

APPENDICES VOLUME 4
RESPONSES TO COMMENTS FOR THE
DRAFT ENVIRONMENTAL IMPACT REPORT
SCH# 2016091024

CITADEL OUTLETS EXPANSION & 10-ACRE
DEVELOPMENT PROJECT
COMMERCE, CALIFORNIA



LEAD AGENCY:

CITY OF COMMERCE
PUBLIC WORKS AND DEVELOPMENT SERVICES DEPARTMENT
PLANNING DIVISION
2535 COMMERCE WAY
COMMERCE, CALIFORNIA 90040

REPORT PREPARED BY:

BLODGETT BAYLOSIS ENVIRONMENTAL PLANNING
2211 SOUTH HACIENDA BOULEVARD, SUITE 107
HACIENDA HEIGHTS, CALIFORNIA 91745

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Response to Comment Letter Dated March 14, 2019

Sara Dudley

Adams Broadwell Joseph & Cardozo

Comment 1.

We are writing on behalf of the Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA") concerning the Draft Environmental Impact Report ("Draft EIR") for the Citadel Outlets Expansion & 10-Acre Development Project, which would permit the expansion of the Citadel shopping center and 10 acres of development along the northerly side of Telegraph Road between Hoefner Avenue (on the west) continuing east to Washington Boulevard, SCH No. 2016091024 ("Project").

Response 1.

The comment is noted for the record. Responses to specific comments are provided in the remainder of this section of the Response to Comment document.

Comment 2.

The Office of Public Research ("OPR") State Clearinghouse states that the public review and comment period for the Project began on February 19, 2019 and closes on April 4, 2019. We respectfully request that the City of Commerce ("City"):

- 1) withdraw the unfinished, administrative and incomplete copy of the Draft EIR and reissue a finalized, accurate, and complete Draft EIR, with a new comment period; or, in the alternative.*
- 2) extend the public review and comment period on the Draft EIR for the Project by at least 45-days from the date that the City makes all documents referenced or relied upon in the Draft EIR available to the public.*

This request is made pursuant to the California Environmental Quality Act, Public Resources Code section 21000 et seq. ("CEQA") and Title 14, section 15000 et seq. of the California Code of Regulations ("CEQA Guidelines").

- 1. The City Must Withdraw the Unfinished Administrative Draft EIR and Reissue a Finalized Draft EIR with an Updated Comment Period.*

The City's publication of an unfinished, incomplete, administrative draft DEIR for public review and comment violates CEQA. The document must be withdrawn and reissued, with an updated 45-day comment period.

Response 2.

The City of Commerce, in its capacity as Lead Agency for the proposed project re-circulated the Draft EIR for an additional 45-day review period that commenced on March 27, 2017 and ended on May 10, 2019.

Comment 3.

CEQA review "is an integral part of any agency's decision making process." The EIR is the "heart" of this requirement, and 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." To fulfill this purpose, the analysis and discussion in an EIR must be detailed, complete, and "reflect a good faith effort at full disclosure." An inaccurate, incomplete, administrative draft copy of an environmental review document misleads the public. The Legislature has stated, "it is the policy of the state that noncompliance with the information disclosure provisions of [CEQA] which precludes relevant information from being presented may constitute a prejudicial abuse of discretion regardless of whether a different outcome would have resulted [had] the public agency complied" with CEQA's requirements.

Response 3.

The above comment is noted for the record. The City of Commerce, in its capacity as Lead Agency for the proposed project re-circulated the Draft EIR for an additional 45-day review period that commenced on March 27, 2017 and ended on May 10, 2019.

Comment 4.

Here, on or about February 19, 2019, the City published a document purporting to be the Draft EIR for the Project. An inspection of the document reveals numerous errors, inaccuracies, and inconsistencies, which make clear that this document is an unfinished draft of the DEIR. Draft versions of environmental review documents (sometimes termed "administrative drafts" or "screen-check drafts") are not finalized documents.

Response 4.

As stated previously, the City of Commerce, in its capacity as Lead Agency for the proposed project re-circulated the Draft EIR for an additional 45-day review period that commenced on March 27, 2019 and ended on May 10, 2019.

Comment 5.

Such errors, inaccuracies, inconsistencies include, but are not limited to, the following:

- the Table of Contents does not contain a reference to the Air Quality section, although*

that section is in the document;

- the Table of Contents does not list any appendices, although Appendices A to D are referenced in the document;*
- Appendix D, a geotechnical study provided by GPI Geotechnical, is completely missing from the DEIR and is not provided on the City's website;*
- the Transportation Impact Study is marked "DRAFT;"*
- Appendix E of the Transportation Impact Study states that information is "to be provided," indicating that this section is not yet complete;*
- Appendix A is variously labelled Air Quality Worksheets, Traffic Counts, and as containing the Notice of Preparation ("NOP"), Initial Study, and Comment letters on the NOP;*
- Appendix B is variously labelled as the Air Quality Study and Noise Worksheets;" is*
- the document provides internally inconsistent publication dates: the cover of the document is dated "February 14, 2019," while page 7 states that the DEIR will be circulated "for a public review period beginning February 7, 2019 and ending March 22, 2019" indicating that the document was published on February 7, 2019; and*
- the publication and public review dates are externally inconsistent with the dates published by the OPR; State Clearinghouse records clearly state that the document was available for public review on February 19, 2019 and the comment period ends on April 4, 2019 (not March 22, 2019).*

These are only a few examples of the document's numerous inconsistencies and errors. Such errors render a coherent review and discussion of the document's contents all but impossible and to a significant extent call into question its integrity and accuracy. The public should not be left to speculate as to the nature, type, and extent of the document's errors, and how such errors may impact the analysis presented.

Response 5.

The City of Commerce, in its capacity as Lead Agency for the proposed project re-circulated the Draft EIR for an additional 45-day review period that commenced on March 27, 2019 and ended on May 10, 2019. The aforementioned errors and omissions were corrected in the Draft EIR that was subsequently circulated.

Comment 6.

The fact that the DEIR is still missing an appendix is especially significant. Section 15147 of the CEQA Guidelines sets the rule on technical detail as follows: The information contained in an EIR shall include summarized technical data, maps, plot plans, diagrams, and similar relevant information sufficient to permit full assessment of significant environmental impacts by reviewing agencies and members of the public. Placement of highly technical and specialized analysis and data in the body of an EIR should be avoided through inclusion of supporting information and analyses as appendices to the main body of the EIR.

Appendices to the EIR may be prepared in volumes separate from the basic EIR document, but shall be readily available for public examination and shall be submitted to all clearinghouses which assist in public review. That is, under CEQA an agency may avoid inclusion of technical details in a DEIR only if it properly includes them as appendices to the main body of the DEIR, and makes them "readily available" to the public throughout the public review period.

Response 6.

The City of Commerce, in its capacity as Lead Agency for the proposed project re-circulated the Draft EIR for an additional 45-day review period that commenced on March 27, 2019 and ended on May 10, 2019. The Appendices volumes were made available on the CDs that were included with the Draft EIR and on the City's website.

Comment 7.

On or about February 19, 2019, the City relayed in its Notice of Completion to OPR that the Project's Draft EIR was available for public review and comment. Although Appendices A to D are referenced in the Draft EIR, on March 5, 2019 (14 days after the Draft EIR was released), no appendices were published on the City's website, where environmental review documents for current projects are indexed and provided to the public.

Response 7.

The City of Commerce, in its capacity as Lead Agency for the proposed project re-circulated the Draft EIR for an additional 45-day review period that commenced on March 27, 2019 and ended on May 10, 2019. The Appendices volumes were made readily available on the CDs that were included with the Draft EIR and on the City's website. As part of this recirculation, a new notice of completion was filed with OPR.

Comment 8.

On March 7, 2019, we submitted a Request for Immediate Access to all documents referenced in the Draft EIR, including appendices. Only then did the City provide some of the appendices on its website. The site now contains links to the Draft EIR; Appendices A to C; the Transportation Impact Study; the Transportation Impact Study Appendices; and the Notice of Preparation and Initial Study.¹⁸ However, to date, Appendix D is still missing from the City's website.

Response 8.

Section 3.6.4 included a reference to Appendix D in the discussion of the use of biofiltration basins as a means to facilitate proper treatment and discharge of storm water runoff by using landscaping to capture and biologically degrade pollutants carried by storm water runoff. Appendix D summarized the infiltration testing by the geotechnical engineer that indicated bioinfiltration is infeasible for the project site due to

unfavorable test result and soil stratigraphy per infiltration testing conducted by GPI Geotechnical. The infiltration rate for the project site is 0.2 inches/hour which is less than the minimum required infiltration rate of 0.3 inches/hour according to the LID manual, and is therefore not a viable treatment method for this site. The Draft EIR indicated the proposed project will not create any hydrologic conditions of concern, as all storm water runoff from the site will be conveyed to proposed underground detention basins that will only restrict flow rate discharges to the same or less the Allowable Q discharge rate designated by the Los Angeles County Department of Public Works, Design Division, Hydraulic Analysis Unit. Outflow discharges from the detention basins will enter the existing concrete-lined storm drain in Telegraph Road and Hoefner Avenue. Therefore, hydromodification is not an issue of concern for this site.

Comment 9.

The 45-day public review and comment period on the Draft EIR is the most significant, statutorily provided period which affords the public the opportunity to meaningfully review and comment on the proposed Project, its impacts, mitigation measures and alternatives. The need for public disclosure is so great that courts have repeatedly rejected EIRs which contain similar errors and inconsistencies, stating that "[o]nly through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the 'no project' alternative) and weigh other alternatives in the balance."

Response 9.

The comment is noted for the record. As indicated previously, the City of Commerce re-circulated the Draft EIR for an additional 45-day review period that commenced on March 27, 2019 and ended on May 10, 2019.

Comment 10.

Nor can the City rely on other parties, such as the State Clearinghouse or a private contractor, to provide the public with finalized environmental review documents, in lieu of the City's failure to do so. CEQA and the Guidelines make clear that a Draft EIR is the lead agency's document (the City). While the lead agency may contract with another party to prepare a draft EIR, the obligation to review, edit, revise and publicize the document remains solely with the lead agency. The CEQA Guidelines state, "[b]efore using a draft prepared by another person, the lead agency shall subject the draft to agency's own review and analysis. The draft EIR which is sent out for public review must reflect the independent judgment of the lead agency;" the "lead agency" issues the public Notice of Availability of a Draft EIR; and after publication, the "lead agency" evaluates and responds to comments.

Response 10.

The comment is noted for the record. The City of Commerce, in its capacity as Lead Agency for the project, was involved in all aspects of the Draft EIR's preparation and circulation.

Comment 11.

We note that the multiple errors and omissions in the DEIR were pointed out to the City in both phone calls and email correspondence with the City planner, Manuel Acosta. However, even though Mr. Acosta stated he is now also observing errors in the document which his department flagged for correction by the environmental consultant prior to the publication of the finalized DEIR, the City has not withdrawn the DEIR and published a finalized and corrected version.

Response 11.

As indicated previously, the City of Commerce re-circulated the Draft EIR for an additional 45-day review period that commenced on March 27, 2019 and ended on May 10, 2019.

Comment 12.

By publishing an inaccurate, incomplete, administrative draft, rather than a finalized Draft EIR, the City has, in effect, failed to circulate a Draft EIR at all, as CEQA requires. Continued reliance on such a document frustrates CEQA's mandate that the agency must make a good-faith effort to describe a project and to disclose, analyze and mitigate its impacts. Consequently, the City must withdraw this administrative draft document and circulate a final and complete Draft EIR for public review and comment with a comment period that reflects the revised publication date.

- 1. The City Must Extend the Comment Period Due to Its Failure to Provide Appendices and Documents Referenced in the Draft EIR.*

Even if the document was an accurate, complete and final version of the Draft EIR (which it is not), the City must extend the public review and comment period by at least 45-days from the day on which it provides all of the appendices and the documents referenced in the Draft EIR, as required by CEQA.

Response 12.

The comment is not relevant to the current Draft EIR. As indicated previously, the City of Commerce re-circulated the Draft EIR for an additional 45-day review period that commenced on March 27, 2019 and ended on May 10, 2019.

Comment 13.

Public Resources Code, section 21092, subdivision (b)(1), requires that "all documents referenced in the draft environmental impact report or negative declaration" and those "incorporated by reference" be available for review and "readily accessible" during the entire comment period. Accordingly, the City must extend the comment period, as it has failed so far to make the documents referenced in the DEIR available for public review.

Response 13.

As indicated previously, the City of Commerce re-circulated the Draft EIR for an additional 45-day review period that commenced on March 27, 2019 and ended on May 10, 2019.

Comment 14.

First, as explained above, the City failed to make all appendices available to the public for the entirety of the comment period, and continues not to do so. Appendix D, which is still missing, contains a geotechnical study prepared by GPI Geotechnical. Appendix D is critical to the public's understanding of the City's analysis of impacts to Hydrology and Water Quality, with regard to infiltration testing and potential mitigation measures (biofiltration/retention areas).

Response 14.

The City provided references, including printed copies of those reports that were used in the preparation of the Draft EIR. These references are also provided on the City's website. Section 3.6.4 includes a reference to Appendix D in the discussion of the use of biofiltration basins as a means to facilitate proper treatment and discharge of storm water runoff by using landscaping to capture and biologically degrade pollutants carried by storm water runoff. Biofiltration/retention areas also reduce the volume of storm water runoff discharged into the local storm drains. These facilities normally consist of a grass buffer strip, sand bed, ponding area, organic layer or mulch layer, planting soil, and plants. The runoff's velocity is reduced by passing over or through a sand bed and is subsequently distributed evenly along a ponding area. Appendix D summarized the infiltration testing by the geotechnical engineer that indicated bioinfiltration is infeasible for the project site due to unfavorable test result and soil stratigraphy per infiltration testing conducted by GPI Geotechnical. The Draft EIR indicated the proposed project will not create any hydrologic conditions of concern, as all storm water runoff from the site will be conveyed to proposed underground detention basins that will only restrict flow rate discharges to the same or less the Allowable Q discharge rate designated by the Los Angeles County Department of Public Works, Design Division, Hydraulic Analysis Unit. Outflow discharges from the detention basins will enter the existing concrete-lined storm drain in Telegraph Road and Hoefner Avenue. Therefore, hydromodification is not an issue of concern for this site.

Comment 15.

Specifically, without Appendix D, the public is unable to analyze the veracity and accuracy of GPI Geotechnical's study methodology and conclusions, and whether infiltration and the use of biofiltration/retention areas is in fact, "not a viable treatment method for this site," as claimed. The fact that the City provided the other appendices more than two weeks after the DEIR was published is in and of itself a sufficient basis for an extension of the public review period.

Response 15.

The project area has been developed for more than fifty years in a variety of commercial and industrial and commercial land uses. The project area's redevelopment will enable more state-of-the-art appurtenances to be installed that are in conformance with current requirements. The project Applicant will be required to adhere to the applicable BMPs for the construction site. Adherence to the required BMPs will restrict the discharge of contaminated runoff into the local storm drain system. The GPI study was also made available for review.

Comment 16.

Second, the City has failed to provide any documents referenced or relied upon in the DEIR beyond the appendices, as required under CEQA. As mentioned above, in response to our March 7, 2019 Request for Immediate Access to all documents referenced in the Draft EIR, the City made some of the appendices available on its website. The City, however, continues to fail to make available any other documents referenced or relied upon in the DEIR. These documents include, but are not limited to, the documents listed in the DEIR, Section 6.2, "References."

Response 16.

This information was directly provided to representatives of the writers of this letter, which was picked up at City Hall.

Comment 17.

The documents referenced in the DEIR are particularly relevant to CREED LA's, and the public's, review of the Draft EIR's analysis of hazardous materials, air quality, hydrology and water quality, and noise impacts, where the Draft EIR identified potentially significant impacts and mitigation measures. Without access to these documents, CREED LA members and other members of the public are precluded from having a meaningful opportunity to comment on the Draft EIR.

Response 17.

The City of Commerce provided full and complete access to the documents requested. The reports that were referenced as part of the EIR's preparation were cited in the Draft EIR. The issues cited in the comment were addressed in the Draft EIR and identified the source documents.

Comment 18.

For example, the description of the environmental setting in the Hazards and Hazardous Materials impacts section relies on a number of Environmental Site Assessments (ESAs), including an April 2007 Phase I ESA Report prepared by Block Environmental for Area 1 and a Phase 1 ESA prepared by Partner Engineering and Science, Inc. for Area 2. These documents, as

well as any other documents relied upon or referenced in the DEIR, must be made available to the public.

Response 18.

The City of Commerce provided full and complete access to the documents requested. The results of these surveys were provided in the Draft EIR. The comment implies that the Draft EIR was completely silent on the nature and extent of hazardous materials and contamination within the planning area. Section 3.5 outlines the characteristics of the three areas that comprise a larger planning area. The contents of the Draft EIR are summarized in the remainder of this response.

Area 1 is situated along the northeastern side of Telegraph Road and was originally owned by Uniroyal, the historical successor to the Samson Tire Company. In a previous Phase I ESA report dated April 2007, Block Environmental identified a former oil treatment plant situated on Parcel C on the 1949 and 1966 Sanborn Fire Insurance Maps for this area. Subsequently, Block Environmental performed a subsurface investigation in May 2007 on Parcel C. Subsurface soil samples were collected for field screening and analysis and soil vapor samples collected for volatile petroleum compounds. The report concluded that petroleum or metals impacts were not present on Parcel C. Further site assessment activities were not warranted.

Groundwater monitoring for volatile organic compounds (VOCs) in groundwater was being conducted to evaluate migration from the off-site former Pacific Tubing Company (PATCO) property. There are currently ten groundwater monitoring wells on the former PATCO property, located northwest of the subject property and now a part of the Citadel shopping center parking lot. A Voluntary Cleanup Agreement (VCA) was executed between the DTSC and PATCO and based on documentation reviewed; approximately 11,000 tons of PCE solvent impacted soils were removed from the former VDA area in 2001 during the facility demolition. The area has subsequently been covered with pavement to prevent stormwater percolation through the former VDA. However, the volume of PCE was sufficient to migrate downward to the underlying groundwater table at approximately 88 feet below the ground surface. PCE and its degradation product, TCE remain in groundwater as shown in monitoring data for well UGW-4. PATCO signed a VCA with the DTSC in September 2001 specifically for the former VDA area that includes monitoring of the offsite migration of the PCE contamination.

Partner Engineering and Science, Inc. prepared a Phase I Environmental Site Assessment (ESA) for the Area 2 portion of the site. The Phase I was prepared for the property located at 5809, 5819, 5901, 5903, 5933, and 6001 Telegraph Road, 2240 Gaspar Avenue, and 2300, 2311, 2322, and 2366 Travers Avenue. The majority of the listings appear related to prior site operations. No current on-site USTs are reported, with the exception of one former UST reportedly abandoned in place by filling with slurry located at 5931/5933 Telegraph Road. Based on the lack of current violations and/or listing in other databases indicating a release, these former and current owner and tenant listings are not expected to have created an environmental concern at the subject property. Potential vapor intrusion concerns were identified from off-site facilities. Other businesses located in Area 2 include Justman Packaging and Displays (5819 Telegraph Road); American International Industries (5901/5903 Telegraph Road and 2366 Travers Avenue); E-Waste

Center Inc. (5788 Smithway Street); and the City of Commerce (5933, 6001, and 6003 Telegraph Road). The remaining properties are developed with asphalt-paved parking lots (5809 Telegraph Road, 2240 Gaspar Avenue, and 2311 and 2322 Travers Avenue) or are vacant and unpaved. The City of Commerce also used the vacant unpaved lots on the southeastern portion for stockpiling and storage of street construction materials and debris for an offsite street widening project.

A Phase I Environmental Site Assessment was also performed for Area 3 and, based on the findings of the Phase I Environmental Site Assessment, potential or possible environmental conditions currently associated with the project site were identified. Along the northern site boundary, pole-mounted transformers were observed. Given the pre-1979 date of development of the subject site, the presence of polychlorinated biphenyls (PCB)-containing fluids in the transformer is suspected. However, no leakage or staining is visible on or around the transformers. Area 3 is not located on the DTSC Hazardous Waste and Substances database. However, a portion of the site was identified as a Leaking Underground Storage Tank (LUST) cleanup site. This portion of the site (6241 Telegraph Road) was formerly occupied by Boyd Furniture. The site came under the jurisdiction of the DTSC due to an existing leak, which released gasoline into the underlying soils. The case regarding the Boyd Furniture LUST was closed in 1993 and no further action is required.

The EPA's multi-system search was consulted to determine whether the project site is identified on any Federal Brownfield list; Federal Comprehensive Environmental Response, Compensation and Liability Information System (CERCLIS) List; Federal Resource Conservation and Recovery Act (RCRA) Treatment, Storage, and Disposal (TSD) Facilities List; and/or Federal RCRA Generators List. Two former tenants, Boyd Furniture and California Furniture Shops, are included in the RCRA database, while Boyd Furniture is also listed in the Toxic Release Inventory database. Boyd Furniture is listed in the RCRA database as a small quantity generator, although no further action is required for the portion of the project site that was occupied by the aforementioned use. The property that was occupied by Boyd Furniture is also listed in the Toxic Release Inventory (TRI) database.

Comment 19.

The courts have held that the failure to provide even a few pages of a CEQA document for a portion of the CEQA review period invalidates the entire CEQA process, and that such a failure must be remedied by permitting additional public comment. It is also well settled that a CEQA document may not rely on hidden studies or documents that are not provided to the public. By failing to make all documents referenced in the Draft EIR "readily accessible" during the whole of the comment period, and by failing to properly respond to our request for all documents referenced in the DEIR, the City violated the procedural mandates of CEQA, to the detriment of those members of the public who wish to meaningfully review and comment on the Draft EIR.

Response 19.

There were no hidden studies or documents referred to in the preparation of the Draft EIR. The City of Commerce provided full and complete access to the documents requested. The comment does not specify what document or materials were not provided.

Comment 20.

Accordingly, the City must extend the public review and comment period by 45-days from the date that the required documents are made available to the public.

Response 20.

The City of Commerce, in its capacity as Lead Agency for the proposed project re-circulated the Draft EIR for an additional 45-day review period that commenced on March 27, 2017 and ended on May 10, 2019.

Comment 21.

The Draft EIR circulated by the City for public review and comment is an unfinalized, uncorrected administrative draft DEIR. As an uncorrected proof, the decision-makers and the public cannot rely on the document to accurately disclose, analyze, and mitigate the Project's impacts, in violation of CEQA. The City must withdraw this document, and reissue a final, corrected Draft EIR for public review and comment, with a new and updated comment period.

Response 21.

As stated previously, the City of Commerce, in its capacity as Lead Agency for the proposed project re-circulated the Draft EIR for an additional 45-day review period that commenced on March 27, 2017 and ended on May 10, 2019.

Comment 22.

Additionally, the City has failed to provide the appendices and references cited within the Draft EIR for the entirety of the comment period (or at all). The City must make these documents available, and extend the public review and comment period by a full 45-days from the date on which it makes all of the documents available.

Response 22.

The City provided references, including printed copies, of those reports that were used in the preparation of the Draft EIR. These references are also provided on the City's website. The City of Commerce, in its capacity as Lead Agency for the proposed project re-circulated the Draft EIR for an additional 45-day review period that commenced on March 27, 2017 and ended on May 10, 2019.

Response to Comment Letter on March 23, 2019

Patrick Hennessey

Palmiere Tyler

Comment 1.

This office represents the Ryzman Family Trust and American International Industries ("All") (the Ryzman Family Trust and All may sometimes be collectively referred to hereafter as the "Owner"), owner of certain real property located in the City of Commerce at 2220 Gaspar Road, and improved with an approximately 225,000 square foot (sf) industrial warehouse, distribution and logistics facility (the "Subject Property").

All has been located at the Subject Property for approximately 45 years, and is the leading manufacturer and distributor of beauty and skin care products for men and women. The Subject Property is located within the Project area and will, therefore, be directly impacted by many of the adverse environmental impacts identified in the City's DEIR for the Project.

Response 1.

The comment is noted for the record. No specific response is required.

Comment 2.

The City, as lead agency, and in partnership with Citadel Holdings, LLC and Was- Tel Commerce, LLC, owners and operators of the Citadel Outlets, are contemplating a massive approximately 44 acre redevelopment along the north side of Telegraph Road between the Citadel Shopping Center (to the west) and Commerce Hotel and Casino (to the east). The proposed Project is divided into three areas identified as "Project Areas" allowing, in part, for the exponential intensification of new retail, commercial, hospitality, entertainment and related office development within an urban area while, at the same time, adversely impacting the existing industrial, distribution, packaging, warehousing and logistic uses located in between and immediately adjacent to the Project Areas. The purpose of the proposed Project is to eliminate and convert large portions of a historic industrial area into a high density, upscale retail/entertainment development. However, the proposed Project does not analyze the cumulative adverse impacts that redevelopment will have to the existing industrial uses located within the Project area, including, without limitation, the Subject Property, and the neighboring industrial/manufacturing developments.

Response 2.

The Citadel complex as a whole contains a variety of commercial retail, office, hotel, and entertainment-related uses. The Citadel complex, which contains both retail and office uses, is located to the west of Area 2. The Commerce Casino, located east of Tubeway Avenue, is located in between Area 2 and the Telegraph Road/Washington Boulevard project site (Area 3).

The west side of Area 2 is currently occupied by Justman Packaging and Display, ancillary parking, and a vacant building. The east side of Area 2 is largely undeveloped and is covered over in dirt, sparse ruderal vegetation, and mounds of dirt and gravel. An abandoned warehouse is located within the southwest corner of east side of Area 2. Area 3 is located at the northwest corner of the Telegraph Road/Washington Boulevard intersection. A majority of this site is undeveloped, though a building occupied by Furniture Clearance Warehouse is located at the site's southwest corner. The portions of the site that are currently undeveloped are covered over in dirt, sparse ruderal vegetation, gravel, and remnants of concrete surfaces. The existing Citadel Outlet complex contains a variety of commercial retail, office, and hotel uses. The main Citadel complex, which contains both retail and office uses, is located to the west of Area 2. The Commerce Casino, located east of Tubeway Avenue, is located between Area 2 and the Telegraph Road/Washington Boulevard project site (Area 3).

The draft EIR correctly indicated that portions of the Planning Area will require a number of Zone Changes to accommodate the proposed uses. The first set of zone changes, from M-2 (*Heavy Industrial*) to C-2 (*Commercial*), will be required for two sites located in Area 1. Area 3 will also require up to two zone changes. As indicated in the Draft EIR, the site for the proposed industrial building will need to be rezoned to M-2 (Heavy Industrial) to C-2 (Commercial) to permit the proposed use industrial building.

Comment 3.

In conjunction with the Project, the City has prepared a DEIR to evaluate the potentially significant environmental impacts that could result from the Project. We have reviewed the DEIR and are submitting this comment letter to inform the City that the DEIR is inadequate to serve as the environmental document for the Project under the California Environmental Quality Act ("CEQA").

Response 3.

The comment is noted for the record. No specific issue was identified in the above comment.

Comment 4.

Specifically, the DEIR fails to comply with the California State CEQA Guidelines ("CEQA Guidelines"), fails to adequately analyze Project alternatives, and improperly defers analysis of impacts of reasonably foreseeable consequences of the Project. Additionally, the Project will result in excessive significant unavoidable impacts. The following list of objections is not exhaustive, and the Owner reserves its right to present further comments at a later date.

Response 4.

The comment, while noted for the record, does not identify any specific issue with respect to the Draft EIR. The Draft EIR analyzed a number of project alternatives in Section 5.

Comment 5.

The DEIR Does Not Comply with the CEQA Guidelines. The primary purpose of an EIR is to inform decision makers and the public about a project's significant environmental effects and ways to reduce them, to demonstrate to the public that the environment is being protected, and to ensure political accountability by disclosing to citizens the environmental values held by their elected and appointed officials. (CEQA Guidelines, §§ 15003, 15121, subd. (a).) CEQA does not require technical perfection in an EIR, but rather adequacy, completeness, and a good faith effort at full disclosure. (CEQA Guidelines, §15003, subd. (i), emphasis added.)

Response 5.

The comment, while noted for the record, does not identify any specific issue with respect to the Draft EIR.

Comment 6.

In this instance, the DEIR fails to make a good faith effort at full disclosure. Because the DEIR does not comply with the requirements of CEQA and the CEQA Guidelines, it is inadequate to serve as the environmental document for the proposed Project. Many of the environmental category sections of the DEIR are deficient or inaccurate, including, without limitation, the following:

Erroneous Description of Project, Inadequate Analysis of Impacts to the proposed Project Areas and Surrounding Environs, and No Reference or Analysis of the Resultant Displacements Caused by Redevelopment: The DEIR fails to adequately describe the Project as currently contemplated by the City. The Project, in essence, is a large- scale, infill development of a high-intensity, high visibility commercial corridor consisting of new retail, hospitality and entertainment uses along Telegraph Road between the Citadel Outlets and Commerce Hotel and Casino. The proposed Project contemplates the elimination and demolition of an urban area consisting of at least six light and heavy industrial/manufacturing facilities and one commercial building; and, the construction of over 1 million square feet (sf) of new development without any consideration or analysis of the impacts rezoning, construction and use will have on the existing and surrounding industrial/manufacturing facilities.

Response 6.

Section 2.3 of the Draft EIR includes a detailed description of the proposed project using narrative, graphics, and tables. Section 2.3.4 summarizes the proposed *new* development within the three areas (Area 1, Area 2, and Area 3) will have a total floor area of 1,007,202 square feet. The new development will consist of approximately 237,662 square feet of retail uses; 358,000 square feet of hotel uses totaling 770 rooms; 270,000 square feet of theater, entertainment, and recreation uses; 16,540 square feet of food serving uses, 70,000 square feet of office uses, and 55,000 square feet of industrial uses. This breakdown in land uses assumes that Pad 5 in Area 3 will be developed as an office use instead of a fast food restaurant. The proposed land uses and development for the three project areas were described in Table 2-2.

The location and extent of the proposed project's detail is in Section 2 of the Draft EIR using both text and graphics. For example, Table 2-1 identifies special buildings and/or land uses that would potentially be affected by the proposed project's implementation. The existing land uses and development within the three project areas (Area 1, Area 2, and Area 3) total 190,243 square feet including 79,375 square feet in Area 1; 88,368 square feet in Area 2; and 22,500 square feet in Area 3. The existing vacant and undeveloped parcels located within the Planning Area were previously occupied by development that has since been demolished.

Comment 7.

The DEIR also does not contain any analysis of the necessary acquisitions and displacements of existing industrial/manufacturing uses/businesses located within the proposed Project area necessary for construction of this massive infill project. In fact, the DEIR erroneously identifies at least three industrial developments that are currently occupied (i.e., 2366 Travers, 5901 Telegraph Road and 5788 Smithway) as "vacant", presumably, to avoid any displacement and relocation analysis. Despite anticipating such a large-scale development of new uses in a historic industrial area, requiring a number of acquisitions/displacements of existing businesses, the study does not include any analysis of the environmental impacts that will result from such takings/displacements. Rather, the DEIR avoids any such discussion whatsoever.

Response 7.

The Draft EIR clearly identifies the location and extent of the proposed new development. The three buildings cited in the above comment, 2366 Travers Avenue, 5901 Telegraph Road, and 5788 Smithway Street, were unoccupied at the time the field survey was completed. The site visits were completed on a weekday (October 8, 2018). The building located at 5788 Smithway Street is new though it was unoccupied at the time of the survey (refer to Exhibit 2-4C in the Draft EIR). The building located at 2366 Travers Avenue was also unoccupied and did not include any building signage (refer to Exhibit 2-5B in the Draft EIR). Finally, the building located at 5901 Telegraph Road also appeared to be vacant at the time of the survey (refer to Exhibit 2-6A in the Draft EIR).

Section 2.2 of the Draft EIR indicated location and extent of the existing land uses and development with the three planning areas. The Planning Area consists of urban development that includes a range of land uses consisting of commercial, industrial, warehousing, surface parking areas, and vacant land. The majority of the existing vacant land is included in Area 2 and Area 3. However, all of the existing vacant land includes parcels that were formerly developed. The affected area encompasses a total land area of approximately 44 acres that include approximately 8 acres in Area 1; 26 acres in Area 2; and 10 acres in Area 3.

Area 1 includes an area located within the existing Citadel shopping center complex consisting of approximately 8 acres. Area 1 is predominately located within the northeast portion of the Citadel, which is presently occupied by surface parking and two warehouses. *Area 2* consists of approximately 26 acres and is located east of the existing Citadel complex and continuing easterly for an approximate distance of 2,100

feet. Area 3 consists of approximately 10 acres of land located on the northwest corner of Washington Boulevard and Telegraph Road. Washington Boulevard extends along the east side of Area 3 while Telegraph Road extends along the south side. The majority of the site is vacant though a single building used as a furniture outlet retailer occupies the western portion of Area 3. The floor area and other information of the existing buildings/uses were summarized in Table 2-1.

Comment 8.

Notwithstanding the obvious need to displace numerous existing business[es], both inside and outside the Project area, to effective the Project's goals and objectives, the DEIR is devoid of any discussion or analysis, and improperly defers such mitigation analysis to a nondescript future date. However, such deferral of mitigation analysis is improper and consistently condemned by CEQA Guidelines and case law. (See, Defend the Bay v. City of Irvine (2004) 119 Cal.App.4th 1261; Endangered Habitats League v. County of Orange (2005) 131 Cal.App.4th 777; Citizens for Quality Growth v. City of Mount Shasta (1988) 198 Cal.App.3d 433.)

Response 8.

No businesses located outside of the project area will be dislocated. Those buildings that will be demolished are owned by the project proponent. The comment is unclear as to the nature of any deferred mitigation. In addition, please refer to Responses 6 and 7.

Comment 9.

Presumably, the DEIR fails to adequately describe the Project in order to circumvent the mandates of CEQA, and avoid a thorough analysis of the potential environmental impacts to the existing private developments within the Project area and surrounding industrial/manufacturing uses located immediately adjacent to the Project's proposed location. The Project as proposed will critically damage the existing developments within the Project area, including, without limitation All's business located at the Subject Property. The Project must address the environmental impacts on these private developments during and after the Project's proposed construction period including, without limitation, the associated traffic disruption/access impediments, loss of parking, noise and noxious fumes related thereto.

Response 9.

The comment does not identify the specific business that would be affected or the potential nature of the impact. The Draft EIR in both text and graphics clearly indicates the land occupied by the existing Commerce Casino and Hotel and the industrial properties located to the west of Tubeway Avenue are not part of the proposed project. The Draft EIR on Page 39 states the following:

“The entire project area, referred to herein after as the “Planning Area,” is located along the north side of Telegraph Road between Hoefner Avenue (on the west) continuing east to Washington Boulevard. The land occupied by the existing Commerce Casino and Hotel and the industrial properties located to

the west of Tubeway Avenue are not part of the proposed project.”

Comment 10.

Accordingly, an analysis of the environmental impacts associated with these takings must be included in any future Environmental Impact Report ("EIR"). Further, the City must prepare a Relocation Plan pursuant to Title 25, Section 6038 of the California Code of Regulations. (See, Cal. Code Regs., Tit. 25, § 6038.)

Response 10.

The comment is noted for the record. No businesses will be dislocated outside of the planning area. In addition, there will not be any use of eminent domain requiring the preparation of a relocation plan. Those buildings that will be demolished are owned by the project proponent. Finally, the Draft EIR, in both text and graphics, clearly indicates the land occupied by the existing Commerce Casino and Hotel and the industrial properties located to the west of Tubeway Avenue are not part of the proposed project.

Comment 11.

Failure to Reference or Analyze the Project's Impacts to the Subject Property or the Existing Industrial Uses Located to the West of Tubeway Avenue and the Commerce Hotel and Casino: Any impact that is not reduced to a level of less than significant must be identified in an EIR as significant and unavoidable, and appropriate overriding considerations must be identified in findings adopted by the public agency. Inexplicably, the DEIR does not fully assess and quantify cumulative impacts associated with the Project due to the exponential intensification of new retail, commercial, hotel, entertainment, office and related uses to a historically industrial area and the resultant elimination of parking, arterial roadways, and increased traffic in the Project Areas and surrounding environs.

Response 11.

The Draft EIR included a comprehensive traffic analysis that indicated the proposed project's impact on local streets. The traffic analysis examined a large number of intersections in the vicinity of the project area. Weekday morning and afternoon peak hour and Saturday midday peak hour traffic counts were conducted at a total of the 29 study intersections. This analysis included the Telegraph Road and Tubeway Avenue intersection which was operating at an “excellent” level of service: LOS A (volume to capacity ratio of 0.377) during the morning peak hour; LOS A (volume to capacity ratio of 0.402) during the evening morning peak hour; and a LOS A (volume to capacity ratio of 0.411) during the mid-day peak hour). When adding the project traffic to this same intersection, the LOS will continue to be “excellent.” As indicated in the Draft EIR (Table 3-23) the intersection will continue to operate at a LOS A (volume to capacity ratio of 0.420) during the morning peak hour; LOS A (volume to capacity ratio of 0.445) during the evening morning peak hour; and a LOS A (volume to capacity ratio of 0.439) during the mid-day peak hour).

Comment 12.

One glaring example of the DEIR's deficiency is the lack of any analysis concerning existing private developments physically located within and literally "sandwiched" between the Project Areas, including, but not limited to, the Subject Property, an approximately 225,000 sf industrial facility located in-between Planning Areas 1 and 2. The City contemplates the demolition of no less than five industrial buildings in these proposed project areas, and, in place thereof, the construction and development of three hotels, three parking structures, a 120,000 sf recreation/commercial center, an entertainment complex and Icon Tower. In addition, the City contemplates the realignment and extension of Gaspar Avenue, the Subject Property's only drive aisle, thereby creating a substantial impairment to All's vehicular and pedestrian access (ingress/egress).

Response 12.

The Draft EIR clearly indicates this area in question is not part of the proposed project. As stated in Section 2-1:

“The entire project area, referred to herein after as the “Planning Area,” is located along the north side of Telegraph Road between Hoefner Avenue (on the west) continuing east to Washington Boulevard. The land occupied by the existing Commerce Casino and Hotel and the industrial properties located to the west of Tubeway Avenue are not part of the proposed project.”

Gaspar Avenue will be extended northerly to connect to Smithway Street. The characterization of this extension as a “drive aisle” is misleading in that the roadway extension will have a curb to curb width of 48 feet and will include four travel lanes.

Comment 13.

Specifically, the proposed Project does not reference or analyze its adverse impacts to the significant amount of trailer-truck traffic and employee/vehicular traffic exiting Gaspar west towards Telegraph Ave. As proposed, the Project does not appear to permit All's large trailer-trucks to exist along the Gaspar Avenue extension east towards Smithway to alleviate the significant amount of traffic congestion along Telegraph Avenue caused during and after construction of the proposed Project. Likewise, the proposed Project also does not reference or analyze the significant adverse impacts to vehicular traffic exiting Gaspar westward towards Telegraph Avenue. The construction of this massive infill Project will substantially impair traffic circulation and access to/from the Subject Property especially in light of the exponential increase in patrons and employees, and anticipated decrease in traffic speeds within the Project Areas.

Response 13.

As detailed in the study, the traffic volumes used in the analysis accounted for both existing and future truck levels. The analysis assumed between 5 and 10% truck traffic on major roadways and between 2 and 5% truck traffic on minor roadways in the analysis of existing and future traffic impacts. Each truck trip was then factored up by 2.5% to represent PCE using the street system. This analysis was conducted under Future with Truck Traffic conditions. The project's implementation will not preclude the use of truck traffic. The traffic analysis indicated that even with the existing background and future truck traffic, the level of service (LOS) at the Gaspar Avenue and Telegraph Road would continue to operate at LOS A.

Comment 14.

Though the proposed Project eliminates and substantially impairs access to the Subject Property, none of these impacts have been addressed or analyzed in the DEIR. Without ease of accessibility, the desirability of a distribution and logistics center such as the Subject Property is negatively impacted.

Response 14.

The comment fails to indicate how the project's circulation will impair or eliminate access to their properties. As indicated in the site plans, these properties will continue to be served by the existing roadway network of Telegraph Road, Travers Avenue, and Tubeway Avenue. Any modifications to Gaspar Avenue during the Gaspar Avenue extension would maintain access to all existing adjacent private properties.

Comment 15.

The Project as proposed will critically damage the Subject Property as well as all of the existing light and heavy industrial businesses operating within and immediately adjacent to the Project Areas. Without such an analysis, the proposed Project constitutes bad land use planning, and is tantamount to impermissible "spot zoning" in that the DEIR targets a historic industrial area and creates a patchwork of incompatible land uses.

Response 15.

The comment is unclear as to the specific nature of the potential adverse impacts. The area has been designated in the City's General Plan and Redevelopment Plan for more intensive commercial uses for more than two decades. The proposed project, as clearly stated in the Draft EIR, will not affect those properties located between Areas 2 and 3.

Comment 16.

The City's traffic analysis contained in the DEIR is inaccurate and incomplete. The analysis does not analyze the Project's impacts on a significant number of industrial developments located within and immediately adjacent to the Project Areas such as, but not limited to, the Subject Property and/or impermissibly defers mitigation analysis to an undefined future date when Project construction is to

commence. The traffic analysis is also inaccurate because the City relies on a flawed methodology that undercounts traffic and underestimates traffic impacts. The City's traffic study is also incomplete because it does not analyze the proposed Project's impacts on pedestrian foot traffic and bicycle traffic within the proposed Project Areas.

Response 16.

The Draft EIR's analysis and traffic impacts included considering both automobile and truck traffic impacts. Pedestrian traffic will largely be internal to the proposed project and will result in a reduction of vehicle trips as pedestrians can walk from destination to destination within the site. Pedestrian and bicycle facilities in the study area will not be affected by the implementation of the Project. In addition, many of the patrons are transported to the retail and hotel uses using buses and other alternative modes. However, to get a maximum case analysis, vehicular traffic rates were developed for each of the project components.

The comment fails to articulate the flaws in the City's methodology that leads to the purported underestimation of trip generation and traffic impacts. The trip generation and traffic impact analyses are consistent with City standards and with state of the industry practice in Southern California EIRs.

Comment 17.

The significant delays and impediments to traffic and transportation caused by the construction and implementation of the Project are significant adverse environmental impacts. Construction will require street closures with detours in some areas of the Project. The DEIR recognizes that certain construction impacts will be adverse. However, the study inexplicably concludes that no adverse impact is expected due to implementation of certain mitigation measures. Significant traffic delays during construction of the Project are a significant environmental impact that will affect the quality of the human environment.

Response 17.

All construction activity and staging will be largely undertaken within the existing property. The project team will work with the City to draft and finalize a Construction Management Plan to minimize construction-related impacts to adjacent streets and to pedestrian circulation. Any external roadway impacts will be related to the installation of new driveway, traffic controls, and other related infrastructure. Further the study did not say there were "no adverse impacts" but rather no significant impacts as defined by the City.

Comment 18.

The traffic analysis is also stale, conducting almost three years prior in May 2016.

Response 18.

As detailed in the traffic study, weekday morning and afternoon peak hour and Saturday midday peak hour traffic counts were conducted at the 29 study intersections in May 2016. Five study intersections were

recounted in 2018 to compare to the earlier Year 2016 intersection count results. The 2018 results were similar to the 2016 results and showed very little growth in traffic during the peak hours. Nevertheless, for conservative purposes, the 2016 counts were expanded by one percent per year to reflect *Existing (Year 2018) Conditions*.

In addition, future traffic volumes were grown by a 1% per year ambient growth factor as well as traffic from the surrounding 18 future development projects. This is a conservative approach as compared to the 0.85% per year ambient growth factor as forecasted by the 2010 CMP.

Comment 19.

These traffic impacts must be addressed further in an EIR.

Response 19.

The comment is noted for the record. The Draft EIR evaluated the proposed project's traffic impacts that included the preparation of a traffic study. The results of the traffic analysis were summarized in Section 3.11 of the Draft EIR.

Comment 20.

Population and Housing: The DEIR indicates that there are less than significant impacts to Population and Housing (and therefore no mitigation is necessary). However, this conclusion is misleading since the DEIR recognizes that the Project will directly and indirectly induce population growth on the Project site and in the surrounding community through the net increase of approximately 1,750 jobs. Moreover, the DEIR acknowledges that there is a severe deficiency of housing in and immediately adjacent to the Project Areas, and that the project team does not envision the potential for new housing development in the Project Areas.

Response 20.

The proposed project's impact on population and housing were analyzed in Section 3.9 of the Draft EIR. The comment fails to indicate the particular issue area that is of concern given no housing units are located within the project area nor will any residents be dislocated. In addition, the proposed project will not involve the construction or dislocation of any residential units. The Draft EIR did consider the proposed project's growth inducing impacts associated with future employment generation.

A total of 1,750 new jobs will be created by the proposed project (a detailed breakdown of the potential employment generation is provided herein in Section 3-10). The number of jobs that will be created is well within SCAG's employment projections for the City. In addition, the project may aid in reducing citywide unemployment, which currently stands at 4.1% as of December 2018. The current 2019 unemployment rate for the City of Commerce is 5.8%, which translates into 300 local residents actively seeking work. The corresponding figures for surrounding communities including Bell (600 unemployed persons or an

unemployment rate of 4.2%); Bell Gardens (700 unemployed persons or an unemployment rate of 4.8%); Maywood (500 unemployed persons or an unemployment rate of 3.7%); East Los Angeles (3,800 unemployed persons or an unemployment rate of 6.6%); and Montebello (1,200 unemployed persons or an unemployment rate of 4.2%). Within these five adjacent communities, there are a total of 6,800 persons actively seeking work.

Comment 21.

The Project will induce substantial population growth in and outside the Project Areas. The surrounding community is already overcrowded and the resulting residential density will exceed residential capacity therein. This is a significant unavoidable impact that should be identified in the DEIR. The DEIR should be re-circulated and further information and analysis concerning the above impacts should be included to properly assess these impacts.

Response 21.

The comment is noted for the record. The proposed project will also conform to Consistency Criteria 2 since it will not significantly affect any regional population, housing, and employment projections prepared for the City of Commerce. Projects that are consistent with the projections of employment and population forecasts identified in the Regional Comprehensive Plan (RCP) prepared by the Southern California Association of Governments (SCAG) are considered consistent with the AQMP growth projections, since the RCP forms the basis of the land use and transportation control portions of the AQMP. According to the Growth Forecast Appendix prepared by SCAG for the 2016-2040 Regional Transportation Plan (RTP), the City of Commerce is projected to add a total of 4,500 jobs through the year 2040. A total of 1,750 new jobs will be created by the proposed project, assuming employment generation rates derived from the Institute of Transportation Engineers. The number of jobs that will be created is well within SCAG's employment projections for the City. In addition, the project may aid in reducing citywide unemployment.

Comment 22.

Public Services and Utilities: The proposed Project is anticipated to generate approximately 1 million sf of new development and at least 1,750 new jobs. Yet, the DEIR blithely concludes that such development will have no impact on the existing police or fire protection services to avoid any analysis. The impacts caused by the proposed Project and need for new or expanded public services must be analyzed in an EIR.

Response 22.

Refer to Response 21. The Citadel Outlets Security Department will continue to maintain patrols throughout the complex during business hours and after hours. Other responsibilities include public safety and traffic control. The hotels located within the existing Citadel outlets also maintain their own in-house security. Finally, the Citadel currently pays for the cost of one full-time LACSD position to patrol the site.

Comment 23.

Improper Baseline Analysis: The DEIR improperly concludes less than significant impacts based on future development assumptions in the City's General Plan. A proper baseline analysis must be predicated on existing physical conditions, and not future assumptions. (County v. Amador v. El Dorado Water Agency (1999) 76 Cal.App.4th 931.)

Response 23.

The baseline analysis is described in the Environmental Setting section of the Draft EIR (refer to Section 2.2). The General Plan potential permitted build-out for the planning area was not considered or referred to in the “baseline” against which the potential impacts were weighed.

Comment 24.

Failure to Address Cumulative Impacts from Reasonably Foreseeable Future Actions as Significant and Unavoidable: The DEIR is defective because it does not include a discussion and analysis of the cumulative environmental impacts of the proposed Project and Caltrans's Interstate 5 freeway widening/expansion project through Los Angeles County.

