2050.

Project will have 656,350 square feet (DEIR p. 2-2), and use 1,780,734 cubic feet of natural gas per month (Appendix I-1 p. 9). A cubic foot of natural gas produces 1.037 mBTU of energy, so the Project will consume 22,159,454 mBTU/year of energy in the form of natural gas. The Project’s estimated electricity demand is 4,257,332 kw-h/year (DEIR 4.N.4-12.) which amounts to 14,526,620 mBTU per year. Adding these up and dividing by the square footage shows the Project’s energy intensity is 55.9 mBTU/sqft/year. This figure will stay the same during the Project’s lifetime. The Project will not achieve the 53 mBTU/sqft target for 2025, let alone the later targets. The Project is therefore inconsistent with the L.A. Green New Deal, so its GHG impacts are significant.

Because the Project is inconsistent with the 2017 Scoping Plan, Executive Order B-55-18, and the L.A. Green New Deal, its emissions are significant and all feasible mitigation of the Project’s GHG impacts is required. The City would violate CEQA if it certified the PR-EIR without fixing the defects discussed above.

## Response to Comment No. 12-9

The commenter asserts that the Project is inconsistent with one aspect of the LA Green New Deal plan. At the outset, it should be noted that as stated in the PR-DEIR, “the Sustainable City pLAN/L.A.’s Green New Deal provides information as to what the City will do with buildings and infrastructure in its control” and that “the sustainable City pLAN/L.A.’s-Green New Deal mainly targets GHG emissions related to City-owned buildings and operations...” (PR-DEIR at p. 4.F-68.) Further, the LA Green New Deal plan does **not** provide that the goals of reducing building energy use referenced by the commenter are to be applied to individual development projects. Instead, those goals are programmatic in nature and apply in the aggregate to existing and new City-owned buildings.

Despite the focus on City-owned buildings in the LA Green New Deal plan, the PR-DEIR still provided an evaluation of the Project’s consistency with the objectives in the LA Green New Deal. (PR-DEIR at pp. 4.F-69-4.F-71.)

Moreover, to provide a thorough response to Comment No. 12-9, consistent with CEQA Guidelines Section 15064.4(a), a numeric calculation regarding the Project’s estimated building energy consumption per square foot is presented below. The City does not have or use a numerical threshold for GHG emissions impacts or a methodology for assessing such impacts that relies on a quantitative analysis. Instead, the Project’s estimated GHG emissions are quantified and provided to comply with CEQA Guidelines section 15064.4(a) and to provide evidence that the implementation of the plans, policies, and regulations adopted to reduce GHG emissions will result in actual GHG emissions reductions.

The commenter relies on estimates of the Project’s electricity and natural gas use that do not reflect the updated energy demand factors. Using those updated demand factors, which were derived using the 2020 CalEEMod model, the Project’s estimated net natural gas and electricity use is provided below on **Table II-2, Estimated Net Natural Gas and Electricity Use for the Flower Market Project**.

**Table II-2  
Estimated Net Natural Gas and Electricity Use for the Flower Market Project**

<b>EXISTING</b>		
<i>Land Use</i>	<i>Natural Gas Use (kBTU/year)</i>	<i>Electricity (kWh/year)</i>
Warehouse	192,515	3,119,120
<b>PROJECT</b>		
<i>Land Use</i>	<i>Natural Gas Use (kBTU/year)</i>	<i>Electricity (kWh/year)</i>
Apartments	2,977,070	1,279,110
Parking Garage	-	1,596,260
General Office Building	776,472	968,911
Sit Down Restaurant	3,096,800	592,359
Warehouse	65,699	1,069,040
Retail	<u>7,191</u>	<u>59,198</u>
<b>TOTAL</b>	<b>6,923,232</b>	<b>5,564,878</b>
<b>NET</b>	<b>6,730,717</b>	<b>2,445,758</b>
<p align="center"><i>Source: DKA Planning, July 2021. Refer to Appendix C.</i></p>		

Therefore, the amount of the Project’s “net” electricity demand equates to 8,345,274 kBTU/year (which is derived by subtracting the electricity usage by the existing Flower Market from the Project’s projected electricity usage).<sup>5</sup> Adding the Project’s net natural gas use (6,730,717 kBTU/year), then the Project’s net electricity and natural gas use in terms of kBTU/year is 15,075,991 kBTU/year. Dividing these energy use figures by the Project’s square footage, the Project’s energy use would be approximately 22.969 kBTU/year, well below the targets in the LA Green New Deal plan referenced by the commenter.<sup>6</sup>