Response 24.

The cumulative project list, identified in Table 4-1 and Exhibit 4-1 of the Draft EIR was provided by the City of Commerce working with the project traffic engineer. The 18 related projects include 198,781 square feet of manufacturing uses, 323,835 square feet of warehouse uses, 94,446 square feet of office space, 198,262 square feet of retail floor area, 9,542 square feet of entertainment uses, 2,600 square feet of fast-food, a small shopping center consisting of 16,000 square feet, and a single residential unit. The Draft EIR acknowledged the proposed I-05 Freeway widening project (refer to page 177). The Draft EIR stated the following:

“While there are some major projects proposed for the street system surrounding the Planning Area including improvements to I-5 corridor adjacent to the Planning Area, none of the planned improvements will be completed by the opening year of the Project (Year 2025), and, therefore, no background roadway improvements were assumed to be in place in the future scenarios.”

The future widening of the I-5 Freeway would enhance the capacity and also facilitate new ramp improvements that would mitigate project’s traffic. However, the baseline analysis needed to evaluate the impact of the project on existing conditions and for that reason the future improvements to the I-5 were not considered with the level of service evaluations.

Comment 25.

A DEIR must describe a reasonable range of alternatives to the Project, or to the location of the Project, that could feasibly attain most of the basic objectives of the Project while avoiding or substantially lessening any of the significant effects of the project. (CEQA Guidelines §15126.6.) The range of feasible alternatives shall be elected and discussed in a manner to foster meaningful public participation and informed decision making. (Ibid.)

“Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site (or the site is already owned by the propend).” (Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal. 3d 553.)

Here, the DEIR briefly discusses alternatives to the Project, yet a discussion of the Project alternatives is conspicuously deficient. Indeed, the descriptions of these alternatives are so vague that the City cannot accurately compare the Project to the alternatives. (CEQA Guidelines §15126.6, subd. (f)(2).) Finally, there are no discussions of alternative sites. In sum, the DEIR does not discuss a reasonable range of alternatives to the Project, and does not describe the alternatives to the Project in sufficient detail. Such omissions are in violation of CEQA Guidelines section 15126.6.

The EIR must also include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. (CEQA Guidelines §15126.6, subd. (d).) However, the discussion in the DEIR of the environmental impacts that would be caused by the Project alternatives merely states whether the alternatives would result in more or less impacts. Almost no information is provided that quantifies the impact differentials.

The DEIR does not include sufficient information of the Project alternatives to allow for a meaningful evaluation, analysis, and comparison with the proposed Project. Merely stating that an alternative will result in more or less impacts does not provide the public and the City with enough information to adequately analyze the alternatives to the Project.

Response 25.

Section 5.2 of the Draft EIR states the following:

“An EIR need not consider every conceivable alternative to a project. According to the CEQA Guidelines, an EIR must describe a “reasonable range of alternatives” to a proposed project. The alternatives selected for comparison should be those that would attain most of the basic objectives of the project and avoid or substantially lessen one or more significant effects of the project (CEQA Guidelines Section 15126.6). The “range of alternatives” is governed by the “rule of reason,” which requires the EIR to set forth only those alternatives necessary to permit an informed and reasoned

choice by the decision-making body and informed public participation (CEQA Guidelines Section 15126.6[f]). CEQA generally defines “feasible” to mean an alternative that is capable of being accomplished in a successful manner within a reasonable period of time, while also taking into account economic, environmental, social, technological, and legal factors.”

The alternatives that were selected were compared to the project objectives (also listed in Section 2.6 of the Draft EIR) that included the following:

1. The addition of new upscale retail tenant uses for this key corridor (Telegraph Road) in the City;
2. The erection and operation of a new state-of-the-art hotel uses;
3. The creation of an aesthetically attractive, high-quality design that reflects the property’s location within view of those traveling along the I-5 Freeway;
3. The provision of a high level of accessibility to and through the Telegraph Road corridor, to promote pedestrian travel and efficient vehicular access;
4. The enhancement of the economic vitality of the City by providing sales tax and other revenue generation opportunities; and,
5. The creation of new jobs for the local economy.

An alternative site for the project was not considered when its implementation is “remote and speculative” such as the site being out of the purview of the Lead Agency or beyond the control of a project Applicant.

Comment 26.

Given the significant procedural and substantive errors in the DEIR, the document should be thoroughly revised and recirculated for public review and comment.

Response 26.

Comment is noted for the record. The City of Commerce, in its capacity as Lead Agency for the proposed project re-circulated the Draft EIR for an additional 45-day review period that commenced on March 27, 2019 and ended on May 10, 2019.

Response to Comment Letter Dated March 22, 2019

Michael Alti

Community Legal Advisors Inc.

Comment 1.

Community Legal Advisors Inc. represents the Citadel Business Park Owners Association (the "Association"), which manages the Citadel Business Park ("Business Park"). We appreciate the opportunity to comment on the Draft Environmental Impact Report ("EIR") for the Citadel Outlets Expansion & 10-Acre Development Project ("Project"). Our initial concerns about the Project and the contents and deficiencies of the Draft EIR are discussed below.

Response 1.

The comment has been noted for the record.

Comment 2.

Summary of Comments. In reliance on your statement that the deadline to comment on this Draft EIR is going to be extended well beyond March 22, 2019, this letter is not intended to provide the Association's entire comments on the Draft EIR. Rather, the purpose of this letter is to notify the City of Commerce ("City") that the Draft EIR completely ignores the existence of the Association, ignores the fact that two of the buildings/lots located in the Project site are actually located within the Association and subject to its recorded CC&Rs, and ignores numerous well- established easements and other restrictions encumbering those two buildings/lots.

Response 2.

The City of Commerce, in its capacity as Lead Agency for the proposed project re-circulated the Draft EIR for an additional 45-day review period that commenced on March 27, 2017 and ended on May 10, 2019.

Comment 3.

The existing buildings/lots at 5780 and 5788 Smithway Street (which the Project proposes to demolish and replace with a hotel) are both located inside the Business Park, as is the area where Gaspar Avenue is proposed to be extended. The Association is very disappointed that no representative from the City nor from the Project applicant has ever reached out to the Association about the proposed Project, even though a portion of the Project site comprises a significant part of the Association, and the Project will inevitably tremendously impact the Association and its members.

Response 3.

The comment is noted for the record.

Comment 4.

Under Appendix G of the State CEQA Guidelines, an EIR should consider whether a Project would "physically divide an established community." Here, the Draft EIR does not even address this question at all. Consequently, the Draft EIR is woefully deficient and in violation of CEQA because it completely ignores the Project's environmental impacts on the Association and how the Project would physically divide the Citadel Business Park and impair existing and established utility, access, drainage, ponding, and other easements.

Response 4.

The property owner of the two properties in question has requested their inclusion into the planning area. Portions of the Area 1 will require a number of Zone Changes to accommodate the proposed uses. The first set of zone changes, from M-2 (*Heavy Industrial*) to C-2 (*Commercial*), will be required for two sites located in Area 1.

Comment 5.

As explained below, the City should refrain from any further action on the Project until it fully analyzes and addresses the Project's impacts on the Business Park. The Draft EIR should not be recirculated until this is done; otherwise, it is grossly incomplete, inadequate, and in violation of CEQA.

Response 5.

The comment is noted for the record. The Draft EIR clearly identifies the two properties in question that will be affected as part of the proposed project's implementation.

Comment 6.

Recirculation of Draft EIR and New Review Period. As an initial matter and to memorialize our discussion held on March 20, 2019 as well as your confirming email and your letter dated March 21, 2019, public comments on the Draft EIR are not due on March 22, 2019, because the City will be making corrections to the Draft EIR and recirculating it, thereby triggering a new 45-day public review and comment period per Section 15105 of the State CEQA Guidelines. Thus, we intend on fully reviewing the newly circulated Draft EIR and providing our written comments on the Project and Draft EIR after it becomes available.

Response 6.

The comment is noted for the record. The City did recirculate the Draft EIR. The City of Commerce, in its capacity as Lead Agency for the proposed project re-circulated the Draft EIR for an additional 45-day review period that commenced on March 27, 2017 and ended on May 10, 2019.

Comment 7.

Errors and Deficiencies in the Initial Public Review Period. We also need to point out that our initial understanding was that comments on the Draft EIR were due on March 22, 2019. The City's website contains no information to the contrary. Page 7 of the Draft EIR states that "this EIR will be circulated for public review for a period of 45-days, beginning February 7, 2019 and ending March 22, 2019.

Response 7.

The City of Commerce, in its capacity as Lead Agency for the proposed project re-circulated the Draft EIR for an additional 45-day review period that commenced on March 27, 2017 and ended on May 10, 2019.

Comment 8.

Upon further review, we observed that the Draft EIR is actually dated February 14, 2019 (Draft EIR, p. 1). We are at a loss how the public review period could begin 1 week before the actual date of the Draft EIR. Further, we also learned that the State Clearinghouse received the Draft EIR on February 19, 2019. The State Clearinghouse website shows that the public review period is actually from February 19, 2019, to April 4, 2019. In light of this, we do not understand why the Draft EIR states that the public review period would end on March 22, 2019. This is misleading and certainly impacts and harms the public.

Response 8.

The City of Commerce, in its capacity as Lead Agency for the proposed project re-circulated the Draft EIR for an additional 45-day review period that commenced on March 27, 2017 and ended on May 10, 2019.

Comment 9.

Had the City not chosen to recirculate the Draft EIR, it would have been in serious violation of Section 15105 of the State CEQA Guidelines because it would not have provided the public with the required 45-days to review the Draft EIR. All these discrepancies in the dates and the public review period for this Draft EIR call into question the credibility of the Draft EIR itself, including the analysis and conclusions therein.

Response 9.

As stated previously, the City of Commerce, in its capacity as Lead Agency for the proposed project re-circulated the Draft EIR for an additional 45-day review period that commenced on March 27, 2017 and ended on May 10, 2019.

Comment 10.

Description of the Association and the Citadel Business Park. The Citadel Business Park is a commercial common interest development that was established in 2004 and comprises a total of 10 lots and 10 buildings on a total of 24 acres, all adjacent to the existing Citadel Outlets. The entire Business Park is governed by the Declaration of Covenants, Conditions and Restrictions recorded on February 2, 2004 as Document No. 04-226642 in the Official Records of Los Angeles County (the "CC&Rs"). A copy of the CC&Rs is attached for your reference, review and consideration. The 10 lots that make up the Business Park are Lots 1 through 10 of Tract Map No. 53813.

Response 10.

The comment is noted for the record.

Comment 11.

The businesses which make up the Association have been located in this part of the City of Commerce for 15 years and play a vital role in the economy. Most notably 2 of the lots within the Business Park (5780 and 5788 Smithway Street, or Lots 4 and 5 of Tract Map No. 53813, respectively) as well as surrounding common area including driveways and parking spaces are actually located within the boundaries of the proposed Project, even though the Draft EIR makes absolutely no mention of this critical fact. 5 other buildings/lots are located immediately east of those two lots, and just east of the proposed Gaspar Avenue extension. The remaining 3 buildings are located on the northern side of Smithway Street.

Response 11.

The comment is noted for the record. These lots are noted Section 2 (refer to Table 2-1). The 5780 Smithway Street address is occupied by Unicorp and Uninex International while the building located at 5788 Smithway Street is currently vacant.

Comment 12.

It should also be noted that the proposed Gaspar Avenue extension would encompass portions of the parking areas and driveways within the Business Park - the Draft EIR makes no mention of this very important fact either.

Response 12.

The Draft EIR clearly indicates the location and extent of the proposed extension of Gaspar Avenue to Smithway Street. The proposed project involves the construction of new parking structures in the immediate vicinity, and therefore, any needed parking from future development would be provided by this parking.

Comment 13.

CEQA Requires Consideration of Whether a Project Would Physically Divide an Established Community. Appendix G of the State CEQA Guidelines requires an EIR to consider, under the Land Use and Planning section, whether a project would "physically divide an established community." The Draft EIR does not even address this question, nor does it even consider the Project's effects on the Business Park. Thus, the Draft EIR fails to meet the standard discussed by the California Supreme Court "to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action" (Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 392).

Response 13.

The comment is noted for the record. These lots are noted Section 2 (refer to Table 2-1). The 5780 Smithway Street address is occupied by Unicorp and Uninex International while the building located at 5788 Smithway Street is currently vacant. The analysis included in the Draft EIR clearly indicates the location and extent of potential development within the affected area. Those businesses located to the north of Smithway Street will not be impacted by the proposed project.

Comment 14.

As a master planned business park and an integrated commercial development, the Citadel Business Park is a commercial community. Its CC&Rs were recorded to "establish certain covenants, conditions and restrictions and to grant and reserve certain easements upon the Property and each and every portion thereof, which constitute a general scheme for the use, maintenance, management and development on an integrated basis of the Property and for the use, occupancy and enjoyment thereof (CC&Rs, Recital D).

Significantly, upon recordation in 2004, the CC&Rs effectuated the grant and reservation of numerous easements in favor the Association and all the other owners in the Business Park. These easements include the following:

- Utility Easements. Section 6.1 of the CC&Rs establishes easements for the installation, maintenance and use of all utilities (water, sewer, gas, electrical, etc...) over the "Easement Area" which is described in Exhibit C to the CC&Rs.*
- Pedestrian Easement. CC&R Section 6.2 reserves perpetual easements for pedestrian walkways over all portions of the Business Park.*
- Common Area Easements. CC&R Section 6.3 reserves perpetual easements for the use and enjoyment of the Common Areas.*

- *Reciprocal Access Easements.* Section 6.9 grants and reserves various perpetual reciprocal access easements over the Lots in the Business Park. These perpetual access easements are a vital part of this integrated community, and critical to traffic flow within and in and out of the Business Park.
- *Fire System Easements.* The Business Park contains an integrated fire suppression system vital for the safety of the entire community. CC&R Section 6.10 establishes various easements over the lots in the Business Park for "the operation of a fire suppression system." Section 6.10.2 of the CC&Rs describes the "Lot 8 Fire System" which benefits Lots 4 through 10. We would point out that 5780 Smithway is Lot 4 under the CC&Rs, and 5788 Smithway is Lot 5. Thus, two of the buildings located in the Project site are part of the "Lot 8 Fire System." The Draft EIR makes no mention of the fire suppression system benefitting the Association, or how the proposed Project would significantly impact that system and the other properties, even though the Project proposes to demolish these buildings.
- *Drainage Easements.* CC&R Section 6.11 establishes drainage easements "for the purpose of changing, correcting or otherwise modifying the grade or drainage channels of the Property so as to improve the drainage of water on the Property."
- *Ponding Area Easements.* CC&R Section 6.12 establishes easement for "water ponding areas," including over 5780 and 5788 Smithway as depicted in Exhibit G to the CC&Rs.
- *No Build Areas.* CC&R Section 6.13 establishes "no build areas." In particular, Section 6.13.2 establishes a no build area over Lot 4 (5780 Smithway) to benefit Lot 6, and Section 6.13.5 establishes a no build area over Lot 5 (5788 Smithway) to benefit Lot 7. The Draft EIR makes no mention of these no build areas, and whether or how the proposed Project (including the proposed hotels and other improvements) would violate this.

The Draft EIR fails to mention any of these establishment easement rights over 5780 Smithway and 5788 Smithway; therefore, it fails to evaluate the environmental impacts on the Association and its members. The proposed Project cannot proceed because it would violate these easement rights. Also relevant, Section 3.2.6 of the CC&Rs prohibits any subdivision, resubdivision or lot line or boundary line adjustment of any portion of any Lot without the Association's prior written approval. The proposed Project would obviously violate this as well.

Response 14.

Any recorded easements must be considered in future planning and development. The comment is noted for the record. Future developments occurring within this area will be reviewed to ensure that adequate infrastructure is provided to accommodate projected demand. The City is part of an ongoing review that will continue with the association to ensure that the project is in conformance with any stipulated land use restrictions.

Comment 15.

In summary, without a consideration and analysis of the Citadel Business Park, the Draft EIR entirely fails to address the land use impacts of the proposed Project.

Response 18.

The comment is noted for the record.

Comment 19.

The Draft EIR Fails to Consider the Existing Methane Gas Control System and the Project's Impacts Thereon. Article 14 of the CC&Rs is entitled "Methane Gas Control System." It states as follows: "Lots 4 through 10 are located on or within two hundred (200) feet of active and/or abandoned oil well or wells. The Owners of said Lots shall have no right to make any modifications to any methane gas system, if any, without the prior written approval from the County of Los Angeles Department of Public Works..."

Response 19.

The Draft EIR includes a mitigation (Mitigation No. 13) that indicates "a vapor barrier must be installed at 2240 Gaspar Avenue should a building be constructed within the property."

Comment 20.

The Draft EIR fails to mention any of these issues, including the active or abandoned oil wells and the methane gas system referred to in Article 14. Thus, the Draft EIR fails to consider the possible significant effects of the Project in terms of hazards and hazardous materials.

Response 20.

Area 1 is situated along the northeastern side of Telegraph Road and was originally owned by Uniroyal, the historical successor to the Samson Tire Company. Parcel B consists of approximately 12.9 acres situated along the northeastern boundary of Parcel A and was owned by the Pacific Tube Company. Parcel C is a one acre parcel at the northern intersection of Parcels A and B, and at the southern intersection of Flotilla Street and Hoefner Avenue that was purchased in 2008. According to the State of California, the Department of Conservation, Division of Oil, Gas, and Geothermal Resources, there are no oil wells located in Areas 1, 2, or 3.

Comment 21.

The Draft EIR Fails to Discuss the Impacts of the Proposed Extension of Gaspar Avenue on the Association. Exhibit 2-8 of the Draft EIR depicts the future development concept for Area 1 of the Project. In addition to the proposed Travelers Hotel where 5780 and 5788 Smithway are currently located, Exhibit 2-8 shows that Gaspar Avenue would be extended to the north all the way to Smithway Street. The area in

question where Gaspar Avenue would be extended currently consists of driveways and parking spaces, all which are part of the Business Park. This means that Gaspar Avenue would essentially cut through and divide the Business Park, and that the City or the Project applicant would be taking and altering a portion of the Business Park. It also means that the Business Park would be forced to lose valuable parking spaces. Again, no representative of the City or the Project applicant has ever reached out to the Association about this matter. It is wholly inappropriate and would violate numerous laws to simply remove these portions of the Business Park without the Association's consent. The Association therefore objects to the proposed extension of Gaspar Avenue and will continue to challenge it. As far as the Draft EIR, again, it fails to address the impacts of the extension of Gaspar Avenue on the Association and its members.

The Draft EIR fails to consider the substantial traffic impacts on the Business Park that would result from the extension of Gaspar Avenue, which currently is a dead-end driveway that does not even reach into the Business Park.

Response 21.

The traffic analysis considered the project's potential traffic impacts on all of the local roadways, including Gaspar Avenue. The Gaspar Avenue and Telegraph Road intersection is currently operating at an excellent level of service (LOS A). The AM peak hour ICU is 0.301, the midday peak hour ICU is 0.409, and the PM peak hour ICU is 0.341. With the project traffic, this intersection will continue to operate at an excellent level of service (LOS A). The AM peak hour ICU will be 0.058, the midday peak hour ICU will be 0.245, and the PM peak hour ICU will be 0.167.

Comment 22.

The Draft EIR fails to consider traffic and parking impacts from the Project (including the hotels, new retail shops and Gaspar Avenue extension) on the Association and its members, especially during the very busy Thanksgiving to Christmas holiday shopping season. The Business Park's parking resources are already significantly impacted from the existing outlet stores (especially during holidays), and the Project would significantly worsen that impact on parking within the Business Park. The Draft EIR is deficient for failing to mention or consider the Project's parking impacts on the Business Park.

Response 22.

The Draft EIR included a detailed traffic analysis in Section 3.16. The analysis included impacts on all of the surrounding streets. The Draft EIR and the traffic study analyzed the proposed project's potential parking demand. As indicated in the Draft EIR, the total existing and proposed uses within the Planning Area were analyzed based on the City Code requirements. A total of 4,736 spaces would be required to accommodate the parking requirements for the proposed Project. The project would provide a total of 5,538 spaces, 802 more spaces than required by Code. A total of 462 spaces would be required to accommodate the parking requirements of the 10-Acre parcel. The Project would provide a total of 2,318 spaces within the parking structures alone. The Project should help alleviate existing parking spillover concerns by providing more parking than required by Code.

Comment 23.

The Draft EIR fails to consider potential environmental soil and groundwater damage as a result of heavy construction on previously contaminated areas.

Response 23.

All of the sites are presently undergoing or have completed remediated activities. Area 1 is situated along the northeastern side of Telegraph Road and was originally owned by Uniroyal, the historical successor to the Samson Tire Company. Parcel B consists of approximately 12.9 acres situated along the northeastern boundary of Parcel A and was owned by the Pacific Tube Company. Parcel C is a one acre parcel at the northern intersection of Parcels A and B, and at the southern intersection of Flotilla Street and Hoefner Avenue that was purchased in 2008. Groundwater monitoring for volatile organic compounds (VOCs) in groundwater was being conducted to evaluate migration from the off-site former Pacific Tubing Company (PATCO) property. There are currently ten groundwater monitoring wells on the former PATCO property, located northwest of the subject property and now a part of the Citadel shopping center parking lot. The California Department of Toxic Substances Control (DTSC) has requested continued groundwater quality monitoring under work plans adopted under the PATCO voluntary cleanup agreement (VCA). A Voluntary Cleanup Agreement (VCA) was executed between the DTSC and PATCO and based on documentation reviewed; approximately 11,000 tons of PCE solvent impacted soils were removed from the former VDA area in 2001 during the facility demolition. The area has subsequently been covered with pavement to prevent stormwater percolation through the former VDA. There has been no change in the situation since 2010. Groundwater flow direction generally mimics the topography of the land.

Comment 24.

The Draft EIR fails to consider that the Business Park is largely an industrial center with substantial ingress and egress by heavy trucks. With the proposed extension of Gaspar Avenue and the construction of two hotels next to the Business Park, the Draft EIR fails to consider safety impacts on pedestrians and passenger vehicles in light of the heavy truck traffic.

Response 24.

The business park will be separated from the commercial portion of the property by Gaspar Avenue. Truck circulation and loading areas for the commercial uses will follow designated routes and specific loading areas separated from the pedestrian walkways similar to what is being done presently. Pedestrian vehicles using Gaspar Avenue to access the proposed development will be provided driveways that will direct them into the parking garages and drop off areas.

Comment 25.

The Draft EIR fails to consider impacts on existing utility systems within the Business Park.

Response 25.

The Draft EIR considered the proposed project's utility and infrastructure impacts in Section 3.12.

Comment 26.

Summary. As explained in the case of Sundstrom v. County of Mendocino (1988) 202 Cal.App.3d 296, "CEQA places the burden of environmental investigation on government rather than the public. If the local agency has failed to study an area of possible environmental impact, a fair argument may be based on the limited facts in the record. Deficiencies in the record may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences." Id. at 311 (emphasis added).

Here, the City has failed to meet its burden by completely ignoring the existence of the Business Park, the Association, the easements under its recorded CC&Rs, and all the significant impacts of the proposed Project on the Association and all of its members. The City has certainly not conducted an adequate environmental investigation by any means. The City should not take any further action with respect to the Project until it fully understands the actual scope of the Project and addresses its impacts on the Business Park. Indeed, the City should refrain from recirculating the Draft EIR until it has considered the Project's impacts on the Business Park.

Thank you again for the opportunity to comment on the Draft EIR. Please keep us on your notification list with respect to the EIR and any upcoming meetings. For notification purposes, my email is michael@attorneyforhoa.com.

Response 26.

The comment is noted for the record.

Response to Emails Dated March 21, 25, 27, 2019

Sheila Sannadan & Sara Dudley

Adams Broadwell Joseph & Cardozo

Email from Sheila Sannadan on March 21, 2019

Comment 1.

I called your office this morning and spoke with the receptionist, Rose. She mentioned that you were not in the office at the time and that she would leave a note for either of you to return my call.

We have a couple of follow up questions regarding the Citadel Outlets Expansion & 10-Acre Development Project. Please see below.

- 1. Appendix D of the DEIR was not provided last week, although Appendices A, B, and C were. Can you please provide it or the weblink?*
- 2. What is the status of our extension request on submitting written comments on the DEIR?*
- 3. What is the status of the documents referenced or relied upon in the DEIR? Are they now available?*

Response 1.

Section 3.6.4 of the Draft EIR included a reference to Appendix D in the discussion of the use of biofiltration basins as a means to facilitate proper treatment and discharge of storm water runoff by using landscaping to capture and biologically degrade pollutants carried by storm water runoff. Appendix D summarized the infiltration testing by the geotechnical engineer that indicated bioinfiltration is infeasible for the project site due to unfavorable test result and soil stratigraphy per infiltration testing conducted by GPI Geotechnical. The City of Commerce, in its capacity as Lead Agency for the proposed project re-circulated the Draft EIR for an additional 45-day review period that commenced on March 27, 2017 and ended on May 10, 2019.

Email from Sara Dudley on March 25, 2019

Comment 2.

Since the City is going to re-circulate the Draft EIR, we ask that you please withdraw the current DEIR immediately, so that the public is aware of the change and can act accordingly. I'd also like to clarify that the current comment deadline is April 4, 2019 as we have previously confirmed with your office (and not March 22, 2019}. Finally, we would like to remind you the City has a duty to make available for public review all the DEIR's appendices, as well as all documents referenced in and relied upon in the Draft EIR.

Response 2.

The City of Commerce, in its capacity as Lead Agency for the proposed project re-circulated the Draft EIR for an additional 45-day review period that commenced on March 27, 2017 and ended on May 10, 2019.

Email from Sara Dudley on March 26, 2019

Comment 3.

I am following up on the status of the City's intent to withdraw the Draft EIR for this Project and re-issue an updated document, appendices, and references. Given the impending comment deadline (April 4), your prompt attention to this matter is greatly appreciated.

Response 3.

The City of Commerce, in its capacity as Lead Agency for the proposed project re-circulated the Draft EIR for an additional 45-day review period that commenced on March 27, 2017 and ended on May 10, 2019.

Email from Sara Dudley on March 27, 2019

Comment 4.

Thank you so much for your response. However, you state that the City has re-circulated the Draft EIR, but the City's website still reflects the prior document, dated February 14, 2019 - [http://www.ci.commerce.ca.us / index.aspx?NID=357](http://www.ci.commerce.ca.us/index.aspx?NID=357) , and the website is still missing Appendix D (and other documents relied on in the Draft EIR). Is the new document available?

Response 4.

The website has since been updated. Please refer to Response 1 regarding Appendix D.

Response to Comment Letter Dated March 28, 2019

Sheila Sannadan

Adams Broadwell Joseph & Cardozo

Comment 1.

We are writing on behalf of Coalition for Responsible Equitable Economic Development ("CREED LA") to request immediate access to any and all documents referenced or relied upon in the recirculated Draft Environmental Impact Report ("DEIR") prepared for the Citadel Outlets Expansion & 10-Acre Development Project (SCH No. 2016091024) ("Project"), proposed by Citadel Holdings Group, LLC. This request excludes any documents that are otherwise available on the City of Commerce website.

Response 1.

The comment is noted for the record. No response is required.

Comment 2.

We would like to draw your attention to two matters of concern that need to be addressed:

- 1 The DEIR no longer gives a list of references and now states: Please note the references consulted as part of the Draft EIR's preparation are identified using footnotes. The URLs are identified for those online sources while the printed sources are maintained in a repository at the Planning Division in City Hall. [http://ca-commerce.civicplus.com/Document CenterNieu/4453](http://ca-commerce.civicplus.com/DocumentCenterNieu/4453) -*

DEIR, page 249. However, we are requesting all documents referenced or relied upon in the DEIR including but not limited to those cited only in the footnotes.

Response 2.

As stated in the comment, the City made a good faith effort to provide copies of those resources used in the preparation of the Draft EIR. These sources were listed on the City's website and maintained at City Hall for review and copying.

Comment 3.

The DEIR no longer gives a list of references and now states: Please note the references consulted as part of the Draft EIR's preparation are identified using footnotes. The URLs are identified for those online sources while the printed sources are maintained in a repository at the Planning Division in City Hall. [http://ca-commerce.civicplus.com/Document CenterNieu/4453](http://ca-commerce.civicplus.com/DocumentCenterNieu/4453) - DEIR, page 249. However, we are requesting all documents referenced or relied upon in the DEIR including but not limited to those cited only in the footnotes.

Our request for all documents referenced or relied upon in the DEIR is made pursuant to Public Resources Code (PRC), section 21092(b)(1), which requires that all documents referenced in an environmental review document be made available to the public for the entire comment period.

Pursuant to Government Code section 6253.9, if the requested documents are in electronic format and are 10 MB or less (or can be easily broken into chunks of 10 MB or less), please email them to ssannadan@adamsbroadwell.com as attachments. If any of the requested items are available on the Internet, we request that the City direct us to the appropriate electronic link(s) for accessing the documents.

Response 3.

The City made a good faith effort to provide copies of those resources used in the preparation of the Draft EIR. These sources were listed on the City's website and maintained at City Hall for review and copying.

Response to Comment Letter Dated April 1, 2019

Nicolas Whipps

Wittwer Parkin LLP

Comment 1.

Wittwer Parkin, LLP represents the Southwest Regional Council of Carpenters ("Southwest Carpenters"). Southwest Carpenters represents 50,000 union carpenters in six states, including in Southern California. Southwest Carpenters has a strong interest in addressing environmental impacts of development projects, including the proposed Citadel Outlets Expansion Project in Commerce, California ("Project"). We submit the following comments on the Draft Environmental Impact Report ("DEIR") on the Southwest Carpenters' behalf.

Response 1.

The comment is noted for the record. No response is required.

Comment 2.

The Project is located in three areas in the City of Commerce. Area 1 encompasses 8 acres at 5780 Smithway Street. (DEIR, p. 15.) It is located inside the existing Citadel shopping center complex, which includes surface parking and two warehouses. (Ibid.) Area 2 encompasses 26 acres at 5819 and 5901 Telegraph Road and 2366 Travers Avenue. (Ibid.) Area 3 encompasses 10 acres on the corner of Washington Boulevard and Telegraph Road at 4241 Telegraph Road. (Ibid.; Id. at p. 11.) The majority of Area 3 is vacant, but the site includes a furniture outlet retailer. (Id. at p. 15.) The Project would extend the main Citadel complex into these surrounding locations. (Id. at p. 16.)

Response 2.

The comment is a restatement of the Project Description included in the Draft EIR. No response is required.

Comment 3.

The Project, as proposed, would include the construction of several new buildings. Area 1 would include a 15,000 square foot, three-level commercial building ("Building 20"); a 107,150 square foot commercial building ("Building 21"); three new parking structures, as well as an expansion to an existing structure that would provide an additional 1,618 spaces; a five level, 80,000 square foot hotel with approximately 174 guest rooms ("Traveler's Hotel"); an additional five-level hotel building constructed on top of a four-level parking structure, which will include 96 guestrooms, encompass 98,000 square feet, and include a monorail platform ("Loft Hotel"); and approximately 41,571 square feet of retail/food uses. (DEIR, pp. 16, 21.)

Response 3.

The comment is a restatement of the Project Description included in the Draft EIR. No response is required.

Comment 4.

Area 2 would include a new 46,834 square-foot commercial retail building that includes tenant spaces ("Building 22"); a new 23,107 square-foot retail building that will also include tenant spaces ("Building 23"); a 120,000 square foot retail space with parking ("Adventure Experiential Retail"); an additional 500 guest room, 185,000 square foot hotel with a parking structure with 700 parking spaces; a 150,000 square foot theater with supporting food amenities; and a 3,140 restaurant. (Id. at p.23.) Area 3 will include a 2,000 square foot restaurant space with 38 parking spaces ("Fast Food Restaurant Pad 1"); a 4,400 square foot restaurant with 42 parking spaces ("Fast Food Restaurant Pad 2"); a 5,000 square foot restaurant with 77 parking spaces ("Fast Food Restaurant Pad 3"); a 2,000 square foot restaurant with a drive through lane and 33 parking spaces ("Fast Food Restaurant Pad 4"); a 55,000 square foot warehouse with a total of 62 surface area parking spaces, and either a 4,500 square foot fast food restaurant with 73 parking stalls or a four level, 70,000 square foot office building. (Id. at p.26.) In total, if the office building is constructed, the new development will result in the construction of 1,007,202 square feet of floor area, 237,662 square feet of retail use, 358,000 square feet of hotel use, 270,000 square feet of theater, entertainment, and recreation use, 16,540 square feet of food service, 70,000 square feet of office use, and 55,000 square feet of industrial uses. (Id. at p.28.)

Response 4.

The comment is a restatement of the Project Description included in the Draft EIR. No response is required.

Comment 5.

In order to construct the Project, two sites in Area 1 will need a zone change from M-2 (Heavy Industrial) to C-2 (Commercial). (DEIR, p. 30.) According to the DEIR, Area 3 will require "up to" two zone changes -the site of the proposed industrial building will need to be rezoned to M-2 (Heavy Industrial) and, according to the DEIR, "if an institutional/public/government facility is to be located on a portion of the joint venture site, the site must be zoned CPF (Commercial Public Facility Zone) to allow for the proposed use." (Ibid.)

Response 5.

The comment is noted for the record. The comment is accurate in its identification of the anticipated zone changes that will be required. The two sites were also identified in the Draft EIR.

Comment 6.

This large Project will create significant environmental impacts, and thus requires a careful, complete and thorough environmental analysis. As explained herein, the DEIR, however, is confusing, missing key analysis, does not provide sufficient support for conclusions that the Project will have less than significant impacts in a number of areas, and fails to provide appropriate mitigation for significant impacts. Please remedy these deficiencies as requested below.

Response 6.

The comment is noted for the record. Point by point responses will be provided to the remaining comments.

Comment 7.

"Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the 'no project' alternative), and weigh other alternatives in the balance." (County of Inyo v. City of Los Angeles (1977) 71 Cal.App.3d 185, 192-193 ["County of Inyo"].) "An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR." (Id. at p. 193, italics omitted.)

Response 7.

The comment is noted for the record. No specific issues are raised in the comment.

Comment 8.

The Project Description, however, is unclear. In the Project Description, the DEIR explains that Area 3 will either have a 4,500 square foot fast food restaurant with 73 parking stalls or a four level, 70,000 square foot office building. (DEIR at p. 26.) It also is unclear how many rooms the Traveler's Hotel will include. (See id. at p.21.) This makes it difficult to accurately or adequately evaluate the Project's environmental impacts. For example, whether Area 3 will include a 70,000 square foot office building or a 4,500 square foot restaurant and the number of rooms included in the Traveler's Hotel will alter traffic impacts for the Project. In addition, according to the DEIR, "if an institutional/public/government facility is to be located on a portion of the joint venture site, the site must be zoned CPF (Commercial Public Facility Zone) to allow for the proposed use." (Id. at p.30.) This is not mentioned in the Project description and makes it unclear whether this site will be used for either an institutional or public or government building will be located at the Project site. Without this data, decision makers and the public cannot sufficiently assess Project impacts.

Response 8.

The description is very specific in that the location and extent of the potential development options for Pad 5 are clearly described in both narrative and graphics. The *Pad 5 Alternative* will include either a *Fast Food Restaurant* consisting of 4,500 square feet of floor area and 73 parking stalls. As an alternative, a four level, 70,000 square-foot office building will be constructed on Pad 5.

Comment 9.

Please update the DEIR to explain the specific number of rooms that will be constructed in the Traveler's Hotel, and to definitively state whether an office building or a restaurant will be constructed in Area 3, and whether institutional or public or government building will be located within the Project site.

Response 9.

As stated in the Draft EIR (Table 2-2), the Traveler's Hotel will consist of five levels and 174 hotel guest rooms.

Comment 10.

In Southwest Carpenters' Initial Study comments for this Project ("Initial Study Correspondence"), Southwest Carpenters requested that the City "provide a full description of the Samson's Tire Plant facade, its historic context, and whether other nearby structures and facades are attributable to the same era or style as the Samson's Tire Plant facade" in the DEIR, so that Southwest Carpenters could fully understand the Project's impacts on Aesthetics. The DEIR, however, only mentions the Samson Tire Plant in passing, and does not discuss whether there are other nearby structures or facades from the same style or era and how they might be impacted by the Project. (See generally DEIR; DEIR, p.71.) Without this data, the City's conclusion that the Project would not have a significant impact on aesthetics is not supported by the evidence. (Cal. Code Civ. Proc. § 1094.5 [providing that agency findings must be supported by record evidence]; Cal. Pub. Resources Code § 21168 [applying the Section 1094.5 standard to CEQA actions].) Please update the DEIR to include this information.

Response 10.

As stated in the Draft EIR (page 65), the Samson Tire façade will not be adversely impacted by the proposed project. The portion of Area 1 that will be developed with new hotel and retail uses is located within the northeast portion of the Citadel. These development sites are located more than 800 feet from the Telegraph Road and will be visually blocked by the Samson façade that extends along the Telegraph Road frontage.

Comment 11.

The City is required to disclose baseline conditions for air quality in the DEIR. Yet, as explained herein, in the DEIR, the City has failed to do so. The Initial Study incorrectly indicated that the South Coast Air Basin ("SCAB") is only in nonattainment for two categories of criteria pollutants. In fact, the SCAB is in nonattainment for 1-hour ozone, 8-hour ozone, Lead, and PM_{2.5}. Yet, in the DEIR, the City does not provide a clear explanation of the current air quality baseline conditions at the Project site or in SCAB, nor does it explain that SCAB is in nonattainment for 1-hour ozone, 8-hour ozone, and lead. (See DEIR, pp. 55, 56.) Please remedy this deficiency.

Response 11.

The Draft EIR on page 78 and in Table 3-4 indicates the federal and state clean air standards for various air pollutants on the South Coast Air Basin (SCAB). Table 3-4 included in the Draft EIR also lists both the current California ambient air quality standards (AAQS) and the Federal AAQS for each criteria pollutant. The South Coast Air Quality Management District (SCAQMD) has jurisdiction over a 10,743 square-mile area that includes Orange County, Los Angeles County (except for Antelope Valley), the non-desert portion of western San Bernardino County, and western Riverside County. The SCAQMD is responsible for the implementation of the protocols of the Federal Clean Air Act. In addition, the SCAQMD is responsible for ensuring that the more stringent California Clean Air standards are met. The SCAQMD is responsible for the formulation and implementation of a long-range plan referred to as the Air Quality Management Plan or AQMP that indicates how these objectives will be met. Projects in the South Coast Air Basin (SCAB) generating construction-related emissions that exceed any of the following emissions thresholds are considered to be significant under CEQA:

- 75 pounds per day of reactive organic compounds;
- 100 pounds per day of nitrogen dioxide;
- 550 pounds per day of carbon monoxide;
- 150 pounds per day of PM₁₀;
- 55 pounds per day of PM_{2.5}; or,
- 150 pounds per day of sulfur oxides.

The proposed project would have a significant long-term impact on air quality if any of the operational emission significance thresholds for criteria pollutants are exceeded:

- 55 pounds per day of reactive organic compounds;
- 55 pounds per day of nitrogen dioxide;
- 550 pounds per day of carbon monoxide;
- 150 pounds per day of PM₁₀;
- 55 pounds per day of PM_{2.5}; or,
- 150 pounds per day of sulfur oxides.

Table 3-4 was also expanded in the Final EIR to identify attainment status of the criteria pollutants.

Comment 12.

The DEIR provides daily construction emissions estimates for individual components of the Project – including, for example, demolition of buildings in Area 1, and construction of specific buildings in Areas 1, 2, and 3, and then compares these individual estimates to emissions thresholds. (See DEIR, pp. 59-60.) According to the DEIR, however, construction and demolition of individual components of the Project will occur concurrently. (Id. at pp. 29-30.) For example, work in Area 1, "will commence in 2019 ... and [be] fully opened in 2023," work in Area 2, is slated to "commence as early as 2020" and be completed in 2026, and work in Area 3 "will commence in 2019" and open in 2020. (Ibid.) Thus, construction and demolition for each component of the Project will have to occur simultaneously. The DEIR, therefore, does not provide accurate information on daily emissions from Project construction as a whole, because it does not analyze total emissions from each component of joint construction and operation the Project Areas that will occur concurrently. The DEIR thus does not adequately disclose or determination whether Project construction will have a significant impact on air quality. Please update the Air Quality analysis to accurately disclose Project air quality impacts and update the conclusions and mitigation for such emissions accordingly.

Response 12.

The construction emissions were analyzed based on the contemplative constructive phasing. These inputs are required as part of the use of the computer models provided by the SCAQMD. These models required various inputs such as commencement of construction, duration of construction, the type of construction equipment, etc. The model then provided a worst case maximum emission.

As indicated in Table 3-6 of the Final EIR, the projected long-term emissions would exceed SCAQMD thresholds for Reactive Organic Gases (ROG) and NOx. ROG is an organic gas that undergoes a photochemical reaction, thus, is reactive. NOx emissions are generated from the exhaust of mobile sources and these gases are precursors to ozone. Since the project will result in an exceedance in mobile sourced ROG, and NOx, mitigation measures have been provided to encourage the use of alternative forms of transportation.

Table 3-6, provided below, was added to the Final EIR to indicate the potential for overlapping emissions. The operational emissions for all three areas is shown in Row 4. Near the bottom of the Table, the overlapping emissions for those Areas that are under construction together with the operational emissions from the areas that will be operational at the same time have been noted. The ROG emissions are related to the use of architectural coatings and paints that contain volatile organic compounds (VOCs), which are reactive in normal ambient outdoor temperatures. The high levels of NOx are largely due to diesel powered construction equipment and trucks used during the building construction phases.

**(From Table 3-6 included in Final EIR)
Estimated Operational Emissions in lbs/day at Build-out**

Emission Source	ROG	NO ₂	CO	SO ₂	PM ₁₀	PM _{2.5}
1. Total Area 1 (lbs/day)	26.11	56.50	124.49	0.45	35.58	9.87
2. Total Area 2 (lbs/day)	52.57	134.36	269.30	1.10	93.78	25.93
3. Total Area 3 (lbs/day)	13.04	42.54	70.39	0.21	14.14	3.95
4. Total (lbs/day) 1.	91.72	233.40	464.18	1.76	143.50	39.75
Daily Thresholds	55	55	550	150	150	55
Significant Impact?	Yes	Yes	No	No	No	No
Overlapping Scenario 1						
Area 3 Operational	13.04	42.54	70.39	0.21	14.14	3.95
Area 1 Construction	152.34	15.34	64.16	0.24	26.09	11.86
Total	165.38	57.88	134.55	0.45	40.23	15.81
Daily Thresholds	55	55	550	150	150	55
Significant Impact?	Yes	Yes	No	No	No	No
Overlapping Scenario 2						
Area 3 Operational	13.04	42.54	70.39	0.21	14.14	3.95
Area 1 Operational	26.11	56.50	124.49	0.45	35.58	9.87
Area 2 Construction	154.97	47.09	60.17	0.24	28.21	11.14
Total	194.12	146.13	255.05	0.90	77.93	24.96
Daily Thresholds	55	55	550	150	150	55
Significant Impact?	Yes	Yes	No	No	No	No

Source: California Air Resources Board CalEEMod [computer program].

Comment 13.

The analysis also does not indicate where the DEIR obtained the daily thresholds it relies upon to determine whether the Project will have significant impacts. (See DEIR, pp. 59-60.) Please update the DEIR to indicate where the City obtained these thresholds.

Response 13.

The daily thresholds used in the analysis of air quality impacts were obtained from the SCAQMD. Also, please refer to Response 11.

Comment 14.

The City concludes that the Project will result in significant impacts to air quality, both during the construction and operation of the Project. (DEIR, p.63.) It finds that construction will exceed the South

Coast Air Quality Management District ("SCAQMD") thresholds for ROG and will generate operational emissions that would still exceed the thresholds for ROG, NO_x, and PM₁₀. (Ibid.) Yet the DEIR does not explain whether it exceeds California Ambient Air Quality Standards in addition to the National Ambient Air Quality Standards. Please update the DEIR to clearly explain which standards the Project exceeds.

Response 14.

The California air standards are more stringent than those of the federal (national). Whether or not the project would or would not exceed the national standards is not relevant for this project in that the exceedances identified in the Draft EIR are those referred to the State's standards.

Comment 15.

The DEIR provides no mitigation for construction-related impacts. (See DEIR, pp.61- 62.) An agency "shall provide that measures to mitigate or avoid significant effects on the environment are fully enforceable through permit conditions, agreements, or other measures," and must have a monitoring program to ensure the implementation of mitigation. (Cal. Pub. Resources Code § 21081.6 (a) and (b).) "The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded." (California Clean Energy Committee v. City of Woodland (2014) 225 Cal.App.4th 173, 189 ["California Clean Energy "] [emphasis in original] [citations omitted]; Pub. Resources Code, § 21002.1(b).) The current DEIR does not meet this standard. Please update the DEIR to include additional enforceable mitigation to minimize the impacts of the Project on air quality.

Response 15.

The Draft EIR identifies those measures and/or regulations that govern construction emissions that would be effective in reducing short-term emissions. In addition, the Draft EIR includes the following mitigation measures that would reduce long-term air quality impacts:

Mitigation Measure 5 (Air Quality Impacts). The project Applicant; retail, restaurant, and hotel management and office building management must provide incentives to encourage employees to utilize alternative transportation such as reduced rate transit passes, employee carpooling and vanpooling services, and preferential parking for carpool vehicles.

Mitigation Measure 6 (Air Quality Impacts). The building contractors must install electric vehicle (EV) charging stations in the parking garages. The number and location of the EV stations will be determined by the City in subsequent phases of design review and plan check. Preferential parking spaces for electric vehicles must be provided in every Area.

Mitigation Measure 7 (Air Quality Impacts). Multiple shuttles powered by alternative fuels must be provided in the absence of the monorail. Once the monorail is complete and running, use of the shuttles may be discontinued. The use of the shuttles will discourage future patrons and guests from

using their personal vehicle from travelling to different Areas of the project.

Mitigation Measure 8 (Air Quality Impacts). Kiosks and directories depicting mass transit times and routes, the locations of bicycle racks, and the locations and times of the shuttles must be placed in visible locations within each project area.

Mitigation Measure 9 (Air Quality Impacts/Environmental Justice). The project Applicant must host a job fair with advertising prior to the project's opening to attract and hire local residents. In addition, preferential hiring must be given for Commerce residents. By hiring future employees from the City, the Applicant will reduce the number and distance of employee home-to-work trips.

In addition, the Final EIR was expanded to include additional SCAQMD recommended mitigation to further reduce construction

SCAQMD Mitigation Measure a. Require construction contractor(s) to use off-road diesel-powered construction equipment that meets or exceeds the California Air Resources Board (CARB) and U.S. Environmental Protection Agency (U.S. EPA) Tier 4 offroad emissions standards for equipment rated at 50 horsepower or greater during construction.

SCAQMD Mitigation Measure b. Require the use of zero-emission or near-zero emission heavy-duty haul trucks during construction, such as trucks with natural gas engines that meet CARB's adopted optional NOx emissions standard of 0.02 grams per brake horsepower-hour (g/bhp-hr). At a minimum, require that operators of heavy-duty haul trucks visiting the Proposed Project during construction commit to using 2010 model year or newer engines that meet CARB's 2010 engine emission standards of 0.01 g/bhp-hr for particulate matter (PM) and 0.20 g/bhp-hr of NOx emissions or newer, cleaner trucks.

SCAQMD Mitigation Measure c. Require that the proposed project's tenants maintain records of all trucks visiting the project and make these records available to the Lead Agency upon request. The records will serve as evidence to prove that each truck called to the project meets the minimum 2010 model year engine emission standards. The Lead Agency should conduct regular inspections of the records to the maximum extent feasible and practicable to ensure compliance with this mitigation measure.

SCAQMD Mitigation Measure d. Maintain vehicle and equipment maintenance records for the construction portion of the project. All construction vehicles must be maintained in compliance with the manufacturer's recommended maintenance schedule. All maintenance records shall remain on-site for a period of at least two years from completion of construction.

SCAQMD Mitigation Measure e. Enter into a contract that notifies all construction vendors and contractors that vehicle idling time will be limited to no longer than five minutes or another time-frame as allowed by the California Code of Regulations, Title 13 section 2485 – CARB's Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling. For any vehicle that is

expected to idle longer than five minutes, each project applicant, project sponsor, or public agency will require the vehicle's operator to shut off the engine. To further ensure that drivers understand the vehicle idling requirement, post signs at the entrance and throughout the site stating that idling longer than five minutes is not permitted.

SCAQMD Mitigation Measure f. Encourage construction contractors to apply for SCAQMD "SOON" funds. The "SOON" program provides funds to applicable fleets for the purchase of commercially-available low-emission heavy-duty engines to achieve near-term reduction of NOx emissions from in-use off-road diesel vehicles.

CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized to minimize or eliminate any significant adverse air quality impacts. Since the project would result in significant and unavoidable air quality impacts during operation, and in addition to Mitigation Measures (Air Quality) 5 through 9, the SCAQMD staff recommended that the Lead Agency incorporate the following mitigation measures in the Final EIR to further reduce the proposed project's operational air quality impacts.

SCAQMD Mitigation Measure g. Require at least 5% of all vehicle parking spaces include electric vehicle charging stations, or at a minimum, require the Proposed Project to be constructed with the appropriate infrastructure to facilitate sufficient electric charging for trucks to plug-in.

SCAQMD Mitigation Measure h. Provide incentives for vendors and material delivery trucks that would be visiting the hotel and commercial uses to encourage the use of zero-emission or near-zero emission heavy-duty trucks during operation, such as trucks with natural gas engines that meet CARB's adopted optional NOx emissions standard of 0.02 grams per brake horsepower-hour (g/bhp-hr). At a minimum, incentivize the use of 2010 model year or newer engines that meet CARB's 2010 engine emission standards of 0.01 g/bhp-hr for particulate matter (PM) and 0.20 g/bhp-hr of NOx emissions or newer, cleaner trucks.

SCAQMD Mitigation Measure i. Implement an anti-idling program. Vendors should be instructed to advise drivers that trucks and other equipment shall not be left idling for more than five minutes. Signs informing truck drivers of the anti-idling policy should be posted in the loading docks of the Proposed Project.

SCAQMD Mitigation Measure j. Establish a policy to select and use vendors that use clean vehicles and trucks to service and deliver materials. Include this policy in the vendor contracts and business agreement.

SCAQMD Mitigation Measure k. Maximize the planting of trees in landscaping and parking lots.

SCAQMD Mitigation Measure l. Require use of electric or alternatively fueled street-sweepers with HEPA filters.

SCAQMD Mitigation Measure m. Require use of electric lawn mowers and leaf blowers.

Comment 16.

The DEIR states that the Project will emit harmful air pollutants near sensitive receptors, including a single-family residential neighborhood, Rosewood Park School, and Rosewood Park. (DEIR, p.65.) The DEIR includes a table showing permissible thresholds of emissions within 25, 50, 100, 200, and 500 meters from sensitive receptors, and concludes that the Project would not exceed such thresholds. (Id. at p.66.) It does not, however, explain how far the residential neighborhood is from the Project, and therefore, it is not possible to determine whether the Project meets SCAQMD's threshold requirements for sensitive receptors. In addition, it does not disclose how far the Park and school are from the Project in meters, and does not analyze, specifically, whether the emissions from the Project are sufficiently safe at this distance. (See Id. at pp.65-66.) Please remedy this deficiency.

Response 16.

The Draft EIR does identify the location and extent of sensitive receptors located nearest to the project area. All of these sensitive receptors are located to the south of the project area, along the south side of the Santa Ana Freeway. Sensitive receptors located near the project site include the following: the single-family residential neighborhood located along the south side of the I-5 freeway; Rosewood Park School, located 222 feet to the southwest; and Rosewood Park, located 267 feet to the southwest. The park and the school are also located south of the I-5.

The Final EIR was also expanded to show the impacts where the receptor distance used was 50 meters. With the revisions that include the watering of barren soils, the LST impacts were slightly lower than that shown in the Draft EIR.

**Table 3-7
Local Significance Thresholds Exceedance SRA 5 (included in the Final EIR)
(assumes maximum daily emissions from each area)**

Emissions	Project Emissions (lbs/day)	Allowable Emissions Threshold (lbs/day) and a Specified Distance from Receptor (in meters)				
		25	50	100	200	500
NO ₂	68.90	172	165	176	194	244
CO	72.89	1,480	1,855	2,437	3,867	9,312
PM ₁₀	28.21 (14.10)*	14	42	60	95	203
PM _{2.5}	12.17 (6.08)*	7	10	15	30	103

*The figures shown in parentheses represent the mitigated particulate emissions levels whereby the watering of barren soils of up to three times per day per Rule 403 is implemented. This requirement will reduce fugitive dust by as much as 50%.

Comment 17.

The discussion of Project emissions only addresses construction emissions. (See DEIR, pp.65-66.) The DEIR also fails to analyze how the operation of the Project will impact sensitive receptors, as requested in my Initial Study Correspondence. (Ibid.) Please update the DEIR to include this analysis and mitigation of impacts to sensitive receptors.

Response 17.

The proposed project's impacts on sensitive receptors are analyzed in Section 3.2.4.4. The proposed project's construction will not lead to any exceedance of LST thresholds during the construction phases. Furthermore the project's adherence to the mitigation identified in the previous subsections will reduce potential localized impacts to levels that are less than significant.

Comment 18.

The DEIR does not draw a clear conclusion as to whether there is a potential for significant impacts to cultural resources. (DEIR, p.72.) This undermines the DEIR's primary function: "an EIR is 'an informational document' aimed at providing 'detailed information about the effect which a proposed project is likely to have on the environment'" (Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 391 ["Laurel Heights"], citing Cal. Pub. Resources Code, § 21061 and Cal. Code Regs., tit. 14, § 15003(b)-(e).) An EIR that is unclear fails to adequately inform the public about a potential project's impacts on the environment.

Response 18.

The City of Commerce, in its capacity as Lead Agency in the review of the proposed project, directed the preparation of an Initial Study to determine the nature and scope of the analysis that would be required as part of this EIR's preparation. The analysis focused on the potential for archeological resources in the area (refer to Section 3.3 of the Draft EIR).

Comment 19.

In addition, absent extensive excavation at the Project site, the City cannot find that the Project will not have impacts to cultural resources or disturb human remains. Please update the DEIR to include a clear conclusion, supported by the evidence, as to whether the Project may have significant impacts to cultural resources.

Response 19.

The Citadel as a whole was originally developed as a Samson Tire and Rubber Company factory, which existed from 1929 until the plant's closure in 1978. Area 1 is presently occupied by two warehouses and surplus parking for the Citadel. Area 2 is currently developed, though the area contained more buildings and paved surfaces. The demolition of much of these buildings began in 2006. As stated in Section 2, the

west side of Area 2 is currently occupied by Justman Packaging and Display, ancillary parking, and a vacant building. The east side of Area 2 is largely undeveloped and is covered over in dirt, sparse ruderal vegetation, and mounds of dirt and gravel. An abandoned warehouse is located within the southwest corner of east side of Area 2. Area 3 was developed with multiple industrial buildings. These buildings have been demolished. The initial development and the subsequent improvements that have occurred over the years has resulted in extensive disturbance of the on-site soils. As a result, there is a limited likelihood that archaeological resources will be encountered during the site's redevelopment.

Formal Native American consultation was provided in accordance with AB-52. The tribal representative of the Gabrielino-Kizh indicated that the project site is situated in an area of high archaeological significance. As part of future grading and excavation activities, the potential for discovering archaeological resources cannot be completely discounted. For this reason, mitigation has been identified to address any resources that may be uncovered during grading activities. The following mitigation measure will be required to address potentially significant impacts.

Mitigation Measure 10 (Cultural Resources Impacts). The project Applicant will be required to obtain the services of a qualified Native American Monitor during construction-related ground disturbance activities. Ground disturbance is defined by the Tribal Representatives from the Gabrieleño Band of Mission Indians, Kizh Nation as activities that include, but are not limited to, pavement removal, pot-holing or auguring, boring, grading, excavation, and trenching, within the project area. The monitor(s) must be approved by the tribal representatives and the City's Development Services Director and will be present on-site during the construction phases that involve any ground disturbing activities. The on-site monitoring shall end when the project site grading and excavation activities are completed, or when the monitor has indicated that the site has a low potential for archeological resources.

Comment 20.

The DEIR fails to provide adequate mitigation for potential impacts to cultural resources.

An agency "shall provide that measures to mitigate or avoid significant effects on the environment are fully enforceable through permit conditions, agreements, or other measures," and it must have a monitoring program to ensure the implementation of mitigation. (Cal. Pub. Resources Code § 21081.6 (a) and (b); California Clean Energy Committee, supra, 225 Cal.App.4th 173, 189.)

Response 20.

Please refer to Response 19.

Comment 21.

The City indicates that a Native American monitor will be present during construction and demolition that may uncover cultural resources. (DEIR, p.72.) But it does not provide for what will happen in the event that cultural resources are discovered and how the developer and the City will ensure that such

resource are protected. (See *ibid.*) It is particularly important that the DEIR include such provisions to protect Native American finds. Yet, there is no mechanism to ensure that such resources will be properly preserved, documented, excavated, or transmitted to the appropriate group, organization, or authority post-excavation. (See DEIR, p.72.) The DEIR thus does not ensure enforceable protection of cultural resources. (See Cal. Pub.

Resources Code, § 21081.6(a)(1); see also Cal. Pub. Resources Code, § 21081.6(a) and (b).) Please update the DEIR to provide specific, enforceable mitigation mechanisms that will be followed in the event of a find during construction.

Response 21.

The tribal monitors are familiar with the disposition, reservation, and handling of any resources that may be discovered.

Comment 22.

The conclusions in the Initial Study regarding potential liquefaction and erosion impacts were not supported by evidence. The DEIR did not improve or elaborate on this deficient analysis, nor did it include any mitigation measures related to geology and soils. (See generally DEIR.) Please complete this analysis and update the DEIR accordingly.

Response 22.

The comment is not specific as to the issue of concern. The Initial Study identified potential fault rupture and liquefaction risk in the project area. In addition, the site has been previously developed and any new development will be required to comply with the most recent State seismic building code requirements.

Comment 23.

The DEIR does not disclose baseline greenhouse gas emissions ("GHGs") at the Project site. (DEIR, pp.73-76.) Failure to include this information contravenes CEQA. "The fundamental purpose of an EIR is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment." (Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007) 40 Cal.4th 412, 428, citing Cal. Pub. Resources Code, § 21061.) "[A]n EIR must adequately identify and analyze the significant environmental effects of the proposed project." (San Joaquin Raptor Rescue v. County of Merced (2007) 149 Cal.App.4th 645, 660, citing Cal. Pub. Resources Code, § 21100(b); Cal. Code Regs, tit. 14, § 15126.2(a).)

Response 23.

As indicated in the Draft EIR, the existing land uses and development within the three project areas (Area 1, Area 2, and Area 3) total 190,243 square feet including 79,375 square feet in Area 1; 88,368 square feet in Area 2; and 22,500 square feet in Area 3. The existing vacant and undeveloped parcels located within the

Planning Area were previously occupied by development that has since been demolished. The proposed *new* development within the three areas will have a total floor area of 1,007,202 square feet. The new development will consist of approximately 237,662 square feet of retail uses; 358,000 square feet of hotel uses totaling 770 rooms; 270,000 square feet of theater, entertainment, and recreation uses; 16,540 square feet of food serving uses; 70,000 square feet of office uses; and 55,000 square feet of industrial uses. This breakdown in land uses assumes that Pad 5 in Area 3 will be developed as an office use instead of a fast food restaurant.

The new development overall is classified as an infill development, which means that the project will be constructed within urban sites that were formerly developed. This recycling of obsolete sites and uses is crucial in reducing greenhouse gas emissions by preventing urban sprawl into the eastern (desert) portions of Southern California. SCAG has been actively promoting infill development through the adoption of the last two RTP/SCS. The project is in line with SCAG's goal of promoting urban infill development.

The project would also be consistent with SCAG's growth management (RCP) goals that encourage development that will promote job growth and positive economic impact. The proposed project will introduce new jobs to an area with high unemployment rates and would provide the City with a new source of sales tax revenue. SCAG also encourages projects that are pedestrian/public transportation friendly and do not add to the congestion of city roads. The proposed project aims to provide a safe and accessible environment to both pedestrians and vehicles through the proposed circulation system as well as the creation of pedestrian pathways and rest areas within the project site.

Because of the nature of the existing land uses within the three areas, the greenhouse gas analysis did not provide any credit or allowance for the existing limit development within the area. For this reason, no adjustment was made that would reduce the greenhouse gas emissions associated with the construction and operation of the new development.

Comment 24.

The analysis of Threshold 3.4.4.1 only provides data on Project emissions of CO₂, CH₄, N₁₀, and CO_{2e} after mitigation. (DEIR, p.77.) The DEIR's discussion of GHG emissions only addresses how the Project will reduce GHGs but does not provide a clear explanation or analysis of pre-mitigation Project-related GHG emissions. (Ibid.) Please remedy this deficiency.

Response 24.

Please refer to Response 23.

Comment 25.

The DEIR discloses that the Project will emit a massive 19,480 metric tons of carbon- dioxide equivalent each year. Despite these massive emissions the City, in a conclusory fashion, lists under the Mitigation of Potential Impacts section, that the Project will have to comply with Green Building

Code requirements. (DEIR, p.77.) This is sham mitigation. In reality, the City proposes doing nothing-providing absolutely no mitigation whatsoever-to address the massive GHG emissions of the Project. The Project, as with all development in the state, is required to comply with the Green Building Code. It is utterly unacceptable and an abdication of the City's duties to not even attempt to impose real, binding mitigation to reduce the impacts of such a massive project. Also, because the Project will have to comply with the California Building Code regardless, it is unclear whether the City has improperly accounted for pre- and post-mitigation Project impacts, or if the City has artificially portrayed Project GHG reductions compared to an impossible "business-as-usual" scenario where the Project does not adhere to the state-mandated Building Codes. Please update the DEIR to include specific requirements that the Project must adhere to in order to actually reduce GHG emissions, such as reducing the Project size and density, requiring "net-zero" building efficiency, requiring the installation of solar panels on all open surfaces (as opposed to "solar-ready"), complete installation of dozens of electric vehicle charging stations (as opposed to "EV-ready"), exclusive use of Tier IV and electric construction equipment, and the purchase of carbon offsets, to name a few of the countless options available to the City.

Response 25.

The preparers of the Draft EIR does not concur with the compliance of the Green Building Code requirements or low-impact requirements as “sham” mitigation. This body of regulations are and will continue to be very effective in reducing energy and resource consumption in coming years. In fact, the State of California leads nation energy conservation efforts. The measures identified in Table 3-9 in the Draft EIR as being “applicable to the project” would be beneficial in reducing the overall GHG emissions:

Program T-3 (Regional Transportation Related GHG Targets) would include the project’s pedestrian and shuttle transit elements.

Programs E-1 (Electricity and Natural Gas), E-3, E-4, CR-1 (Energy Efficiency), and CR-2 correspond to the project’s use of energy efficient appliances.

Program GB-1 (Green Buildings) corresponds to the project’s use of water and energy efficient fixtures.

Programs W-1, W-2, W-4, and W-5 (Water Use Efficiency) reflect the water conservation that will be implemented as part of the proposed project’s operations.

Finally, the proposed project will be required to comply with all pertinent requirements related to the reduction of waste and recycling (identified in Program RW-3 [High Recycling/Zero Waste]).

Comment 26.

Under Threshold 3.4.4.2, the DEIR indicates that the City does not have a Climate Action Plan or greenhouse gas reduction plan. (DEIR, p. 78.) The DEIR also does not indicate whether the City intends to adopt other thresholds to ensure that Projects within its boundaries do not significantly contribute to increased greenhouse gas emissions. Please update this analysis to indicate how the City is ensuring that

projects do not hinder the City's ability to meet statutory emissions reductions goals, and what thresholds and plans the City is utilizing to do so.

Response 26.

A Climate Action Plan is beyond the scope of this proposed project.

Comment 27.

The DEIR also states that the Project does not pose any apparent conflict with the California Air Resources Board's ("CARB") recommendation actions for reducing GHGs, and includes a table where it indicates whether the Project conflicts with the CARB recommendations, but it does not explain clearly how or why the Project does not conflict with the CARB recommendations, nor does the City provide reasoning to justify use of the statewide Scoping Plan at the Project-level. (Id. at pp. 78-80; Center for Biological Diversity v. Department of Water Resources (2015) 62 Cal.4th 204.) Please update this analysis to clearly explain how the Project does not conflict with the CARB recommendations.

Response 27.

This discussion is provided in the Draft EIR in Table 3-9.

Comment 28.

The DEIR confusingly lists "measures identified in Table 3-9 as being 'applicable to the project.'" (DEIR, p.80.) However, the City fails to describe whether it views these items on the list as Project features or mitigation measures. While the City touts this list as "beneficial in reducing the overall GHG emissions," these items, which the City poorly describes, are likely just basic statutory requirements, any "benefit" from which would be entirely Pyrrhic and outside of the City's power to control. Improperly or inadequately identifying such features does not provide an accurate project description, discussion of impacts and impact reductions. The City's reliance on the statewide Scoping Plan and minimum statutory requirements in the face of overwhelming Project greenhouse gas impacts fails to provide any actual mitigation to address these impacts. (See County of Inyo v. City of Los Angeles, supra, 71 Cal.App.3d 185, 192-193 [requiring an accurate project description]; California Clean Energy Committee, supra, 225 Cal.App.4th 173, Cal. Pub. Resources Code § 21081.6 (a) and (b) [requiring enforceable mitigation measures]; Cal. Code Regs., tit. 14, § 15370 [defining mitigation].) Please update the DEIR to include real mitigation. Absent substantial revision of this section, the City cannot further rely on this analysis to conclude the Project will have less-than-significant GHG impacts without mitigation, as doing so is uninformative and misleading, especially in light of the massive GHG emissions of the Project. It defies reason to conclude a project with such heavy impacts is entirely consistent with all applicable greenhouse gas reduction plans, simply because the Project is required by law to incorporate certain basic features.

The DEIR's conclusion that the Project will comply with applicable plans or policies is not supported by substantial evidence, both because the analysis incorporates mitigation in its review of the Project, and because the DEIR's analysis of how the Project complies or conflicts with applicable plans is incomplete. (See DEIR, p. 80.) Please update the DEIR to review the Project's compliance with applicable plans in depth and look at Project impacts with and without mitigation, in order to adequately determine if the Project will comply with applicable plans and policies regarding GHG emissions.

Response 28.

This clarification will be addressed into the Final EIR. These measures will be identified as required project elements that will be effective in reducing greenhouse gas emissions.

Comment 29.

The DEIR indicates that the U.S. EPA's Comprehensive Environmental Response, Compensation, and Liability Information System ("CERCLIS") identifies "hazardous waste sites that require investigation and possible remedial action" within 0.50 miles of the Project site, but it does not identify the hazardous waste sites, their distance to the Project, or any other information regarding such sites. (DEIR, p.81.) Likewise, the DEIR mentions a local National Priorities List ("NPL") site that is currently being investigated but does not indicate how close that site is to the Project whether this site may any effect on Project impacts. (Ibid.) The DEIR's hazards and hazardous waste analysis is incomplete without this information, and failure to discuss or disclose this information demonstrates that the City's conclusions regarding environmental impacts are not supported by the evidence. Please update the DEIR accordingly.

In the City's discussion of Area 1 site conditions, the DEIR indicates that former Pacific Tubing Company ("PATCO") property, now located in a Citadel Parking Lot, had groundwater that exceeded maximum contaminant levels for Tetrachloroethylene ("PCE"), trichloroethylene ("TCE"), chromium, hexavalent chromium. (DEIR, p.84.) The DEIR indicates that tests were conducted on PATCO groundwater but does not indicate whether recent tests of for these substances have been completed or what the results of such tests may be. (Ibid.) The DEIR suggests that no groundwater monitoring has been completed since this time. (Ibid.) Nor does the DEIR explain whether this site will be involved in the Project, or whether groundwater that may be disturbed by this Project contains such chemicals. (Ibid.) This does not provide sufficient information for the public and decision makers to determine whether the Project may release such compounds and constitute a hazard to the environment or public health and safety. Please update the DEIR to include information regarding recent testing of groundwater at the PATCO site, the relation of the PATCO site may to the Project, whether such contamination levels have been found in groundwater within the Project site, whether and to what extent the City has conducted testing to determine contaminant levels in soils and groundwater underlying the Project site, and how this might create impacts related to hazards and hazardous materials.

In the DEIR's discussion of Area 2 site conditions, the City indicates that Partner Engineering and Science conducted a Phase I Environmental Site Assessment ("ESA") in Area 2. (DEIR, p. 84.) But it does not indicate when the assessment was completed or what was involved. Please update the DEIR to include this information.

Response 29.

The Draft EIR clearly indicates that the proposed project will include Area 1, Area 2, and Area 3. In addition, the Draft EIR in Section 3.5 summarizes of the results of the soils studies that have been completed for the three areas. The implementation of the proposed project will facilitate the ongoing remediation and cleanup of these areas, especially for Areas 2 and 3 that include older buildings and underdeveloped sites that are currently undergoing remediation. All of the cleanup activities are related to historic development that occupied the affected area that result in some sort of contamination. In a previous Phase I ESA report dated April 2007, Block Environmental identified a former oil treatment plant situated on Parcel C on the 1949 and 1966 Sanborn Fire Insurance Maps for this area. Subsequently, Block Environmental performed a subsurface investigation in May 2007 on Parcel C. Subsurface soil samples were collected for field screening and analysis and soil vapor samples collected for volatile petroleum compounds. The report concluded that petroleum or metals impacts were not present on Parcel C. Further site assessment activities were not warranted.

Groundwater monitoring for volatile organic compounds (VOCs) in groundwater was being conducted to evaluate migration from the off-site former Pacific Tubing Company (PATCO) property. There are currently ten groundwater monitoring wells on the former PATCO property, located northwest of the subject property and now a part of the Citadel shopping center parking lot. A Voluntary Cleanup Agreement (VCA) was executed between the DTSC and PATCO and based on documentation reviewed; approximately 11,000 tons of PCE solvent impacted soils were removed from the former VDA area in 2001 during the facility demolition. The area has subsequently been covered with pavement to prevent stormwater percolation through the former VDA. However, the volume of PCE was sufficient to migrate downward to the underlying groundwater table at approximately 88 feet below the ground surface. PCE and its degradation product, TCE remain in groundwater as shown in monitoring data for well UGW-4. PATCO signed a VCA with the DTSC in September 2001 specifically for the former VDA area that includes monitoring of the offsite migration of the PCE contamination.

Comment 30.

The City also indicates that a "closure letter was reportedly" issued for two Underground Storage Tanks ("USTs") at Service Air Cargo. (Id. at p.85.) Please confirm whether a closure letter was, in fact, issued for the Service Air Cargo USTs. The DEIR lists several USTs and other hazardous materials stored in Area 2, indicates that they "are not expected to have created an environmental concern at the subject Property," but does not explain upon which evidence the City has reached this conclusion. (Id. at pp.84, 85, 86.) Please update the DEIR to explain why all of the sources of hazardous waste in Area 2 do not create an environmental concern.

Response 30.

As stated previously, the Draft EIR clearly indicates that the proposed project will include Area 1, Area 2, and Area 3. In addition, the Draft EIR in Section 3.5 summarizes the results of the soils studies that have been completed for the three areas. The implementation of the proposed project will facilitate the ongoing remediation and cleanup of these areas, especially for Areas 2 and 3 that include older buildings and underdeveloped sites that are currently undergoing remediation. All of the cleanup activities are related to historic development that occupied the affected area that result in some sort of contamination.

Environmental Data Resources, Inc. (EDR) identified the following underground storage tanks for the Area 2. This information, included in the Draft EIR, is summarized below:

Frazee Paint (2366 Travers Avenue). Four USTs containing diesel, unleaded gasoline, lacquer thinner and wastewater were installed in 1984 and removed in 1993 with no evidence of release identified. A closure letter indicating no further action was required was issued on August 10, 1994 by LACDPW.

R&D Latex Corp and Mydrin Inc. (5901 Telegraph Road). One 3,000 gallon UST containing diesel fuel was installed in 1988 and removed in 1990. Removal of impacted soil was performed in 1992 and a closure letter indicating no further action was required was issued on January 7, 1993 by LACDPW.

ACTT and Owens-Corning Fiberglass Company (5933 Telegraph Road). One 3,000-gallon UST containing diesel fuel was removed in 1988 and during removal activities an abandoned 6,000-gallon UST filled with slurry was encountered. A closure letter indicating no further action was required was issued on October 21, 1996 by LACDPW.

Service Air Cargo (6003 Telegraph Road). Two USTs (one 10,000-gallon and one 8,000-gallon) containing diesel fuel were installed in 1976 and prior to 1984 and removed in 1996 with no evidence of release identified. A closure letter indicating no further action was reportedly issued in 1997. Previous Phase I ESAs prepared in from 1999 through 2010 identified similar listings for the subject property.

No current on-site USTs are reported, with the exception of one former UST reportedly abandoned in place by filling with slurry located at 5931/5933 Telegraph Road. Based on the lack of current violations and/or listing in other databases indicating a release, these former and current owner and tenant listings are not expected to have created an environmental concern at the subject property.

Comment 31.

In the DEIR's discussion of Area 3 site conditions, it mentions that there is a Leaking Underground Storage Tank ("LUST") cleanup site in Area 3. (DEIR, p.86.) The DEIR indicates that the case regarding this LUST "was closed in 1993 and no further action is required," but it does not explain or provide the reasons why the case was closed, if the responsible agency determined that the site no longer posed an environmental hazard, and why no further action is required. (Ibid.) Please update the DEIR with this information.

Response 31.

As indicated in the Draft EIR, a portion of Area 3 was identified as a Leaking Underground Storage Tank (LUST) cleanup site. This portion of the site (6241 Telegraph Road) was formerly occupied by Boyd Furniture. The site came under the jurisdiction of the DTSC due to an existing leak, which released gasoline into the underlying soils. The case regarding the Boyd Furniture LUST was closed in 1993 and no further action is required.

Comment 32.

The City also concludes that "no further action is required" for two businesses formerly located in Area 3, Boyd Furniture and California Furniture Shop, which are listed on the Federal Resource Conservation and Recovery Act ("RCRA") database. (DEIR, p.86.) Yet, the DEIR does not explain the significance of inclusion on a RCRA database, nor whether these two sites currently contain hazardous waste and why no further action is required. (Ibid.) Please remedy this in an updated and recirculated DEIR.

Response 32.

The Draft EIR summarized the results of the review of the EPA's multi-system search which was consulted to determine whether the project site is identified on any Federal Brownfield list; Federal Comprehensive Environmental Response, Compensation and Liability Information System (CERCLIS) List; Federal Resource Conservation and Recovery Act (RCRA) Treatment, Storage, and Disposal (TSD) Facilities List; and/or Federal RCRA Generators List. The listing identified two former tenants, Boyd Furniture and California Furniture Shops that were included in the RCRA database, while Boyd Furniture is also listed in the Toxic Release Inventory database. The significance of all these listings are also outlined in the Draft EIR. Refer to Section 3.5.2 in the Draft EIR.

Comment 33.

In its analysis of Threshold 3.5.4.1, the City does not discuss how the groundwater contamination, hazardous materials, USTs and the LUST described in the environmental setting might be impacted by transportation and disposal associated with demolition and construction of the Project and whether this might result in significant environmental impacts. (DEIR, pp.88-89.) In addition, the analysis suggests that, due to construction best practices, hazardous materials will not result in a hazard to the public or the environment. (Id. at p.88.) But the DEIR provides no specific information regarding what practice will be used, nor does it provide a construction plan to explain how exposure to hazardous materials will be avoided and to ensure that best practices with hazardous materials are employed. (Ibid.) Please update the DEIR to include such specifics.

Response 33.

The Draft EIR outlines ongoing groundwater monitoring efforts for volatile organic compounds (VOCs) in groundwater to be conducted to evaluate migration from the off-site former Pacific Tubing Company

(PATCO) property. There are currently ten groundwater monitoring wells on the former PATCO property, located northwest of the subject property and now a part of the Citadel shopping center parking lot. The California Department of Toxic Substances Control (DTSC) has requested continued groundwater quality monitoring under work plans adopted under the PATCO voluntary cleanup agreement (VCA). The former PATCO vapor degreaser area (VDA) was located in a manufacturing building that included the subject property. A Voluntary Cleanup Agreement (VCA) was executed between the DTSC and PATCO and based on documentation reviewed; approximately 11,000 tons of PCE solvent impacted soils were removed from the former VDA area in 2001 during the facility demolition. The area has subsequently been covered with pavement to prevent stormwater percolation through the former VDA. However, the volume of PCE was sufficient to migrate downward to the underlying groundwater table at approximately 88 feet below the ground surface. The proposed project's implementation for Area 1 will not impact this ongoing groundwater remediation effort.

Comment 34.

The analysis of Threshold 3.5.4.1 states that potential hazards will be mitigated because a "demolition management plan (SMP) will be required" and an "Operations and Maintenance (O&M) Program must be implemented," but this does not include specific, enforceable mitigation measures that will actually reduce the impacts of the hazardous materials on site. This is insufficient under CEQA. (Cal. Code Regs., tit. 14, § 15126.4(a)(1) ["An EIR shall describe feasible measures which could minimize significant adverse impacts..."]; Cal. Code Regs., tit.14, § 15126.4(a)(2) ["Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments"].) Please remedy this deficiency.

Response 34.

The implementation of the following mitigation measures will be incorporated into the Mitigation Monitoring and Report Program that will be responsible for implementing, enforcing, and paying for the mitigation.

Mitigation Measure 11 (Hazards & Hazardous Materials). The preparation of a soil and demolition management plan (SMP) will be required. Grading and development should plan for removal of USTs, other subsurface features not removed during demolition, and potential management of visually impacted soil. Observation of grading and demolition operations under the SMP must be conducted.

Mitigation Measure 12 (Hazards & Hazardous Materials). The railroad spur line is likely impacted by petroleum hydrocarbons, arsenic, lead, and polynuclear aromatic hydrocarbons. When the line is removed, and if the soil is excavated and moved from the property, the soil will likely require sampling and special handling.

Mitigation Measure 13 (Hazards & Hazardous Materials). A vapor barrier must be installed at 2240 Gaspar Avenue should a building be constructed within the property.

Mitigation Measure 14 (Hazards & Hazardous Materials). An Operations and Maintenance (O&M) Program must be implemented in order to safely manage the suspect ACMs and LBP located in the remaining buildings.

Comment 35.

The DEIR concludes, without adequate evidence, that the Project would not have the potential for creating a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. (Id. at p.89.) This is not supported by the evidence. The City must update the DEIR to specifically examine how the transport, use, and disposal of these hazardous materials will result in environmental impacts.

Response 35.

As indicated in the Draft EIR, the older structures in Area 2 and Area 3 may have the potential for containing asbestos containing materials or lead containing paint, which if disrupted, can become a hazard. For this reason, demolition contractors must properly remove, handle, and dispose of these hazardous materials under agency oversight and in accordance with SCAQMD rules to minimize exposure to hazards. The implementation of this standard regulation would reduce impacts to a level of less than significant. This risk is not uncommon for demolition activities involving buildings constructed prior to 1970.

Comment 36.

In the DEIR's discussion of Threshold 3.5.4.2, the DEIR states "given the nature of the project, no hazardous or acutely hazardous materials will be emitted that may affect a sensitive receptor. As a result, no impacts from the operation or the future uses are anticipated." (DEIR, p.90.) This conclusion is not supported by the evidence, or adequately explained or justified in the DEIR. In addition, the City also erroneously found that the Project will have less than significant impacts to emitting hazardous emissions or handling hazardous materials within one-quarter mile of an existing school after implementing mitigation measures. (DEIR, pp.89-90.) This improperly conflates mitigation measures with a baseline analysis of Project impacts, and, as a result, makes it difficult to enforce mitigation. (See County of Inyo v. City of Los Angeles, supra, 71 Cal.App.3d 185, 192-193 [requiring an accurate project description]; California Clean Energy Committee, supra, 225 Cal.App.4th 173, Cal. Pub. Resources Code § 21081.6 (a) and (b) [requiring enforceable mitigation measures]; Cal. Code Regs., tit. 14, § 15370 [defining mitigation].) The DEIR must provide an analysis of Project impacts pre-mitigation. In addition, the DEIR did not discuss the Project's potential to interfere with emergency plans. Please update the DEIR to include an analysis of Project impacts to emergency plans.

Response 36.

As indicated in the Draft EIR, the proposed uses (retail, hotel, entertainment) contemplated as part of the proposed project's implementation, are not anticipated to generate, store, or dispose of significant quantities of hazardous materials. Such uses also typically do not normally involve dangerous activities that

could expose persons onsite or in the surrounding areas to large quantities of hazardous materials. While the specific tenants are not known, general landscaping and maintenance will include the use of pest control, herbicide, and janitorial products such as commercial cleaners. Small quantities of hazardous materials would be used onsite, including cleaning solvents (such as degreasers, paint thinners, and aerosol propellants), paints and oil-based, acids and bases (such as many cleaners), disinfectants, and fertilizers. These substances would be stored in secure areas and would comply with all applicable storage, handling, usage, and disposal requirements (e.g., California Health and Safety Code Section 25531, et seq., governing accidental release prevention). The potential risks posed by the use and storage of these hazardous materials are primarily limited to the immediate vicinity of the materials. The transport of these materials would be performed by commercial vendors who would be required to comply with various federal and state laws regarding hazardous materials transportation (e.g., Federal Motor Carrier Safety Administration Regulations and 49 Code of Federal Regulations Parts 100-185).

Comment 37.

The DEIR's discussion of relevant land use and planning regulations does not include the General Plan designation or zoning designations for the Project site. (DEIR, pp. 104-105.) The DEIR also does not describe whether the Project would be compatible with zoning designed to mitigate environmental impacts. (Ibid.) The DEIR further does not explain whether the Project is consistent with all applicable General Plan policies and requirements. Please evaluate Project consistency with all applicable General Plan and zoning designations and policies, and mitigate any impacts caused by the inconsistency of the Project with these designations and policies.

Response 37.

Section 3.7 in the Draft EIR discusses the proposed project's conformity with the General Plan and outlines the potential zone changes. Portions of the Planning Area will require a number of Zone Changes to accommodate the proposed uses. The first set of zone changes, from M-2 (*Heavy Industrial*) to C-2 (*Commercial*), will be required for two sites located in Area 1. Area 3 will also require up to two zone changes. First, the site for the proposed industrial building will need to be rezoned to M-2 (*Heavy Industrial*) to C-2 (*Commercial*) to permit the proposed use industrial building. In addition, if an institutional/public/government facility is ultimately located within Area 3, development site must be zoned CPF (*Commercial Public Facility Zone*) to allow for the proposed use.

Comment 38.

In addition, it is unclear how many and what type of zone changes the Project will need to be constructed - the DEIR provides that Area 3 will require "up to two zone changes" but does not explain what the original zoning designation is, what the new zoning designation must be, and whether such a designation would be compatible with applicable regulations or plans. (DEIR at pp. 106-107.) It states that Area 3 will require a zone change if an "institutional/public/government facility" is located there but does not explain under what circumstances this might occur, whether this is compatible with applicable regulations and plans, and if this may cause impacts. (Ibid.) Without this data, the DEIR's conclusion that the Project

would not result in significant land use impacts is not supported by the evidence. Please update the DEIR to remedy these deficiencies.

Response 38.

Please refer to Response 37.

Comment 39.

The DEIR does not adequately disclose existing emergency response times for police services. (DEIR, p. 127.) Without this data, the City cannot credibly determine whether the Project will exceed the threshold of a five-minute response time for emergencies within the City. (Ibid.) Please update the DEIR to include this information.

Response 39.

As indicated in the Draft EIR, the average emergency response time for calls for service in the City averages around just over five minutes (City of Commerce General Plan has adopted a response time objective of five minutes or less for all in-city emergency incidents). It should also be pointed out that an alternative use for Area 3 includes a substation that would further reduce the response times though this concept has not been finalized.

Existing emergency services are detailed in Section 3.10 of the Draft EIR. Fire prevention services are provided by the Los Angeles County Fire Department (LACFD). The LACFD is organized into nine divisions overseeing 22 battalions and the City of Commerce is served by Battalion 3. The LACFD is staffed by 4,713 sworn and non-sworn personnel. Of this figure, 2,904 are sworn firefighters or paramedics, with the remaining 1,809 personnel consisting of non-sworn staff. There are three LACFD stations located within the City:

Station 22 (928 South Gerhart Street). This station includes a single engine company.

Station 27 (6031 Rickenbacker Road). This station includes an engine company and a quint unit (a “quint” unit is a fire apparatus truck that has a dual purpose of a ladder truck and an engine).

Station 50 (2327 South Saybrook Avenue). Station 50 is the first response station to the project site is Station 50, located 0.31 miles to the north of the Planning Area. This station includes an engine company and a rescue squad.

The City also utilizes the services of the Los Angeles County Sheriff’s Department. The City has maintained this contract since incorporation. The nearest first response station to the project site is the Los Angeles County Sheriff’s Station located 2.06 miles to the northwest at 5019 East 3rd Street within the City of Los Angeles.

Comment 40.

The DEIR concludes that the Project would not require increased fire protection services. (DEIR, p. 128.) The City bases this conclusion on the number of vehicular access points that the Project will provide for fire services and building standards related to fire safety. (Ibid.) It, however, does not discuss how the increased population's need for fire services may increase the need for fire stations or staff, nor does it discuss how such a large new development and resulting traffic, etc. might increase response times. (Ibid.) Please update the DEIR accordingly.

Response 40.

The project team consulted with the Los Angeles County Fire Department to determine the nature and extend of any immediate facilities. The proposed project would involve the development of commercial structures of 30 feet or more in height. In accordance with the California Fire Code, a minimum of two points of vehicular access must be provided. As shown on the site plans provided herein in Section 2, the future development would provide numerous vehicular access points in conformance with LACFD requirements. In summary, the proposed project would not create a need for new or expanded fire protection facilities that result in physical impacts on the environment. Impacts would be less than significant.

Comment 41.

The discussion of Threshold 3.8.4.1 does not include an analysis of construction noise impacts, as required. (DEIR, pp. 117-118.) Please update the DEIR with this analysis.

Response 41.

The project's potential construction noise impacts in Section 3.8.4.2 in the Draft EIR. It is important to note that because of the relatively high ambient noise environment due to the proximity of the Santa Ana Freeway, construction noise activities will not be significant since there are no sensitive receptors located in the project area.

Comment 42.

In the City's analysis of Threshold 3.11.4.3, it explains that the traffic study found various service levels ("LOS") for the 23 studied intersections. Yet, for each set of circumstances that it analyzed (Existing Conditions, Future Without Project Conditions, Existing with Project Conditions, Future with Project Conditions), it only provides LOS projections for some of the 23 studied intersections. (DEIR, pp. 167-168.) This does not provide a complete or accurate picture of the traffic impacts of the Project. Please update the DEIR to include the number of intersections that are operating at each service level for Existing Conditions, Future Without Project Conditions, Existing with Project Conditions, Future with Project Conditions, so that the public and decision makers can fully understand Project impacts.

Response 42.

This comment is not clear in explaining why the traffic study is inadequate. The level of service for each of the study intersections was clearly identified for the project conditions. We are unclear as to how an accurate picture was not provided.

Comment 43.

The City also states that significant impacts to traffic under Threshold 3.11.4.3 will be mitigated by a Transportation Demand Management ("TDM") Program. (DEIR, p. 170.) However, the City does not explain what, specifically, the TDM program will entail, or how it will reduce traffic impacts. (Id. at pp.170-172 [stating that the Program "could include" certain components].) The City also recommends certain Transportation Systems Management Program ("TSM") upgrades, but does not include concrete, enforceable specifics for the implementation of the TSM program. (Id. at pp.173-174.) This is not permissible under CEQA. (See Cal. Pub. Resources Code § 21081.6 (a) and (b) [requiring enforceable mitigation].) Please update the DEIR to provide clear, enforceable components of the TSM program.

Response 43.

The Draft EIR is very specific in outlining the various elements of the TDM program and TSM upgrades.

The Project is required to pay their fair-share of a multi-corridor TSM system as a mitigation measure. The remaining funds will be collected from other projects in the area or provided by the City.

The TDM program outlined a set of strategies proposed for the project designed to reduce peak hour vehicular traffic to and from the project site. The Citadel already manages a TDM program that is aimed at bringing customers to the site via buses that serve downtown Los Angeles and area hotels to carry customers to shopping and meals on the site. The project should expand this TDM program to further promote non-automobile travel and reduce the use of single-occupant vehicle trips. The strategies in the TDM program, subject to review and approval by the City, could include, but are not necessarily limited to, the following:

Transportation Information Center. A Transportation Information Center is a centrally located commuter information center where project employees, tenants, and patrons can obtain information regarding commute programs and individuals can obtain real-time information for planning travel without using an automobile. A Transportation Information Center would support orientation for new employees and provide information about transit schedules, commute planning, rideshare, telecommuting, and bicycle and pedestrian plans.

Educational Programs. A key component of a successful TDM program is to make employers and employees at the project site aware of the various programs offered. To this end, a transportation management coordinator (TMC) on the building management staff could reach out both to employers and employees directly to promote the benefits of TDM. In addition to the various TDM programs

described below, the TMC could reach out to employers to promote flexible or alternative work schedules and telecommuting options with statistics and examples of businesses that have successfully implemented such programs. These programs have the ability to reduce peak hour trip generation by allowing employees to arrive for and leave from work outside of the typical morning and afternoon peak commuting hours.

Project Design Features to Promote Bicycling and Walking. A significant and growing number of people in the City prefer to ride bicycles or walk to their employment given sufficient facilities to make the commute feel safe and convenient. The project could incorporate features for bicyclists and pedestrians, such as exclusive access points, secured bicycle parking facilities or a bicycle valet system, or a bicycle sharing or rental program. Additionally, the project site could be designed to be a friendly and convenient environment for pedestrians. As part of an overall Public Benefits Program, the project could contribute a one-time fixed fee to be deposited into the City's Bicycle Plan Trust Fund to implement bicycle improvements in the area.

Online Ridematching and Carpool/Vanpool Program. The TMC could provide a ridematching service to match interested employees with carpools and vanpools. Carpools/vanpools provide the potential for employees to come to work relaxed and/or work during the commute and reduce the number of vehicle trips to and from the Planning Area.

Guaranteed Ride Home (GRH). A GRH program assures transportation service to individuals who commute without their personal automobiles. This program overcomes one of the primary concerns regarding alternative modes of transportation, which is how to get home or to a child's school in the case of an emergency. A GRH program would cover all employees participating in the carpool/vanpool program or using transit to and from the Planning Area in the event of personal or family emergencies. The individual would be reimbursed for a taxi ride, shared car service, or short-term car rental. Typically, this GRH benefit is limited to two-three times per year per employee to avoid abuses of the benefit. A support service such as GRH is an important part of TDM implementation that assures an individual he or she will not be dependent on a ridesharing or transit schedule in the event of an emergency.

Short-Term Car Rentals. The project could partner with short-term car rental services such as Zip-Car or Car-to-Go, which would provide vehicles available to users for hourly rentals at strategic locations within the City area. Similar to the GRH program, this service offers assurance to users of alternative modes of transit that they have options should the need arise to leave at an unscheduled time. Short-term car rentals could be used to travel to business meetings, lunch, or in emergencies, and could provide the source of emergency transportation for those using the GRH program.

Incentives for Using Alternative Travel Modes. The project TMC could incorporate various incentives for use of its programs. For example, eligible employees could be provided with discounted monthly transit passes for Metro rail and bus service. Carpool and vanpool users could be offered preferential load/unload areas or convenient designated parking spaces. Those who choose not to drive their own cars and park them at the project site could receive a "parking cash-out" subsidy.

Mobility Hub Support. The project could support efforts to provide first-mile and last-mile service for transit users through the mobility hub program. Mobility hubs, typically located at or near public transit centers, provide amenities such as bicycle parking and rentals, shared vehicle rentals (e.g., Zip-Car), and transit information. The project could provide space for similar amenities at the project site to complement future mobility hubs in the Study Area.

Comment 44.

When conducting an environmental impact analysis, an agency's determinations must be supported by evidence in the record. (Cal. Code Civ. Proc. § 1094.5 [providing that agency findings must be supported by record evidence]; Cal. Pub. Resources Code § 21168 [applying the Section 1094.5 standard to CEQA actions].) An agency cannot simply draw conclusions without analysis. (See Topanga Association for a Scenic Community v. County of Los Angeles (1974) 11 Cal.3d 506, 511-512, 515.) It "must set forth findings to bridge the analytic gap between the raw evidence and ultimate decision or order." (Ibid.) In the City's analysis of Threshold 3.11.4.4, it states that the Project "would not result in any significant adverse impacts to the generation of potential traffic hazards." (DEIR, p.180.) This is not supported by the evidence. In contrast to this conclusion, the analysis in the DEIR states that the freeway off ramps from I-5 and I-710 will exceed capacity before 2040. (Id. at p. 179.) Please update the DEIR's analysis to discuss whether the Project will cause this impact, and, if so, provide mitigation measures to address this impact to traffic and transportation.

Response 44.

As indicated in the Draft EIR, five off-ramps from the I-5 Freeway and one off-ramp from I-710 Freeway were analyzed to determine whether the lengths of the ramps are sufficient to accommodate vehicle queue lengths. The queue lengths were estimated using Vistro, which reports the 95th percentile queue length, in feet, for each approach lane on the off-ramp. Caltrans' primary concern is that queued vehicles do not extend past the back of an off-ramp onto the mainline. To this end, the queuing analysis looked at two separate components of ramp capacity: the length of each approach lane to the intersection at the end of the off-ramp and the total length of the ramp, behind any approach lane delineation lines, to the gore point where the ramp diverges from the freeway mainline. The queue may exceed the striped length of a given approach lane as long as there is sufficient additional queuing capacity on the ramp, so that any queue will not spill over onto the mainline. The Traffic Study indicated that the queue lengths at all six ramps would not exceed the capacity of the approach lanes or the ramps, with or without project traffic, for Year 2025. However, the ramps will exceed capacity under Year 2040. It is important to note that impacts to freeway ramps are not considered "significant impacts" by the City for CEQA purposes.

Comment 45.

In the City's analysis of Threshold 3.11.4.5, it concludes that the Project would not conflict with "adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities." (DEIR, pp.180-181.) Contrary to the City's conclusions, extensive infrastructure will be impacted by the Project, including two bus stops and

sidewalks running adjacent to and within the Project sites. The DEIR does not discuss how the performance and safety of this infrastructure will be temporarily or permanently impacted by the Project. The City must evaluate these impacts in the DEIR and mitigate these impacts, yet it fails to mention or discuss these impacts in its analysis. The City's conclusion regarding impacts under Threshold 3.11.4.5, therefore, is not supported by substantial evidence. Please update the DEIR to include these items in its analysis.

Response 45.

The Project does not involve relocating or eliminating any public bus stops in the study area, nor does it contemplate removing or degrading sidewalks along the Project frontage or with the Project site. The Project is not projected to significantly impact bus service or pedestrian facilities in the study area.

Comment 46.

The City concludes that cumulative greenhouse gas impacts would be significant but does not provide mitigation measures to remedy this. (DEIR, p. 202.) Likewise, the cumulative air quality impacts analysis concludes that NOx emissions would exceed SCAQMD thresholds but does not provide mitigation. (Id. at p. 201.) Please update the DEIR to provide mitigation for these items.

Response 46.

The cumulative air quality and greenhouse gas emissions analysis included in the Draft EIR (refer to Table 4-2) included an analysis of the potential air emissions from all of the related projects together with the proposed project. As indicated in the analysis, the emissions would exceed the SCAQMD's threshold of significance. Potential mitigation would need to be applied on the project's specific paces.

Comment 47.