Also, as a general matter, it should be noted that for a development project to be deemed consistent with policies and plans, the project need not be consistent with each and every provision in the relevant plan. The legal standard that governs consistency determinations is that a project must only be in “harmony” with the applicable land use plan to be consistent with that plan. (See *Sequoyah Hills Homeowners Assn. v. City of Oakland*

<sup>5</sup> One kilowatt of electricity equals 3.412142 of kBTU. <https://www.rapidtables.com/convert/power/index.html>

<sup>6</sup> The commenter uses the unit of measurement of mBTU instead of kBTU. These units of measurement are treated as the same ([https://en.wikipedia.org/wiki/British\\_thermal\\_unit](https://en.wikipedia.org/wiki/British_thermal_unit)) and it is assumed that the commentor intended to equate mBTU with kBTU.

(1993) 23 Cal.App.4<sup>th</sup> 704, 717-18.) For example, to be “consistent” with a general plan, a project must be “compatible with the objectives, policies,... and programs specified in the applicable plan,” meaning, the project must be “in agreement or harmony with the applicable plan.” (See also *Greenebaum v. City of Los Angeles* (1984) 153 Cal.App.3d 391, 406; *San Franciscans Upholding the Downtown Plan v. City & County of San Francisco* (2002), 102 Cal.App.4<sup>th</sup> 656, 678.) *Newhall* itself acknowledged that the purpose of the consistency analysis is to ensure that the project in question does not impede achievement of GHG-reduction plans and goals. (*Newhall*, 62 Cal.4<sup>th</sup> at 218.)

Specifically here, the City adopted Appendix G as its significance thresholds, which provides, in relevant part, that a proposed project would not have a significant GHG emissions impact if the project does not “[c]onflict with an applicable plan, policy or regulation adopted for the purposes of reducing the emissions of greenhouse gases.” As discussed in the PR-DEIR, the Project does not conflict with the suite of identified plans and regulations, including the LA Green New Deal plan. (Refer to Table IV.F-9 at PR-DEIR p. 4.F-69.) For example, one of the key objectives of the plan is to ensure that 57 percent of new housing units are built within 1,500 feet of transit. The Project furthers that goal by “concentrating new residential and-commercial uses in close proximity to public transit opportunities (e.g., light rail and bus routes).” (Refer to PR-DEIR at p. 4.F-70.)

And finally, refer to Response to Comment No. 12-3, as arguments related to the City’s use of Appendix G as a threshold are precluded as *res judicata*.

### **Comment Letter 13**

*Lance Williams*  
*Certified Florist Supplies Inc*  
*307 Culver Boulevard*  
*Playa del Rey, CA 90293*

My name is Lance Williams and I represent Certified Florist Supplies Inc, a business directly across the street from the Flower Market on Wall Street. I am again writing to you to support the SoCal Flower Market and the minor tweaks to Case File #ENV-2016-3991-EIR in response to the judge's requests for greater clarity.

I am astounded that we are revisiting this after the project was overwhelmingly supported and approved two years ago. This project will enhance and improve our neighborhood which, over the last decade, has deteriorated resulting in a steady erosion of business and sales. I constantly hear comments from our patrons relating to the safety, or lack thereof, of our Flower District. Many of our long-standing customers have stopped shopping in our district because they have been harassed or threatened.

This is a game changing project that raises all businesses and stakeholders in the area. It was approved two years ago but then forced to revisit Council Hearings once again. This is why our neighborhood has lost all its hope and motivation since it is impossible to invest and improve when the uphill battle is never ending.

We are hopeful that this project will re-energize the area and activate a neighborhood in desperate need of improvement. The alternative if this previously approved project is modified in any way- loss of this storied Flower Market and the vision this project brings to our neighborhood. If the Flower Market is forced to leave the area, it will create a void which will result in the slow death of a district over 100 years old.

We cannot afford to lose one of the crown jewels of Los Angeles, not to mention one of the oldest businesses in California. It would be irresponsible of the City if it lost this major economic engine and its uplifting vision. Allow this previously approved project to build and build now!

### **Response to Comment Letter 13**

This comment letter was submitted to the City after close of the public review and comment period for the PR-DEIR. As such, no response to the comment letter is required. However, the comment letter will be provided to the decision makers for consideration.