The cumulative impacts traffic analysis does not indicate whether the Project, in conjunction with other development, will have a cumulatively considerable impact on traffic and transportation, except to state, without evidence, that "no planned or proposed developments beyond City boundaries are expected to have a noticeable impact on traffic levels in the Planning Area." (DEIR, p. 205.) The evidence, however, shows that related Projects will impact traffic levels. They will result in the generation of thousands of additional daily trips and the operation of 11 of 23 nearby intersections at a level of LOS E or F during peak traffic hours. (Id. at pp. 205-206; see Cal. Code Civ. Proc. § 1094.5, Cal. Pub. Resources Code § 21168 [findings must be supported by evidence in the record].) This is a significant impact. Please update the cumulative impacts analysis and include mitigation measures accordingly.

Response 47.

The comment is not correct. The traffic study included a detailed identification of related projects in the area and estimated the potential traffic generation. Information regarding potential future projects either

under construction, planned, or proposed for development within or near the study area was obtained from several sources. These sources include City staff as well as recent studies conducted in the area. No planned or proposed developments beyond City boundaries are expected to have a noticeable impact on traffic levels in the Planning Area. These related projects are described in Table 4-4 in the Draft EIR. Further, existing traffic counts were adjusted up by 1% per year over a seven-year period for a total increase in traffic volumes of 7% to account for additional development that is not currently in any stage of planning or development.

Comment 48.

The CEQA alternatives analysis has been described by the California Supreme Court as the "core of an EIR." (Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 564.) CEQA provides a "substantive mandate that public agencies refrain from approving projects for which there are feasible alternatives or mitigation measures" that can lessen the environmental impact of proposed projects. (Mountain Lion Foundation v. Fish & Game Com. (1997) 16 Cal.4th 105, 134, citing Pub. Resources Code § 21081 [emphasis added].) It compels government to mitigate adverse effects through the selection of feasible alternatives. (Sierra Club v. State Board of Forestry (1994) 7 Cal.4th 1215, 1233; see also Pub. Resources Code § 21002.) A lead agency's ability to comply with this mandate is predicated on a clear analysis of correct findings of a project's impacts. "Without meaningful analysis of alternatives in the EIR, neither the courts nor the public can fulfill their proper roles in the CEQA process." (Laurel Heights, supra, 47 Cal.3d at 404; Preservation Action Council v. City of San Jose (2006) 141 Cal.App.4th 1336, 1350.)

An EIR's review of Project alternatives must analyze alternatives "which are capable of avoiding or substantially lessening any significant effects of the project." (Cal. Code Regs., tit. 14, § 15126.6(b).) An EIR's very purpose is to identify ways to reduce or avoid significant environmental impacts. (Laurel Heights, supra, 47 Cal.3d at 403.) In order to achieve this purpose, the EIR must correctly identify project impacts. Yet, the Project alternatives analysis, as drafted, does not adequately assess whether alternatives would avoid or substantially lessen significant Project effects, because the DEIR either does not provide a sufficient analysis or incorrectly finds impacts to be less than significant, including in the areas of aesthetics, air quality, cultural resources, greenhouse gases, hazards and hazardous materials, land use and planning, noise, public services, and transportation and circulation. The DEIR's alternatives analysis, therefore, does not identify feasible alternatives that lessen adverse impacts, nor does it sufficiently examine whether the alternatives listed would mitigate or avoid Project impacts.

Response 48.

The Lead Agency made an initial determination as to which alternatives are potentially feasible and, therefore, merit in-depth consideration, and which are clearly infeasible. Alternatives that are remote or speculative, or the effects of which cannot be reasonably predicted, need not be considered (CEQA Guidelines, Section 15126.6(f)(3)). The Draft EIR evaluated the following three alternatives:

No Project/No Development Alternative. According to the CEQA Guidelines, Section 15126.6(e), the purpose of evaluating the No Project/No Development Alternative is to allow decision-makers to

compare the impacts of approving the project with the impacts of not approving the project. However, the No Project/No Development Alternative is not the baseline for determining whether the proposed project's impacts are significant, unless it is identical to the existing environmental setting analysis that establishes the baseline.

Residential Development Alternative (Area 1). This alternative would involve the construction of a residential development within the northeastern portion of Area 1 where one of the hotels are proposed. The residential development would consist of six levels with 96 market rate units.

Institutional/Office Use Alternative (Area 3). This alternative would involve the construction of a 70,000 square-foot, four-level office building. The precise occupancy is not known though it could be general office or an institutional use.

Section 5.2 of the Draft EIR states the following:

"An EIR need not consider every conceivable alternative to a project. According to the CEQA Guidelines, an EIR must describe a "reasonable range of alternatives" to a proposed project. The alternatives selected for comparison should be those that would attain most of the basic objectives of the project and avoid or substantially lessen one or more significant effects of the project (CEQA Guidelines Section 15126.6). The "range of alternatives" is governed by the "rule of reason," which requires the EIR to set forth only those alternatives necessary to permit an informed and reasoned choice by the decision-making body and informed public participation (CEQA Guidelines Section 15126.6[f]). CEQA generally defines "feasible" to mean an alternative that is capable of being accomplished in a successful manner within a reasonable period of time, while also taking into account economic, environmental, social, technological, and legal factors."

The alternatives that were selected were compared to the project objectives (also listed in Section 2.6 of the Draft EIR) that included the following:

1. The addition of new upscale retail tenant uses for this key corridor (Telegraph Road) in the City;
2. The erection and operation of a new state-of-the-art hotel uses;
3. The creation of an aesthetically attractive, high-quality design that reflects the property's location within view of those traveling along the I-5 Freeway;
3. The provision of a high level of accessibility to and through the Telegraph Road corridor, to promote pedestrian travel and efficient vehicular access;
4. The enhancement of the economic vitality of the City by providing sales tax and other revenue generation opportunities; and,
5. The creation of new jobs for the local economy.

An alternative site for the project was not considered when its implementation is “remote and speculative” such as the site being out of the purview of the lead agency or beyond the control of a project applicant.

Comment 49.

Please revise the DEIR as requested throughout this correspondence. Should a reexamination of the DEIR result in altered findings or information, please concurrently update the alternatives analysis to include options that would lessen or avoid all significant and inadequately mitigated impacts.

Response 49.

Comment is noted for the record. Please refer to previous response.

Comment 50.

Southwest Carpenters thanks the City for providing an opportunity to comment on the DEIR. Please update the DEIR to adequately address the issues raised in these comments, then recirculate a revised DEIR.

Pursuant to Section 21092.2 of the Public Resources Code and Section 65092 of the Government Code, please notify Southwest Carpenters of all CEQA actions and notices of any public hearings concerning this Project, including any action taken pursuant to California Planning and Zoning Laws. In addition, pursuant to Public Resources Code section 21167(f), please provide a copy of each Notice of Determination issued by the City or any other public entity in connection with this Project and add Southwest Carpenters to the list of interested parties in connection with this Project. All notices should be directed to my attention. Please send all notices by email, or if email is unavailable, by U.S. Mail to:

Response 50.

Comment is noted for the record.

Response to Email Dated April 12, 2019

Brandy Salas

Gabrieleno Band of Mission Indians – Kizh Nation

Comment 1.

Thank you for your letter. If there will be any ground disturbance taking place regarding the above project our Tribal government would like to consult.

Response 1.

Comment is noted for the record. We incorporated your standard mitigation into the Draft EIR (refer to Section 3.3).

Response to Letter Dated April 19, 2019
Michael Takeshita
County of Los Angeles Fire Department

Comment 1.

Under 3.10.2, Environmental Services, Fire Department Services, sentences one and two should be revised to state that fire protection and emergency medical services are provided by the Los Angeles County Fire Department (LACFD). The service provided by LACFD include fire protection, emergency medical, hazardous materials prevention and response, urban search and rescue, air operations and other life safety services.

Response 1.

The comment is noted for the record. No response is required.

Comment 2.

Sentences four and five should be corrected to state that the LACFD is staffed by 4,687 sworn and non-sworn personnel. Of this figure, 3,027 are sworn firefighters, with the remaining 1,660 personnel consisting of nonsworn staff. In addition, the above revisions/corrections should be made in Table 3 under Public Services Impacts.

Response 2.

The revisions have been made and have been incorporated into the Final EIR.

Comment 3.

The proposed development may necessitate multiple ingress/egress access for the circulation of traffic and emergency response issues.

Response 3.

The Applicant and the City will continue to work the Los Angeles County Fire Department in subsequent phases of planning and development.

Comment 4.

The development of this project must comply with all applicable code and ordinance requirements for construction, access, water mains, fire flows, and fire hydrants.

Response 4.

The comment has been noted for the record.

Comment 5.

Every building constructed shall be accessible to Fire Department apparatus by way of access roadways with an all-weather surface of not less than the prescribed width. The roadway shall be extended to within 150 feet of all portions of the exterior walls when measured by an unobstructed route around the exterior of the building.

Fire sprinkler systems are required in some residential and most commercial occupancies. For those occupancies not requiring fire sprinkler systems it is strongly suggested that fire sprinkler systems be installed. This will reduce potential fire and life losses. Systems are now technically and economically feasible for residential use.

The development may require fire flows up to 8,000 gallons per minute at 20 pounds per square inch residual pressure for up to a five-hour duration. Actual fire flow requirements shall be determined for each proposed structure utilizing the County of Los Angeles Fire Code Appendix B, Table 8105.1. Provide on the site plan/project data sheet the construction type and square footage per structure.

Fire hydrant spacing shall be 300 feet and shall meet the following requirements:

- a) No portion of lot frontage shall be more than 200 feet via vehicular access from a public fire hydrant.*
- b) No portion of a building shall exceed 400 feet via vehicular access from a properly spaced public fire hydrant.*
- c) Additional hydrants will be required if hydrant spacing exceeds specified distances.*
- d) When cul-de-sac depth exceeds 200 feet on a commercial street, hydrants shall be required at the corner and mid-block.*
- e) A cul-de-sac shall not be more than 500 feet in-length when serving land zoned for commercial use.*

Turning radii shall not be less than 32 feet. This measurement shall be determined at the centerline of the road. A Fire Department approved turning area shall be provided for all driveways exceeding 150 feet in-length and at the end of all cul-de-sacs.

Response 5.

The comment has been noted for the record.

Comment 6.

All on-site driveways/roadways shall provide a minimum unobstructed width of 28 feet, clear-to-sky. The on-site driveway is to be within 150 feet of all portions of the exterior walls of the first story of any building. The centerline of the access driveway shall be located parallel to and within 30 feet of an exterior wall on one side of the proposed structure. The proposed development shall comply with the County of Los Angeles Fire Code Chapter 5 and Appendix D for Fire Department Access requirements.

Driveway width for non-residential developments shall be increased when any of the following conditions will exist:

- a) Provide 34 feet in-width when parallel parking is allowed on one side of the access roadway/driveway. Preference is that such parking is not adjacent to the structure.*
- b) Provide 42 feet in-width when parallel parking is allowed on each side of the access roadway/driveway.*
- c) Any access way less than 34 feet in-width shall be labeled Fire Lane! on the final recording map and final building plans.*
- d) For streets or driveways with parking restrictions: The entrance to the street/driveway and intermittent spacing distances of 150 feet shall be posted with Fire Department approved signs stating 11 NO PARKING - FIRE LANE" in three-inch high letters. Driveway labeling is necessary to ensure access for Fire Department use.*

Response 6.

The comment has been noted for the record.

Comment 7.

All access devices and gates shall meet the following requirements:

- a) Any single-gated opening used for ingress and egress shall be a minimum of 26 feet in-width clear-to-sky.*
- b) Any divided gate opening (when each gate is used for a single direction of travel i.e., ingress or egress) shall be a minimum width of 20 feet clear-to-sky.*
- c) Gates and/or control devices shall be positioned a minimum of 50 feet from a public right-of-way and shall be provided with a turnaround having a minimum of 32 feet of turning radius. If an intercom system is used the 50 feet shall be measured from the right-of-way to the intercom control device.*
- d) All limited access devices shall be of a type approved by the Fire Department*
- e) Gate plans shall be submitted to the Fire Department prior to installation. These plans shall show all locations, widths, and details of the proposed gates. All proposed gates shall comply with the County of Los Angeles Fire Code gate requirements as noted in Chapter 5 and Appendix D.*

All proposals for traffic calming measures (speed humps/bumps/cushions, traffic circles, roundabouts, etc.) shall be submitted to the Fire Department for review prior to implementation. The proposed traffic circles shall have no obstructions within the traffic circle. The proposed development shall comply with the required Fire Department access width as noted in the County of Los Angeles Fire Code Chapter 5 and Appendix D. Notify the County of Los Angeles Fire Department, Battalion Headquarters, Fire Station 27, (323)721-4140 at least three days in advance of any street closures that may affect Fire/Paramedic responses in the area.

Response 7.

The comment has been noted for the record.

Comment 8.

Disruptions to water service shall be coordinated with the County of Los Angeles Fire Department and alternate water sources shall be provided for fire protection during such disruptions. The County of Los Angeles Fire Department Land Development Unit's comments are general requirements. Specific fire and life safety requirements and conditions set during the environmental review process will be addressed and conditions set at the building and fire plan check phase. Once the official plans are submitted for review there may be additional requirements. The County of Los Angeles Fire Department's Land Development Unit appreciates the opportunity to comment on this project.

The statutory responsibilities of the County of Los Angeles Fire Department's Land Development Unit are the review of, and comment on, all projects within the unincorporated areas of the County of Los Angeles. Our emphasis is on the availability of sufficient water supplies for firefighting operations and locational/regional access issues.

However, we review all projects for issues that may have a significant impact on the County of Los Angeles Fire Department. We are responsible for the review of all projects within contract cities (cities that contract with the County of Los Angeles Fire Department for fire protection services).

We are responsible for all County facilities located within non-contract cities. The County of Los Angeles Fire Department's Land Development Unit may also comment on conditions that may be imposed on a project by the Fire Prevention Division which may create a potentially significant impact to the environment. Should any questions arise regarding subdivisiioin, water systems, or access, please contact the County of Los Angeles Fire Department Land Development Unit's, Inspector Nancy Rodeheffer at (323) 890-4243.

Response 8.

The comment is noted for the record.

Comment 9.

The statutory responsibilities of the County of Los Angeles Fire Department's Forestry Division include erosion control, watershed management, rare and endangered species, vegetation, fuel modification for Very High Fire Hazard Severity Zones, archeological and cultural resources, and the County Oak Tree Ordinance. Potential impacts in these areas should be addressed. Under the Los Angeles County Oak tree Ordinance, a permit is required to cut, destroy, remove, relocate, inflict damage or encroach into the protected zone of any tree of the Oak genus which is 25 inches or more in circumference (eight inches in diameter), as measured 4 1/2 feet above mean natural grade. If Oak trees are known to exist in the proposed project area further field studies should be conducted to determine the presence of this species on the project site.

The County of Los Angeles Fire Department's Forestry Division has no further comments regarding this project. For any questions regarding this projects, please contact Forestry Assistant, Joseph Brunet at (818) 890-5719.

Response 9.

The comment does not apply. Oak Trees are not present within the project site.

Comment 10.

The Health Hazardous Materials Division(HHMD) of the Los Angeles County Fire Department has no requirements for the project at this time. In addition, the HHMD Site Mitigation Unit is not the designated environmental oversight agency for the project. It appears that the Department of Toxic Substances Control and the Los Angeles Regional Water Quality Board are the regulatory environmental oversight agencies on record for the project.

Please contact HHMD senior typist-clerk, Perla Garcia at (323) 890-4035 or Perla.garcia@fire.lacounty.gov if you have any questions. If you have any additional questions, please contact this office at (323) 890-4330.

Response 10.

The comment has been noted for the record.

Response to Comment Letter Dated May 6, 2019

Gideon Kracov

Attorney at Law

Comment 1.

On behalf of UNITE HERE Local 11 (“Local 11”), the non-profit environmental justice organization East Yard Communities for Environmental Justice (“Eastyard”), and residents Daniel Garcia and Ivan Vasquez and Leonel Vasquez (collectively or “Commentors”), this Office respectfully provides the City of Commerce (“City”) the following comments regarding the Draft Environmental Impact Report (“DEIR”)¹ and requested land use approvals (“Entitlements”) (collectively “Project Approvals”) for the referenced expansion of the regional commercial Citadel Outlet Mall (“Project”) located on a 44-acre site within the City (“Site”) proposed by Citadel Holding Group, LLC (“Applicant”). Commentors are concerned with the Project’s compliance with the California Environmental Quality Act, Pub. Res. Code § 21000 et seq., (“CEQA”) and the Commerce Municipal Code (“CMC” or “Code”).

In short, the Project’s lack of any housing, much less affordable, is inconsistent with the City’s General Plan. Additionally, the DEIR’s air quality and greenhouse gas (“GHG”) analysis is fundamentally flawed and masks the true impacts suffered by residents in this environmental justice community. Furthermore, the Applicant is avoiding numerous feasible mitigation measures that could reduce these impacts. Lastly, because this Project will admittedly create significant air quality, GHG, and traffic impacts, the City must adopt a statement of overriding considerations— which it cannot do absent real commitments from the Applicant, like affordable housing.

These Project Approvals are discretionary, not by right. The City has the discretion to reject this project and demand more for its residents. Commentors respectfully urge the City to exercise its discretion and reject the Project Approvals until a recirculated DEIR is prepared that addresses the issues discussed herein and in the expert comment letter attached hereto as Exhibit A.

Response 1.

The comment has been noted for the record.

Comment 2.

*Local 11 represents more than 25,000 workers employed in hotels, restaurants, airports, sports arenas, and convention centers throughout Southern California and Phoenix, Arizona. Members of Local 11, including hundreds who live or work in the City of Commerce, join together to fight for improved living standards and working conditions. Making these comments to public officials in connection with matters of public concern about affordable housing and compliance with zoning rules is protected by the First Amendment, the Noerr-Pennington doctrine and is within the core functions of the union. Unions have standing to litigate land use and environmental claims. See *Bakersfield Citizens v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1198.*

Eastyard is a nonprofit organization with the mission is to ensure environmentally sustainable development in southeast Los Angeles and the I-710 corridor and informed decisionmaking by public officials. Through grass-roots organizing and leadership building skills, Eastyard works to enable under-represented communities to be heard, which in turn influences policy change, policymakers, and agencies that can institute health protective environmental justice policies that are in the best interest of local, regional, and statewide residents. Its prior efforts include policy advocacy concerning the I-710 freeway expansion and the Exide Technologies lead cleanup. Like those projects, this Citadel Project presents serious issues concerning environmentally responsible development, such as its admittedly significant air quality, GHG, and traffic impacts, which will adversely affect Eastyard's members—including over one hundred members living in the City.

*Mr. Garcia and the Vasquez brothers all live roughly a half-mile of the Site and frequent the immediately adjacent area almost daily. As such, they will be adversely impacted if the issues discussed herein are not cured and, therefore, they have a beneficial interest in Project compliance with CEQA. This geographic proximity and nexus to the Project Site, alone, is sufficient to establish standing under CEQA and the Code. See *Bozung v. LAFCO* (1975) 13 Cal.3d 263, 272 (plaintiff living 1,800 feet from annexed property has standing to challenge the annexation); see also *Citizens Ass'n for Sensible Dev. v. County of Inyo* (1985) 172 Cal.App.3d 151, 158 (“a property owner, taxpayer, or elector who establishes a geographical nexus with the site of the challenged project has standing.”).*

*Commentors also have public interest standing given the Project Approvals relate to the City's public duty to comply with applicable zoning and CEQA laws, and where Commentors seek to have that duty enforced. See *Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 Cal.App.4th 899, 914-916, n6 (noting that “the public interest exception applies where the question is one of public right and the object of the action is to enforce a public duty – in which case it is sufficient that the plaintiff be interested as a citizen in having the laws executed and the public duty enforced” and “promotes the policy of guaranteeing citizens the opportunity to ensure that no governmental body impairs or defeats the purpose of legislation establishing a public right.”); see also *La Mirada Avenue Neighborhood Assn. of Hollywood v. City of Los Angeles* (2018) 22 Cal.App.5th 1149, 1158-1159 (“[o]ur Supreme Court has consistently recognized the importance of preserving the integrity of a locality's governing general plan for zoning” and that “the vindication of this significant policy benefits not only the persons living near the Project and the persons living within the geographical boundaries of the [area] at issue in this case, but also all residents of the City who benefit from the trial court's ruling that holds the City Council's zoning decisions to the letter and spirit of the municipal code.”). Indeed, California “courts have repeatedly applied the ‘public right/public duty’ exception to the general rule that ordinarily a writ of mandate will issue only to persons who are beneficially interested.” *Weiss v. City of Los Angeles* (2016) 2 Cal.App.5th 194, 205- 206; see also *Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155, 166, 169–170 (it is sufficient that he is interested as a citizen in having the laws executed and the duty in question enforced).*

This comment letter is made to exhaust remedies under administrative law principles and Pub. Res. Code § 21177 concerning the Project, and incorporates by this reference all written and oral comments submitted on the Project by any commenting party or agency. It is well-established that any party, as

Commentors here, who participate in the administrative process can assert all factual and legal issues raised by anyone. See Citizens for Open Government v. City of Lodi (2006) 144 Cal.App.4th 865, 875.

Response 2.

The comment is noted for the record.

Comment 3.

The Project includes more than one million square feet (“SF”) of development on the 44- acre site in three distinct geographic areas referred to as Area 1, Area 2, and Area 3 (“Site”) in multiple phases (DEIR, pp. 13-16, 44-58).² While the DEIR is ambiguous in regards to the specific construction phasing, discussed in detail in the attached expert comment letter (Exhibit A), these phases will have overlapping construction. The proposed land uses for the respective areas include:

- Area 3: 10-acre site where development is likely to take place first, open as early as 2020, and includes: two fast-food restaurants, sit-down restaurant, either a third fast food restaurant or office building, and new warehouse/industrial building.*
- Area 1: 8-acre site where majority of new improvements will occur, start operating as early as 2021, and includes: two commercial buildings; five-level, 174-rooms traveler’s hotel; 96- room Loft Hotel with five levels on top of four levels of parking; and additional retail/food- related uses, Grand Fountain Plaza, artwork, pedestrian paths, safety and decorative lighting, landscaping, and a bus/transit area, and a new monorail that will extend through the existing Citadel Outlets continuing to Area 2.*
- Area 2: 26-acre site where additional development will occur, purported open as early as 2021,³ and includes: two commercial retail buildings; recreational commercial use (“Adventure Experiential Retail”), 500-room hotel with four levels of parking and nine levels of hotel use; movie/entertainment complex, and restaurant.*

In furtherance of their Project, the Applicant is requesting various discretionary Project Approvals from the City (DEIR, pp. 17, 58), including:

- Two Development Agreements (“DA”), one for Areas 1 and 2, and another for Area 3 that will provide expedited site plan review and a master sign plan review;*
- Multiple Zone Changes (“ZC”) for parcels located in Area 1 (two sites from M-2 to C-2) and Area 3 (rezone M-2 for industrial building and CPF for a “joint venture site” if used for institutional/public/government facility uses);*
- Certification of the final EIR.*

Response 3.

The comment is noted for the record. The comment is restating elements of the project description included in the Draft EIR.

Comment 4.

To grant the abovementioned Project Approvals, the City must make numerous discretionary CEQA and land use findings, including but not limited to the following:

- *“That the proposed change of zone or zoning ordinance text amendment is consistent with the goals, policies, and objectives of the general plan.” CMC § 19.39.310.*
- *That the proposed change of zone or zoning ordinance text amendment will not adversely affect surrounding properties.” CMC § 19.39.310.*
- *That the proposed change of zone or zoning ordinance text amendment promotes public health, safety, and general welfare and serves the goals and purposes of this Title 19.” CMC § 19.39.310.*
- *“Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” CEQA Guidelines § 15091(a).*
- *“Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.” CEQA Guidelines § 15091(a)(2).*
- *“Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.” CEQA Guidelines § 15091(a)(3).*

Response 4.

The comment is noted for the record.

Comment 5.

An “accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR.” San Joaquin Raptor Rescue Ctr. v. Cnty. of Merced (2007) 149 Cal.App.4th 645, 654-655 (quoting Cnty. of Inyo v. City of Los Angeles (1977) 71 Cal.App.3d 185, 199) (emphasis in original). As one court explained, “only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal’s benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the ‘no project’ alternative), and weigh other alternatives in the balance.” Citizens for a Sustainable Treasure Island v. City & Cnty. of San Francisco (2014) 227 Cal.App.4th 1036, 1052. Hence, an accurate project description is an “indispensable component of a valid EIR.” Western Placer Citizens for an Agr. and Rural Env’t v. Cnty. of Placer (2006) 144 Cal.App.4th 890, 898.

Here, the DEIR states that the Project will be subject to two DAs (DEIR, p. 17), but Provides no information about the general parameters of the DAs, such as whether the agreement obligates the City to lease the office building from the Applicant, or other “benefits” the City would receive that would be relevant to a valid statement of overriding consideration (as discussed infra Section III.E). Moreover, as extensively discussed in the attached expert comment letter (Exhibit A),

the DEIR fails to provide sufficient information about the Project's construction activities. Furthermore, the air quality and GHG emission modeling per CalEEMod located in Appendix A confirms the DEIR analyzed a project with non-overlapping construction, despite the DEIR clearly contemplating overlapping construction. Hence, the DEIR's project description does not comport with the DEIR's analysis. Either the DEIR's analysis must be cured, or the project description and Project Approvals changed to reflect the project modeled and analyzed in the DEIR. This is a fundamental flaw that underpins the entire DEIR analysis.

Response 5.

The comment is noted for the record. The air quality modeling reflected the actual anticipated construction phases. The development contemplated for the three areas would not occur during the same period.

Comment 6.

An “accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR.” San Joaquin Raptor Rescue Ctr. v. Cnty. of Merced (2007) 149 Cal.App.4th 645, 654-655 (quoting Cnty. of Inyo v. City of Los Angeles (1977) 71 Cal.App.3d 185, 199) (emphasis in original). As one court explained, “only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the ‘no project’ alternative), and weigh other alternatives in the balance.” Citizens for a Sustainable Treasure Island v. City & Cnty. of San Francisco (2014) 227 Cal.App.4th 1036, 1052. Hence, an accurate project description is an “indispensable component of a valid EIR.” Western Placer Citizens for an Agr. and Rural Env't v. Cnty. of Placer (2006) 144 Cal.App.4th 890, 898.

Here, the DEIR states that the Project will be subject to two DAs (DEIR, p. 17), but Provides no information about the general parameters of the DAs, such as whether the agreement obligates the City to lease the office building from the Applicant, or other “benefits” the City would receive that would be relevant to a valid statement of overriding consideration (as discussed infra Section III.E). Moreover, as extensively discussed in the attached expert comment letter (Exhibit A), the DEIR fails to provide sufficient information about the Project's construction activities. Furthermore, the air quality and GHG emission modeling per CalEEMod located in Appendix A confirms the DEIR analyzed a project with non-overlapping construction, despite the DEIR clearly contemplating overlapping construction. Hence, the DEIR's project description does not comport with the DEIR's analysis. Either the DEIR's analysis must be cured, or the project description and Project Approvals changed to reflect the project modeled and analyzed in the DEIR. This is a fundamental flaw that underpins the entire DEIR analysis.

The abovementioned issues are of grave concern for Eastyard given the City is a known environmental justice community that scores in the 95-100 percentile under the CalEnvrioScreen (the highest score under SB 535 Disadvantaged Communities rating). The issues discussed in the attached expert comment letter must be addressed in a revised, recirculated DEIR.

Response 6.

Comment noted. See Response 5.

Comment 7.

The potential existence of toxic contamination on a project site is a significant impact requiring CEQA review. City of Maywood v. Los Angeles Unified School Dist. (2012) 208 Cal.App.4th 362, 396; McQueen v. Board of Directors (1988) 202 Cal.App.3d 1136. Here, the Site contains numerous hazards which require clean up efforts not disclosed or analyzed in the DEIR.

For example, Area 1 has Tetrachloroethylene (“PCE”), trichloroethylene (“TCE”), total chromium, and hexavalent chromium in groundwater above the State of California maximum contaminant level (“MCL”) standards in monitoring reports prepared through 2009 (DEIR, p. 112). Despite a DTSC voluntary cleanup agreement (“VCA”) resulting in 11,000 tons of PCE-impacted soil being removed, PCE levels still migrated to groundwater. The party to the VCA went bankrupt, and no further cleanup efforts have taken place (id.). Area 2 has total petroleum hydrocarbons (“TPH”) impacted soil on-site and Area 3 is suspected of having polychlorinated biphenyls (“PCB”), a leaking underground storage tank (“LUST”), 1,1,1-Trichloroethane, Isopropyl alcohol, Methyl Ethyl Ketone, N-Butyl Alcohol, Toluene, and Xylene (DEIR, pp. 114-115). Furthermore, the entire Site is suspected of containing asbestos containing materials (“ACM”), lead-containing materials (“LCM”), and PCBs (id.).

Given all this, the Site poses a significant threat of exposing dangerous chemical to construction works and those near the Site during and after construction. A complete and more thorough analysis should have been conducted assessing that risk, which the DEIR fails to do.

Moreover, the Site should be subject to enforceable clean-up procedures and performance standards just like other City projects. Instead, the DEIR’s paltry hazard mitigation measures only include (emphasis added):

- “The preparation of a soil and demolition management plan (SMP) will be required. Grading and development should plan for removal of USTs, other subsurface features not removed during demolition, and potential management of visually impacted soil. Observation of grading and demolition operations under the SMP must be conducted ...[;]”*
- The railroad spur line is likely impacted by petroleum hydrocarbons, arsenic, lead, and polynuclear aromatic hydrocarbons. When the line is removed, and if the soil is excavated and moved from the property, the soil will likely require sampling and special handling ...[;]”*
- A vapor barrier must be installed at 2240 Gaspar Avenue should a building be constructed within the property ...[;]”*
- Mitigation Measure 14 (Hazards & Hazardous Materials). An Operations and Maintenance (O&M) Program must be implemented in order to safely manage the suspect ACMs and LBP located in the remaining buildings.” (DEIR, p. 117 [emphasis added]):*

These few measures are inadequate because, as the language suggests, the mitigation measures rely on the formation of future plans and potential testing with no performance standards tied to them. This amounts to improper deferred mitigation under CEQA. See e.g., City of Maywood v. Los Angeles Unified School Dist. (2012) 208 Cal.App.4th 362, 407 (CEQA requires lead agencies to “craft mitigation measures that would satisfy enforceable performance criteria.”); Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn. (1986) 42 Cal.3d 929, 935 (enforceable performance standards “ensure the integrity of the process of decision making by precluding stubborn problems or serious criticism from being swept under the rug.”); Lincoln Place Tenants Ass’n v. City of Los Angeles (2005) 130 Cal.App.4th 1491, 1508 (“Mitigating conditions are not mere expressions of hope.”); Federation of Hillside & Canyon Ass’ns v. City of Los Angeles (2000) 83 Cal.App.4th 1252, 1261 (“feasible mitigation measures will actually be implemented as a condition of development.”); Oro Fino Gold Mining Corp. v. County of El Dorado (1990) 225 Cal.App.3d 872, 884 (“There cannot be meaningful scrutiny [of an environmental review document] when the mitigation measures are not set forth at the time of project approval.”).

In sum, this lack of adequate disclosure of site contamination violates CEQA’s informational disclosure mandates. CEQA requires that Respondents make “a reasonable, good faith effort to disclose and evaluate environmental impacts.” City of Maywood, 208 Cal.App.4th at 396 (stating rules for property contamination evaluation in CEQA cases).

Response 7.

As stated in the Draft EIR, the contamination that is present within the area is due to historic uses within the project area. The existing conditions for the three areas are outlined in Section 3.5.2. The implementation of the proposed project will not impede past clean-up efforts. Finally, the cleanup and/or remediation will be required to occur in the absence of the proposed project’s implementation.

Comment 8.

An EIR must identify, fully analyze and mitigate any inconsistencies between a proposed project and the general, specific, regional, and other plans that apply to the project. CEQA Guidelines § 15125(d); Pfeiffer v. City of Sunnyvale City Council (2011) 200 Cal.App.4th 1552, 1566; Friends of the Eel River v. Sonoma County Water Agency (2003) 108 Cal.App.4th 859, 881. There does not need to be a direct conflict to trigger this requirement; even if a project is “incompatible” with the “goals and policies” of a land use plan, the EIR must assess the divergence between the project and the plan, and mitigate any adverse effects of the inconsistencies. Napa Citizens for Honest Government v. Napa County Bd. of Supervisors (2001) 91 Cal.App.4th 342, 378-79; see also Pocket Protectors v. City of Sacramento (2004) 124 Cal.App.4th 903 (holding under CEQA that a significant impact exists where project conflicts with local land use policies); Friends of “B” Street v. City of Hayward (1980) 106 Cal.App.3d 988, 998 (held county development and infrastructure improvements must be consistent with adopted general plans) (citing Gov. Code § 65302).

Here, the Project does not include a single residential-unit, much less affordable units, but claims to create 1,750 new jobs. The DEIR claims that SCAG projects 4,500 new jobs under the 2016-40 RTP/SCS and, thus, purportedly does not result in substantial growth in population within the City (DEIR, p. 153). Furthermore, it states that the Project would be consistent with all applicable land use plans and policies (DEIR, p. 138). Absent some housing, ideally affordable, these determinations are not supported by substantial evidence. The DEIR ignores many salient facts.

First, the DEIR ignores that this single project would account for nearly 40 percent of the City's anticipated job growth for 28 years (i.e., 2012-2040). For instance, SCAG anticipated 4,500 new jobs over 2012 levels during said 28-year period, amounts to a 0.34 percent Compound Annual Growth Rate ("CAGR"), equating to roughly 153-168 new jobs each year between 2012 through 2040. Here, the Project claims to add 1,750 jobs in a potential four-year period (i.e., 546.78 percent CAGR, or roughly 437 jobs each year).

Response 8.

The project area is not zoned for residential development nor does the General Plan permit residential development. Other than the Ferguson neighborhood, the entire portion of the City of Commerce located to the north of the Santa Ana Freeway has been designated and zoned for industrial and commercial uses. Overall, the proposed project is generally consistent with the City's General Plan land use policy.

As indicated in the Draft EIR, portions of the Planning Area will require a number of Zone Changes to accommodate the proposed project. The first set of zone changes, from M-2 (*Heavy Industrial*) to C-2 (*Commercial*), will be required for two sites located in Area 1. Area 3 will also require up to two zone changes. First, the site for the proposed industrial building will need to be rezoned to M-2 (*Heavy Industrial*) to C-2 (*Commercial*) to permit the proposed industrial building. In addition, if an institutional/public/government facility is ultimately located within Area 3, the development site must be zoned CPF (*Commercial Public Facility Zone*) to allow for the proposed use. Finally, developing the project area as residential would not achieve any of the project objectives.

Comment 9.

Second, the DEIR claims that the added jobs would aid in reducing the citywide unemployment currently at 4.1 percent (DEIR, p. 153) as if the City is experiencing unusual high unemployment and that Project would employ individuals already living in the area. However, as indicated in the table below, the City is already experiencing comparatively low unemployment with the annual average unemployment rate (not seasonally adjusted) dropping from 14 percent in 2012 to 6.7 percent in 2018. During that time, the labor force increased while also reducing the total number of people unemployed. Hence, it is unlikely that the majority of the 1,750 jobs will be staffed by existing City population currently experiencing comparatively low unemployment rates. Instead, people from outside the area will likely staff these jobs. Admittedly, the City's lack of available land for housing has already put strains on the City's ability to house its current residents (DEIR, p. 151). Therefore, the City must either build housing somewhere to keep jobs local or expect longer VMT commutes from employees coming elsewhere.

Response 9.

Please refer to Response 8.

Comment 10.

Third, the DEIR claims that the Project is merely reactive to population growth in the City (DEIR, p. 224). However, as indicated in the table below, the City has experienced a consistent population growth rate from 1990 to 2017 ranging from 0.15 to 0.61 percent. This is dramatically lower than the CAGR experienced in Los Angeles County as a whole. Hence, it cannot be claimed that the Project is merely responding to unusual growth in the City's population.

Response 10.

The statement that, “any potential population growth will be indirect[ly] related to employment generation” acknowledges that any growth inducing impact related to housing would be related to employment generation as opposed to housing construction and demolition.

Comment 11.

Fourth, the City lacks available land for housing. Admittedly, the City's lack of available land for housing has already put strains on the City's ability to house its current residents (DEIR, p. 151). According to the Housing Element, the City has a disproportionally higher percentage of single- family detached homes versus multi-family units (67.9 and 16.1 percent respectively) as compared to Los Angeles County as a whole with 49.9 percent and 33.8 percent (respectively). This has resulted in an unhealthy rental vacancy rate of 0 percent. While on paper, the City has 74 acres of land zoned for high-density residential (1.8 percent of all City land), “[t]here is very little vacant residential land available in the City ... [which] is a significant constraint to the development of new housing within the City.” The City's jobs/housing imbalance and lack of housing generally, much less affordable housing, is an environmental justice issue.

Response 11.

Please refer to Response 8.

Comment 12.

Fifth, the City has not provided enough housing at all income levels. Despite SCAG's 2000- 2007 Regional Housing Need Assessment (“RHNA”) of 110 units, the City built 62 units during 2000-2005. Despite the SCAG's 2008-2014 RHNA of 64 units, the City built or approved only 29 units (all at the above moderate income level). Because the City failed to complete the rezoning necessary to provide adequate sites to accommodate the City's lower income RHNA obligation, the City's shortfall under the 2008-2014 planning period was carried over into SCAG's 2014-2021 RHNA. After considering units accommodated on vacant sites, the City's currently RHNA obligation is 57 units (i.e., 13 very low, 17 low, 7 moderate, and 19 above moderate income levels), which the City hopes will be provided in the 44.3-acre “Housing Opportunity

Overlay” area south of the Bristow neighborhood and west of the Rosewood Park. However, the eastern portion of this Overlay area, where the City “would like” and expects “most likely” to transition to residential during the planning period, is comprised of larger and older industrial and manufacturing properties with no pedestrian activity, limited auto access, and contains an abandoned rail right-of-way. To expect “stand-alone” low-income/affordable housing unit on this area might be optimistic given the lack of foot traffic and the costs associated with remediating any legacy contaminates stemming from the area’s prior industrial/manufacturing uses. That other location has potential, but the City has a real opportunity right now to require housing on this Site—an opportunity that should not be squandered.

Response 12.

Please refer to Response 8.

Comment 13.

Sixth, given the City has failed to submit its RHNA annual progress report (“APR”), it is uncertain whether housing unit projects within this area have been applied for, approved, or built since the City adopted its Housing Element in November 2013. Per review of the related projects listed in the DEIR, only one single-family unit is currently being considered by the City (DEIR, p.227). While hope springs eternal, the City’s ability to provide adequate housing for its residents and employees—including the 57 RHNA units due by 2021—is questionable. That is why the City must exercise its discretion now when it faces a real opportunity to provide housing. Given the Site is so large, the City has a once in a generation opportunity to bring real benefits to the community in the form of housing—which is relevant to any valid statement of overriding consideration (discussed infra Section III.E).

Response 13.

Please refer to Response 8.

Comment 14.

Seventh, Southern California and the City, is in a housing crisis. According to the UCLA Ziman Center, housing prices have grown about four times faster than incomes since 2000 and “affordable housing production and preservation needs to accelerate.” The Los Angeles area is the least affordable rental market in the country, according to Harvard University’s Joint Center for Housing Studies, and has been ranked the second-least affordable region for middle-class people seeking to buy a home. As discussed above, the City is not reaching its housing commitments, which is an environmental justice issue.

Response 14.

Please refer to Response 8.

Comment 15.

Eighth, the abovementioned issues underpin the desperate need for housing—particularly affordable housing—not more retail. The City’s General Plan Housing Element reflects this urgent need for affordable housing, such as: “[t]he primary goal of the city of Commerce is to provide all residents with sound, safe, decent, and affordable housing ... [t]o provide new housing wherever possible ... [t]o ensure the highest possible quality of living for all social and economic groups ... Particularly important in Commerce, where land available for residential development is scarce, has been the Community Development Commission’s role in providing sites for the creation of affordable units.” 21 Given this Project lacks a single residential unit, this Project is inconsistent with the General Plan’s goals and policies of providing City residents affordable housing opportunities and, therefore, the City has the discretion to reject the Project Approvals.

Response 15.

Please refer to Response 8. It is important to note that the project area was never identified as a housing opportunity site or available site in the City of Commerce Housing Element.

Comment 16.

Ninth, the Project’s lack of housing and admittedly significant impacts is fatally inconsistent with goals, policies, and standards under applicable the land use plans (many of which improperly are ignored by the DEIR), including but not limited to those listed in the table on the following page:

*In sum, with no housing, much less affordable housing, the DEIR cannot find that the Project will not result in a population, housing, or land use impact. Nor, can the City make the Code- required findings to grant the requested entitlements (supra Section II). While planning agencies enjoy some discretion interpreting their zoning law – “deference has limits” – and courts are not bound by unreasonable interpretations. *Orange Citizens for Parks & Recreation v. Superior Court* (2016) 2 Cal.5th 141, 156-57 (rejecting agency’s attempts to “downplay the facial inconsistency” between a project and general plan designation). The inquiry is whether there is a prejudicial abuse of discretion where the record shows the administrative decision “is not supported by the findings, or the findings are not supported by substantial evidence.” *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 514-515. This Project plainly conflicts with the City’s General Plan and the City has the discretion to reject the Project.*

The Site is a prime candidate for affordable housing—please do not squander this opportunity to exercise your discretion to require affordable housing for this Project so that City residents like Commentors can afford to live there.

Response 16.

Please refer to Response 8.

Comment 17.

The discussion of mitigation and alternatives is “the core of an EIR,” requiring a lead agency to select a reasonable range of alternatives for evaluation guided by a clearly written statement of objectives. Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 564-65; see also CEQA Guidelines § 15124(b). It is the lead agency’s affirmative duty to approve a project only after “meaningful consideration of alternatives and mitigation measures.” Mountain Lion Foundation v. Fish & Game Com. (1997) 16 Cal.4th 105, 134. This duty cannot be defeated by defining objectives too narrowly or too broadly or artificially limiting the agencies’ ability to implement reasonable alternatives by prior contractual commitments. See e.g., City of Santee v. County of San Diego (1989) 214 Cal.App.3d 1438, 1447; Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d 692, 736. Instead, a “reasonable range of alternatives” should be:

- “capable of being accomplished in a successful manner” (Pub. Res. Code § 21061.1);
- “attain most of the basic objectives of the project” (Sierra Club v. County of Napa (2004) 121 Cal.App.4th 1490, 1509 (citing CEQA Guidelines § 15126.6(a) and (f)); and
- achieve the project’s “underlying fundamental purpose” (In re Bay-Delta (2008) 43 Cal.4th 1143, 1164-1165 (citing CEQA Guidelines § 15124(b)).

While alternatives must implement the most basic project objectives, they need not implement all of them. See California Native Plant Soc’y v. City of Santa Cruz (2009) 177 Cal.App.4th 957, 991; see also Mira Mar Mobile Community v. City of Oceanside (2004) 119 Cal.App.4th 477, 488-489. The discussion must “focus on alternatives capable of eliminating any significant adverse environmental effects or reducing them to a level of insignificance, even if these alternatives would impede to some degree the attainment of the project objectives, or would be costlier.” Friends of the Eel River v. Sonoma County Water Agency (2003) 108 Cal.App.4th 859, 873; see also CEQA Guidelines § 15126.6(a); Cleveland III, 17 Cal.App.5th at 436 (EIR discussion deficient where no alternative was considered that significantly reduced total vehicle miles traveled and where the alternatives labeled ‘transit emphasis’ was a “misnomer” given they only advanced certain rapid bus projects, left rail/trolley projects largely unchanged, and provided no increased transit projects/services).

Response 17.

The comment is noted for the record.

Comment 18.

Here, in addition to the Project, the DEIR analyzed three alternatives, including: (1) no project; (2) 96 market-rate residential units in Area 1 (“Residential Alternative”); and (3) 70,000- SF, 4-level office building (“Institutional/Office Alternative”) (DEIR, p. 33). However, there is no discussion of what alternatives were considered but rejected (DEIR, pp. 238-239). Based on the project objectives (DEIR, pp. 19, 59), a residential alternative with a mix of market and affordable housing at appropriate density could have been considered on Area 3 and would be an environmentally superior project. Moreover, the DEIR

alternative discussion lacks any analysis. Instead, the DEIR provides but a few conclusory statements for each impact resource, often making unsubstantiated claims about the comparative pros/cons of the Project versus the alternative, and provides no modeling of the air quality, GHG, or traffic impacts of the project alternatives (DEIR, pp. 240-245).

For example, the Residential Alternative would admittedly have comparable or less impacts in aesthetics, cultural, GHG, hazards, hydrology, traffic, utilities; but the DEIR makes conclusory claims regarding the following impacts:

- *Air Quality: Admittedly this alternative would have less traffic, but DEIR claims Vehicles Miles Traveled (“VMT”) would increase over the long term without providing any evidence or provide CalEEMod modeling. This is contradictory to responsible agency guidance.²³ The DEIR also cites SCAQMD recommendation to avoid siting housing near freeways. However, responsible agencies like SCAQMD also recognizes the need to cite new housing with adequate mitigation.*
- *GHG: The DEIR claims emissions would only “slightly decrease” even though the DEIR admits that retail uses generate more vehicle trips and would account for 95 percent of the component’s emissions (DEIR, p. 242). Nor does the DEIR provide CalEEMod modeling to show GHG reductions and efficiency gains under the alternative over the Project*
- *Land Use: The DEIR states that the market units would be on Area 3 (DEIR, p. 243), even though it previously stated it would be on Area 1 (id. at 242, 243). Additionally, it states that Alternative would require a ZC and General Plan Amendment (“GPA”) and, therefore, the Alternative would have a greater land use impact compared to the Project. However, the Project also requires a ZC and subject to an EIR. An alternative requiring ZC/GPA would require at most an EIR (which has already been done here) and would require a concurrent application process (also done here). Moreover, the DEIR’s inadequate land use and population impact analyses fail to account for the Project’s impact in creating a greater job/housing imbalance and the City’s desperate need for more housing (as discussed supra Section III.C), which the Alternative is far superior at addressing.*
- *Noise: The DEIR states that noise impacts are more significant because residents would be exposed to freeway noise (DEIR, p. 243). However, hotel guest and residents are both noise sensitive users. Hence, whether the Site is occupied by guests or residents, the impact would be the same.*
- *Population: The DEIR states the area is underserved by parks and schools. However, the General Plan states the City provides “excellent park” facilities and recreational program and that the City is “well served by community parks[,]” such as the Rosewood Park and School roughly 300-800 ft. from the Project Site. Moreover, the Project’s adventure experience and family-friendly amenities can serve as a substitute, in addition to the consideration of a pocket park within the entire development.*

Response 18.

Please refer to Response 8. In addition, the aforementioned residential alternative would not achieve any of the project objectives for the proposed project that includes the following:

1. The addition of new upscale retail tenant uses for this key corridor in the City;
2. The erection and operation of a new state of the art hotel uses;
3. The creation of an aesthetically attractive, high-quality design that reflects the property's location within view of those traveling along the I-5 Freeway;
4. The provision of a high level of accessibility to and through the Telegraph Road corridor, to promote pedestrian travel and efficient vehicular access; and,
5. The enhancement of the economic vitality of the City by providing sales tax and other revenue generation opportunities.
6. The creation of new jobs for the local economy.

Comment 19.

So too is the Institutional/Office Alternative analysis flawed. For aesthetics, the DEIR states that the alternative (i.e., 70,000-SF, 4-level office building) would have “comparable” impacts as to the Project (i.e., 4,500-SF, 1-story fast food restaurant). However, the increase in bulk and size alone constitutes a more significant aesthetic impact than the Project. For air quality and GHG, no CalEEMod modeling was provided to determine the comparative advantage of the alternative. For utilities, admittedly the Alternative would have greater water/effluent generation than the restaurant, but claimed impacts would be comparable.

Response 19.

The Final EIR will be revised accordingly to better describe the potential comparative impacts of the Institutional/Office Alternative.

Comment 20.

*So too is the DEIR's Table 5-1 chart flawed, containing facially inaccurate information as compared to the DEIR's narrative section (DEIR, p. 246 [e.g., Residential Alternative's aesthetics and GHG impacts]). Coupled with the unsubstantiated claims discussed above, this chart is misleading to suggest to the reader that the Institutional Alternative has fewer impacts than the Project. Admittedly, the Institutional/Office Alternative “would result in similar impacts on the environment than the proposed project for all resource areas considered in the analysis however, the revenue generated would be proportionally less than that of the proposed project.” (DEIR, p. 245, *emph. added*). Hence, it is illogical to claim that this Alternative is*

the environmentally superior alternative. In sum, the DEIR's abbreviated alternative analysis is inadequate and a sharp contrast from other regional commercial projects with more in-depth review reviewed by the City and other lead agencies.

Response 20.

The Final EIR will be revised accordingly to better describe the potential comparative impacts of the Residential Alternative.

Comment 21.

*The DEIR admits, at a minimum, that the Project will have significant, unmitigated construction/operational air quality, GHG, and traffic impacts, in addition to cumulative air quality and GHG impacts. So too, Commentors are concerned about potentially significant air quality, GHG, and land use impacts discussed herein and the enclosed expert comment. Here, the Project fails to impose all feasible mitigation measures or identify a CEQA-compliant statement of overriding considerations. See *Lawler v. City of Redding* (1992) 7 Cal.App.4th 778 (vacating city's approval of a sports facility on city-owned land in an unincorporated area until adopting measures to sufficient mitigate noise impacts).*

*When approving a project that will have significant environmental impacts not fully mitigated, a lead agency must adopt a "statement of overriding considerations" finding that the project's benefits outweigh its environmental harm. See CEQA Guidelines § 15043; see also Pub. Res. Code § 21081(b); *Sierra Club v. Contra Costa County* (1992) 10 Cal.App.4th 1212, 1222. An overriding statement expresses the "larger, more general reasons for approving the project, such as the need to create new jobs, provide housing, generate taxes and the like." *Concerned Citizens of S. Central LA v. Los Angeles Unif. Sch. Dist.* (1994) 24 Cal.App.4th 826, 847. It must fully inform and disclose the specific benefits expected to outweigh environmental impacts, supported by substantial evidence. See CEQA Guidelines §§ 15043(b), 15093(b); see also *Sierra Club*, 10 Cal.App.4th at 1223. Furthermore, an agency may adopt a statement of overriding considerations only after it has imposed all feasible mitigation measures to reduce a project's impact to less than significant levels. See CEQA Guidelines §§ 15091 & 15126.4. Hence, decisionmakers may not approve a project when feasible mitigation measures can substantially lessen or avoid such impacts. See Pub. Res. Code § 21002; see also CEQA Guidelines § 15092(b)(2).*

Moreover, in addition to imposing all feasible mitigation, to the extent that overriding considerations are needed, key among the findings that the lead agency must make is that:

"Specific economic, legal, social, technological, or other considerations, including the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report ... [and that those] benefits of the project outweigh the significant effects on the environment." Pub. Res. Code § 21081(a)(3) & (b), emphasis added.

Here, at most, the DEIR states that the Applicant “could contribute a one-time fixed fee to be deposited into the City’s Bicycle Plan Trust Fund to implement bicycle improvements in the area.” (DEIR, pp. 199 [emphasis added]; see also pp. 196, 209). Notwithstanding it could, or could not, come to fruition, the fee is intended to serve as mitigation for admitted Project-related impacts. Public benefits are not mitigation, for which the Project must provide; public benefits must be above and beyond mere mitigation and compliance with the law—such as real affordable housing. The Project provides not a single residential unit—much less housing for low- or very-low-income levels—which the City desperately needs. Nor does the DEIR attempt to determine whether new jobs created by the Project, in either the construction phase or the operational phase, will be for “highly trained workers,” and what the likely salary and wage ranges of these jobs will be. Without this information, the City lacks substantial evidence to make any overriding statement.

Response 21.

The comment is noted for the record. Also, please refer to Response 8.

Comment 22.

The City should require payment of prevailing wages for all construction phase workers and living wages for all operational phase workers. Such a requirement will ensure that the Project provides “employment opportunities for highly trained workers” in accordance with the mandates of CEQA. Without such requirements, the Project may actually depress wage rates and fail to provide high-quality job opportunities.

In short, the City cannot find that the economic benefits of the Project outweigh the environmental costs if it does not provide more housing at low- and very-low-income levels, and know what the economic benefits will be. A revised DEIR is required to provide this information. This issue of job quality is critically important to Local 11.

Response 22.

The comment is noted for the record.

Comment 23.

Commentors respectfully appreciate the opportunity to provide these comments. Local 11 works to make our City a place of opportunity for all—a place where its members can work and afford to live—and makes these comments in furtherance of its First Amendment and its core function as a union per the Noerr-Pennington doctrine. So too does Eastyard works to enable under-represented communities to be heard—urging decisionmakers to make responsible environmental decisions that will affect environmental justice communities—such as Eastyard’s members that include over one hundred of members living in the City of Commerce.

Again, the DEIR is fundamentally flawed because the DEIR fails to properly analyze the Project's land use, air quality, and GHG impacts; provide an adequate alternatives analysis, or provide sufficient information regarding a potential statement of overriding consideration. The Project Approvals are discretionary, not by right. Absent compliance with the issues discussed herein, the City should reject Applicant's requested Entitlements for this Project. The City has clear legal authority to disapprove the Project and demand more for its residents. Commentors respectfully request that the City recirculate the DEIR that address the issues discussed herein and the enclosed expert comment letter.

Commentor reserves the right to supplement these comments at future hearings and proceedings for this Project. See Galante Vineyards v. Monterey Peninsula Water Management Dist. (1997) 60 Cal.App.4th 1109, 1120 (CEQA litigation not limited only to claims made during EIR comment period). Finally, on behalf of Commentors, this Office requests, to the extent not already on the notice list, all notices of CEQA actions, Appeal hearing and any approvals, Project CEQA determinations, or public hearings to be held on the Project under state or local law requiring local agencies to mail such notices to any person who has filed a written request for them. See Pub. Res. Code §§ 21080.4, 21083.9, 21092, 21092.2, 21108, 21167(f) and Gov. Code § 65092. Please send notice by electronic and regular mail to: Gideon Kracov, Esq., 801 S. Grand Avenue, 11th Fl., Los Angeles, CA 90017, gk@gideonlaw.net (cc: jordan@gideonlaw.net).

Response 23.

The comment is noted for the record.

Response to Letter Dated May 9, 2019

Richard Drury

Lozeau Drury LLP

Comment 1.

I am writing on behalf of Supporters Alliance for Environmental Rights ("SAFER") regarding the Draft Environmental Impact Report ("DEIR") prepared for the Project known as Citadel Expansion & 10 Acre Project Draft Environmental Impact Report (Draft BIR) (SCH #2016091024) for Citadel Holdings Group, LLC, including all actions related or referring to the proposed new development within the three areas (Area 1, Area 2, Area 3) equaling 1,007,202 square feet of total floor area; consisting of approximately 237,662 square feet of retail uses, 358,000 square feet of hotel uses, 270,000 square feet of entertainment/recreation uses, 16,540 square feet of food serving uses, 70,000 square feet of office uses, and 55,000 square feet of industrial uses located generally along the north side of Telegraph Road between Hoefner Avenue (on the west) continuing east to Washington Boulevard, on APNs: 6336-019-930, 6336- 019-931, 6336-019-033, 6336-019-034, 9306-024-017, 6336-024-018, 6336-018-920, 6336-018-805, 6336-017-908, and 6336-010-908 in the City of Commerce ("Project").

Response 1.

The comment restates the Project Description that was included in the Draft EIR.

Comment 2.

After reviewing the DEIR, we conclude that the DEIR fails as an informational document and fails to impose all feasible mitigation measures to reduce the Project's impacts. SAFER request that the Planning Division address these shortcomings in a revised draft environmental impact report ("RDEIR") and recirculate the RDEIR prior to considering approvals for the Project. We reserve the right to supplement these comments during review of the Final EIR for the Project and at public hearings concerning the Project. Galante Vineyards v. Monterey Peninsula Water Management Dist., 60 Cal. App. 4th 1109, 1121 {1997}.

I am writing on behalf of Supporters Alliance for Environmental Rights ("SAFER") regarding the Draft Environmental Impact Report ("DEIR") prepared for the Project known as Citadel Expansion & 10 Acre Project Draft Environmental Impact Report (Draft BIR) (SCH #2016091024) for Citadel Holdings Group, LLC, including all actions related or referring to the proposed new development within the three areas (Area 1, Area 2, Area 3) equaling 1,007,202 square feet of total floor area; consisting of approximately 237,662 square feet of retail uses, 358,000 square feet of hotel uses, 270,000 square feet of entertainment/recreation uses, 16,540 square feet of food serving uses, 70,000 square feet of office uses, and 55,000 square feet of industrial uses located generally along the north side of Telegraph Road between Hoefner Avenue (on the west) continuing east to Washington Boulevard, on APNs: 6336-019-930, 6336- 019-931, 6336-019-033, 6336-019-034,

9306-024-017, 6336-024-018, 6336-018-920, 6336-018-805, 6336-017-908, and 6336-010-908 in the City of Commerce ("Project").

Response 2.

The comment has been noted for the record.

Comment 3.

After reviewing the DEIR, we conclude that the DEIR fails as an informational document and fails to impose all feasible mitigation measures to reduce the Project's impacts. SAFER request that the Planning Division address these shortcomings in a revised draft environmental impact report ("RDEIR") and recirculate the RDEIR prior to considering approvals for the Project. We reserve the right to supplement these comments during review of the Final BIR for the Project and at public hearings concerning the Project. Galante Vineyards v. Monterey Peninsula Water Management Dist., 60 Cal.App. 4th 1109, 1121 (1997).

Response 3.

The comment is noted for the record.

Response to Comment Letter Dated May 9, 2019

S. Suarez, Captain

Department of California Highway Patrol

Comment 1.

The East Los Angeles Area office of the California Highway Patrol (CHP) received the "Notice of Completion" of the Environmental Impact document for the proposed Citadel Outlets Expansion & 10 Acre Development Project for State Clearinghouse (SCH) #2016091024. After review, we have concerns with the potential impact this project could have on traffic congestion.

Response 1.

The comment is noted for the record. No response is required.

Comment 2.

Our concern relates to the proposed construction project, which would affect traffic in and around Interstate 5 (Santa Ana Freeway) between Washington Boulevard and Atlantic Boulevard with increased heavy truck/construction equipment traffic on the highway, as well as the surrounding surface streets. We are hopeful that project managers will work diligently with the CHP to establish, monitor, and provide traffic control methods that will mitigate congestion on these already heavily used highways.

Response 2.

The comment is noted for the record. The City will require continued cooperation with the CHP during the proposed project's construction.

Response to Letter Dated May 10, 2019

Shine Ling

Los Angeles County Metropolitan Transportation Authority

Comment 1.

Thank you for coordinating with the Los Angeles County Metropolitan Transportation Authority (Metro) regarding the proposed Citadel Outlets Expansion Project and 10-acre Development Site (Project) located at in the City of Commerce (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.

The purpose of this letter is to outline recommendations from Metro concerning issues that are germane to our agency's statutory responsibility in relation to Metrolink, the future Gold Line Eastside Extension and bus stop facilities and services, which may be affected by the proposed Project. In addition to the specific comments outlined below, Metro would like to provide the Project Sponsor with two resources: 1) the Metro Adjacent Development Handbook (attached), which provides an overview of common concerns for development adjacent to Metro-owned right of way (ROW) and 2) Adjacent Construction Manual with technical information (also attached). These documents and additional resources are available at www.metro.net/projects/devreview/.

Response 1.

The comment is noted for the record.

Comment 2.

The proposed Project is adjacent to Metro bus and rail services and includes development in three areas referred to herein as Area 1, Area 2, and Area 3, along Telegraph Road corridor. Area 1 will involve the expansion of the existing Citadel Outlets. The new Area 1 development will include the construction of up to approximately 165,000 square feet (SF) of retail, two new hotels (totaling approximately 270 rooms), and a new five-level parking structure. Area 2 will include to new retail buildings totaling 69, 941 SF, a new commercial recreation use totaling 129,000 SF, a new three-level entertainment/ movie complex with 150,000 SF, a new four-level parking structure, a new hotel consisting of approximately 500 guest rooms, and three smaller fast-food restaurants. Area 3 will include up to 5 new fast food restaurants each with a drive thru lane, a sit-down restaurant, and an approximately 55,000 SF warehouse/industrial building.

Response 2.

The comment is noted for the record. The comment restates the Project Description included in the Draft EIR.

Comment 3.

The Project assumes construction of a new monorail system to serve Areas 1 and 2 and a potential pedestrian connection to be provided in the northern portion of Area 1 to provide access from the Citadel monorail system to a future Metro Gold Line Eastside Phase 2 Commerce/Citadel station (an underground light rail transit station proposed by Metro).

Response 3.

The comment is noted for the record. The comment restates the Project Description included in the Draft EIR.

Comment 4.

Metro Bus Line 62 operates on Telegraph Road, adjacent to the proposed Project. Three Metro Bus stops are directly adjacent to the Project at Gasper Avenue and Telegraph Road and along Telegraph Road before Hoefner Avenue. In addition, the Citadel Outlet Express Shuttle operates to and from Union Station Gateway Plaza Center. Other transit operators may provide service in this area and should be consulted.

Response 4.

The existing public transit providers are detailed in Section 3.11.2 (also refer to Exhibits 3-8 and 3-9, and Table 3-18).

Comment 5.

Final Bus Stop Condition: The existing Metro bus stops must be maintained as part of the final Project. During construction, the stops must be maintained or relocated consistent with the needs of Metro Bus operations. Final design of the bus stop and surrounding sidewalk area must be ADA-compliant and allow passengers with disabilities a clear path of travel to the bus stop from the proposed development.

Response 5.

The contractors (must) not undertake any modifications to any existing bus stops without first consulting with Metro.

Comment 6.

Impact Analysis: With an anticipated increase in traffic during and after construction, Metro encourages any impact analysis to include potential effects on Metro Bus Line 62. Potential impacts could include construction traffic, operation of and shipment/deliveries to the completed Project, and temporary or permanent bus service rerouting.

Response 6.

The comment is noted for the record. The City will work with MTA during the project's implementation.

Comment 7.

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.

Response 7.

The comment is noted for the record. The City will work with MTA during the project's implementation.

Comment 8.

Bus Stop Access & Enhancements: Metro encourages the installation of bus shelters with benches, wayfinding signage, enhanced crosswalks and ramps compliant with the Americans with Disabilities Act (ADA), as well as pedestrian lighting and shade trees in paths of travel to access bus stops and other amenities that improve safety and comfort for transit riders. The City should consider requesting the installation of such amenities as part of the development of the site.

Response 8.

The comment is noted for the record. The City will work with MTA during the project's implementation.

Comment 9.

Bus Operations Contacts: Please contact Metro Bus Operations Control Special Events Coordinator at 213-922-4632 and Metro's Stops and Zones Department at 213-992-5190 with any questions and at least 30 days in advance of initiating construction activities. Other municipal buses may also be impacted and should be included in construction outreach efforts.

Response 9.

The comment is noted for the record. The City will work with MTA during the project's implementation.

Comment 10.

Operations: The Project site is adjacent to Union Pacific Railroad (URRR)-owned right-of-way (ROW) on which the Southern California Regional Rail Authority (SCRRA) operates the Metrolink Riverside Line commuter rail service. The Project Sponsor is advised that rail service operates in both directions and that trains may operate, in and out of revenue service, 24 hours a day, seven days a week, in the ROW adjacent to the Project.

Response 10.

The comment is noted for the record. The City will work with MTA during the project's implementation.

Comment 11.

Connectivity to the Montebello/Commerce Metrolink station: The Montebello/Commerce Metrolink station, located less than 2 miles from the Project, provides rail and bus connections to Downtown Los Angeles, Industry, Ontario, Jurupa Valley, Riverside, and environs. Direct shuttle service between the Montebello/Commerce station and the Citadel Outlets should be provided to improve transit connectivity to the development. Additionally, bicycle lanes and wayfinding signage connecting the station to the Citadel Outlets should be provided to increase active transportation connectivity to the development.

Response 11.

The comment is noted for the record. The City will work with MTA during the project's implementation.

Comment 12.

ROW Access: There shall be no encroachment onto the railroad ROW. Any future work performed on the Project's structures or property requiring access to the railroad ROW, shall be covered by specific Right-of-Entry temporary access permits with specific requirements. Union Pacific should be contacted for these Right-of-Entry requirements.

Response 12.

The comment is noted for the record. The City will work with MTA during the project's implementation.

Comment 13.

Construction Monitoring: Metro and/or SCRRA staff shall be permitted to monitor construction activity to ascertain any impact to railroad operations. During construction, a protection barrier shall be constructed to prevent objects, material, or debris from falling onto the ROW. The Project Sponsor will be required to notify Metro and SCRRA of any changes to the construction/building plans that may or may not impact the ROW.

Response 13.

The comment is noted for the record. The City will work with MTA during the project's implementation.

Comment 14.

Metro is initiating a Supplemental Draft EIS/EIR process to study three project alternatives to extend the Metro Gold Line light rail transit (LRT) service further east from its current terminus at Pomona Boulevard and Atlantic Boulevard in East Los Angeles. The three LRT alternatives are: 1) SR 60 LRT Alternative (SR 60); 2) Washington Boulevard LRT Alternative with an Atlantic Boulevard Below-Grade Concept (Washington); and 3) Combined LRT Alternative (builds both SR-60 and Washington). The Supplemental Draft EIS/EIR process is to update the original Draft EIS/EIR that was released in 2014 and provide information on the nature of the refined possible light rail transit project alternatives, potential minimal operable segments and potential maintenance facilities.

Response 14.

The comment is noted for the record.

Comment 15.

Considering the Project's proximity to the proposed Eastside Transit Corridor Phase 2 Washington Boulevard Alternative and the proposed Commerce/Citadel Station, Metro will coordinate with the Project Sponsor to identify any potential constraints and opportunities associated with the Project and its proposed monorail system. The Project Sponsor shall ensure the design, construction, operations, and maintenance of the proposed expansion and the monorail system do not preclude or hinder the development of Metro's future proposed Eastside Transit Corridor Phase 2 rail system. Metro and the Project Sponsor shall coordinate through the design phase to ensure station access, connectiveness and compatibility between projects prior to any plan approvals.

Response 15.

The comment is noted for the record. The City will work with MTA during the project's implementation.

Comment 16.

If there is any potential encroachment onto the proposed Eastside Phase 2 alternative railroad ROW, any future work performed on the Project's structures or property requiring access to the railroad ROW, shall be covered by specific Right-of-Entry temporary access permits with specific requirements.

Response 16.

The comment is noted for the record.

Comment 17.

Considering the Project's proximity to future rail stations and existing bus stops, Metro would like to identify the potential synergies associated with transit-oriented development:

Land Use: Metro supports development of commercial and residential properties near transit stations and understands that increasing development near stations represents a mutually beneficial opportunity to increase ridership and enhance transportation options for the users of developments. Metro encourages the City and Project Sponsor to be mindful of the Project's proximity to the bus stops, including orienting pedestrian pathways towards the station.

Response 17.

The comment is noted for the record.

Comment 18.

Transit Connections: Given the Project's proximity to the Metro bus stops, the Project design should consider and accommodate transfer activity between bus and bus lines that will occur along the sidewalks and public spaces. Metro recently completed the Metro Transfers Design Guide, a best practice document on transit improvements. This can be accessed online at <https://www.metro.net/projects/systemwidedesign>.

Walkability: Metro strongly encourages the installation 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. The City should consider requiring the installation of such amenities as part of the conditions of approval for the Project.

Access: The Project should address first-last mile connections to transit, encouraging development that is transit accessible with bicycle and pedestrian-oriented street design connecting transportation with housing and employment centers. For reference, please view 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

Active Transportation: Metro encourages the Project Sponsor to promote bicycle use through adequate short-term bicycle parking, such as ground level bicycle racks, as well as secure, access-controlled, enclosed long-term bicycle for residents, employees, and guests. Bicycle parking facilities should be designed with best practices in mind, including highly visible siting, effective surveillance, easy to locate, and equipment installed with preferred spacing dimensions, so they can be safely and conveniently accessed. Additionally, the Project Sponsor should help facilitate safe and convenient connections for pedestrians, people riding bicycles, and transit users to/from the Project site and nearby destinations. The Project Sponsor is also encouraged to support these connections with wayfinding signage inclusive of all modes of transportation.

Wayfinding: The Project is also encouraged to support these connections with wayfinding signage inclusive of all modes of transportation. Any temporary or permanent wayfinding signage with content referencing Metro services, or featuring the Metro brand and/or associated graphics (such as bus or rail pictograms) requires review and approval by Metro Art & Design. Please contact Lance Glover, Senior Manager of Signage and Environmental Graphic Design, at GloverL@metro.net.

Art: Metro Arts & Design encourages the thoughtful integration of art and culture into public spaces and will need to review any proposals for public art and/or placemaking facing Metro ROW. Please contact Susan Gray, Director of Public Arts and Design, at GrayS@metro.net.

Multi-modal Connections: With an anticipated increase in traffic, Metro encourages an analysis of impacts on non-motorized transportation modes and consideration of improved non-motorized access to the Project and nearby transit services, including pedestrian connections and bike lanes/paths. Appropriate analyses could include multi-modal LOS calculations, pedestrian audits, etc.

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

Transit Pass: Metro would like to inform the Project Sponsor of Metro's employer transit pass programs including the Annual Transit Access Pass (A-TAP) and Business Transit Access Pass (B-TAP) programs which offer efficiencies and group rates that businesses can offer employees as an incentive to utilize public transit. For more information on these programs, contact Devon Deming at DemingD@metro.net.

Response 18.

The comment is noted for the record. The City will continue to cooperate with the Metro in subsequent phases of the project's planning and design.

Comment 19.

Congestion Management Program. Beyond impacts to Metro facilities and operations, Metro must also notify the Project Sponsor of state requirements. A Transportation Impact Analysis (TIA), with roadway and transit components, is required under the State of California Congestion Management Program (CMP) statute. The CMP TIA Guidelines are published in the “2010 Congestion Management Program for Los Angeles County,” Appendix D (attached). The geographic area examined in the TIA must include the following, at a minimum: All CMP arterial monitoring intersections, including monitored freeway on/off-ramp intersections, where the proposed Project will add 50 or more trips during either the a.m. or p.m. weekly peak hour (of adjacent street traffic).

Response 19.

The comment is noted for the record.

Comment 20.

If CMP arterial segments are being analyzed rather than intersections, the study area must include all segments where the proposed Project will add 50 or more peak hour trips (total of both directions). Within the study area, the TIA must analyze at least one segment between monitored CMP intersections.

Mainline freeway-monitoring locations where the Project will add 150 or more trips, in either direction, during either the a.m. or p.m. weekday peak hour.

Response 20.

The comment is noted for the record.

Comment 21.

Caltrans must also be consulted through the NOP process to identify other specific locations to be analyzed on the state highway system.

Response 21.

A total of 29 study intersections, including 23 signalized and 6 unsignalized, were selected for detailed analysis, including the five primary access points to The Citadel. The intersections that are controlled by Caltrans include the following:

- Intersection #12. I-5 Northbound Ramps/Camfield Avenue & Telegraph Road;
- Intersection #17. I-5 Ramps/Commerce Casino & Telegraph Road;
- Intersection #20. I-5 Northbound Ramps & Telegraph Road;
- Intersection #22. Eastern Avenue & I-5 Ramps/Stevens Place;
- Intersection #25. I-5 Southbound Ramps & Washington Boulevard;

Intersection #26. Atlantic Boulevard/I-710 Northbound Ramps & Bandini Boulevard; and,
Intersection #28. I-5 Southbound Ramps & Bandini Boulevard.

Comment 22.

The CMP TIA requirement also contains two separate impact studies covering roadways and transit, as outlined in Sections D.8.1 – D.9.4. If the TIA identifies no facilities for study based on the criteria above, no further traffic analysis is required. However, projects must still consider transit impacts. For all CMP TIA requirements please see the attached guidelines. If you have any questions regarding this response, please contact me by phone at 213-922-2671 by email at LingS@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 22.

The comment is noted for the record. No response is required.

Response to Comment Letter Dated May 10, 2019

Lijin Sun

South Coast Air Quality Management District

Comment 1.

South Coast Air Quality Management District (South Coast AQMD) staff appreciates the opportunity to comment on the above-mentioned document. The following comments are meant as guidance for the Lead Agency and should be incorporated into the Final EIR.

Response 1.

The comment is noted for the record. Responses to the remaining comments are provided herein.

Comment 2.

The Lead Agency proposes construction of 1,007,202 square feet of mixed land uses on 44 acres¹ (Proposed Project). The Proposed Project would be constructed in three distinct geographical areas. Area 1 would include 167,721 square feet of retail uses, containing 270 guest rooms, and 1,668 parking spaces on eight acres. Area 2 would include 69,941 square feet of retail uses, a 120,000-square-foot commercial building, a 185,000-square-foot hotel containing 500 guest rooms, a 150,000-square-foot entertainment center, and 700 parking spaces on 26 acres. Area 3 would include 13,400 square feet of restaurant uses, a 70,000-square-foot office building, and a 55,000-square-foot warehouse on 10 acres. The Proposed Project is located on the southeast corner of Telegraph Road and Hoefner Avenue. Based on a review of the Draft EIR and aerial photographs, South Coast AQMD staff found that single-family residences are located within 222 feet to the southwest of the Proposed Project. Construction of the Proposed Project is expected to take place in three phases over approximately 85 months with full buildout in 2026.

Response 2.

The comment is noted for the record. The comment described the project as it identified in the Draft EIR.

Comment 3.

In the Air Quality Analysis section, the Lead Agency quantified the Proposed Project's construction and operational emissions and compared those emissions to South Coast AQMD's recommended regional and localized air quality CEQA significance thresholds. Based on the analyses, the Lead Agency found that the Proposed Project's construction air quality impacts would be significant and unavoidable for ROG. However, no mitigation measures were proposed to minimize or eliminate this significant air quality impact. Additionally, the Lead Agency found that the Proposed Project's operational air quality impacts would be significant and unavoidable for ROG, NOx, and PM10, even after the implementation of Mitigation Measures (Air Quality Impacts) 5 through 9. Mitigation Measures (Air Quality Impacts) 5 through 9 require the Proposed Project applicant to provide employees for alternative transportation;

install electric vehicle (EV) charging stations; provide alternatively-fueled shuttle services until the monorail being proposed is constructed; provide kiosks and directories with mass transit times, routes, locations, and bicycle rack locations to be visible in each project area; and host a job fair with preferential hiring given to local residents.

Response 3.

The proposed areas will be constructed in phases. Other than the parking structures and other minor improvements, construction of the 10-acre Washington Boulevard/Telegraph Road site (Area 3) will likely commence first. Work on Area 3 will commence in 2019-2020 allowing individual businesses to start to open in 2020. Work on Area 1 will begin in 2020-2021. Finally, Area 2 (Phase 6) will be developed once Area 1 is open for business. The earliest all three components of the project will be open for business is by the year 2023.

The reactive organic gasses exceedances were related to construction activities primarily related to the use of architectural coatings. The contractors will be required to use coatings and solvents that are specifically approved in the SCAQMD. Nevertheless, the thresholds will still be exceeded because of the amount of surfaces that will be coated. In addition, the Draft EIR also identified those construction-related regulations including the following:

SCAQMD Rule 403 governs fugitive dust during construction and operation activities. Compliance with this rule is achieved through application of standard Best Management Practices, such as application of water or chemical stabilizers to disturbed soils, covering haul vehicles, restricting vehicle speeds on unpaved roads to 15 miles per hour, sweeping loose dirt from paved site access roadways, cessation of construction activity when winds exceed 25 mph, and establishing a permanent ground cover on finished sites. Rule 403 requires that fugitive dust be controlled with best available control measures so that the presence of such dust does not remain visible in the atmosphere beyond the property line of the emission source.

SCAQMD Rule 481 applies to all spray painting and spray coating operations and equipment. The rule states that a person shall not use or operate any spray painting or spray coating equipment unless one of the specific conditions are met.

SCAQMD Rule 1108 governs the sale, use, and manufacturing of asphalt and limits the volatile organic compound (VOC) content in asphalt used in the South Coast Air Basin. This rule would regulate the VOC content of asphalt used during construction. Therefore, all asphalt used during construction of the project must comply with SCAQMD Rule 1108.

SCAQMD Rule 1113 governs the sale, use, and manufacturing of architectural coating and limits the VOC content in paints and paint solvents. This rule regulates the VOC content of paints available during construction. As of January 1, 2014, VOC content in architectural coatings will be limited to no more than 50 grams per liter. Therefore, all paints and solvents used during construction of the project must comply with SCAQMD Rule 1113.

SCAQMD Rule 1143 governs the manufacture, sale, and use of paint thinners and solvents used in thinning of coating materials, cleaning of coating application equipment, and other solvent cleaning operations by limiting their VOC content. This rule regulates the VOC content of solvents used during construction.

SCAQMD Rule 1186 limits the presence of fugitive dust on paved and unpaved roads and sets certification protocols and requirements for street sweepers that are under contract to provide sweeping services to any federal, state, county, agency or special district such as water, air, sanitation, transit, or school district.

SCAQMD Rule 1303 governs the permitting of re-located or new major emission sources, requiring Best Available Control Measures and setting significance limits for PM₁₀ among other pollutants.

SCAQMD Rule 1401, New Source Review of Toxic Air Contaminants, specifies limits for maximum individual cancer risk, cancer burden, and non-cancer acute and chronic hazard index from new permit units, relocations, or modifications to existing permit units, which emit toxic air contaminants (TACs).

The regulations will be effective in reducing the potential short-term construction related short-term emissions. The following mitigation measures have also been incorporated into the Final EIR.

SCAQMD Mitigation Measure a. Require construction contractor(s) to use offroad diesel-powered construction equipment that meets or exceeds the California Air Resources Board (CARB) and U.S. Environmental Protection Agency (U.S. EPA) Tier 4 offroad emissions standards for equipment rated at 50 horsepower or greater during construction.

SCAQMD Mitigation Measure b. Require the use of zero-emission or near-zero emission heavy-duty haul trucks during construction, such as trucks with natural gas engines that meet CARB's adopted optional NOx emissions standard of 0.02 grams per brake horsepower-hour (g/bhp-hr). At a minimum, require that operators of heavy-duty haul trucks visiting the Proposed Project during construction commit to using 2010 model year or newer engines that meet CARB's 2010 engine emission standards of 0.01 g/bhp-hr for particulate matter (PM) and 0.20 g/bhp-hr of NOx emissions or newer, cleaner trucks.

SCAQMD Mitigation Measure c. Require that the proposed project's tenants maintain records of all trucks visiting the project and make these records available to the Lead Agency upon request. The records will serve as evidence to prove that each truck called to the project meets the minimum 2010 model year engine emission standards. The Lead Agency should conduct regular inspections of the records to the maximum extent feasible and practicable to ensure compliance with this mitigation measure.

SCAQMD Mitigation Measure d. Maintain vehicle and equipment maintenance records for the construction portion of the project. All construction vehicles must be maintained in compliance with the manufacturer's recommended maintenance schedule. All maintenance records shall remain on-site for a period of at least two years from completion of construction.

SCAQMD Mitigation Measure e. Enter into a contract that notifies all construction vendors and contractors that vehicle idling time will be limited to no longer than five minutes or another time-frame as allowed by the California Code of Regulations, Title 13 section 2485 – CARB's Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling. For any vehicle that is expected to idle longer than five minutes, each project applicant, project sponsor, or public agency will require the vehicle's operator to shut off the engine. To further ensure that drivers understand the vehicle idling requirement, post signs at the entrance and throughout the site stating that idling longer than five minutes is not permitted.

SCAQMD Mitigation Measure f. Encourage construction contractors to apply for SCAQMD "SOON" funds. The "SOON" program provides funds to applicable fleets for the purchase of commercially-available low-emission heavy-duty engines to achieve near-term reduction of NOx emissions from in-use off-road diesel vehicles.

CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized to minimize or eliminate any significant adverse air quality impacts. Since the project would result in significant and unavoidable air quality impacts during operation, and in addition to Mitigation Measures (Air Quality) 5 through 9, the SCAQMD staff recommended that the Lead Agency incorporate the following mitigation measures in the Final EIR to further reduce the proposed project's operational air quality impacts.

SCAQMD Mitigation Measure g. Require at least 5% of all vehicle parking spaces include electric vehicle charging stations, or at a minimum, require the Proposed Project to be constructed with the appropriate infrastructure to facilitate sufficient electric charging for trucks to plug-in.

SCAQMD Mitigation Measure h. Provide incentives for vendors and material delivery trucks that would be visiting the hotel and commercial uses to encourage the use of zero-emission or near-zero emission heavy-duty trucks during operation, such as trucks with natural gas engines that meet CARB's adopted optional NOx emissions standard of 0.02 grams per brake horsepower-hour (g/bhp-hr). At a minimum, incentivize the use of 2010 model year or newer engines that meet CARB's 2010 engine emission standards of 0.01 g/bhp-hr for particulate matter (PM) and 0.20 g/bhp-hr of NOx emissions or newer, cleaner trucks.

SCAQMD Mitigation Measure i. Implement an anti-idling program. Vendors should be instructed to advise drivers that trucks and other equipment shall not be left idling for more than five minutes. Signs informing truck drivers of the anti-idling policy should be posted in the loading docks of the Proposed Project.

SCAQMD Mitigation Measure j. Establish a policy to select and use vendors that use clean vehicles and trucks to service and deliver materials. Include this policy in the vendor contracts and business agreement.

SCAQMD Mitigation Measure k. Maximize the planting of trees in landscaping and parking lots.

SCAQMD Mitigation Measure l. Require use of electric or alternatively fueled street-sweepers with HEPA filters.

SCAQMD Mitigation Measure m. Require use of electric lawn mowers and leaf blowers.

Comment 4.

South Coast AQMD staff has comments on the Air Quality Analysis and the proposed mitigation measures. The Lead Agency did not analyze an overlapping construction and operation scenario (e.g., Areas 1 and 3 will be in operation when Area 2 is under construction). The Lead Agency compared localized construction emissions to South Coast AQMD's localized significance thresholds (LSTs) for a five-acre project in source receptor area (SRA) 5, with sensitive receptors at 100 meters. Since the nearest sensitive receptors are within 222 feet or 67 meters, more stringent LSTs for sensitive receptors at 50 meters should be used. CEQA Guidelines Section 15126.4 requires the consideration and discussion of feasible mitigation measures for environmental effects that are found to be significant. Although the Lead Agency found that the Proposed Project's construction activities would result in significant ROG emissions, no construction mitigation measures were proposed in the Draft EIR. To reduce ROG emissions during construction, South Coast AQMD staff recommends that the Lead Agency require the use of water-based or "super-compliant" low VOC paints and/or pre-painted building materials. Please see the attachment for more information. The attachment also includes a list of potential mitigation measures as resources to further reduce the Proposed Project's construction and operational emissions that the Lead Agency should consider and incorporate in the Final EIR. Finally, the attachment includes information on South Coast AQMD permits and applicable rules that the Lead Agency should discuss in the Final EIR.

Response 4.

The Draft EIR indicated the location and extent of sensitive receptors from the project area. As indicated in the Draft EIR, the sensitive receptors located near the project site include the following: the single-family residential neighborhood located along the south side of the I-5 freeway; Rosewood Park School, located 222 feet to the southwest; and Rosewood Park, located 267 feet to the southwest. The park and the school are also located south of the I-5. Area 1 is located approximately 1,300 feet (380 meters) from Rosewood School and approximately 1,000 feet from the homes located south of the south. The portions of Areas 2 and 3 that contain the residences are separated from the construction sites by the I-5 travel lanes. Table 3-7 included in the Final EIR indicates the proposed project will not exceed construction PM_{2.5} when employing mitigation (watering) to reduce fugitive dust.

Comment 5.

Pursuant to California Public Resources Code Section 21092.5(a) and CEQA Guidelines Section 15088(b), South Coast AQMD staff requests that the Lead Agency provide South Coast AQMD staff with written responses to all comments contained herein prior to the certification of the Final EIR. In addition, issues raised in the comments should be addressed in detail giving reasons why specific comments and suggestions are not accepted. There should be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice (CEQA Guidelines Section 15088(c)). Conclusory statements do not facilitate the purpose and goal of CEQA on public disclosure and are not meaningful, informative, or useful to decision makers and to the public who are interested in the Proposed Project. Further, when the Lead Agency makes the finding that the recommended mitigation measures are not feasible, the Lead Agency should describe the specific reasons for rejecting them in the Final EIR (CEQA Guidelines Section 15091).

Response 5.

The comment is noted for the record. The City will provide point by point responses to the SCAQMD comments outlined herein.

Comment 6.

South Coast AQMD staff is available to work with the Lead Agency to address any air quality questions that may arise from this comment letter. Please contact Robert Dalbeck, Assistant Air Quality Specialist, at RDalbeck@aqmd.gov or (909) 396-2139, should you have any questions.

Response 6.

The comment is noted for the record. The City will continue to cooperate with the SCAQMD to facilitate the improvement of air quality in the City and region.

Comment 7.

The Proposed Project would be completed in three distinct geographical areas. Construction within Area 1 would “commence in 2019 and is anticipated to be finished and opened for business starting in 2021 and fully opened in 20234.” Demolition and construction within Area 2 would “commence as early as 2020 with an anticipated completion in phases starting in 2023 through 20265.” Construction of Area 3 would “commence in 2019 and is anticipated to be complete and individual businesses would start to open in 20206.” While the Lead Agency modeled emissions by combining construction activities at three areas into one continuous construction phase in CalEEMod, the Lead Agency did not analyze a scenario in which the Proposed Project’s construction and operational activities overlap. The Proposed Project’s construction activities will occur in phases and may overlap with operational activities on-site. For example, in 2023, Areas 1 and 3 are operational when Area 2 will be under construction for three year through 2026. To analyze a worst-case impact scenario, South Coast AQMD staff recommends that the Lead Agency use its

best efforts to identify the overlapping years, combine construction emissions (including emissions from demolition) with operational emissions, and compare the combined emissions to South Coast AQMD's air quality CEQA operational thresholds of significance to determine the level of significance in the Final EIR, unless the Lead Agency includes requirements and/or conditions in applicable bid document and/or development agreement to expressly prohibit overlapping construction and operational activities (emphasis added). If the Lead Agency finds, after analyzing an overlapping construction and operation scenario, that the Proposed Project's air quality impacts would be significant, mitigation measures will be required (CEQA Guidelines Section 15126.4). If the Lead Agency finds, after revising the Air Quality Analysis, that a new significant impact or a substantial increase in the severity of an environmental impact than that analyzed in the Draft EIR would result from the Proposed Project that cannot be reduced to less than significant with existing Mitigation Measures (Air Quality Impacts) 5 through 9, the Lead Agency should commit to reevaluating the Proposed Project's Air Quality Impacts and recirculating the Air Quality Impact section of the Draft EIR for public review and comments (CEQA Guidelines Section 15088.5).

Response 7.

The air quality analysis was revised to consider overlapping construction and operational phases. The proposed project within the three areas will allow for the construction to occur in phases. Work on Area 3 will commence in 2019-2020 with individual businesses starting to open in 2020. Work on Area 1 will begin in 2020-2021. Finally, Area 2 (Phase 6) will be developed once Area 1 is open for business with construction for Area 2 beginning in 2024.

The Final EIR (refer to Table 3-6, reflects the total operational emissions for all three areas is shown in Row 4. Near the bottom of the Table, the overlapping emissions for those Areas that are under construction together with the operational emissions from the areas that will be operational at the same time have been noted. The ROG emissions are related to the use of architectural coatings and paints that contain volatile organic compounds (VOCs), which are reactive in normal ambient outdoor temperatures. The high levels of NO_x are largely due to diesel powered construction equipment and trucks used during the building construction phases.

Comment 8.

The Lead Agency used the LSTs for a five-acre project in source receptor area (SRA) 5 based on a sensitive receptor distance at 100 meters to determine the level of significance for the Proposed Project's localized construction air quality impacts. However, sensitive receptors are located closer to the Proposed Project than 100 meters. The closest sensitive receptors are "the single-family residential neighborhood located along the south side of the I-5 freeway and Rosewood Park School, located 222 feet (67 meters) to the southwest and Rosewood Park, located 267 feet (81 meters) to the southwest." To conservatively analyze a worst-case localized construction impact scenario and avoid underestimating the Proposed Project's localized construction emissions, South Coast AQMD staff recommends that the Lead Agency compare the Proposed Project's localized construction emissions to South Coast AQMD's LSTs for sensitive receptors with a distance at 50 meters. As highlighted in Table A, when the Proposed Project's localized construction

emissions are compared to South Coast AQMD LSTs for sensitive receptors with a distance at 50 meters in SRA 5, the Proposed Project would result in PM_{2.5} emissions at 12.18 pounds per day (lbs/day), which would exceed South Coast AQMD localized air quality CEQA significance threshold for PM_{2.5} at 10 lbs/day, thereby requiring the consideration of mitigation measures pursuant to CEQA Guidelines Section 15126.4.

Response 8.

The Final EIR was revised as shown in Table 3-7. When considering compliance to those SCAQMD Regulations governing fugitive dust, the proposed project will not exceed any construction PM_{2.5} based on the information included in the Mass Rate LST Look-up Tables provided by the SCAQMD. For purposes of the LST analysis, the receptor distance used was revised to 50 meters.

Table 3-7 (From Final EIR)
Local Significance Thresholds Exceedance SRA 5

Emissions	Project Emissions (lbs/day)	Allowable Emissions Threshold (lbs/day) and a Specified Distance from Receptor (in meters)				
		25	50	100	200	500
NO ₂	68.90	172	165	176	194	244
CO	72.89	1,480	1,855	2,437	3,867	9,312
PM ₁₀	28.21 (14.10)*	14	42	60	95	203
PM _{2.5}	12.17 (6.08)*	7	10	15	30	103

*The figures shown in parentheses represent the mitigated particulate emissions levels whereby the watering of barren soils of up to three times per day per Rule 403 is implemented. This requirement will reduce fugitive dust by as much as 50%.

The potential fugitive dust will be generated from Areas 2 and 3. Additional mitigation recommended by the SCAQMD will be incorporated into the Final EIR.

Comment 9.

The Lead Agency found that the Proposed Project's ROG emissions during construction at 194.19 lbs/day would exceed South Coast AQMD air quality CEQA significance threshold for VOC at 75 lbs/day. However, the Lead Agency did not propose any mitigation measures to reduce, minimize, or eliminate this significant impact. Pursuant to CEQA Guidelines Section 15126.4, a lead agency is required to identify mitigation measures for each significant environmental effect. Additionally, a lead agency should not approve projects as proposed if there are feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects (CEQA Guidelines Section 15092). Therefore, South Coast AQMD staff recommends that the Lead Agency implement the following mitigation measure to reduce ROG emissions during construction to fulfill the Lead Agency's obligation under CEQA to mitigate the significant air quality impact.

Require the use of water-based or "super-compliant" low volatile organic compound (VOC) paints. Super-

compliant low VOC paints shall be no more than 10 grams per liter (g/L) of VOC. Alternatively, the Proposed Project may use building materials, such as pre-painted materials that do not require the use of architectural coatings.

If the Lead Agency finds, after revising the Air Quality Analysis based on South Coast AQMD staff's Comments No. 1 and 2, that the Proposed Project would result in significant air quality impacts, particularly from NOx and PM_{2.5} emissions, mitigation measures are required (CEQA Guidelines 15126.4). To assist the identification of feasible mitigation measures that are capable of reducing construction emissions from NOx and particulate matter, South Coast AQMD recommends that the Lead Agency incorporate the following mitigation measures in the Final EIR.

Require construction contractor(s) to use off-road diesel-powered construction equipment that meets or exceeds the California Air Resources Board (CARB) and U.S. Environmental Protection Agency (U.S. EPA) Tier 4 off-road emissions standards for equipment rated at 50 horsepower or greater during construction. Such equipment should be outfitted with Best Available Control Technology (BACT) devices including, but not limited to, a CARB certified Level 3 Diesel Particulate Filters (DPF). Level 3 DPFs are capable of achieving at least an 85 percent reduction in particulate matter emissions. A list of CARB verified DPFs are available on the CARB website. Additionally, the Lead Agency should include this requirement in applicable bid documents, and that successful contractor(s) must demonstrate the ability to supply compliant equipment prior to the commencement of any construction activities. A copy of each unit's certified tier specification and CARB or South Coast AQMD operating permit (if applicable) should be available upon request at the time of mobilization of each applicable unit of equipment. Additionally, the Lead Agency should require periodic reporting and provision of written documentation by contractors to ensure compliance, and conduct regular inspections to the maximum extent feasible to ensure compliance with this mitigation measure. If the Lead Agency finds that Tier 4 construction equipment is not feasible pursuant to CEQA Guidelines Section 15364, the Project representative or contractor must demonstrate through future study with written findings supported by substantial evidence that is reviewed and approved by the Lead Agency before using other technologies/strategies. Alternative applicable strategies may include, but would not be limited to, Tier 3 construction equipment, reduction in the number and/or horsepower rating of construction equipment, limiting the number of daily construction haul truck trips to and from the Proposed Project, and/or limiting the number of individual construction project phases occurring simultaneously, if applicable. To ensure that off-road construction equipment used will meet or exceed Tier 4 off-road engine emission standards during 85 months of construction, South Coast AQMD staff recommends that the Lead Agency incorporate these requirements as a project design feature, mitigation measure, or a condition of approval for the Proposed Project in the Air Quality Section of the Final EIR.

Require the use of zero-emission or near-zero emission heavy-duty haul trucks during construction, such as trucks with natural gas engines that meet CARB's adopted optional NOx emissions standard of 0.02 grams per brake horsepower-hour (g/bhp-hr). At a minimum, require that operators of heavy-duty haul trucks visiting the Proposed Project during construction commit to using 2010 model year or newer engines that meet CARB's 2010 engine emission standards of 0.01 g/bhp-hr for particulate matter (PM) and 0.20 g/bhp-hr of NOx emissions or newer, cleaner trucks. Include analyses to evaluate and identify

sufficient power available for zero emission trucks and supportive infrastructures in the Energy and Utilities and Service Systems Sections of the Final EIR, where appropriate. Require that the Proposed Project's tenant(s) shall maintain records of all trucks visiting the Proposed Project and make these records available to the Lead Agency upon request. The records will serve as evidence to prove that each truck called to the Proposed Project meets the minimum 2010 model year engine emission standards. The Lead Agency should conduct regular inspections of the records to the maximum extent feasible and practicable to ensure compliance with this mitigation measure.

Maintain vehicle and equipment maintenance records for the construction portion of the Proposed Project. All construction vehicles must be maintained in compliance with the manufacturer's recommended maintenance schedule. All maintenance records shall remain on-site for a period of at least two years from completion of construction.

Enter into a contract that notifies all construction vendors and contractors that vehicle idling time will be limited to no longer than five minutes or another time-frame as allowed by the California Code of Regulations, Title 13 section 2485 – CARB's Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling. For any vehicle that is expected to idle longer than five minutes, each project applicant, project sponsor, or public agency will require the vehicle's operator to shut off the engine. To further ensure that drivers understand the vehicle idling requirement, post signs at the entrance and throughout the site stating that idling longer than five minutes is not permitted.

Encourage construction contractors to apply for South Coast AQMD "SOON" funds. The "SOON" program provides funds to applicable fleets for the purchase of commercially-available low-emission heavy-duty engines to achieve near-term reduction of NOx emissions from in-use off-road diesel vehicles. More information on this program can be found at South Coast AQMD's website: <http://www.aqmd.gov/home/programs/business/business-detail?title=off-road-diesel-engines>.

Response 9.

The Draft EIR acknowledged that ROG emissions would exceed the SCAQMD thresholds. This exceedance is primarily due to the use of paints and architectural coatings. The City will require the Applicant to implement via SCAQMD's recommended mitigation to further reduce the ROG emissions. In addition, the Final EIR now includes both construction and operational mitigation measures recommended by the SCAQMD.

Comment 10.

CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized to minimize or eliminate any significant adverse air quality impacts. Since the Proposed Project would result in significant and unavoidable air quality impacts during operation, and in addition to Mitigation Measures (Air Quality) 5 through 9, South Coast AQMD staff recommends that the Lead Agency incorporate the following mitigation measures in the Final EIR to further reduce the Proposed Project's operational air quality impacts.

Require at least 5% of all vehicle parking spaces include electric vehicle charging stations, or at a minimum, require the Proposed Project to be constructed with the appropriate infrastructure to facilitate sufficient electric charging for trucks to plug-in. Vehicles that can operate at least partially on electricity have the ability to substantially reduce the significant NOx impacts from this project. It is important to make this electrical infrastructure available when the Proposed Project is built so that it is ready when this technology becomes commercially available. The cost of installing electrical charging equipment onsite is significantly cheaper if completed when the project is built compared to retrofitting an existing building. Therefore, South Coast AQMD staff recommends that the Lead Agency require the Proposed Project to provide the appropriate infrastructure to facilitate sufficient electric charging for vehicles to plug-in. Additionally, the Lead Agency should include analyses to evaluate and identify sufficient power available for zero emission vehicles and supportive infrastructures (e.g., EV charging stations) in the Energy and Utilities and Service Systems Sections of the Final EIR, where appropriate.

Provide incentives for vendors and material delivery trucks that would be visiting the hotel and commercial uses to encourage the use of zero-emission or near-zero emission heavy-duty trucks during operation, such as trucks with natural gas engines that meet CARB's adopted optional NOx emissions standard of 0.02 grams per brake horsepower-hour (g/bhp-hr). At a minimum, incentivize the use of 2010 model year or newer engines that meet CARB's 2010 engine emission standards of 0.01 g/bhp-hr for particulate matter (PM) and 0.20 g/bhp-hr of NOx emissions or newer, cleaner trucks. Include analyses to evaluate and identify sufficient power available for zero emission trucks and supportive infrastructures in the Energy and Utilities and Service Systems Sections of the Final EIR, where appropriate.

Implement an anti-idling program. Vendors should be instructed to advise drivers that trucks and other equipment shall not be left idling for more than five minutes. Signs informing truck drivers of the anti-idling policy should be posted in the loading docks of the Proposed Project.

Establish a policy to select and use vendors that use clean vehicles and trucks to service and deliver materials. Include this policy in the vendor contracts and business agreement.

Maximize the planting of trees in landscaping and parking lots.

Require use of electric or alternatively fueled street-sweepers with HEPA filters.

Require use of electric lawn mowers and leaf blowers.

Response 10.

The City will require the Applicant to implement via SCAQMD's recommended mitigation to further reduce the operational emissions.

Comment 11.

The Lead Agency stated that "because of the age of the onsite structures that will be demolished, there is

the potential for exposure to certain hazardous materials and potentially contaminated soil¹¹". Additionally, the nearest site listed on the Environmental Protection Agency's National Priorities List (NPL) is within one mile and is currently undergoing site investigation and remediation¹². If any on-site soil remediation or any on-site activity would be required to clean up hazardous materials and contaminated soil, and the cleanup activities would involve equipment or operations that either emits or controls air pollution, South Coast AQMD Engineering and Permitting staff should be consulted in advance to determine whether or not any permits or plans are required to be filed and approved by South Coast AQMD prior to the start of any remedial activities or operations. If implementation of the Proposed Project requires a permit from South Coast AQMD, the Lead Agency should identify South Coast AQMD as a Responsible Agency for the Proposed Project in the Final EIR. Emissions from permitted equipment should be quantified and added to the Proposed Project's construction and operational emissions, where applicable, to determine the level of significance in the Final EIR. Any assumptions in the Air Quality Analysis in the Final EIR will be used as the basis for permit conditions and limits. If there is any information in the permitting process and/or during implementation of remediation activities suggesting that the Proposed Project would result in significant adverse air quality impacts not analyzed in the Final EIR or substantially more severe air quality impacts than those analyzed in the Final EIR, the Lead Agency should commit to reevaluating the Proposed Project's air quality impacts through a CEQA process (CEQA Guidelines Section 15162). For more information on permits, please visit South Coast AQMD's webpage at: <http://www.aqmd.gov/home/permits>. Questions on permits can be directed to South Coast AQMD's Engineering and Permitting staff at (909) 396-3385.

Response 11.

The comment is noted for the record.

Comment 12.

Since the Proposed Project includes demolition of existing buildings and other asphalt surfaces, asbestos may be encountered during demolition. Therefore, South Coast AQMD staff recommends that the Lead Agency incorporate a discussion to demonstrate compliance with South Coast AQMD Rule 1403 – Asbestos Emissions from Demolition/Renovation Activities in the Air Quality section of the Final EIR. Additionally, if during soil disturbing activities such as grading, petroleum hydrocarbons, lead, and arsenic are encountered that will cause volatile organic compounds to become airborne, the Lead Agency should include a discussion to demonstrate compliance with South Coast AQMD Rule 1166 – Volatile Organic Compounds Emissions from Decontamination of Soil in the Air Quality Section of the Final EIR.

Response 26.

The discussion of the compliance of the project with SCAQMD with Rule 1403 is found in Section 3.5 of the Draft EIR.

Response to Letter Dated May 10, 2019

Nedy Warren

California Commerce Club, Inc.

Comment 1.

The California Commerce Club, Inc. ("Commerce Casino") received the Draft Environmental Impact Report (DEIR) SCH#2016091024 related to Citadel Outlets Expansion Project & 10-Acre Development Site, Commerce, California on April 29, 2019 and have had an opportunity to review its findings. We appreciate the opportunity to present these comments in response to the DEIR before the City takes any action on the DEIR.

Response 1.

The comment is noted for the record.

Comment 2.

The intent of this letter is to address concerns of the Commerce Casino regarding the proposed development plans in Area 2 of the Citadel Outlets Expansion Project & 10-Acre Development Site (see page 42 of the DEIR; Exhibit 2-3). More specifically, reference is made to the Future Development Concept for Area 2 (East Part) and the proposed ingress/egress outlets onto Tubeway and Telegraph Avenues as outlined in red below (see page 53 of the DEIR; Exhibit 2-10).

Response 2.

The comment is noted for the record.

Comment 3.

In May 2011, the City of Commerce and Commerce Casino entered into an Ingress, Egress and Parking Easement Agreement ("Easement"), whereby the City held and maintained the northeast 75' of the yard area of 2301-2303 S. Tubeway. The City granted Commerce Casino ingress/egress rights across said 75' area. Included in the Easement is a Parking Easement in favor of Commerce Casino consisting of an area of approximately 176' x 45'-48' and located on City owned property located on the immediate west property line of the 2301-2303 S. Tubeway building.

The proposed ingress/egress outlet onto Tubeway Avenue in Exhibit 2-10 would be located on the current City owned area described above. There is no detail in the DEIR as to whether that ingress/egress outlet is limited to delivery vehicles or would be open to the general public for access to the parking structures, retail and entertainment facilities in Area 2.

Response 3.

The proposed project will not affect Tubeway Avenue overall. The existing roadway design configuration will remain unchanged.

Comment 4.

As noted in the DEIR, Tubeway Avenue has one lane in either direction with no street parking permitted. The DEIR summarized the studies of the intersections at Tubeway & Smithway (Intersection 8[a] in the DEIR) and Tubeway & Telegraph (Intersection 16 in the DEIR). The DEIR states that the future development plans will have a significant overall impact on traffic and circulation (see Transportation & Circulation Executive Summary, page 28 of the DEIR). There does not appear, however, to be any specific study or reference to the ingress/egress outlet onto Tubeway Avenue in Area 2 (Exhibit 2-10 of DEIR). If such an outlet is truly for public access to the retail and entertainment facilities in Area 2, then the increased traffic onto Tubeway Avenue should be considered as it is sure to have a deleterious impact on patrons' access to Commerce Casino via Tubeway Avenue and Telegraph Road. Under current conditions, the increased traffic to the Citadel significantly increases traffic on Tubeway Avenue and Telegraph Road during the holidays and special events. With the addition of development at Area 2, potential increased traffic during those high-volume times should also be considered.

Response 4.

The traffic study in Section 3.11 in the Draft EIR considered the proposed project's impacts on local streets and intersections. The Tubeway Avenue and Telegraph Road intersections are currently operating at a Level of Service (LOS) of A during the morning mid-day and evening peak hour. Trip distribution for the Project assumed 10% of Citadel site traffic would utilize Tubeway to access the site. With the project's implementation, this LOS A will be maintained.

Comment 5.

In addition to the proposed mitigating factors outlined in the DEIR, additional options for that ingress/egress outlet onto Tubeway Avenue may include (1) the proposed outlet be used exclusively for delivery vehicles and that the Citadel establish controls to prevent retail and/or entertainment traffic from using same; or (2) the proposed outlet be designed for one-way, exit only traffic.

Response 5.

The comment is noted for the record.

Comment 6.

Again, the DEIR summarized the studies of existing signaled intersections but did not seem to take into effect the impact of proposed outlets onto existing roadways. At the easternmost edge of the Area 2 development, there is a proposed ingress/egress outlet onto Telegraph Road (two lanes in either direction) that sits on an existing 60' access easement (which also happens to overlap the aforementioned Parking Easement above) (see Exhibit 2-10 of DEIR). This outlet onto Telegraph is roughly 430 feet from the existing signaled intersection at Tubeway and Telegraph (Intersection 16 in the DEIR). Whether this outlet is signaled in the future or not, the potential traffic impact on Intersection will be significant and needs to be evaluated further. This Area 2 is designed to have a 3-story movie complex, a 120,000 experiential adventure complex, a hotel and two multi-level parking structures. Coupled with the increased traffic anticipated from the public access outlet onto Tubeway Avenue, it is reasonable to assume that a negative impact to Commerce Casino's patrons' access will occur.

Response 6.

The purpose of the Draft EIR and the Traffic Study was to identify the potential traffic generation contemplated for future traffic within the project area. The traffic analysis looked at the existing conditions along with additional traffic associated with the new development. The approach is very conservative in that no allowances were made for shared vehicle trips among the three areas or transporting large number of patrons by bus, which is presently occurring. Further, trips for the Project were distributed to every proposed and existing driveway serving the site, including the driveway mentioned in the comment above.

Comment 7.

In addition to the proposed mitigating factors outlined in the DEIR, we propose that an in-depth traffic engineering study be conducted, and Commerce Casino be advised of the actual future impact of the designs as reviewed in the DEIR.

Response 7.

The comment is noted for the record. Please refer to Response 6.

Comment 8.

Commerce Casino is committed to working with the City and other stakeholders to achieve reasonable, equitable and sustainable developments in the City and around Commerce Casino. The DEIR does not account for all potential aspects of the transportation and circulation effects of the proposed development at Area 2 which may significantly impact business at Commerce Casino. We respectfully urge the City and its Planning Division to respond to and consider the concerns and recommendations made herein.

Response 8.

The comment is noted for the record.

Response to Comment Letter Dated May 10, 2019

Michael Alti

Community Legal Advisors Inc.

Comment 1.

Community Legal Advisors Inc. represents the Citadel Business Park Owners Association (the "Association"), which manages the Citadel Business Park ("Business Park"). 5780 and 5788 Smithway Street are both located within the Business Park and subject to its recorded restrictions. We appreciate the opportunity to comment on the recirculated Draft Environmental Impact Report ("DEIR") for the Citadel Outlets Expansion & 10-Acre Development Project ("Project").

By letter to you dated March 22, 2019, we submitted our initial comments in response to the initial circulation of the DEIR. Since the recirculated DEIR does not address any of the points and comments contained in our prior letter, we are including our March 22, 2019 letter as an attachment to this letter. By this reference, we expressly incorporate our March 22, 2019 letter herein, and ask that the City address and respond to all of the points and comments therein.

This second letter serves to outline our additional comments, including concerns about the public participation process as well as significant deficiencies in the alternatives analysis. Because this Project will cause so many unmitigated significant environmental impacts (including air quality, traffic, greenhouse gas, and cumulative impacts) and because of the City's failure to fully evaluate a reasonable range of "potentially feasible alternatives" as required by law, the City should refrain from approving the Project until it addresses all of these issues and prepares a legally adequate EIR. The City should also consider a project alternative that respects the boundaries and jurisdiction of the Association and the Business Park by maintaining existing uses and existing zoning at 5780 and 5788 Smithway Street (without extending Gaspar Avenue).

Response 1.

This comment is noted for the record.

Comment 2.

Summary of Comments in Prior Letter. Our prior letter explained that two of the buildings/lots located in the Project site are actually located within the Citadel Business Park and subject to the Association's recorded CC&Rs (recorded on February 2, 2004 as Document No. 04-226642 in the Official Records of Los Angeles County). Further, the area where the City proposes to extend Gaspar Avenue is also located within the Business Park, and therefore is subject to the recorded CC&Rs. The CC&Rs establish numerous easements over these areas, including, but not limited to utility, access, fire suppression, drainage, and ponding easements. Section 6.13 of the CC&Rs also imposes a "no build area" over portions of 5780 Smithway and 5788 Smithway, and the CC&Rs impose other relevant restrictions.

Response 2.

The comment is noted for the record. These lots that are referred to in the comment are noted Section 2 in the Draft EIR (refer to Table 2-1). Smithway Street currently divides the Business Park into two segments. The 5780 Smithway Street address is occupied by Unicorp and Uninex International while the building located at 5788 Smithway Street is currently vacant. The analysis included in the Draft EIR clearly indicates the location and extent of potential development within the affected area. Those businesses located to the north of Smithway Street will not be impacted by the proposed project.

Comment 3.

Thus far, the City has completely ignored the existence of the Association and the recorded CC&Rs, ignored the easements reserved under the CC&Rs as well as the “no-build areas,” and failed to address the standard under Appendix G of the State CEQA Guidelines of whether the Project would “physically divide an established community” (the proposed Project would inevitably divide the Business Park). For these and others reasons, the DEIR is deficient for completely ignoring the Project’s environmental impacts on the Association. This is especially concerning since the DEIR states that the City expects to begin construction on the extension of Gaspar Avenue (to divide the Business Park) later in 2019.

The DEIR cites Section 15121(a) of the CEQA Guidelines which states that the purpose of an EIR is “to serve as an informational document that will generally inform public agency decision makers and the public of the potentially significant environmental effects of a project, and to identify possible ways to minimize or avoid the significant effects” (DEIR, p. 35). In light of this standard, it is a violation of CEQA to simply disregard the existence of the Business Park or to brush the Association aside for possible consideration of impacts at a later date (see Laurel Heights Improvement Assn. v. Regents (1988) 47 Cal.3d 388). Indeed, the State Legislature declared that a public agency’s noncompliance with the substantive requirements of CEQA constitutes a “prejudicial abuse of discretion” (Pub. Res. Code § 21005(a)). Consequently, the City should not certify the EIR until such time as it properly addresses and mitigates the Project’s impacts on the Business Park.

Response 3.

The comment is noted for the record.

Comment 4.

Timing and Notice Concerns Regarding the EIR. We understand that the public comment period for the DEIR ends on May 10, 2019. We also understand that the City intends to hold a Planning Commission hearing to consider the Final EIR for the Project on May 22, 2019, and a City Council hearing on May 28, 2019. On May 9, 2019, the City publicized its notice of the May 22, 2019 Planning Commission hearing. We do not understand how the City can schedule a Planning Commission hearing to consider the Final EIR in less than 2 weeks, while the public comment period on the DEIR is still open. The City has yet to receive all comments on the DEIR, and may be receiving some comments on the DEIR by mail as late as

next week. It is dismaying that the City has chosen to notice a public hearing when it does not even know what comments it will be receiving and how extensive the revisions to the EIR will be. It is highly questionable and suspect how the City and its consultants will have sufficient time to review and respond to all comments received on the DEIR prior to these hearings.

Section 15088 of the CEQA Guidelines states that the “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 provide a written proposed response to a public agency on comments made by that public agency at least 10 days prior to certifying an environmental impact report.” Section 15088 further requires that the City’s written response “describe the disposition of significant environmental issues raised.” It also states that “there must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice.

Here, the City’s aggressive schedule to hold a Planning Commission hearing less than two weeks after the close of the public comment period is very troubling. The extremely rushed timing of these public hearings, coupled with the absolute failure to address the Business Park in the DEIR, demonstrate that the City has failed to “demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action” (Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 392).

The City should hold off on scheduling any public hearing and hold off on considering certifying the final EIR until such time that it has had an opportunity to fully and meaningfully respond to comments on the DEIR and make any necessary revisions to the document, in accordance with the standard set forth in Section 15088.

Response 4.

The comment is noted for the record.

Comment 5.

The Alternatives Analysis at Section 5 of the DEIR is Deficient. The DEIR briefly considers three alternatives, (1) a no project/no development alternative, (2) a residential development alternative in Area 1, and (3) an institutional/office use alternative in Area 3. As explained by the Court in Uphold our Heritage v. Town of Woodside (2007) 147 Cal.App.4th 587, “section 21081, subdivision (a) [of the Public Resources Code] ‘contains a ‘substantive mandate’ requiring public agencies to refrain from approving projects with significant environmental effects if ‘there are feasible alternatives or mitigation measures that can substantially lessen or avoid those effects.’” CEQA requires consideration of a “reasonable range of potentially feasible alternatives that will foster informed decisionmaking and public participation” (CEQA Guidelines, § 15126.6). Thus, one of the major functions of CEQA is “to ensure that all reasonable alternatives to proposed projects are thoroughly assessed by the responsible official” (Wildlife Alive v. Chickering (1976) 18 Cal.3d 191, 197).

Response 5.

The Lead Agency made an initial determination as to which alternatives are potentially feasible and, therefore, merit in-depth consideration, and which are clearly infeasible. Alternatives that are remote or speculative, or the effects of which cannot be reasonably predicted, need not be considered (*CEQA Guidelines*, Section 15126.6(f)(3)). The Draft EIR evaluated the following three alternatives:

No Project/No Development Alternative. According to the *CEQA Guidelines*, Section 15126.6(e), the purpose of evaluating the No Project/No Development Alternative is to allow decision-makers to compare the impacts of approving the project with the impacts of not approving the project. However, the No Project/No Development Alternative is not the baseline for determining whether the proposed project's impacts are significant, unless it is identical to the existing environmental setting analysis that establishes the baseline.

Residential Development Alternative (Area 1). This alternative would involve the construction of a residential development within the northeastern portion of Area 1 where one of the hotels are proposed. The residential development would consist of six levels with 96 market rate units.

Institutional/Office Use Alternative (Area 3). This alternative would involve the construction of a 70,000 square-foot, four-level office building. The precise occupancy is not known though it could be general office or an institutional use.

Section 5.2 of the Draft EIR states the following:

“An EIR need not consider every conceivable alternative to a project. According to the *CEQA Guidelines*, an EIR must describe a “reasonable range of alternatives” to a proposed project. The alternatives selected for comparison should be those that would attain most of the basic objectives of the project and avoid or substantially lessen one or more significant effects of the project (*CEQA Guidelines* Section 15126.6). The “range of alternatives” is governed by the “rule of reason,” which requires the EIR to set forth only those alternatives necessary to permit an informed and reasoned choice by the decision-making body and informed public participation (*CEQA Guidelines* Section 15126.6[f]). *CEQA* generally defines “feasible” to mean an alternative that is capable of being accomplished in a successful manner within a reasonable period of time, while also taking into account economic, environmental, social, technological, and legal factors.”

The alternatives that were selected were compared to the project objectives (also listed in Section 2.6 of the Draft EIR) that included the following:

1. The addition of new upscale retail tenant uses for this key corridor (Telegraph Road) in the City;
2. The erection and operation of a new state-of-the-art hotel uses;

3. The creation of an aesthetically attractive, high-quality design that reflects the property's location within view of those traveling along the I-5 Freeway;
3. The provision of a high level of accessibility to and through the Telegraph Road corridor, to promote pedestrian travel and efficient vehicular access;
4. The enhancement of the economic vitality of the City by providing sales tax and other revenue generation opportunities; and,
5. The creation of new jobs for the local economy.

An alternative site for the project was not considered when its implementation is “remote and speculative” such as the site being out of the purview of the lead agency or beyond the control of a project applicant.

Comment 6.

The Alternatives Analysis in the DEIR fails to describe a “reasonable range of potentially feasible alternatives” for the following reasons:

The DEIR concludes that the “No Project/No Development Alternative would be environmentally inferior in that the existing blight and environment conditions for Area 2 and Area 3 would remain unchanged” (p. 246). However, the DEIR does not discuss or describe any “existing blight and environment conditions.” This is a conclusion that is not supported by any facts contained within the DEIR. The DEIR does not describe or detail in any manner any blight conditions within Area 2 and Area 3. It is inappropriate to dismiss this alternative without adequately describing the “existing blight” cited as the reason for rejection.

The DEIR describes “a residential development within the northeastern portion of Area 1 would be constructed where one of the hotels are currently proposed” (p. 242). However, the area in question is currently zoned M2 (Heavy Industrial) and is also subject to the Association's CC&Rs which strictly prohibit residential use. As such, residential use is not possible in this area and should not be listed as a potentially feasible alternative.

*With respect to the Institutional/Office Alternative, the DEIR concludes that “this alternative also would meet all the goals and objectives of the proposed project; however, the revenue generated would be proportionally less than that of the proposed project” (p. 245). However, the DEIR contains absolutely no analysis or information to support the conclusion regarding the “revenue generated.” As the Court explained in *Citizens of Goleta Valley v. Board of Supervisors* (1988) 197 Cal.App.3d 1167, 1181, “The fact that an alternative may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible. What is required is evidence that the additional costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project. The scant figures contained in the administrative record are not sufficient to support such a conclusion.” Here, the DEIR contains absolutely no information to support its conclusion that “the revenue*

generated would be proportionally less than that of the proposed project.” Thus, the analysis of this alternative is also deficient. As explained by the California Supreme Court, “the EIR must contain facts and analysis, not just the agency’s bare conclusions or opinions” (Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn. (1986) 42 Cal.3d 929, 935). In Laurel

Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 404, the Court stated, “Without meaningful analysis of alternatives in the EIR, neither the courts nor the public can fulfill their proper roles in the CEQA process. We do not impugn the integrity of the Regents, but neither can we countenance a result that would require blind trust by the public, especially in light of CEQA’s fundamental goal that the public be fully informed as to the environmental consequences of action by their public officials.”

Response 6.

The residential option referred to in the Draft EIR for Area 1 was considered to be infeasible. The No Project Alternative would not meet any of the project alternatives objectives outlined in the previous response.

Comment 7.

The California Supreme Court has held that “an EIR for any project subject to CEQA review must consider a reasonable range of alternatives to the project, or to the location of the project, which: (1) offer substantial environmental advantages over the project proposal; and (2) may be ‘feasibly accomplished in a successful manner’ considering the economic, environmental, social and technological factors involved” (Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 558, 566). The Supreme Court also recognized that “the duty of identifying and evaluating potentially feasible project alternatives lies with the proponent and the lead agency, not the public” (Id. at 568).

Here, the City has dismissed the No Project/No Development Alternative because of existing blight conditions, but has offered no information evidencing or explaining such blight conditions. The residential alternative development is on its face not feasible because it conflicts with existing zoning and the restrictions of the Citadel Business Park. The City has dismissed the Institutional/Office Alternative with absolutely no analysis about the revenue such alternative would generate comparing to the Project. All three of these alternatives are deficient, meaning that the City has failed to adequately describe a “reasonable range of potentially feasible alternatives” and failed to engage in the meaningful analysis required under CEQA (in Laurel Heights, the California Supreme Court required preparation of a new EIR because the discussion of project alternatives was legally inadequate). The City should not consider certifying the EIR and approving the Project until after fully evaluating a reasonable range of “potentially feasible alternatives” in accordance with the standards set forth in CEQA. We would also suggest that the City consider an alternative that respects the boundaries and jurisdiction of the Association, such as one that maintains existing uses and existing zoning at 5780 and 5788 Smithway.

Offering and evaluating a reasonable range of potentially feasible alternatives is particularly vital in light of the numerous unmitigated significant environmental impacts that this Project will cause: construction air quality impacts, operational air quality impacts, greenhouse gas impacts, traffic impacts, cumulative air quality impacts, and cumulative greenhouse gas impacts as well as all the impacts on the Citadel Business Park (none of which is even mentioned in the DEIR). Again, the City cannot consider approving the Project until it addresses and resolves all of these significant deficiencies.

Response 7.

Please refer to Response 5.

Comment 8.

In describing Area 1 of the Project site, the DEIR lists 6 different Assessor's Parcel Numbers on Page 12. 6336-019-930, 6336-019-931 and 9306-024-017 are not valid Los Angeles County APN's. The same invalid APNs are also listed on Page 39 of the DEIR. We also note that APN 6336-024-18 is the property located at 5788 Smithway Street, which is within the Business Park.

Response 8.

The location and extent of Area 1 is clearly identified in Section 2 of the Draft EIR. The Assessor Parcel Numbers will be confirmed and updated in the Final EIR.

Comment 9.

Table 1 on Page 13 of the DEIR and Table 2-1 on Page 43 of the DEIR both identify properties located at 5780 and 5788 Smithway Street. Both of these properties are located within the Citadel Business Park. As explained in our attached March 22, 2019 letter, the DEIR must address the Project's impacts on the Business Park, including that these two properties are subject to the Association's jurisdiction pursuant to its recorded CC&Rs.

Response 9.

These two properties are in fact located within Area 1. The Draft EIR did identify the location and extent of development within these two areas. These lots are noted Section 2 (refer to Table 2-1). The 5780 Smithway Street address is occupied by Unicorp and Uninex International while the building located at 5788 Smithway Street is currently vacant.

Comment 10.

The Project description provided on Pages 13 and 14 of the DEIR describes Building 21 (a 107,150 sf commercial building), a new and expanded parking structure of 1,618 spaces, the Traveler's Hotel, and the Loft Hotel. All of these areas are located within the boundaries of the Business Park and subject to the

Association's jurisdiction pursuant to its recorded CC&Rs. These issues (the impacts on the Business Park) need to be addressed in the EIR.

Response 10.

The Draft EIR did in fact identify the nature and extent of potential development contemplated within Area 1 that is indicated in Comment 1.

Comment 11.

Table 3 on Page 22 mentions groundwater monitoring wells on the former PATCO property, now part of the Citadel shopping center parking lot and mentions a "Voluntary Cleanup Agreement (VCA)". Page 112 of the DEIR states that Tetrachloroethylene (PCE), trichloroethylene (TCE), total chromium, and hexavalent chromium were all reported in groundwater above the State's MCL standards. Page 112 also states that PCE and its degradation product TCE remain in groundwater. Significantly, Page 112 states that the "previously agreed to work plan for groundwater monitoring had not been completed. There has been no change in the situation since 2010." In light of the continued presence of these contaminants and hazards, public safety is a major concern. While the DEIR notes that the work required under the VCA had not been completed, the DEIR makes no clear mention of any future cleanup or monitoring, nor how these existing contaminants and hazards will be addressed and handled. The DEIR must adequately address and describe how the contaminants on the former PATCO site will be monitored and cleaned up by the Project applicant.

Response 11.

The proposed project will not inhibit any future groundwater remediation of the former Pacific Tube business.

Comment 12.

Table 3 on Page 25 contains a column entitled "Environmental Setting" regarding land use and planning impacts. It makes no mention of the Business Park located within Area 1, and that entire section fails to discuss how the Project will physically divide the Business Park.

Response 12.

The Draft EIR in Section 2 clearly delineates the location and extent of Area 1, including the affected properties. The 5780 Smithway Street address is occupied by Unicorp and Uninex International while the building located at 5788 Smithway Street is currently vacant. The analysis included in the Draft EIR clearly indicates the location and extent of potential development within the affected area. Those businesses located to the north of Smithway Street will not be impacted by the proposed project.

Comment 13.

Table 3 on Page 29 states, “the project would have a significant impact at 15 of the 23 signalized intersections during the analyzed peak hours.” It then concludes that “four study intersections would remain significantly impacted after mitigation.” The DEIR is unclear how and why the other 11 signalized intersections would not be significantly impacted after mitigation, particularly because it remains to be seen if and when all mitigation measures would be enforced or subsequently determined to be infeasible. The DEIR recognizes that certain mitigation measures may be determined to be infeasible during the design process. It is also unclear how this determination of infeasibility would be made at that time.

Response 13.

The Draft EIR clearly indicates those intersections that would be potentially significantly impacted by future project related traffic. The comment is referring to the summary table included in the Executive Summary. A comprehensive discussion of the project’s traffic impacts and requisite mitigation is included in Section 3.11 of the Draft EIR.

Comment 14.

Page 31 of the DEIR states in the 6th bullet that “the proposed project will involve any residential development. Any potential population growth will be indirect related to employment growth.” These statements make no sense. The same statement is included in the 5th bullet on Page 224 of the DEIR and also does not make sense.

Response 14.

The comment is referring to the summary table included in the Executive Summary. A comprehensive discussion of the project’s population and housing impacts included in Section 3.9 of the Draft EIR.

Comment 15.

The analysis on “Growth-Inducing Impacts” on Pages 31 and 32 and Page 224 of the DEIR is deficient. The DEIR states at Page 31 and Page 224, “the proposed project has the potential to indirectly induce population growth by creating approximately three jobs per 1,000 square feet for the area. However, the proposed project would more likely respond to regional demand for additional goods and services.” However, if a project is expected to create jobs and bring people into the area, the DEIR must discuss the resulting housing needs and, if more housing will be required, its probable location. In a case involving a proposed largescale industrial development, the Court held that “in order to fulfill its purpose as an informational document, the FSEIR should, at a minimum, identify the number and type of housing units that persons working within the Project area can be anticipated to require, and identify the probable location of those units. The FSEIR also should consider whether the identified communities have sufficient housing units, and sufficient services, to accommodate the anticipated increase in population” (Napa Citizens for Honest Gov’t v. County of Napa Bd. Of Supervisors (2001) 91 Cal.App.4th 342). The Court held

that simply declining to consider the possible effects on housing in surrounding communities is inadequate. Here, the DEIR fails to meet the standard discussed in the Napa Citizens case of discussing the resulting housing needs of future workers within the Project site, where they would live, and related growth-inducing impacts.

Response 15.

As indicated in the Draft EIR, according to the Growth Forecast Appendix prepared by SCAG for the 2016-2040 Regional Transportation Plan (RTP), the City of Commerce is projected to add a total of 4,500 jobs through the year 2040. A total of 1,750 new jobs will be created by the proposed project, assuming employment generation rates derived from the Institute of Transportation Engineers. The number of jobs that will be created is well within SCAG's employment projections for the City. In addition, the project may aid in reducing citywide unemployment.

Comment 16.

At Page 57, the DEIR states, "the construction of the Gaspar Avenue extension, the retail rear service roadway, and the proposed retail will commence in late 2019." As discussed in our attached March 22, 2019, letter, the proposed Gaspar Avenue extension is located within the boundaries of the Business Park. Even though the City intends for this construction to begin within a few months, it has completely failed to address (1) the fact that this area is within the Business Park and subject to recorded easements including "no build" areas, and (2) the extension will divide the Business Park and cause substantial traffic and parking impacts on the Association and its members, in addition to possible safety impacts on pedestrians and passenger vehicles in light of heavy truck traffic. It is highly premature to discuss extending Gaspar Avenue without a full analysis of these impacts.

Response 16.

As indicated in the Draft EIR, the two properties in question are located within Area 1. In addition, the Commerce Business Park is currently divided by Smithway Street. The traffic analysis did, in fact, identify the proposed project's traffic impacts on Gaspar Avenue.

Comment 17.

The DEIR states at Page 113 (last paragraph) that 5788 Smithway Street is located within Area 2 and is occupied by E-Waste Center Inc. However, 5788 Smithway Street is located within Area 1 (and the Business Park), and we understand that E-Waste Center moved out from that building several years ago.

Response 17.

The comment is correct in that 5788 Smithway Street is located within Area 1. This correction will be made in the Final EIR.

Comment 18.

The DEIR states in the first paragraph on Page 114, “The property is located northwest side of Gaspar Street to the southwest of Smithway Street in a mixed-use commercial and light industrial area. The subject property is currently occupied by E-Waste Center, Inc. Onsite operations consist of a drop-off location for electronic waste. E-waste is stored on site prior to being dismantled and shipped off-site for recycling. The subject property consists of a one-story building with loading docks, asphalt-paved parking areas, and minimal landscaping.” These sentences do not appear to relate or connect with the sentences in the DEIR immediately before them. Again, we understand that E- Waste Center no longer occupies a building there.

Response 18.

The comment is correct in that 5788 Smithway Street is located within Area 1. This correction will be made in the Final EIR.

Comment 19.

Exhibit 3-4 is a Zoning Map on Page 137. It shows that the zoning for 5780 and 5788 Smithway Street is “C/M1 – Commercial Manufacturing.” This Zoning Map is incorrect because these two properties are currently zoned M2 (Heavy Industrial).

Response 19.

The Draft EIR indicates that the referred to portions of Area 1 will require a number of Zone Changes to accommodate the proposed uses. The first set of zone changes, from M-2 (*Heavy Industrial*) to C-2 (*Commercial*), will be required for two sites located in Area 1. The comment is correct in that 5788 Smithway Street is located within Area 1. This correction will be made in the Final EIR.

Comment 20.

Page 146 and Page 149 of the DEIR discuss construction noise. The DEIR concludes at Page 146 “since construction activities would not substantially increase ambient noise levels at noise-sensitive locations, construction noise would not result in significant impacts to sensitive receptors.” A similar conclusion is contained within the last two paragraphs on Page 149. However, the DEIR contains no analysis of construction noise impacts on businesses located within the Business Park. This is particularly of concern given the City’s statement that it will begin constructing the extension of Gaspar Avenue later this year. The Business Park is located immediately adjacent to this area, and the DEIR should evaluate construction noise impacts on the Association and its members and their occupants.

Response 20.

As indicated in the Draft EIR, future noise levels related to construction within and adjacent to the project site would fluctuate depending on the particular type, number, and duration of uses of various pieces of construction equipment. Construction activities could involve excavation, grading, demolition, drilling, trenching, earth movement, vehicle travel to and from the project site, and possibly pile driving. Construction-related material haul trips would raise ambient noise levels along haul routes depending on the number of haul trips made and types of vehicles used. The existing noise environment in the area is dominated by motor vehicle traffic traveling on local roads and the I-5 Freeway. The interior areas are insulated for climate control which would also effectively attenuate construction noise. Construction activities associated with the project would be temporary in nature and related noise impacts would be short term.

Comment 21.

The DEIR includes a study of 29 different intersections (Table 3-16, P. 161). The DEIR did not evaluate or study the future intersection that will result at Gaspar and Smithway if Gaspar is extended. The DEIR should evaluate traffic impacts at the future intersection of Gaspar and Smithway.

Response 21.

As indicated in the Draft EIR, a total of 29 study intersections, including 23 signalized and 6 unsignalized, were selected for detailed analysis, including the five primary access points to The Citadel. The intersection of Gaspar Avenue and Smithway Street is not currently a significant intersection in that it only serves as a driveway to the two properties located in Area 1.

Comment 22.

The DEIR is unclear whether the existing conditions shown on Table 3-19 on Page 172 of the DEIR reflect heavy, high-traffic shopping days in the area, which is when traffic impacts are most severe.

Response 22.

Table 3-19 summarize the weekday morning and afternoon peak hours and Saturday midday peak hour V/C ratio or delay and corresponding LOS at each study intersection under *Existing Conditions* for signalized and unsignalized intersections, respectively.

Comment 23.

The DEIR states at Page 207 that five off-ramps from the I-5 Freeway and one off-ramp from the I-710 Freeway “will exceed capacity under Year 2040.” However, the DEIR contains no discussion if and how this impact would be mitigated.

Response 23.

The Draft EIR identified mitigation measures for “intersections 12 and 17,” which are in fact freeway ramps. The Draft EIR also evaluated the potential traffic queuing impacts at five off-ramps from the I-5 Freeway and one off-ramp from I-710 Freeway to determine whether the lengths of the ramps are sufficient to accommodate vehicle queue lengths. The Traffic Study indicated that the queue lengths at all six ramps would not exceed the capacity of the approach lanes or the ramps, with or without project traffic, for Year 2025. However, there ramps will exceed capacity under Year 2040. It is important to note that impacts to freeway ramps and mainlines are not considered “significant impacts” by the City for CEQA purposes.

Comment 24.

Conclusion. For the reasons forth above and in our attached March 22, 2019 letter, the City has not conducted an adequate environmental investigation of the proposed Project, and should not take any further action with respect to the Project until it fully understands the actual scope of the Project, addresses and mitigates its impacts on the Business Park, and evaluates a reasonable range of feasible alternatives. Thank you again for the opportunity to comment on the Draft EIR. Please keep us on your notification list with respect to the Project and any upcoming meetings. For notification purposes, my email is michael@attorneyforhoa.com.

Response 24.

The comment is noted for the record.

Response to Comment Letter Dated May 10, 2019

Patrick Hennessey

Palmier Tyler

Comment 1.

This office represents the Ryzman Family Trust and American International Industries ("All") (the Ryzman Family Trust and All may sometimes be collectively referred to hereafter as the "Owner"), owner of certain real property located in the City of Commerce at 2220 Gaspar Road. We previously submitted comments to the City's Draft EIR dated February 14, 2019. Since such time, we understand that the City has recirculated the Draft EIR for the Project to correct some erroneous information included in the initial circulation. We have had an opportunity to review the recirculated Draft EIR and the Technical Appendices dated March 15, 2019, and resubmit our earlier comments and objections dated March 22, 2019, a copy of which is enclosed herewith and incorporated herein, in response thereto. We respectfully request that our prior comment letter and this letter be included in the official record of proceedings for the above-referenced Project.

For the reasons set forth herein, the City's Draft EIR is incomplete and inadequate, and should be thoroughly revised and recirculate for public review and comment.

Response 1.

The comment has been noted for the record. Please see responses above to your previous letter.

Response to Comment Letter Dated May 10, 2019

Sara Dudley

Adams Broadwell Joseph and Cardozo

Comment 1.

We are writing on behalf of the Coalition for Responsible Equitable Economic Development Los Angeles (“CREED LA”) concerning the Draft Environmental Impact Report (“Draft EIR” or “DEIR”) SCH No. 2016091024, for the Citadel Outlets Expansion & 10-Acre Development Project (“Project”). The Project is proposed by Citadel Holdings Group, LLC and the Wash-Tel Commerce, LLC (“Applicant”) and the lead agency for the purpose of environmental review is the City of Commerce (“City”). The 44-acre project site is located along the northerly side of Telegraph Road between Hoefner Avenue on the west, continuing east to Washington Boulevard in Commerce, California.

Response 1.

The comment is noted for the record. The City of Commerce, in its capacity as Lead Agency for the proposed project re-circulated the Draft EIR for an additional 45-day review period that commenced on March 27, 2017 and ended on May 10, 2019. The comment is and identical comment that was submitted to the City in a letter dated March 22, 2019.

Comment 2.

The proposed Project would expand the existing Citadel shopping center by over a million square feet on a 44-acre project site. The Project would add four new retail buildings, five restaurants/ restaurant areas, and thousands of new parking spaces. The Project also includes three, multi-level commercial buildings; a combined warehouse / industrial building; three hotels with a total of 770 guest rooms (the 96-room Loft Hotel and 174-room Travelers Hotel, both in Area 1, and an unnamed, 500-room hotel in Area 2); a “Movie / Entertainment complex with a fast food court;” a two-level, 23,000 sq./foot building for “Adventure Experiential Retail;” and on-site monorail, to move employees and guests throughout the site. The Project requires demolition of existing buildings. Commensurate with the Project’s size and scope demolition, construction and operation will occur in overlapping phases over six years, from 2020 to 2026.

Response 2.

The comment is noted for the record. The comment restates the Project Description in the Draft EIR.

Comment 3.

We have reviewed the Draft EIR and supporting documents with the assistance of air quality and hazards experts Matt Hagemann and Kaitlyn Heck of Soil/Water/Air Protection Enterprise (“SWAPE Report”) Derek Watry of the acoustic, noise, and vibration consulting firm Wilson Ihrig (“Watry Report”), and

transportation expert and traffic engineer Dan Smith (“Smith Engineering Report”). SWAPE’s, Mr. Watry’s and Smith Engineering’s comments and curriculum vitae are attached hereto as Exhibits A, B and C respectively and are fully incorporated herein and submitted to the City herewith the City must separately respond to the technical comments of the experts, in addition to these comments.

Response 3.

The comment is noted for the record. No specific response is required.

Comment 4.

Having reviewed the Draft EIR materials and related project documents, we have determined that the Draft EIR violates the California Environmental Quality Act, Public Resources Code, section 21000 et seq. (“CEQA”) and its implementing guidelines, California Code of Regulations, title 14, section 15000 et seq. (“CEQA Guidelines”). When a Draft EIR does not fulfill CEQA’s requirements, the agency must prepare and recirculate a new Draft EIR that corrects these deficiencies. The draft recirculated EIR must be noticed and released for public review and comment.

Section 15088.5 of the CEQA Guidelines sets the rule as to when recirculation is required:

(a)(4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (Mountain Lion Coalition v. Fish and Game Com. (1989) 214 Cal.App.3d 1043)

(e) A decision not to recirculate an EIR must be supported by substantial evidence in the administrative record.

Response 4.

The comment is noted for the record. No specific response is required.

Comment 5.

CEQA’s approbation of a conclusory analysis is particularly relevant here. In interpreting this mandate, the Supreme Court has stated, “[t]o facilitate CEQA’s informational role, the EIR must contain facts and analysis, not just the agency’s bare conclusions or opinions.” In reviewing an agency’s environmental decision making, the courts look to see if the agency’s findings “bridge the analytic gap between the raw evidence and ultimate decision” and focus “upon the relationships between evidence and findings and between findings and ultimate action.”

Response 5.

The comment is noted for the record. No specific response is required.

Comment 6.

Review of the DEIR shows that it falls squarely within the definition of a document that is so fundamentally inadequate that it precludes any meaningful public review and must be thoroughly revised and then recirculated. This is true for just about any aspect of the DEIR, as the City failed to fulfil its duties under CEQA in both substance and procedure. The City failed to provide the most basic data required for proper analysis, failed to show the connection between the data it did provide and the conclusions it purported to draw from it and failed to fulfill its most basic duties under CEQA such as the duty to formulate feasible and effective mitigation measures to mitigate significant impacts caused by the Project.

Response 6.

The comment is noted for the record. No specific response is required.

Comment 7.

As described in more details in this letter, the City has failed to comply with CEQA in the following ways: The City failed to make all documents referenced or relied upon in the Draft EIR available to the public as required under CEQA.

Response 7.

The City made the documents available at City Hall.

Comment 8.

The DEIR fails to accurately disclose, analyze, and mitigate the Project's significant impacts to air quality and public health. Therefore, the City lacks substantial evidence to support the findings required to adopt a statement of overriding considerations concerning the Project's significant and unavoidable air quality emissions.

Response 8.

The air quality impacts associated the proposed project's implementation were analyzed in Section 3.2 of the Draft EIR. The daily construction emissions will exceed the SCAQMD significance thresholds for ROG (reactive organic gases). Therefore, the mass daily construction-related impacts associated with the proposed project would be significant. The Planning Area is also located in a non-attainment area for ozone and particulates. Therefore, the project Applicant will be required to adhere to all SCAQMD regulations related to fugitive dust generation and other construction-related emissions. According to SCAQMD long-term (operational) emissions refer to those air quality impacts that would occur once the proposed project is operational. These impacts would continue over the operational life of the project. The long-term air quality impacts associated with the proposed project includes mobile emissions associated with vehicular traffic and stationary emissions. The projected long-term emissions would exceed SCAQMD

thresholds for Reactive Organic Gases (ROG), NO_x, and PM₁₀. ROG is an organic gas that undergoes a photochemical reaction, and thus, is reactive. ROG emissions are generated from the exhaust of mobile sources and these gases are precursors to ozone. PM₁₀ refers to small particulates (ten microns in size or smaller). Since the project will result in an exceedance in mobile sourced ROG, NO_x, and PM₁₀, mitigation measures have been provided to encourage the use of alternative forms of transportation.

The daily construction emissions will exceed the SCAQMD significance thresholds for ROG (reactive organic gases) even with the implementation of the required mitigation. The proposed project would also generate operational emissions that would still exceed the thresholds for ROG, NO_x, and CO. As a result, the City of Commerce in its capacity as Lead Agency for the project would be required to adopt a Statement of Overriding Considerations with respect to air quality impacts.

Comment 9.

The DEIR fails to accurately disclose, analyze, and mitigate Project's significant impacts to global climate change from greenhouse gas emissions ("GHG"). Therefore, the City lacks substantial evidence to support the findings required to adopt a statement of overriding considerations concerning the Project's significant and unavoidable impacts to global climate change.

Response 9.

The greenhouse gas (global warming) impacts associated the proposed project's implementation were analyzed in Section 3.4 of the Draft EIR. The CalEEMod computer model was used to calculate CO₂ emissions and relies upon default trip data and project specific land use data to calculate emissions. Estimates are based on energy emissions from natural gas usage, as well as automobile emissions. As seen in Table 3-8, the total project-related direct operational emissions would result in 27,849 MTCO₂E/year.

The project site's location in an urban area reduces the amount of vehicle miles travelled. The location of the nearest bus stops was also selected, further reducing the number of trips. In addition, the eclectic mix of uses offered by the project increases the project's diversity. Diversity refers to a collection of a variety of uses (residential, retail, office, public services, etc.) located in close proximity to each other. Diversity is important for reducing the number of trips because it eliminates the need to use vehicles to travel between different uses.

The project-related operational emissions (direct and indirect) would result in 19,480 MTCO₂e/year. This figure represents the estimated mitigated emissions, which includes the use of energy and water efficient appliances and fixtures, the location of the nearest bus stops, the project's infill nature, and that the project contains a mix of uses. Despite the use of in-program mitigation measures, the project's operational GHG emissions are still expected to exceed the 10,000 MTCO₂e/year thresholds.

Comment 10.

The DEIR fails to accurately disclose and evaluate the extent of the Project's significant impacts to hydrology and utilities, regarding the Project's water supply.

Response 10.

The proposed project's impact on hydrology and utilities was analyzed in Section 3.6 and 3.12 of the Draft EIR, respectively. The comment is not specific in terms of identification of the Draft EIR's shortcomings regarding these issues.

Comment 11.

The DEIR fails to accurately disclose, analyze, and mitigate the Project's significant impacts to noise, particularly during Project construction.

Response 11.

The proposed project's impact on noise was analyzed in Section 3.8 of the Draft EIR. The existing noise environment in the area is dominated by motor vehicle traffic traveling on local roads and the I-5 Freeway. The nearest sensitive receptors are located to the south of the I-5 Freeway. The outside pedestrian and parking areas would also be impacted by construction noise. The interior areas are insulated for climate control which would also effectively attenuate construction noise. Construction activities associated with the project would be temporary in nature and related noise impacts would be short term. Also, since construction activities would not substantially increase ambient noise levels at noise-sensitive locations, construction noise would not result in significant impacts to sensitive receptors.

Comment 12.

The DEIR fails to accurately disclose, analyze, and mitigate the Project's significant transportation impacts.

Response 12.

The proposed project's impact on traffic and transportation were analyzed in Section 3.11 of the Draft EIR.

Comment 13.

The DEIR fails to accurately disclose and evaluate the Project's impacts to population and housing.

Response 13.

The proposed project's impact on population and housing were analyzed in Section 3.9 of the Draft EIR. The comment fails to indicate the particular issue area that is of concern given no housing units are located

within the project area nor will any residents be dislocated. In addition, the proposed project will not involve the construction or dislocation of any residential units. The Draft EIR did consider the proposed project's growth inducing impacts associated with future employment generation.

Comment 14.

The DEIR fails to accurately disclose, analyze, and mitigate the Project's growth-inducing impacts.

Response 14.

The proposed project's potential growth inducing impacts are discussed in Section 4.1 of the Draft EIR. Public Resources Code Section 21100(a) (5) requires that the growth-inducing impacts of a project be addressed in the environmental impact report. According to CEQA, a project may be growth-inducing if it directly or indirectly fosters economic or population growth or the construction of additional housing, removes obstacles to growth, taxes community service facilities, or encourages or facilitates other activities that cause significant environmental effects.

Pursuant to State CEQA Guidelines §15126.2(d), an EIR must "discuss the ways in which the Proposed Project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment...". The purpose of this section is to evaluate the potential for growth-inducing effects of the Citadel Expansion Project. A project would directly induce growth if it would remove growth control barriers to growth, such as a change to a jurisdiction's General Plan and Zoning Ordinance to allow increased development. The CEQA Guidelines require a discussion of growth inducement, but do not require speculation as to exactly when and where growth may or may not occur, and what form that growth may take. Growth-inducing impacts are generally associated with the provision of urban services to an undeveloped or rural area, such as utilities, improved roadways, and expanded public services.

Comment 15.

The DEIR fails to consider a reasonable range of alternatives.

Response 15.

Section 5 of the Draft EIR includes the analysis of alternatives. This EIR evaluated the following three alternatives:

1. *No Project/No Development Alternative.* According to the *CEQA Guidelines*, Section 15126.6(e), the purpose of evaluating the No Project/No Development Alternative is to allow decision-makers to compare the impacts of approving the project with the impacts of not approving the project. However, the No Project/No Development Alternative is not the baseline for determining whether the proposed project's impacts are significant, unless it is identical to the existing environmental setting analysis that establishes the baseline.

2. *Residential Development Alternative (Area 1).* This alternative would involve the construction of a residential development within the northeastern portion of Area 1 where one of the hotels are proposed. The residential development would consist of six levels with 96 market rate units.
3. *Institutional/Office Use Alternative (Area 3).* This alternative would involve the construction of a 70,000 square-foot, four-level office building. The precise occupancy is not known though it could be general office or an institutional use.

Comment 16.

In addition to the CEQA violations in the specific resources areas listed above, the DEIR fails to provide the level of detail required under CEQA from a project-level EIR:

The CEQA Guidelines provide that the “degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR.” A project-level EIR is one that analyzes, discloses, and mitigates the “environmental impacts of a specific development project.” This is a project-level EIR for a construction development project. The level of specificity of an “EIR on a construction project will necessarily be more detailed in the specific effects of the project than will be an EIR on the adoption of [long-range, conceptual plans] because the effects” of a specific development project “can be predicted with greater accuracy.”

Response 16.

The Draft EIR described the project’s physical and operational characteristics in specific details in Section 2. The analysis cannot be construed as being programmatic or generalized nature. The various exhibits provided in Section 2 includes site plans, detailed descriptions of the floor area counts, building square-footage, number of rooms, etc.

Comment 17.

As a project-level EIR, the DEIR is the only EIR that will be prepared for the Citadel expansion project. As such, it must contain the highest level of specificity concerning the analysis of impacts, mitigation measures, and alternatives as compared to any other type of environmental review document. Despite this heavy burden, the DEIR consistently fails to analyze impacts against applicable thresholds of significance, avoids analysis of construction impacts, fails to conduct necessary studies and provide supporting documentation and justifies this lack of information by deeming impacts “speculative,” and contains only nine mitigation measures. All other impacts are deemed either less-than-significant, as having no impact or as significant and unavoidable. This level of disclosure, analysis, and mitigation is inconsistent with project-level review, particularly for a development of this magnitude. The DEIR must be revised and recirculated, with a level of detail commensurate with a project-level EIR.

Response 17.

The Draft EIR described the project's physical and operational characteristics in specific details in Section 2. The analysis cannot be construed as being programmatic or generalized nature.

Comment 18.

The City must withdraw the Draft EIR and circulate a revised Draft EIR for public review and comment which analyzes, discloses, and mitigates the Project's significant impacts, and considers a reasonable of alternatives.

Response 18.

The comment is noted for the record.

Comment 19.

CREED LA is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public and worker health and safety hazards, and the environmental and public service impacts of the Project. The coalition includes the Sheet Metal Workers Local 105, International Brotherhood of Electrical Workers Local 11, Southern California Pipe Trades District Council 16, and District Council of Iron Workers of the State of California, along with their members, their families, and other individuals who live and work in the City of Commerce and the area.

Response 19.

The comment is noted for the record. No specific response is required.

Comment 20.

Individual members of CREED LA include Ernesto Sanchez, Hugo Hernandez, David Pimenov, Robert Arias, Victor Cisneros, Carlos Fletes, Narciso Mora, Carlos Mendivil, Brittany Garcia, Rodolfo Caldero, James Moreno and Efrain Medina. These members live, work, recreate and raise their families in the City and surrounding areas. Accordingly, they would be directly affected by the Project's environmental and health and safety impacts. Individual members may also work on the Project itself. They would be first in line to be exposed to any health and safety hazards that exist onsite.

Response 20.

The comment is noted for the record. No specific response is required.

Comment 21.

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

Response 21.

The comment is noted for the record. No specific response is required.

Comment 22.

The City must extend the public review and comment period on the Draft EIR for the Project by at least 45-days from the date that the City makes all documents referenced or relied upon in the Draft EIR available and readily accessible to the public. The City has long been aware of this obligation but has consistently failed to comply.

Response 22.

The City does not concur with the above comment though it has been noted for the record.

Comment 23.

Public Resources Code, section 21092, subdivision (b)(1), sets the rule on what is required here, stating that “all documents referenced in the draft environmental impact report or negative declaration” and those “incorporated by reference” must be “available for review” and readily accessible during the entire comment period.

Response 23.

The comment has been noted for the record. The City made all references and documents available for pickup at the City.

Comment 24.

The City initially released the Draft EIR for the Project on or about February 19, 2019. CREED LA submitted a letter on March 14, 2019 (“March 2019 Letter”) advising the City that the DEIR must be withdrawn and recirculated for failure to comply with Public Resources Code, section 21092. As the March 2019 Letter detailed, the City did not make available any documents referenced or relied upon in Draft EIR or any of the document’s appendices.

Response 24.

As you are aware, the City recirculated the original Draft EIR. The City of Commerce, in its capacity as Lead Agency for the proposed project re-circulated the Draft EIR for an additional 45-day review period that commenced on March 27, 2017 and ended on May 10, 2019.

Comment 25.

The City responded by withdrawing the initial Draft EIR. On or about March 27, 2019, the City issued this Draft EIR and its appendices on the City's website. However, these actions do not address the City's failure to provide access to the documents required under CEQA.

Response 25.

The City did in fact provide access to all the requested documents that were picked up at City Hall. In addition, this information was made available on the City's website.

Comment 26.

On March 28, 2019, CREED LA submitted a request for immediate public access to all documents referenced and relied upon in the Draft EIR. The City's response to our letter was inadequate and it continues to violate CEQA's public access requirements in several ways. As a result, the City must extend the public review and comment period on the Draft EIR for the Project by at least 45-days from the date that the City makes all documents referenced or relied upon in the Draft EIR available and readily accessible to the public.

Response 26.

Please refer to the previous response.

Comment 27.

First, the City has not made available the Project's Water Supply Assessment ("WSA") despite its legal obligation to do so and numerous specific requests. The City explicitly states in the DEIR that a WSA was prepared for the Project. Moreover, a WSA is a legally-mandated analysis of a Project's projected water usage and supply. An agency must prepare a WSA when, as here, a Project will employ over 1,000 individuals or create 500 or more temporary guest rooms. Failing to provide this critical document for public review and comment is a violation of CEQA.

Response 27.

The Applicant will prepare a LID report that will identify both construction and post-construction (operational) BMPs. The implementation of the required BMPs will improve the quality and reduce the quantity of stormwater runoff by facilitating proper filtration and percolation of excess runoff. Therefore,

the risk of off-site erosion and/or siltation will be minimal given the reduced water runoff and the lack of pervious surfaces outside of the project site. Additionally, the project site is located 1.80 miles to the northeast of the channelized Los Angeles River. The proposed project will be restricted to the designated sites and will not alter the course of the Los Angeles River. In addition, the project will not substantially alter the site's natural drainage patterns because previous construction activities may have altered this site's original drainage patterns. No other bodies of water are located in and around the project site.

Comment 28.

Second, in response to our request the City provided a list of websites cited in the DEIR. Many of these links are inactive or do not correspond to the information cited. (See list below).

- *Footnotes 41, 42 and 140 cite to the website for the California Department of Transportation's page for Official Designated Scenic Highways at www.dot.ca.gov. This is a general website and does not contain the information referenced (list of officially designated scenic highways).*
- *Footnotes 52, 58, 60, 67, and 68 cite to the website for the South Coast Air Quality Management District, CEQA Air Quality Handbook at <http://www.aqmd.gov/home/rulescompliance/ceqa/air-quality-analysis-handbook#>. This link is no longer active. A message on the site states, "The information that you are looking for has moved. Please note that the SCAQMD website has been redesigned and our pages have been reorganized."*
- *Footnote 77 cites to the Office of Governor Edmund G. Brown Jr, New California Goal Aims to Reduce Emissions 40 Percent Below 1990 Levels by 2030 at <http://gov.ca.gov/news.php?id=18938>. This link is no longer active.*
- *Footnote 85 cites to the pdf/website CWE Corporation, Los Angeles River Upper Reach 2 Watershed Management Area Coordinated Integrated Monitoring Program (CIMP), June 26, 2014 at https://www.waterboards.ca.gov/rwqcb4/water_issues/programs/stormwater/municipal/watershed_management/los_angeles/upper_reach2/15-01-27LARUR2WMARevWMP.pdf. This link is no longer active.*
- *Footnote 136 cites to the website for the [CalWater] District Information at <https://www.calwater.com>. This is a link to the main page for the agency, and does not contain the information cited, or a link to that information.*
- *Footnote 139 cites to Google Earth at <http://www.maps.google.com/maps> for an image of the Project site. This is a link to the main, generic webpage for Google Maps, and does not contain a map or image of the Project site.*

Response 28.

The URL addresses for those websites noted on the City's webpage, was confirmed at the time they were uploaded during March 2019.

Comment 29.

Third, the City failed to properly provide “the address where (...) all documents referenced in the draft environmental report (...) are available for review” as required under CEQA. While the Draft EIR states that the documents are at the Planning Department building in Commerce, Planning Department staff gave the location as the Commerce public library. As a result, the public was not provided with accurate information concerning the true location of the records for several days, delaying the review and retrieval process.

Response 29.

The documents were made available at City Hall.

Comment 30.

Finally, the City provided inconsistent information regarding the location, and even existence of, the Draft EIR’s geotechnical study. The Draft EIR states that the geotechnical study is “Appendix D.” Appendix D was not produced by the City, despite several specific requests. After several weeks, City staff admitted that there is no Appendix D. Rather, the study was produced as part of the documents referenced and relied upon in the EIR (and not as a separate appendix). This misdirection hindered the document review and retrieval process.

Response 30.

The Geotechnical study referred to in the comment was uploaded on the City’s website.

Comment 31.

Due to these errors and omissions, the City has not made the documents referenced and relied upon in the DEIR available and readily accessible to the public as it must do under CEQA. As a result, the City must extend the public review and comment period on the Draft EIR for the Project by at least 45-days from the date that the City provides and makes readily accessible these documents for public review.

Response 31.

The comment is noted for the record.

Comment 32.

CEQA has two basic purposes, neither of which is fulfilled by the DEIR. The first purpose of CEQA is to inform decision-makers and the public of the environmental consequences of the agency’s actions by disclosing and analyzing all significant impacts. Second, CEQA’s substantive mandate requires that an agency adopt all feasible mitigation measures capable of lessening or avoiding such impacts and consider

a reasonable range of environmentally-superior alternatives. When an EIR fails to fulfill these purposes, it must be revised and recirculated.

Response 32.

The comment is noted for the record.

Comment 33.

Consistent with the first purpose, CEQA review is designed to inform decisionmakers and the public about the potential, significant environmental effects of a project. An EIR functions 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.”

The courts review the sufficiency of an EIR’s disclosure and analysis under the “abuse of discretion” standard. “[A] prejudicial abuse of discretion occurs if the failure to include relevant information precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process.

The discussion of impacts in an EIR must be detailed, complete, and “reflect a good faith effort at full disclosure.” To that end, the EIR must disclose all direct, indirect and cumulatively-significant environmental impacts. The EIR must contain all of the facts and analysis necessary to support its conclusions. Environmental review documents must be “organized and written in a manner that will be meaningful and useful to decisionmakers and to the public.”

In analyzing the significance of an impact, the lead agency’s significance determination must be supported by accurate scientific and factual data. An agency cannot conclude that an impact is less-than-significant unless it produces rigorous analysis and concrete substantial evidence justifying its finding.

The second purpose of CEQA is to require public agencies to avoid or reduce environmental damage by implementing “feasible” mitigation measures and through the consideration of “feasible” environmentally superior alternatives. In other words, if an EIR identifies potentially significant impacts, it must then propose and evaluate mitigation measures to minimize these impacts. CEQA defines “feasible” as “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.”

Courts have imposed several parameters for the adequacy of mitigation measures. First, the lead agency may not defer the formulation of mitigation measures until a future time, unless the EIR also specifies the specific performance standards capable of mitigating the project’s impacts to a less than significant level. Deferral is impermissible where an agency “simply requires a project applicant to obtain a ... report and then comply with any recommendations that may be made in the report.” Second, a public agency may not rely on mitigation measures of uncertain efficacy or feasibility. Third, “[m]itigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments.” Fourth,

mitigation measures that are vague or so undefined that it is impossible to evaluate their effectiveness are legally inadequate.

If the agency elects to approve the project despite its significant adverse impacts, it may do only if it finds 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.” The agency must describe these findings in a written document, supported by substantial evidence (“statement of overriding considerations”).

Response 33.

The comment is noted for the record.

Comment 34.

These comments and the attached exhibits provide substantial evidence that the DEIR fails to meet either of CEQA’s key goals and requirements. The DEIR fails to disclose and evaluate all potentially significant environmental impacts of the Project. The DEIR’s analysis and disclosure of impacts, mitigation measures, and alternatives is so conclusory and fundamentally inadequate that the document fails as an informational document. Accordingly, the Draft EIR must be revised and recirculated.

Response 34.

The comment is noted for the record.

Comment 35.

The Draft EIR fails to adequately disclose, analyze, and mitigate the Project’s potentially significant impacts to water supply in the DEIR’s sections on “Hydrology and Water Quality” and “Utilities.” The City does not provide a WSA and a “will-serve” letter from the water agency demonstrating the quantify and availability of water for the Project. This lack of analysis and supporting documentation violates both CEQA and related provisions in the California Water Code. The Draft EIR found that the Project will not require new or expanded water supply facilities, will not result in insufficient water supplies beyond existing entitlements, and will not deplete or interfere with groundwater supplies or recharge. In all of the above-cited areas, the Draft EIR concluded that impacts would be less-than-significant and no mitigation was required. These findings are not supported by substantial evidence.

When an agency determines that a project is subject to CEQA, it must comply with the provisions of California Water Code, sections 10910 to 10915, concerning water supply assessments. The CEQA Guidelines, section 15155 contain additional, specific requirements for “water demand projects.” Per CEQA Guidelines, section 15155(a)(1)(A)-(D) “A ‘water-demand project’ means ... [a] shopping center or business establishment employing more than 1,000 persons or having more than 500,000 square feet of floor space ... [a] commercial office building employing more than 1,000 persons or having more than

250,000 square feet of floor space...[or a] hotel or motel, or both, having more than 500 rooms. If a project meets the criteria for a “water demand project,” the lead agency must take the following steps: identify the water system that will supply the water; request that the agency identify if the project was included in a recent Urban Water Management Plan (“UMP”) and if so, analyze the project under that plan; and depending on the circumstances, either the lead agency or the water district must prepare a water supply assessment consistent with the requirements of the Water Code, section 10910 to 10915. The assessment must be included in the EIR. Regarding the sufficiency and specificity required for a water supply assessment, the CEQA Guidelines, section 15155(f) states that:

(f) [the] degree of certainty regarding the availability of water supplies will vary depending on the stage of project approval. A lead agency should have greater confidence in the availability of water supplies for a specific project than might be required for a conceptual plan (i.e. general plan, specific plan). An analysis of water supply in an environmental document may incorporate by reference information in a water supply assessment, urban water management plan, or other publicly available sources. The analysis shall include the following:

- (1) Sufficient information regarding the project's proposed water demand and proposed water supplies to permit the lead agency to evaluate the pros and cons of supplying the amount of water that the project will need.
- (2) An analysis of the reasonably foreseeable environmental impacts of supplying water throughout all phases of the project.

An analysis of circumstances affecting the likelihood of the water's availability, as well as the degree of uncertainty involved. Relevant factors may include but are not limited to, drought, salt- water intrusion, regulatory or contractual curtailments, and other reasonably foreseeable demands on the water supply.

In addition, Water Code, sections 10910(b), (c), (d) outline the specific requirements for the contents and sufficiency of a water supply assessment. A compliant WSA must include, inter alia, an assessment of water supply during normal, single dry and multiple dry years and “proof” of legal entitlement to the water required for the project under all scenarios. Further data and analysis is required if the project will use groundwater.

The Project fulfills multiple criteria for a “water demand” project under CEQA and the Water Code provisions apply. (The Project will develop over a million square feet of floor space, contain 700 hotel rooms, and employ over 1,000 people). The Draft EIR does not directly dispute this, stating that a WSA was prepared. Therefore, a WSA and documentation from the water purveyor, here, California Water Service Company (“California Water”) must identify, with “great confidence” that “projected water supplies will be sufficient to satisfy the demands of the project” and “proof” that the City / Applicant is entitled to receive the water. This information must be included in the EIR, to allow decision-makers to thoughtfully weigh the “pros and cons of supplying the amount of water that the project will need.”

Response 35.

The water consumption rates will be relatively low given the commercial nature of the proposed uses. All of the development will be commercial in nature and potable water consumption will be limited to human consumption or routine maintenance. No large scale water consuming activities (residential or manufacturing) are proposed. In addition, all landscaping will be required to conform to the City's low-impact development requirements.

Comment 36.

The Draft EIR provides none of this information or documentation, in violation of CEQA and the Water Code. The Draft EIR contains only a single reference to the WSA, simply stating that one was prepared. Given the lack of discussion of the WSA's contents, it calls into question whether a WSA was even prepared. As discussed above, the City has not responded to repeated requests to obtain the WSA, which is a separate violation of CEQA. The Draft EIR identifies California Water, and the sources of their water. The Draft EIR does not cite to, or provide, a "will-serve" letter from the California Water or any other proof, as required by statute, that water is available to serve the Project, and that the City or Applicant is entitled to that water. Furthermore, the statement that California Water's UMP includes the City's long-range plans is inadequate. The Water Code and CEQA require the City to include an analysis from the water agency itself, as to whether the UMP includes this Project and entitlement to that water.

These are serious omissions. As one court stated in similar circumstances "[t]he agency [will] not be allowed to hide behind its own failure to gather relevant data." Due to these informational deficiencies, the Draft EIR fails to "bridge the analytic gap" between its findings and conclusions, as the SWAPE Report details:

The DEIR lacks support for its inter-related conclusions that the proposed Project will not require new or expanding water facilities, will not result in insufficient water supplies, and will not deplete groundwater supplies ... In order to substantiate these conclusions, the DEIR should have provided a Water Supply Assessment (WSA) and a "will-serve" letter from the California Water Service Company.

Response 36.

Please refer to Response 35.

Comment 37.

Even though the agency would not provide the public with the required WSA upon which it states that it relies, the estimates of water usage provided in the DEIR do not "pencil out." The DEIR states the Project is estimated to consume 165,434 gallons of water per day (DEIR, p.234). The DEIR goes on to say that the Project's net increase in water consumption is 47 acre-feet per year. These two estimates do not match: 165,434 gallons of water is equivalent to 185 acre-feet per year, approximately four times the DEIR's

estimate of 47 acre-feet per year. This discrepancy must be addressed in a revised and recirculated Draft EIR.

Response 37.

The Draft EIR and the Final EIR will clarify the consumption rate.

Comment 38.

In addition, the Draft EIR's hydrology report covers only the 10-acre portion (Area 3) of the Project. Therefore, "[a] hydrology report which covers the entire Project site (Areas 1, 2, and 3) should be prepared and included in a revised DEIR."

Response 38.

The 10-Acre portion (Area 3) is currently covered over in pervious surfaces. Areas 2 and 3 presently cover over in buildings and surface parking areas.

Comment 39.

The Draft EIR's informational deficiencies, lack of analysis, and inability to support its findings with facts and evidence in the record violates CEQA's substantive and procedural requirements. The City must correct these deficiencies in a revised and recirculated DEIR.

Response 39.

The comment is noted for the record.

Comment 40.

The Draft EIR relies on emissions calculated from the California Emissions Estimator Model Version, CalEEMod.2016.3.2 ("CalEEMod"). SWAPE has reviewed the Project's CalEEMod output files and found that several of the values inputted into the model were not consistent with the information disclosed in the DEIR. As a result, the City's air modeling underestimates the impacts on air quality from construction and operation. Specifically, the DEIR underestimates the number of truck haul trips needed during site demolition and fails to account for overlap during construction and operation.

First, the Draft EIR underestimates the number of truck hauling trips required during project site demolition. In fact, the SWAPE Report shows that the DEIR reduced the number of demolition hauling trips from 765 to zero, without proper justification. As they explain "this is not a valid approach to calculating construction emissions" and the result is that "the Project's construction emissions are substantially underestimated."

Response 40.

The buildings located in Area 1 include tilt-up concrete buildings and in Area 2, three older tilt-up concrete buildings, and a single building in Area 3. Demolition emissions for each of the three areas were calculated. Individually and were displayed in Table 3-5 in the Draft EIR.

Comment 41.

Second, the CalEEMod fails to account for emissions during the overlap between project construction and operation. Construction and operation will occur in phases, over a six-year period. When construction is completed on one phase, it will become operational, while construction will continue on other phases. This overlap will occur in all three Areas (Area 1, 2, and 3). However, as SWAPE discusses:

[T]he Project's construction and operational emissions were evaluated separately and do not account for the overlap in activities (Table 3-5, DEIR, p. 87-88 and Table 3-6, p. 90). Since the DEIR fails to evaluate the impacts that may occur from this overlap in construction and operation, the Project's air quality impacts are potentially underestimated and inadequately addressed.

The Draft EIR should be revised and circulated to include an analysis of the total Project emissions that will occur as a result of the overlapping construction and operational phases.

Response 41.

The construction phases identified in the Draft EIR were provided by the project Applicant and their contractors. Because of the complexity of the project, it was not anticipated that there would not be significant or any overlap between the project phases.

Comment 42.

The Draft EIR concludes that health risks to nearby sensitive receptors (approximately 222 feet away from the Project) during Project construction and operation from diesel particulate matter ("DPM") would be less-than-significant without additional mitigation measures. The Draft EIR draws this conclusion without conducting a quantitative construction or operational health risk assessment ("HRA"). "The DEIR attempts to justify this finding by comparing the Project's construction criteria air pollutant emissions (carbon monoxide ["CO"] nitrogen dioxide ["NOx"], and particulate matter of 10 microns or less ["PM10"] and 2.5 microns or less ["PM2.5"]) to the [South Coast Air Quality Management

Response 42.

The construction emissions will be related to the following key activities:

1. Activities related to ongoing land clearance, grading, and excavation will result in both equipment emissions and fugitive dust emissions. The majority of these NO_x emissions will be associated with

the use of diesel-powered construction equipment and fugitive dust (PM₁₀) associated with construction.

2. Equipment emissions associated with the use of construction equipment during site preparation and construction activities.
3. Delivery vehicles and workers commuting to and from the construction site will generate mobile emissions. The primary pollutant is CO with secondary emissions of ROG and NO_x. As indicated previously, the use of diesel trucks and other equipment will generate large amounts of NO_x.

The construction area within Areas 1 and 2 are occupied by buildings that are largely vacant. Areas 2 and 3 contained undeveloped land that will require limited grading for site preparation. All these areas have previously been developed. The project Applicant will be required to adhere to all SCAQMD regulations related to fugitive dust generation and other construction-related emissions. According to SCAQMD Regulation 403, all unpaved demolition and construction areas shall be regularly watered up to three times per day during excavation, grading, and construction as required (depending on temperature, soil moisture, wind, etc.). Rule 403 also requires that temporary dust covers be used on any piles of excavated or imported earth to reduce wind-blown dust. Watering could reduce fugitive dust by as much as 55%. In addition, all clearing, earthmoving, or excavation activities must be discontinued during periods of high winds (i.e. greater than 15 mph), so as to prevent excessive amounts of fugitive dust. Finally, the contractors must comply with other SCAQMD regulations governing equipment idling and emissions controls. The aforementioned SCAQMD regulations are standard conditions required for every construction project undertaken in the City.

Comment 43.

District's] SCAQMD's Localized Significance Threshold" ("LST"). Additionally, the DEIR attempts to justify the omission of an operational HRA by stating that the air quality mitigation measures (Mitigation Measures 5 to 9) will "reduce the project's operational mobile emissions to the fullest extent possible." As the SWAPE Report discusses, this conclusion is flawed for several reasons.

First, the LST analysis is only applicable to NO_x, CO, PM₁₀, and PM_{2.5} emissions, which are specific criteria air pollutants. It does not measure specifically DPM, a type of toxic air contaminant and does not use the appropriate threshold to assess potential health impacts from DPM. Furthermore, there is a specific numerical threshold of 10 in one million cancer risk the SCAQMD provides for determining a project's health risk impact, and the DEIR should utilize this threshold in its analysis.

Second, the LST lookup screening table methodology used is inapplicable to the Project. The LST lookup screening table can only be used to assess projects no greater than five-acres, with eight operational hours/day, which operate during the daytime only, and where there will be a distribution of emission sources across the site. As the Project description and SWAPE Report demonstrate, the Project exceeds all of these parameters (44-acres, day and nighttime operations, uneven distribution of emissions throughout construction and operation). As the SWAPE report notes, "When a project exceeds the LST lookup parameters, a site-specific localized significance analysis is required." This was not done here.

Third, the Draft EIR must include a construction-level HRA, in addition to an LST analysis, consistent with current SCAQMD guidance which recommends that health risk impacts from short-term projects (such as the Project's construction phase), be assessed, because "short-term cancer risk assessments can be thought of as being the equivalent to a 30-year cancer risk estimate and the appropriate thresholds would still apply."

Response 43.

Please refer to Response 42. It should be pointed that the SCAQMD did not recommend or require the preparation of an HRA.

Comment 44.

Finally, as the SWAPE Report explains, "simply because the Project's proposed operational mitigation will reduce mobile emissions does not justify the omission of an HRA". This is especially true here where, as shown below, the mitigation measures proposed are vague, unenforceable and of uncertain efficacy.

Response 44.

Please refer to Response 42. It should be pointed that the SCAQMD did not recommend or require the preparation of an HRA.

Comment 45.

The State Office of Environmental Health Hazard Assessment ("OEHHA") is responsible for providing recommendations and guidance for conducting HRAs in California. Therefore, HRAs consistent with OEHHA guidance should be prepared and included in a revised and recirculated Draft EIR. To demonstrate the potential risk posed by Project construction and operation to nearby sensitive receptors, SWAPE prepared a preliminary "screening- level" HRA. The HRA used the AERSCREEN modelling system. It was adjusted to include truck trips during site demolition and overlapping emissions during Project construction and operation. The HRA included an analysis of both criteria pollutants and DPM. SWAPE's assumptions for the modelling are detailed in the report. The HRA revealed significant potential health risks to sensitive receptors during Project construction and operation. SWAPE concluded:

The excess cancer risk posed to adults, children, infants, and during the third trimester of pregnancy at the MEIR located approximately located approximately 75 meters downwind, over the course of Project construction and operation, is approximately 11, 81, 84, and 4.7 in one million, respectively. Furthermore, the excess cancer risk over the course of a residential lifetime (30 years) at the MEIR is approximately 180 in one million.¹⁰¹ Consistent with OEHHA guidance, exposure was assumed to begin in the third trimester of pregnancy to provide the most conservative estimates of air quality hazards. The infant, child, adult, and lifetime cancer risks exceed the SCAQMD threshold of 10 in one million.

As demonstrated, these levels exceed vastly SCAQMD thresholds of significance for cancer risk of 1:10 million. The City should therefore prepare a refined HRA to fully analyze and disclose the Project's health risks.

Response 45.

Please refer to Response 42. It should be pointed that the SCAQMD did not recommend or require the preparation of an HRA.

Comment 46.

The Draft EIR determines that the Project's emissions of criteria pollutants DPM and PM10 would exceed SCAQMD thresholds. The DEIR concludes that these are "significant and unavoidable impacts" to air quality. In order to approve the Project, the City is required to adopt a statement of overriding considerations. The findings in the statement of overriding considerations must be supported by substantial evidence.

Response 46.

The Draft EIR called for a Statement of Overriding Considerations for this issue.

Comment 47.

However, although the Draft EIR concludes that impacts are "unavoidable" and recommends that a statement of overriding considerations be adopted, the City "proposes a few mitigation measures to reduce the Project's air pollutant emissions."

Therefore, "[w]hile it is true that the Project will result in significant ... air quality impacts" the conclusion that these impacts are "unavoidable" is not supported by substantial evidence. Adopting a statement of overriding considerations under these circumstances is contrary to both CEQA and SCAQMD guidance for CEQA compliance. As discussed above, the CEQA Guidelines provide that when a project will result in significant and unavoidable impacts, even after the adoption of feasible mitigation measures, a statement of overriding considerations is required, and then it must be "supported by substantial evidence." Similarly, the SCAQMD guidance which "requires lead agencies to consider feasible mitigation measures to avoid or substantially reduce a project's significant environmental impacts." The San Joaquin County Air Pollution Control District provides similar guidance.

Because of these deficiencies, additional mitigation measures should be identified and incorporated into the Project which will lessen or avoid the Project's impacts to air quality and global climate change. Otherwise, the agency lacks substantial evidence to support the adoption of a statement of overriding considerations relative to air quality emissions.

As will be discussed in more detail below, additional feasible mitigation measures are available and should be incorporated into the Project's mitigation monitoring and reporting program to lessen or avoid impacts from air pollutants.

Response 47.

The comment is noted for the record. The Final EIR will also include additional mitigation measures.

Comment 48.

The DEIR failed to consider additional, feasible mitigation measures to lessen or avoid impacts to air quality, as required under CEQA. The SWAPE Report both: 1) suggests additional, feasible mitigation measures for construction and operational impacts and; 2) analyzes the proposed mitigation measures and describes the ways in which they are inadequate to lessen or avoid impacts.

As discussed above, CEQA requires public agencies to avoid or reduce environmental damage by implementing "feasible" mitigation measures. In other words, if an EIR identifies potentially significant impacts, it must then propose and evaluate mitigation measures to minimize these impacts. CEQA defines "feasible" as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors."

Courts have imposed several parameters for the adequacy of mitigation measures. First, the lead agency may not defer the formulation of mitigation measures until a future time, unless the EIR also specifies the specific performance standards capable of mitigating the project's impacts to a less than significant level. Second, a public agency may not rely on mitigation measures of uncertain efficacy or feasibility. Third, "[m]itigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments." Fourth, mitigation measures that are vague or so undefined that it is impossible to evaluate their effectiveness are legally inadequate.

As SWAPE discusses, several of the mitigation measures proposed by the City to reduce air quality impacts are vague, unenforceable, and of limited efficacy. SWAPE suggests additional, feasible actions which can be incorporated into these measures, to bolster efficacy and enforceability (see below).

MM-5 states the Project Applicant and future tenants will incentivize employees to utilize alternative modes of transportation. This vague measure fails to describe any specific programs that will achieve this goal and lacks any performance standards and is completely unenforceable. Specific programs suggested by SWAPE include implementing a commute trip reduction program, a riding sharing program, price workplace parking, and employee parking "cash-out."

MM-8 states the Project will include kiosks and directories depicting mass transit times and routes, the location of bicycle racks, and the location and timing of Project shuttles. This measure too "does not provide any facts or evidence to support the DEIR's conclusion that this measure will lessen or avoid impacts." SWAPE suggests incorporating a "bike lane street design" on the Project's 44-acre site to

increase bicycle usage and reduce VMT.

MM-6 requires that the Project include electric vehicle charging stations in parking and garages, but does not specify their location and number, nor quantify how many stations would be sufficient to lessen or avoid impacts and fulfill projected demand for EV parking. As SWAPE explain, the “Applicant should commit to a minimum percentage of parking spaces that will be equipped with EV charging stations.” Consistent the California Green Building Standards Code, which is already applicable to the Project, “it is recommended that any project with over 200 parking spaces equip a minimum of 6% of their parking spaces with EV charging stations.”

Finally, MM-9 states that the Project will encourage local hire, through job fairs and similar events, and that this will address both air quality and “environmental justice” impacts. While local hire is certainly a laudable goal, this mitigation measure is vague, and its efficacy in reducing air quality impacts is not supported by any evidence. MM-9 does not include a local hire percentage goal or “bridge the analytic gap” by quantifying how local hire will reduce VMT and thus, lessen or avoid air quality impacts. If an agency elects to approve the project despite its significant adverse impacts, it may do so only if it finds 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.” Described in a “statement of overriding considerations”.

SWAPE suggests several mitigation measures to reduce or avoid construction and operational emissions. Many of these measures are suggested measures from GHG reduction plans or other guidance by agencies concerning GHG emission reductions, including the U.S. Environmental Protection Agency (“EPA”), the California Air Pollution Control Officer’s Association (“CAPCOA”), regional air districts, and measures that have been implemented in other development projects by other California cities.

The SWAPE Report details many feasible mitigation measures to reduce construction-related air quality emissions. These include: limiting construction equipment idling beyond regulation requirements; implementing diesel control measures; repowering or replacing older construction equipment engines; installing retrofit devices on existing construction equipment; using electric and hybrid construction equipment; implementing a construction vehicle inventory tracking system; implementing the enhanced control practices promulgated by the Sacramento Metropolitan Air Quality Control District; using zero-emissions VOC paint or use of materials that do not require paint (which is of particular importance in light of the surface area potentially requiring paint, consistent with a million square foot development) and using electrostatic sprays and coatings.

SWAPE also described feasible mitigation measures to reduce operational air quality emissions. These include: reducing unnecessary outdoor lighting; developing and following a “green streets guide” which reduces dependence on non-permeable asphalt and concrete; installing high-efficiency heat, ventilation and air-conditioning systems; using electric sweepers or sweepers fitted with HEPA filters; using CARB-certified electric landscaping equipment and additional measures, beyond the existing Project features, which reduce car reliance by customers and employees, and promote the use of electric vehicles, including EV trucks.

Response 48.

We are unclear as to why the aforementioned mitigation measures are vague and unenforceable. In addition, the SCAQMD outlined a number of additional construction and operational mitigation measures that would be effective in mitigating the proposed project's impact. The measures were incorporated into the Final EIR.

Comment 49.

For the above-stated reasons, the Draft EIR fails to adequately disclose, analyze, and mitigate the Project's potentially significant impacts to air quality. The Draft EIR's conclusions regarding the quantity of emissions and efficacy of mitigation measures are not supported by substantial evidence. On the basis of the information in the Draft EIR, the City cannot support a statement of overriding considerations, finding that impacts would be "unavoidable" in the absence of quantifying and adequately mitigating these impacts. The Draft EIR must correct these deficiencies in a revised and recirculated EIR.

Response 49.

The SCAQMD included additional mitigation measures to be incorporated into the Final EIR. These additional mitigation measures have been incorporated into the Final EIR.

Comment 50.

The Draft EIR fails to adequately disclose, analyze, and mitigate the Project's potentially significant impact from GHG emissions. The conclusion that impacts will be "unavoidable" lacks substantial evidence, in the absence of adopting all feasible mitigation measures to lessen or avoid GHG impacts. The Draft EIR must correct these deficiencies in a revised and recirculated EIR.

The CEQA Guidelines require agencies to "make a good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project." In determining the significance of the project's GHG emissions, the "agency's analysis also must reasonably reflect evolving scientific knowledge and state regulatory schemes." The agency must consider "[w]hether the project emissions exceed a threshold of significance that the lead agency determines applies to the project." While the lead agency has discretion to choose a modeling system and methodology, the selection of the methodology and its application must be supported by substantial evidence. Finally, as with the analysis of all impact areas, the agency must employ all feasible mitigation measures to reduce or eliminate impacts. The City's failed on every step of this process and its analysis of GHG impacts violates CEQA.

Impact 3.4.4.1 analyzes the Project's potential to generate GHG emissions. It determines that the project's operational GHG emissions will exceed SCAQMD's significance threshold and that the City would be required to adopt a Statement of Overriding Consideration. The City's analysis of the Project's potential

GHG generation relies on no substantial evidence, includes numerous contradicting statements within a two pages range and violates CEQA.

First, the City failed to disclose the Project's construction emissions. Table 3-8 of the DEIR presents the reader with the number of 27,849.32 pounds per day as the Project's "Total Construction Emissions". As the SWAPE Report shows, the CalEEMod files reveal that in fact 27,849.32 pounds per day is the maximum daily emissions expected during construction, that is, this amount would be emitted on a daily basis and would add up during the six years of construction. The City, however, fails to provide the total construction emissions generated by the Project anywhere else in the DEIR or its appendices. Hence, the DEIR completely underestimates and misrepresents the Project's construction impacts, in violation of CEQA.

SWAPE were able to calculate the total construction emissions based on the limited information provided in the CalEEMod files. SWAPE found that total construction emissions are approximately 27,362 MT CO₂e. Per the SCAQMD guidance, and as is common practice for many lead agencies, construction emissions are typically totaled, amortized over thirty years, and added to the operational emissions. SWAPE found that the amortized construction emissions would be approximately 912 MT CO₂e/year over a project lifetime. There is no indication that these emissions were accounted for in the DEIR, and it must be revised to properly reflect these emissions.

Second, the DEIR's analysis of operational emissions is not supported by any evidence, let alone substantial evidence, and fails entirely to present a "good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project" as required under CEQA:

The first paragraph of the DEIR's "Discussion of Impact Analysis" includes the following statement: "As seen in Table 3-8, the total project-related direct operational emissions would result in 27,849 MTCO₂E/year". However, as mentioned above, the number 27,849 actually appears under the construction emissions section in the table. Table 3-8 indicates that the amount of "Long Term Operational Emissions (Mitigated)" is actually 174,741 lbs/day, which as SWAPE show can be converted to approximately 28,949 MT CO₂e/year.

In the next paragraphs the City claims that the project-related mitigated operational emissions (direct and indirect) would result in 19,480 MT CO₂e/year. That is, the DEIR claims that about 9,000 MT CO₂e/year GHG emission reductions will be achieved by measures which include, according to the DEIR, "the use of energy and water efficient appliances and fixtures, the location of the nearest bus stops, the project's infill nature, and that the project contains a mix of uses". These statements and the emissions reduction the City claims to achieve are wholly unsupported for the following reasons:

First, Table 3-8 presents the "Long-Term Operational Emissions (Mitigated)", which as was discussed above are approximately 28,949 MT CO₂e/year. If these are the mitigated emissions, it is unclear how come the next paragraph presents a different number for the mitigated emissions.

Response 50.

The Draft EIR indicated that the total GHG emissions would be 27,849.32 pounds per day. SWAPE's recalculations show that the emissions would be approximately 28,949 MT CO₂e/year. The error cite in the comment will be corrected in the Final EIR. As stated previously, mitigation measures will be incorporated into the Final EIR though the project's impacts will remain significant and unavoidable.

Comment 51.

In addition, the "mitigation measures" mentioned in the DEIR are completely vague, do not qualify as mitigation measures and the City fails to provide any support to reductions attributed to them. In what way, for example, is the "location of nearest bus stops", which is a pre-existing condition that is not even a Project feature, a mitigation measure? How much GHG reduction is attributed to it? The same questions apply to the project's "infill nature" and "mix of uses".

Even more importantly, SWAPE's review of the CalEEMod files revealed that many emissions reduction measures were already included within the CalEEMod output files. That is, they are already accounted for in the Project's GHG emissions estimate of approximately 28,949 MT CO₂e/year. According to the CalEEMod output files, the Project's emissions estimate incorporated the following: first, it incorporated what it referred to as "Mitigation Measures Mobile" which include "Increase Diversity", "Improve Destination Accessibility" and "Improve Pedestrian Network". While vague, these measures seem to correspond to the "mix of uses", "infill nature" and "location of bus stops" measures the DEIR lists as mitigation measures. Second, the modeling for the Project incorporated installment of high efficiency lighting and appliances and of low flow plumbing, which seem to correspond to the "use of energy and water efficient appliances and fixtures" the DEIR purports to present as additional measures. In other words, it appears the DEIR is trying to take credit twice for the same mitigation measures (assuming they can count as mitigation measures).

The DEIR GHG analysis must be revised to properly and accurately reflect the Project's construction and operational GHG emissions before any mitigation measures are applied, to accurately describe in detail any mitigation or reduction measure the Project will employ and the level of emission reduction each measure will achieve, and to support this analysis with substantial evidence. As it is now, the analysis is wholly unsupported and violates CEQA.

CEQA Guidelines require the agency to consider "[w]hether the project emissions exceed a threshold of significance that the lead agency determines applies to the project." Agencies may use existing numerical thresholds, provided that they apply to the project.

Response 51.

The thresholds used were clearly identified in Section 3.2.2 of the Draft EIR. As stated in the Draft EIR, the SCAQMD is responsible for the implementation of the protocols of the Federal Clean Air Act and the SCAQMD is responsible for ensuring that the more stringent California Clean Air standards are met.

Furthermore, projects in the South Coast Air Basin (SCAB) generating construction-related emissions that exceed any of the following emissions thresholds are considered to be significant under CEQA:

- 75 pounds per day of reactive organic compounds;
- 100 pounds per day of nitrogen dioxide;
- 550 pounds per day of carbon monoxide;
- 150 pounds per day of PM₁₀;
- 55 pounds per day of PM_{2.5}; or,
- 150 pounds per day of sulfur oxides.

The proposed project would have a significant long-term impact on air quality if any of the operational emission significance thresholds for criteria pollutants are exceeded:

- 55 pounds per day of reactive organic compounds;
- 55 pounds per day of nitrogen dioxide;
- 550 pounds per day of carbon monoxide;
- 150 pounds per day of PM₁₀;
- 55 pounds per day of PM_{2.5}; or,
- 150 pounds per day of sulfur oxides.

Comment 52.

The DEIR states that “Despite the use of in-program mitigation measures, the project’s operational GHG emissions are still expected to exceed the 10,000 MTCO₂e/year thresholds.” The DEIR fails to refer to the source of this threshold or support its decision to use it with any evidence. As SWAPE explain, it can be assumed that this threshold was taken from the Interim CEQA GHG Significance Threshold for Stationary Sources, Rules, and Plans report released by SCAQMD on December 2008 (which was never officially adopted). The use of this threshold is inappropriate for two main reasons:

First and foremost, this threshold was developed when AB 32 was the governing statute for GHG reductions in California and it does not reflect the current state reduction goals as they are stated in SB 32 that was adopted almost ten years later. The CEQA Guidelines explicitly require GHG analysis to “reasonably reflect evolving scientific knowledge and state regulatory schemes” and the use of such an outdated threshold violates this mandate. Moreover, even at the time it was proposed, this threshold was proposed for industrial projects, not for commercial/mixed use project, and was never applicable to it. The City must set forth an applicable threshold of significance and must support its decision to use that threshold with substantial evidence.

Response 52.

The 10,000 MTCO₂e/year threshold was provided by the SCAQMD. This reference will be incorporated into the Final EIR.

Comment 53.

The DEIR follows its brief and flawed GHG analysis with the conclusion that “[t]he GHG emissions will exceed the SCAQMD significance thresholds even with the implementation of the CARB requirements” and states that the City would be required to adopt a statement of overriding considerations. This conclusion violates CEQA.

Under CEQA, “lead agencies shall consider feasible means, supported by substantial evidence and subject to monitoring or reporting, of mitigating the significant effects of greenhouse gas emissions.”¹⁵² The Guidelines provide several suggestions for sources of mitigation measures. Such measures may include “measures in an existing plan or mitigation program” developed for the purpose of reducing GHG emissions, “implementation of project features, project design, or other measures, such as those described in [CEQA Guidelines] Appendix F,” off-site mitigation measures, and “[m]easures that sequester greenhouse gases.” Besides some vague references to the Green Building Code and some Project’s features, not supported by substantial evidence and by any quantitative or qualitative analysis, the City failed to propose any mitigation measures to mitigate the GHG impacts of the Project.

The SWAPE Report details many mitigation measures to lessen or avoid construction-related and operational GHG emissions. Consistent with CEQA Guidelines, section 15126.4(c), many of these measures are taken from GHG reduction plans and related guidance from the EPA, CAPCOA, regional air districts, and have been used in other development projects.

Feasible mitigation measures to reduce GHG emissions during Project construction include: using electric and hybrid construction equipment; implementing a construction vehicle inventory tracking system; implementing the “Enhanced Exhaust Control Practices” suggested by the Sacramento Metropolitan Air Quality Management District; and reducing VOC emissions, which are an indirect cause of GHG emissions by using of zero-emission VOC paint or use of materials that do not require paint and; using electrostatic sprays and coatings.

Feasible mitigation measures to reduce GHG emissions during Project operation include: developing a “green streets guide” which reduces the dependence on non-permeable asphalt and concrete; installing high-efficiency heat, ventilation and air-conditioning systems; requiring LEED certification on all buildings; developing consumer education programs; and implementing additional measures, beyond the existing Project features, which reduce car reliance by customers and employees, and promote the use of electric vehicles, including EV trucks.

The City must revise the DEIR to include all feasible mitigation measures to reduce GHG impacts below a level of significance.

Response 53.

The Final EIR includes additional mitigation measures that will be effective in reducing both construction-related and operational greenhouse gas (GHG) emissions. However, the overall GHG emissions will remain significant even with the additional mitigation. The CAPCOA measures are also reflected in Table 3-9 of both the Draft EIR and Final EIR.

Comment 54.

Impact 3.4.4.2 analyzes the Project's potential to conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing GHG emissions and determines that impacts will be less-than-significant. This determination is not supported by substantial evidence.

The DEIR analyzes the Project's consistency with thirty-nine actions outlined in the CARB's 2017 Climate Scoping Plan ("Scoping Plan"), and summarily concludes that there are no conflicts with the Climate Plan. This analysis is flawed for two reasons.

First, the cursory discussion provided in the DEIR is not a meaningful analysis consistent with CEQA's informational and procedural requirements, specifically as they relate to a project-level EIR. The DEIR merely provides a one-line "strategy name" without a specific reference to any specific strategy (or location) in the Scoping Plan. Without this information, the public cannot retrieve, review, and evaluate the City's consistency with that "strategy." The DEIR addresses the question of whether the Climate Plan is applicable and if there is a conflict by a simple "Yes/No" answer. No analysis of the strategy's applicability to or compatibility with the Project is provided. For the few strategies deemed applicable to the project by this "analysis" the DEIR offers a few more bare conclusions such as that the programs "correspond to the project's use of energy efficiency appliances" without any further detail and analysis. These conclusory statements do not contain sufficient detail to allow those who did not participate in the EIR's preparation to understand and meaningfully consider the issues raised by the Project.

Second, the City failed to analyze the Project's compatibility with other applicable plans, notably the Southern California Association of Government's ("SCAG") Regional Transportation Plan / Sustainable Communities Strategy ("RTP/SCS"). The RTP/SCS was adopted pursuant to Senate Bill 375 and is used identify strategies to reduce GHG emissions as part of long-range transportation planning. On April 7, 2016, SCAG adopted the 2016-2040 RTP/SCS. Using growth forecasts and economic trends, the RTP/SCS provides a vision for long-range transportation planning for the next 25 years. The RTP/SCS is specifically designed to achieve the GHG emission-reduction targets set by CARB for the transportation sector, consistent with statutory mandates. Given that transportation emissions are the largest source of emissions produced by the Project, a CEQA-compliant EIR must include an analysis of the Project's compatibility with the RTP/SCS measures and recommendations. The DEIR lacks this analysis, and thus the City failed to adequately disclose and evaluate GHG impacts.

For the above-stated reasons, the Draft EIR fails to adequately disclose, analyze, and mitigate the Project's significant and unavoidable impacts to GHG emissions. On the basis of the information in the Draft EIR, the City cannot support a statement of overriding considerations, finding that impacts would be "unavoidable" in the absence of quantifying and adequately mitigating these impacts. The Draft EIR must correct these deficiencies in a revised and recirculated EIR.

Response 54.

The Final EIR will be expanded to clarify the project's conformity with SCAG's RTP/SCS. This conformity is noted elsewhere in the Draft EIR though it will be restated in the discussion of climate change. As stated in the air quality analysis section and the land use section, the overall project is consistent with both the City's General Plan and SCAG's Regional Plans.

Comment 55.

The DEIR concludes that there will be "no impact" regarding the Project's potential to result in substantial population growth and need for housing. The Draft EIR lacks substantial evidence to support this conclusion. An EIR is required to analyze a project's impact on population and housing. As discussed above, as a project-level EIR, impacts must be analyzed to the highest level of detail and specificity.

The Draft EIR describes the environmental setting for population and housing. The CEQA Guidelines explain that the function of the environmental setting is to act as the baseline for a project's impacts: "[a]n EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published ... This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant."

The baseline reflects that the City is "currently experiencing a period of population growth." The "lack of available land has presented unique challenges to the [C]ity in its efforts to provide housing for its growing population." While redevelopment and housing rehabilitation programs have improved the quantity and quality of local housing, "the average household size continues to grow, placing increased pressure on the existing housing stock." Furthermore, the most recent data provided by City states that Commerce's population is 12,960 people. The total number of dwelling units in the City is 3,384. Residential housing stock increase has been de minimus in recent years; with 50 units added in the last seven years. Optimistically, the City hopes to increase housing supply by 200 more units over the next two years (by 2022).

The Draft EIR must measure the Project's impacts to population and housing against this baseline. The Project will create over one million square feet of commercial, retail, and hotel uses. The Project will create temporary construction jobs, as well as 1,750 jobs when operable.

Response 55.

The project area is not designated for residential development in either the General Plan or Zoning. In addition, the area's proximity to the freeway and the attendant air quality and noise impacts make the area an inappropriate location for residential development. The potential short-term employment impacts can be absorbed by the Southern California Labor Market and the long-term employment projects for the City (4,500 jobs) will be able to absorb the potential 1,750 jobs for the proposed project.

Comment 56.

As a threshold of significance, the DEIR uses SCAG employment projections. SCAG projections allow for 4,500 new jobs in the City 2040. The DEIR concludes that since the Project will create less than 4,500 new jobs, this impact is insignificant ("no impact"). This conclusion is not supported by the evidence, for the following reasons: First, the DEIR cites Table 3-15 which does not support the DEIR's conclusion.

Table 3-15 merely recites Project facts and does not provide any analysis as to how and to what extent the Project will contribute to population growth and the need for housing, including affordable workforce housing, and why the Project will have no impact to this resource area. Indeed, the facts cited support the opposite conclusion - that the Project will foster population growth and an increased need for housing, by creating jobs during project construction and operation. Furthermore, the statement that construction employment is a "beneficial" (economic) impact does not in any way address what CEQA requires – an analysis of the Project's reasonably foreseeable adverse direct, indirect, and cumulatively considerable impacts to the physical environment as they concern population and housing, against the existing baseline.

Second, the SCAG employment projections are not adequate as a threshold of significance. SCAG merely provides employment projections. The DEIR does not cite to any authority supporting these employment projections as a threshold of significance for population and housing. For example, a potential source of a threshold is General Plan's Housing Element, which the DEIR mentions in the regulatory setting. Yet, the DEIR does not use the General Plan to provide a threshold of significance for housing impacts, and whether adding 1,750 new jobs would cause that threshold to be exceeded. If a similar analysis was performed by SCAG, it is not cited or relied upon in the DEIR.

Moreover, even if SCAG's employment projections were an appropriate indication of impacts on housing and population, the fact that the Project by itself does not reach the full capacity projected for 2040 does not support the conclusion it does not have a significant impact on growth. The Project will contribute a significant amount of jobs, almost 40% of all jobs projected in the next 20 years. This is a significant contribution. The DEIR must also provide data regarding other existing and in-pipeline projects that will create jobs to estimate the Project's impacts in conjunction with other projects.

Finally, The City provides no other facts and analysis to support its bare conclusion that the Project will have no impact to population and housing, after creating 1,750 jobs in a City with a total population of 12,960 people, with 3,384 housing units, and a growing household population. For example, the DEIR

does not analyze or disclose the current status of workforce housing in the City, where the majority of the projected workforce currently resides (in the City or in the surrounding region), housing needs required to accommodate the projected workforce, whether sufficient affordable housing exists or is planned, and the implications of MM-9 (which promotes local hire). The DEIR thus fails to “bridge the analytic gap” between the Project and the impact.

The Draft EIR must be revised and recirculated and adequately disclose, analyze and mitigate impacts to population and housing created by the Project.

Response 56.

The proposed project, overall, is consistent with both the City’s General Plan and Zoning Map. The potential buildout from both were analyzed in detail as part of the City’s most recent General Plan update. The only exception involves three smaller areas noted in the Draft EIR where a Zone Change will be required to accommodate the development envisioned as part of the proposed project’s implementation.

Comment 57.

The Draft EIR fails to adequately disclose, analyze, and mitigate the Project’s growth-inducing impacts. The City must address these deficiencies in a revised and recirculated Draft EIR. CEQA mandates that an EIR analyze growth-inducing impacts. CEQA Guidelines, section 15126.2(e) describes what this analysis must entail:

[A growth-inducing analysis must describe the] ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. ... Increases in the population may tax existing community service facilities, requiring construction of new facilities that could cause significant environmental effects. [The EIR must also] discuss the characteristic of some projects which may encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively. It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment.

In the California courts it is “settled that the EIR must discuss growth- inducing impacts even though those impacts are not themselves a part of the project under consideration, and even though the extent of the growth is difficult to calculate.” In determining if a project has growth-inducing impacts, the agency must assess whether the project sets in motion forces that can lead to pressure for growth.

The DEIR purports to analyze the Project’s “potential indirect population growth impacts from job creation.” The DEIR acknowledges that the “project has the potential to indirectly induce population growth by creating” 1,750 jobs. The DEIR goes on to state that the “project would more likely respond to regional demand for additional goods and services” such as the “increased demand for entertainment, commercial recreation, retail services, and other services.” The DEIR then concludes its analysis by stating that there will be “no impact,” as the “project would generally accommodate rather than induce

population growth.” This brief discussion does not address the requirements of CEQA Guidelines, section 15126.2(e) concerning growth-inducing impacts, and the DEIR’s conclusion is not supported by substantial evidence.

This DEIR’s brief analysis focuses solely on economic growth and its conclusion is based on irrelevant information. CEQA does not require an analysis of the local demand for goods and services and whether the Project will accommodate those needs. The issue that must be disclosed, analyzed, and mitigated here is whether “the project could foster ... population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment.” The DEIR admits that the Project has the potential to induce population growth by creating jobs, and this is the impact that should be analyzed and addressed. It is undisputed that the Project will not create housing but will create a significant number of jobs; therefore, in no way does the Project accommodate growth within the meaning of CEQA Guidelines, section 15126.2(e).

The Draft EIR justifies its lack of analysis by stating that growth-inducing impacts are “generally associated with the provision of urban services to an undeveloped or rural area.” This is false. CEQA Guidelines, section 15126.2(e) and the requirement to analyze growth-inducing impacts applies equally to all projects. The CEQA Guidelines draw no distinction between projects in rural versus urban areas or projects that provide infrastructure versus other types of development.

The Draft EIR fails to adequately disclose, analyze, or mitigate the Project’s growth-inducing impacts. A revised and recirculated EIR must include an adequate discussion of the Project’s potential to foster population growth and the related need for housing in the surrounding environment.

Response 57.

Section 4.1 of the Draft EIR examines the potential growth-inducing impacts anticipated to occur as part of the proposed project’s implementation. These potential impacts include the following:

1. New development in an area presently undeveloped and economic factors which may influence development. The Planning Area is developed and located within an urban area. Portions of Area 2 and 3 are presently undeveloped though they were previously developed. The proposed project will be an infill project.
2. The extension of roadways and other transportation facilities. The only roadway extension will be Gaspar Avenue which will serve the proposed project.
3. The extension of infrastructure and other improvements. Any new infrastructure lines will serve the proposed project only.
4. Major off-site public projects (treatment plants, etc.). No major public improvements will required to accommodate the proposed project.

5. The removal of housing requiring replacement housing elsewhere. No housing units will be removed as part of the proposed project's implementation.
6. Additional population growth leading to increased demand for goods and services. The proposed project will involve any residential development. Any potential population growth will be indirect related to employment generation.
7. Short-term growth inducing impacts related to the project's construction. The proposed project's implementation would result in employment generation. This anticipated demand for new construction can be accommodated by the existing local labor market.

Comment 58.

The Draft EIR fails to adequately disclose, analyze, and mitigate the Project's potentially significant direct, indirect, and cumulative noise impacts on sensitive receptors located in the Project's vicinity, particularly during the Project's six-year overlapping construction and operational phases.

Section 3.8 of the DEIR analyzes the Project's operational and construction- related impacts to noise. The DEIR concludes that impacts will be less-than- significant, without mitigation measures, concerning the potential of the Project to expose persons to noise levels in excess of standards, expose people to, or generate, excessive ground-borne noise, permanently increase ambient noise in the vicinity above existing levels, substantially increase noise levels, periodically or temporarily, and cumulatively impact noise. As discussed below and in the Watry Report, these conclusions are not based on substantial evidence. The Draft EIR must be revised and recirculated, with an adequate discussion, analysis, and mitigation of noise impacts.

As the Watry Report states, the DEIR's section on noise impacts entirely lacks foundation, because the DEIR failed to perform the required studies upon which to make accurate and adequate noise determinations, and the information that is provided is inconsistent and inaccurate. First, the DEIR does not contain a Technical Noise Study, but rather only provides "Noise Worksheets" in Appendix B. Noise Worksheets contain raw data and not analysis or discussion. As the Watry Report states, "[F]or a project of this size (over 1 million square feet) and duration (6 years in construction), we would have expected a formal Technical Noise Study to have been prepared as a matter of best practice." Furthermore, the data in Appendix B is not accurately labelled or defined. Rather in "all of the screen shots are labeled, "Existing Noise Levels," although some are "without Project" while others are "with Project." Therefore, decision-makers and the public cannot assess what the data purports to demonstrate. The Draft EIR must be revised and recirculated, after a Technical Noise Study has been conducted, supported by data that is accurately and consistently presented.

Response 58.

As indicated in the Draft EIR, the potential construction sites are located to the north of the I-5 Freeway, which separates the construction areas from noise sensitive receptors. In addition, all construction

activities will be required to comply with the City's Noise Control Ordinance, which limits the time, duration, and level of noise. Additional information including mitigation has been included in the Final EIR.

Comment 59.

The existing environmental setting is the starting point from which the lead agency must measure whether a proposed project may cause a significant environmental impact. CEQA defines the environmental setting as the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, from both a local and regional perspective. Describing the environmental setting accurately and completely for each environmental condition in the vicinity of the Project is critical to an accurate, meaningful evaluation of environmental impacts.

The courts have clearly stated that “[b]efore the impacts of a project can be assessed and mitigation measures considered, an [environmental review document] must describe the existing environment. It is only against this baseline that any significant environmental effects can be determined.” The City failed to establish the baseline in two aspects:

First, the noise analysis is not based on field measurements taken from the Project site and vicinity. Rather, the DEIR relies solely on modeling. This approach runs contrary to accepted best practices and guidance in the field of acoustics. Caltrans guidance states that field measurements provide the most accurate data concerning existing conditions and that this method should be used when feasible. The Project site is in a developed area which is fully accessible to the City. Field measurements were therefore feasible and required. The City does not support its decision to base its impacts analysis on modeling, rather than field measurements, with any evidence in the record.

Second, the DEIR failed to include in the environmental setting the largest roadway and dominant noise source is the I-5. This issue is clearly demonstrated in Table 3-12, which purports to establish “Existing Roadway Noise Levels” but entirely excludes the I-5 Freeway. By failing to include such a dominant noise source in the environmental setting the City fails to establish the existing conditions and violates CEQA.

Response 59.

Noise measurements along Telegraph Road facing the I-5 Freeway are included in the Final EIR.

Comment 60.

The DEIR's analysis of operational impacts is not supported by substantial evidence. As the Watry Report demonstrates, these impacts are likely to be significantly adverse on sensitive noise receptors in the vicinity of the Project and mitigation is required. The operational noise analysis is flawed for several reasons. First, the analysis failed to consider all existing noise-sensitive receptors, and, for the receptors that it does identify, the DEIR inaccurately calculate distance from the Project site. The Project is located on the north side of the I-5 but fails to identify any noise-sensitive receptors on that side of the freeway. A

review of the Project vicinity in Google Earth clearly identifies two overlooked receptors – the Double Tree Hotel and the Crowne Plaza Hotel & Casino (a.k.a., “Commerce Casino”). The DEIR acknowledges the presence of these receptors elsewhere in the DEIR when analyzing impacts to other resource areas.

The DEIR does identify the Rosewood neighborhood on the south side of I-5 as a potential receptor but fails to accurately measure the area’s distance from the Project site. In the Noise section, the DEIR states that the area is 250 feet from the Project. In the analysis of all other impact areas, the DEIR states that this neighborhood is 222 feet away. Using Google satellite imagery and measuring tools, noise expert Derek Watry establishes that the area is actually 175 from the centerline of Telegraph Avenue, a noise source. The analysis must be revised to include all noise-sensitive receptors and their accurate location.

Second, the DEIR vastly underestimates noise impacts by excluding any analysis of the dominant noise source – traffic from Interstate 5 (“I-5”). As the Watry Report states: [t]he discussion of the existing ambient noise environment identifies three sources of traffic noise: Washington Boulevard, Telegraph Road, and the Interstate-5 Freeway (I-5) (DEIR pp. 143-144). The largest roadway and dominant noise source is the I-5. Yet, the DEIR fails to model, measure or analyze traffic noise from I-5. This issue is clearly demonstrated in Table 3-12, which purports to establish “Existing Roadway Noise Levels” but entirely excludes the I-5 Freeway.

The omission of the dominant noise source in the DEIR’s noise section renders the entire analysis wholly incomplete and inaccurate.”

Third, the noise section failed to consider applicable Caltrans standards for noise exposure, despite CEQA’s mandate to use “applicable standards of other agencies” and despite the fact that road traffic is the dominant noise source of the area. As the Watry Report states, “[f]or residential areas, the applicable standard is a peak hour average (Leq) noise level of 67 dBA, and for hotels it is a peak hour average of 72 dBA. The DEIR does not calculate peak hour noise levels, but, had it done so, it would have come to conclusions very similar to those presented in the preceding section based on the City’s Ldn standards”, that is, that the Project will create noise impacts in excess of the applicable standards.

Fourth, the noise section’s analysis of permanent increase in ambient noise is based on data that is inconsistent and inaccurate. It cites to a General Plan Policy that does not exist, and states that noise levels of 84 and 89 dBA “do not exceed 70 dBA,” which is clearly erroneous. These discrepancies must be corrected in a revised and recirculated DEIR.

Fifth, even if the information was accurate and consistent, which it is not, the analysis and conclusions concerning the potential to create permanent increases in ambient noise levels are not supported by substantial evidence, as it is based on false logic that was rejected by the Federal Transit Administration (“FTA”). The approach used in the DEIR would allow noise impacts to incrementally increase, on a project-by-project basis, increasing impacts to an area that is already significantly impaired by noise. The FTA rejects this approach. As the Watry Report states:

The fallacy of this logic is that it effectively means there is no limit on permanent increases in ambient noise over the long run. In other words, once a project is constructed, it establishes a new, higher level of ambient noise, and future projects would be permitted to increase noise incrementally and indefinitely, by 3.0 to 5.0 dBA.

...

[W]hen the existing noise exposure is 84 dBA Ldn, an increase of even 0.1 dBA would result in a Moderate Impact, and an increase of 0.5 dBA would result in a Severe Impact. At an existing noise exposure of 87 dBA Ldn, the noise level is so high that the area should already be considered to suffer a Moderate Impact even without any additional noise exposure, and an increase of 0.3 dBA would result a Severe Impact.

Sixth, the DEIR's discussion of cumulative noise impacts is conclusory and inadequate. An EIR is required to analyze cumulative impacts. The CEQA Guidelines, sections 15130(a), (a)(1) state: "(a) An EIR shall discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable ... a cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts."

Response 60.

The comment indicates that the two existing hotels within the Citadel complex are themselves sensitive receptors. The Draft EIR clearly identifies the existing hotels as being located within the planning area. However, there is a question as to whether these hotels are actually "sensitive receptors." First, the hotels are already located in the midst of the Citadel complex and have a line-of-sight with the primary activity areas, both within the Citadel Shopping Center and the nearby roadway system, including Telegraph Road and the I-5 Freeway. As stated previously, construction noise would be subject to the City's Noise Control Ordinance and would not affect patrons during the late night and early morning periods. Finally, the Draft EIR clearly indicates that the I-5 Freeway is a dominant noise source affecting the area.

Comment 61.

The DEIR analyzes cumulative impacts in Section 4.4 and provides a list related projects. Yet, the DEIR fails to accurately account for the Project's incremental impacts, as compared to this list. This approach violates CEQA. As the Watry Report states:

The Project DEIR makes no attempt to determine if the cumulative noise levels resulting from all of the foreseeable projects presented in DEIR Table 4-1 are significant. Had it done so, it would have found that the cumulative noise levels in the area around the Citadel project are cumulatively significant based on the fact that the existing noise levels presented in the DEIR are already pose a significant impact on noise-sensitive receptors in the area.

The DEIR must be revised and recirculated to include feasible mitigation measures to lessen or avoid these potentially significant impacts, including increasing the existing sound wall and adding another on the Project site.

Response 61.

As stated in the Draft EIR, the construction noise and potential operational noise impacts from the various related projected are typically site-specific in nature. In other words, a receptor must be located in relatively low close proximity to the individual related projects to be impacted by that project.

Comment 62.

The DEIR's conclusion that noise impacts will not be significantly adverse is not supported by substantial evidence. Updated modelling provided in the Watry Report and shows that the Project will result in significant noise impacts.

"The City's General Plan establishes two levels of Noise and Land Use Compatibility Standards: a Desired Maximum and a Maximum Acceptable. For Low-Density and Medium-Density Residential areas, such as in the Rosewood area bounded by I-5, Boris Avenue, Jillson Street, and Commerce Way, the Maximum Acceptable is 65 dBA Ldn." For the analysis, Mr. Watry inputted the correct parameters for the Rosewood neighborhood, "175 from the centerline of Telegraph Road to the nearest R1 residential receiver and 1,920 feet is the farthest distance" and display the results graphically. His analysis shows that the Project will create significant noise impacts for the Rosewood area:

"The analysis presented above already indicates that the noise levels in the Rosewood area due to Telegraph Road alone will be over the City of Commerce's Maximum Allowable limit and will create adverse noise impacts at many residences"

It should be noted that this analysis is only provided for noise from the Telegraph Road to the Rosewood area. As previously discussed, the DEIR failed to model impacts to the hotels and from the I-5. This information must be included in a revised and recirculated EIR.

Response 62.

The noise analysis referenced in the above comment did not consider the presence of the noise wall located to the north of the residential neighborhood (and Rosewood Park) that would significantly attenuate traffic noise levels from both the freeway and Telegraph Road. The modeling showing the significant impact from traffic noise from Telegraph Road traffic together with the freeway traffic is therefore in error.

Comment 63.

The DEIR's Analysis of Construction-Related Impacts is Not Supported by Substantial Evidence

Construction impacts were discussed in Impact 3.3.4.2 (potential to expose people to ground-borne noise, such as through pile-driving) and Impact 3.8.4.4 (potential to cause a temporary or permanent increase in ambient noise levels). The analysis of construction impacts is flawed for several reasons, as discussed in detail in the Watry Report.

First, as discussed above with operational impacts, here again the “DEIR fails to account for all sensitive receptors, neglecting the impacts to existing receptors on the north side of the I-5 freeway (the Double Tree and Crowne Plaza hotels) where the Project site is located. Therefore, the DEIR lacks a basis to conclude that it has considered construction impacts for all noise-sensitive receptors.”

Second, the DEIR does not quantify the type of construction equipment that will be used or for what duration. Rather, “the DEIR simply provides a laundry list of common construction activities that might be used” for “excavation, grading, demolition, drilling, trenching, earth movement, vehicle travel to and from the project site, and possibly pile driving.” Absent facts and evidence, the conclusion that impacts will not be significant is a conclusory statement, a bare assertion, and is not supported by the evidence. Moreover, detailed information about construction equipment is available in DEIR Appendix A – Air Quality Worksheets, but the City failed to use it.

The DEIR then attempts to justify this lack of analysis by dismissing construction impacts as merely “short-term” and “temporary.” This approach violates CEQA and the plain language of the impact analysis. CEQA does not exclude analysis of construction impacts, which are by their nature, temporary. In addition, the Project has a six-year construction schedule, which is a significant period of time. This approach is also directly contrary to the plain language of the Impact 3.8.4.4, which expressly requires an EIR to analyze “temporary or periodic increase in ambient noise levels.” In this way, the DEIR creates its own “Catch-22” concluding that the required analysis of temporary impacts is not required, because they will be temporary.

Although impacts from construction noise are likely to significant, the DEIR does not include any feasible mitigation measures to lessen or avoid these impacts. The Watry Report includes several suggested mitigation measures in Appendix B. These measures are suggested actions but are not a comprehensive list nor do they contain all possible components. The proposed measures should be reviewed, analyzed, and expanded upon in a revised and recirculated EIR. These measures include limiting construction days and hours; implementing noise reduction measures on construction equipment; notifying the public prior to extreme noise events; and drafting and implementing a comprehensive construction noise management plan.

For the above-stated reasons, the DEIR's analysis of noise fails to adequately disclose, analyze, and mitigate impacts to noise sensitive receptors from the Project's construction or operation. The DEIR's findings and conclusions are not supported by substantial evidence, thwarting CEQA's informational and

procedural requirements. The DEIR must be revised and recirculated consistent with the comments and the Watry Report.

Response 63.

Please refer to Response 60. The noisiest phases of construction are typically site preparation and building demolition. These phases will not occur over a six-year period of time. Nevertheless, the Final EIR will include the mitigation measures recommended in the above comment.

Comment 64.

The DEIR fails to properly disclose, analyze, and mitigate the Project's impacts to transportation and circulation (collectively, "transportation"). The DEIR must be revised and recirculated to correct these deficiencies.

In the DEIR the City acknowledges significant traffic impacts to ten signalized intersection as a result of the Project's operations. The DEIR then present the "mitigation program for the project" which includes three major components: implementation of a "Transportation Demand Management (TDM) program" for the project site to promote peak period trip reduction, "Transportation Systems Management (TSM) improvements" and "specific intersection improvements", including physical mitigations and signal phasing enhancements. As described below, this proposed "mitigation plan" violates CEQA for a number of reasons.

The DEIR fails to clearly identify and define the applicable mitigation measures for transportation impacts. This lack of clarity violates CEQA's information and disclosure requirements.

Under the section "mitigation of potential impacts" for Impact 3.11.4.1 discussed above, the DEIR lists certain actions. However, unlike the mitigation measures articulated in the DEIR concerning air quality, these actions are not assigned numbers (i.e., MM-1 et seq.) There is no explanation given for this internal inconsistency. Furthermore, Table 3: Summary of Impacts, lists these actions but also without numbering them, and refers to them collectively as a "mitigation program." This language and internal inconsistency lends itself to the conclusion that the actions are not mitigation measures as defined under CEQA, but rather Project features.

The distinction between project features and mitigation measures is critical under CEQA. As discussed above, the courts have imposed several parameters for the adequacy of mitigation measures. No such parameters apply to project "features."

The courts have invalidated EIRs for improperly "compressing" the analysis of a project feature and mitigation measures. In Lotus v. Department of Transportation (2014) 223 Cal.App.4th 645, 655–656, the Court invalidated an EIR promulgated by Caltrans where mitigation measures to protect redwood trees during highway construction were improperly characterized as project features, and thus were not subject to the parameters stated above. The court stated:

Caltrans [compounds its errors by] incorporating the proposed mitigation measures into its description of the project and then concluding that any potential impacts from the project will be less than significant. As the trial court held, the “avoidance, minimization and/or mitigation measures,” as they are characterized in the EIR, are not “part of the project.” They are mitigation measures designed to reduce or eliminate [adverse environmental impacts]. By compressing the analysis of impacts and mitigation measures into a single issue, the EIR disregards the requirements of CEQA.

That an EIR contains such a “structural deficiency” is particularly impermissible when the agency is made aware of the issue during the public review and comment period.

Response 64.

As detailed in the traffic study and described in the Draft EIR, the TDM program, required as mitigation, outlines specific program elements. See Response to Comment 43. The final EIR will assign MM numbers to each measure to be consistent with other sections of the report.

Comment 65.

The “Traffic Demand Management Plan” is Not Supported by substantial evidence and is Vague, Unenforceable, and of Uncertain Efficacy

Assuming the “mitigation program” contain mitigation measures within the meaning of CEQA, they are vague, unenforceable, and of uncertain efficacy. The DEIR must correct these errors in a revised and recirculated EIR.

The Traffic Demand Management Plan (“TDM”) presented in the DEIR includes “a set of strategies proposed for the project designed to reduce peak hour vehicular traffic to and from the project site” that are “subject to review and approval by the City”. These strategies “could include, but are not necessarily limited to” Transportation Information Center, Educational Programs, Project Design Features to Promote Bicycling and Walking and a few more “strategies”. The City then argues that the TDM is assumed to achieve 10% trip reduction, providing the following explanation:

“At places that had the most comprehensive programs, including both economic incentives (e.g., transit passes) and support services, the programs resulted in an average 24% reduction in commuter vehicles. Thus, as an achievable but conservative estimate, an overall TDM trip reduction credit of ten percent was assumed on the retail portion of the project”

This conclusion violates CEQA and is not supported by substantial evidence for a number of reasons.

First, as Smith Engineering notes, “[t]he TDM measures as proposed in the DEIR are vaguely described and lack any performance standard or enforcement measure to guarantee they will be effective in reducing vehicle trips.” This violates CEQA: CEQA prohibits public agencies from relying on mitigation measures of uncertain efficacy or feasibility. “[m]itigation measures must be fully enforceable through

permit conditions, agreements, or other legally binding instruments.” Mitigation measures that are vague or so undefined that it is impossible to evaluate their effectiveness are legally inadequate. This is exactly the case with the proposed TDM.

It should be noted here that according to the DEIR “A formal TDM Program would be submitted for the approval of the City Director of Public Works prior to issuance of the Certificate of Occupancy for the retail portion of the project”. That means that the program is improperly deferred until after the project is built. Under CEQA, the lead agency may not defer the formulation of mitigation measures until a future time, unless the EIR also specifies the specific performance standards capable of mitigating the project’s impacts to a less than significant level. This was not done here.

Second, the effectiveness of this measure is not supported by substantial evidence. Just because the DEIR assumes a lower reduction percentage than the “most comprehensive” TDMs there are, does not make the assumption of 10% reduction “conservative” or supported by the evidence in any way.

Moreover, as the Smith Engineering Report explains, because the site already has what the DEIR labels as a “TDM program” that operates shuttles bringing consumers to the site, one way the DEIR could support its assumption on TDM effectiveness is by showing the data on the existing TDM effectiveness. The DEIR failed to do so:

(The DEIR) “should compare existing traffic counts at all the access/egress points to their theoretical traffic generation for the existing facility estimated per the accepted rates provided in The Institute of Transportation Engineers (ITE) Trip Generation, 10th Edition. Such a comparison can show how effective the existing TDM program on the site is and can support claims for potential future reduction. This was not done.”

Not only is the 10% reduction assumption not supported by the evidence, it is contradicted by the evidence. As the Smith Engineering Report explains, this assumption “ignores the fact that travelers to the specific uses proposed in the Project are generally non-responsive to TDM initiatives due to the sporadic nature of their trips.” As the Report explains, TDM measures primarily affect travel by employees on such projects. However, employee trips comprise a small component of total trips and are usually conducted in the off-peak hours, thus the impacts from TDM measures used by employees would be minimal.

The DEIR must be revised to include a TDM plan that supports its reduction assumptions with substantial evidence, and that includes binding, measurable and enforceable measures.

Response 65.

As is pointed out in the Draft EIR, the combined effect of the various strategies implemented as part of the TDM program would result in a reduction in peak hour trip generation by offering services, actions, specific facilities, etc., aimed at encouraging use of alternative transportation modes (e.g., transit, bus, walking, bicycling, carpool, etc.) *Trip Generation Handbook, 3rd Edition* (ITE, 2017) provides a summary of research of TDM programs at different employers. At places that had the most comprehensive programs,

including both economic incentives (e.g., transit passes) and support services, the programs resulted in an average 24% reduction in commuter vehicles. Thus, as an achievable but conservative estimate, an overall TDM trip reduction credit of ten percent was assumed on the retail portion of the project. Finally, the success of the existing Citadel TDM will be incorporated into the Final EIR.

Comment 66.

The “Transportation Systems Management (TSM)” improvements proposed in the DEIR include three measures: Signal Controller Upgrades, CCTV Cameras and System Loops, which the DEIR claims were “shown to increase the efficiency of traffic signals and result in capacity increases of 7 to 20% along coordinated corridors.” Here, again, the City argues that it is making a “conservative” assumption by determining that “TSM improvements could improve traffic operations and increase intersection capacity by approximately seven percent along a corridor.”

This proposed “mitigation measure” violates CEQA for a number of reasons: First, like the TDM plan, it is vague, unenforceable and lacks specific enforcement measures.

Second, like with the TDM plan, the assumptions behind its effectiveness are not supported by the evidence. As the Smith Engineering Report explains, “the DEIR fails to establish any direct link between TSM actions and increased capacity at the specific 12 intersections where significant traffic impacts have been identified. Hence, the subject intersections cannot be assumed to have been mitigated by a generalized TSM program.” Just because the DEIR assumes a relatively low percentage of capacity increase does not support the conclusion that this increase, or any increase at all, will be achieved.

Third, the City’s assumptions regarding the effectiveness of the TSM improvements rely on measures that are not (and cannot) be part of the DEIR and the Project’s conditions: The DEIR attributes 7% capacity increase to TSM improvements. This is based, as stated explicitly by the DEIR, “on the traffic signals in the study area boundaries and along the key corridors serving the study area” only. However, Smith Engineering reviewed the TIA, which is supposed to support this assumed capacity increase with evidence, and found that the TIA in fact analyzed the capacity increase that will be achieved by a city-wide TSM plan. Thus, the DEIR assumptions regarding the capacity increase are not supported by the evidence provided in the TIA.

Finally, the City failed to show that funding for the project will be available and require any kind of commitment from the Applicant, thus failing to show it is feasible. Regarding the cost and funding of the TSM measures, that DEIR vaguely states the following:

TSM contributions by the project would help pay for traffic signal system enhancements in the study area. The City should consider a program that allows a Traffic Impact Fee to be paid by new development to pay for TSM improvements in the short-term and new access routes to/from the study area in the long-term.

This vague statement says nothing about the projected cost of the TSM measures and fails to require any commitment from the applicant to cover it. Moreover, Smith Engineering's review of the TIA found that in fact such funding is not guaranteed in any way. As the Smith Engineering Report explains, the DEIR Appendix 2 proposes that the cost will be shared between the Project and the 18 other development projects assumed to be in place in the 2025 scenario. This means the 18 other projects would be responsible for about half the cost. This, however, also means that there is not guarantee that funding will be even available:

One problem with this is that few of the 18 other projects are of a scale such that they are likely to be found to have traffic impacts under the City's criteria. If they are not found to have impact, they cannot be assessed mitigation fees. Appendix 2 also suggests that the City adopt a Traffic Impact Fee based on a uniform rate per pm peak hour trip generated. The problem with this is that unless the fee program is already established and provides a clear funding mechanism to implement specific improvements in a timely way, the project's impacts cannot be said to be mitigated.

The DEIR must be revised to include a TSM plan that supports its reduction assumptions with substantial evidence, and to show funding for the plan is available and binding on the Applicant.

Response 66.

The TSM improvements outlined in the Draft EIR are quite specific and include the following:

1. **Signal Controller Upgrades.** Many study intersections within the City currently operate with the Type 170 signal controller while newer controllers (Type 2070) provide for enhanced and real-time operation of traffic signal timing. The City recommends traffic signal controller upgrades to a Type 2070 Controller, as well as 322 cabinets to replace the existing aging cabinets. These improvements would provide system-wide benefits.
2. **CCTV Cameras.** The potential TSM improvements include funding for the installation of CCTV cameras and the necessary infrastructure (including fiber optic and interconnect tubes). An integral part of the real-time operation of the traffic signal timings, the strategic placement of CCTV cameras at key intersections provides the City with the ability to monitor traffic operations and respond instantly to incidents that delay vehicles and transit service.
3. **System Loops.** The potential TSM improvements include funding the installation of system loops at signalized intersections within the identified corridors. A system loop is an advance detector loop that is embedded in the street pavement. These loops identify traffic volume and lane occupancy and are used to determine the appropriate signal timing parameters. These loops give the City the ability to extend the green time for an approach so that groups of vehicles generally do not have to stop when travelling along synchronized-signal corridors. They are located at an appropriate distance from the intersection so that a vehicle just upstream of the loop can comfortably decelerate to a stop when the yellow signal is displayed.

Comment 67.

Under the headline “Potential Physical Improvement Measures” the DEIR states that “[t]he following is a description of the feasible proposed intersection mitigation measures”, and follows with proposed physical improvements in four intersection which, according to the DEIR, will remain impacted even after the implementation of the TDM and TSM measures. Despite the fact the DEIR explicitly calls these measures “feasible”, the text of the proposed improvements itself includes the following statement with regard to each proposed improvement:

Should this improvement be determined infeasible during the design process, the impact at the intersection would remain and be considered significant and unavoidable. The same statement is repeated further along in the DEIR, concluding that “if the specific physical intersection improvements are determined to be infeasible during the design process” four study intersections would remain significantly impacted after mitigation. This conclusion violates CEQA.

CEQA requires that an EIR will include feasible and enforceable mitigation. For one thing, it means the City must do the work required to thoroughly evaluate the feasibility of a mitigation measure and any issues that may hinder its application. Here, as the Smith Engineering Report states, the measures are described “at conceptual level” only and no real work was done to assess their feasibility. Only if, after taking all the necessary steps, the city determines no feasible measure exists, it may adopt a statement of overriding consideration. As currently proposed, this measure violates CEQA.

Response 67.

A conceptual plan of the improvement for the potential intersection improvements were provided in Appendix E of the Traffic Study (which is provided under a separate cover in Appendix Volume 3). The precise engineering design of these improvements is premature at this point. The conceptual drawings provided in Appendix E provide a sufficient description to illustrate the proposed improvements. Whether or not the mitigation is feasible will be dependent on those agencies that are involved. For example, if an intersection or ramp connection that is controlled by Caltrans will require approval by Caltrans. Lacking such approval, the mitigation will not be feasible.

Comment 68.

The failure to analyze any alternatives that would avoid or substantially lessen the Project’s environmental effects to air quality, GHG, and transportation and its selection of Alternative 2 as the “environmentally superior alternative” is not supported by substantial evidence. The Draft EIR must be revised and recirculated, with an analysis of a reasonable range of alternatives.

One of the most substantive aspects of CEQA is section 21002 of the statute, which forbids agencies from approving projects with significant adverse impacts when feasible alternatives can substantially lessen or avoid such impacts. The statute states, “[t]he purpose of an [EIR] is to identify the significant effects of a project, to identify alternatives to the project, and to indicate the way in which those effects can be

mitigated or avoided.” Therefore, the Draft EIR must consider a “reasonable range” of alternatives, “which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project.” An inadequate alternatives analysis can invalidate an EIR.

The Draft EIR acknowledges that the Project will result in significant and unavoidable impacts to air quality, GHG, and transportation. Yet, every single proposed alternative would have the same (or greater) impacts as the proposed Project with regard to these impact areas. A “reasonable range” of alternatives must include an alternative, such as a “reduced project” alternative, which would lessen or avoid these impacts.

Aside from the mandatory “No Project” alternative, the Draft EIR describes two alternatives. The first alternative is the “Residential Development Alternative (Area 1). This alternative would involve the construction of a residential development within the northeastern portion of Area 1 where one of the hotels is proposed. The residential development would consist of six levels with 96 market rate units.” DEIR, Table 5-1 compares this alternative’s impacts to the project. In all impact areas, this alternative would have the “same” or “greater than” project impacts.

Response 68.

The alternatives that were ultimately selected were those that were actually considered in earlier planning phases. These alternatives were subsequently eliminated from further consideration for a variety of reasons. The Final EIR will provide some clarification as to why these alternatives were eliminated from further consideration.

Comment 69.

The second alternative is the “Institutional/Office Use Alternative (Area 3). This alternative would involve the construction of a 70,000 square-foot, four-level office building. The precise occupancy is not known though it could be general office or an institutional use.” This office building would be located on Area 3, Pad 5, where the Project currently places restaurants. The DEIR states this alternative “would result in similar impacts on the environment than the proposed project for all resource areas considered in the analysis.” Confusingly, Table 5-1 then indicates that this alternative would have less impacts to aesthetics than the Project. Thus, the DEIR designates Alternative 2 as the “environmentally superior alternative.”

This conclusion is not supported by substantial evidence. The discussion of Alternative 2’s aesthetic impacts contains no facts, evidence or analysis supporting the City’s conclusion that substituting several restaurants on Pad 5 in Area 3 with relatively tall office building would lessen aesthetic impacts. Furthermore, the DEIR does identify significant and unavoidable impacts to GHG, air quality, and transportation. This “environmentally superior alternative” would therefore have the same impacts as the Project with regard to those impact areas.

Response 69.

The office building would have a maximum of four levels though it would be set back from both Washington Boulevard and Telegraph Road. The building itself would be surrounded by surface parking and landscaping that would further reduce the visual mass of the proposed building. As stated previously, the Alternative Analysis in Section 5 would be clarified in the Final EIR with respect to air quality and greenhouse gas impacts. However, when considering the entire project, the overall impact of the proposed project or development concept with the office use for Area 3 would be similar.

Comment 70.

Under similar circumstances, courts have invalidated EIRs. In Cleveland National Forest Foundation v. San Diego Association of Governments (2017) 17 Cal.App.5th 413 (“CNFF”), the EIR identified a significant impact to GHG from mobile sources. The court stated that the EIR was “deficient because it does not discuss an alternative which could significantly reduce total vehicle miles traveled” and therefore reduce GHG. The EIR even included two “transit-oriented” alternatives. Even so, the EIR was inadequate because there was no substantial evidence that GHG reductions were achievable under either alternative. Here, the Project’s Draft EIR is even more deficient than in CNFF, as this Draft EIR does not include a single alternative which even purports to reduce the identified significant impacts to GHG, air quality, or transportation.

An EIR “protects not only the environment but also informed self- government” by informing the public and its responsible officials of the environmental consequences of government decisions before they are made. The DEIR fails to fulfill CEQA’s informational and procedural requirements, in multiple ways, across a long list of impact areas. As such, the extent of the Project’s adverse environmental impacts is hidden from public view. Nor can the City rely on the document to determine if the Project’s benefits outweigh its environmental impacts, if those impacts have been lessened or avoided to the extent feasible, and if there is an environmentally-superior alternative which could be adopted that fulfills the Project’s objectives. The DEIR must be revised and recirculated, consistent with CEQA’s Legislative intent and substantive requirements

The Draft EIR fails to analyze a single alternative that would avoid or lessen the significant impacts to GHG, air quality, and transportation, and its selection of Alternative 2 as the “environmentally superior alternative” is not supported by substantial evidence. The Draft EIR must be revised, recirculated and include an analysis of a reasonable range of alternatives.

Response 70.

The comment seems to imply that a reduced density alternative that would result in fewer environmental impacts compared to that of the proposed project would be appropriate. An EIR need not consider every conceivable alternative to a project. According to the CEQA Guidelines, an EIR must describe a “reasonable range of alternatives” to a proposed project. The “range of alternatives” is governed by the “rule of reason,” which requires the EIR to set forth only those alternatives necessary to permit an informed and reasoned

choice by the decision-making body and informed public participation (CEQA Guidelines Section 15126.6[f]). CEQA generally defines “feasible” to mean an alternative that is capable of being accomplished in a successful manner within a reasonable period of time, while also taking into account economic, environmental, social, technological, and legal factors.

Response to Comment Letter Dated May 10, 2019

Nestor Velasquez, et al.

Residents of the City of Commerce

Comment 1.

I am a resident of the City of Commerce ("City"). I am commenting on the Draft Environmental Impact Report ("DEIR") for the proposed Citadel Expansion and 10-Acre Development ("Project") because I have numerous concerns regarding the environmental impacts of this Project, such as:

Our community needs more housing, not more traffic, pollution, and greenhouse gas emissions. This Project is expected to create 1,750 new jobs and our City does not have enough available housing to accommodate this enormous increase in jobs. This will cause longer commutes and more mobile emissions that will affect those living in the City. The Project should not be approved without the inclusion of a genuine housing alternative and/or the inclusion of public benefits for the City, such as local-hire requirements and subsidized employee shuttling.

Response 1.

The comment is noted for the record. The proposed project is consistent with the City's long range vision of commercial and entertainment center along the Telegraph Road corridor. Residential land uses should not be encouraged given the proximity of the area to the Santa Ana Freeway. The City, as part of the current General Plan update, is exploring options for new residential development in the City. This, currently, is not the scope of the current project.

Comment 2.

The DEIR fails to provide adequate details on the following environmental impacts, such as (a) aesthetic, (b) air quality, or (c) greenhouse gas ("GHG") emissions.

Response 2.

The analysis of aesthetics was considered in Section 3.1 of the Draft EIR; Section 3.2 considered the air quality impacts; and the greenhouse gas emissions impacts were considered in Section 3.4.

Comment 3.

The DEIR understates the potential maximum daily emissions of air contaminants during the Project's construction. When estimated in accordance with the information disclosed in the DEIR, the emissions exceed South Coast Air Quality Management District daily thresholds for Reactive Organic Gases ("ROG") and Nitrogen dioxide ("No2").

Response 3.

The statement is correct in that during construction, the emissions for certain criteria pollutants would be exceeded. As part of their review of this project, the SCAQMD recommended a number of mitigation measures that would be effective in reducing both construction related and operational emissions.

Comment 4.

The Project fails to incorporate various project-level, GHG-reducing measures recommended by the California Air Resources Board's 2017 Scoping Plan.

Response 4.

The Final EIR will include those measures as mitigation.

Comment 5.

The DEIR offers no measures to mitigate the Project's GHG impact, but rather calls for the City to adopt a statement of overriding consideration. The City must first incorporate all feasible mitigation measures to the extent feasible, then consider a statement of overriding consideration. To the extent any significant GHG impacts remain unmitigated, the City should consider only meaningful overriding considerations, such as public benefits in the form of mandatory local- hiring requirements, subsidized employee transit offerings, and real housing opportunities.

Response 5.

The City will still be required to adopt Statement of Overriding Considerations given the anticipated emissions levels. It is important to remember that this project is an infill project that will result in substantial reduction in the number of vehicle miles traveled, which will have a substantial air quality benefit.

Comment 6.

The Project site is suspected of containing asbestos and other chemicals. The DEIR does not provide a clear discussion of these potentially hazardous materials, the level of contamination present at the site, or concrete details of a clean-up program. The public must know the developer's plan to clean up the Project Site and ensure the City holds them accountable. These issues should be resolved before-not after-the DEIR and Project is approved.

Response 6.

The Draft EIR acknowledges that the older buildings located in Areas 2 and 3 are likely to contain asbestos-containing materials and/or lead-based paint due to the age of construction. Towards this end, the Draft EIR includes the following mitigation measure: *Mitigation Measure 14 (Hazards & Hazardous Materials)*.

An Operations and Maintenance (O&M) Program must be implemented in order to safely manage the suspect ACMs and LBP located in the remaining buildings.

Comment 7.

As it stands currently, the Project is potentially environmentally dangerous and offers little to no benefits to our community. The residents and stakeholders of the City deserve more. The City must hold this Project to a higher standard than what is offered in the DEIR. As a community, we do not accept projects like this, and respectfully urge the City to deny all project approvals until the above issues are cured.

Response 7.

The comment is noted for the record.

Comment 8.

Thank you for your consideration of these comments. On behalf of the below signatories, we ask that this letter and the attached signature list be placed in the administrative record for the DEIR and Project.

Response 8.

No response is required.

Response to Comment Letter Dated May 10, 2019

Miya Edmonso

State of California Department of Transportation

Comment 1.

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above referenced project. The proposed new development within the three areas (Area 1, Area 2, and Area 3) will have a total floor area of 1,007,202 square feet. The new development will consist of approximately 237,662 square feet of retail uses; 358,000 square feet of hotel uses totaling 770 rooms; 270,000 square feet of theater, entertainment, and recreation uses; 16,540 square feet of food serving uses; 70,000 square feet of office uses; and 55,000 square feet of industrial uses.

Response 1.

The comment is noted for the record. The comment is a restatement of the project description that was included in the Draft EIR.

Comment 2.

The mission of Caltrans is to provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability. Senate Bill 743 (2013) mandated that CEQA review of transportation impacts of proposed development be modified by using Vehicle Miles Traveled (VMT) as the primary metric in identifying transportation impacts for all future development projects. For future project, you may reference to The Governor's Office of Planning and Research (OPR) for more information. <http://opr.ca.gov/ceqa/updates/guidelines/>

Response 2.

The City of Commerce has not yet officially adopted the Vehicle Miles Travelled (VMT) as the primary metric in identifying transportation impacts for all future developments. Therefore, the Citadel Outlets Expansion & 10-Acre Parcel Draft EIR uses Level of Service as the evaluation metric, consistent with City policy. The effects of the Project on VMT are discussed in the TIS on page 163.

Comment 3.

Caltrans is aware of challenges that the region faces in identifying viable solutions to alleviating congestion on State and Local facilities. With limited room to expand vehicular capacity, future development should incorporate multi-modal and complete streets transportation elements that will actively promote alternatives to car use and better manage existing parking assets. Prioritizing and allocating space to efficient modes of travel such as bicycling and public transit can allow streets to transport more people in a fixed amount of right-of-way.

Response 3.

The comment is noted for the record.

Comment 4.

Caltrans supports the implementation of complete streets and pedestrian safety measures such as road diets and other traffic calming measures. Please note the Federal Highway Administration (FHWA) recognizes the road diet treatment as a proven safety countermeasure, and the cost of a road diet can be significantly reduced if implemented in tandem with routine street resurfacing.

Response 4.

The comment is noted for the record. The City does not believe that the concept of a road diet is appropriate for any of the regional arterial corridors studied in this Draft EIR. Because of the Project's location isolated from residential neighborhoods, the potential Project impact on local streets is minimal.

Comment 5.

We encourage the Lead Agency to integrate transportation and land use in a way that reduces Vehicle Miles Traveled (VMT) and Greenhouse Gas (GHG) emissions by facilitating the provision of more proximate goods and services to shorten trip lengths, and achieve a high level of non-motorized travel and transit use. We also encourage the Lead Agency to evaluate the potential of Transportation Demand Management (TDM) strategies and Intelligent Transportation System (ITS) applications in order to better manage the transportation network, as well as transit service and bicycle or pedestrian connectivity improvements. For additional TDM options, please refer to the Federal Highway Administration's Integrating Demand Management into the Transportation Planning Process: A Desk Reference (Chapter 8). The reference is available online at: http://www.ops.fhwa.dot.gov/publications/fhwahop_12035/fhwahop_12035.pdf.

A discussion of mitigation measures appropriate to alleviate anticipated traffic impacts is needed. Any mitigation involving transit or Transportation Demand Management (TOM) is encouraged and should be justified to reduce VMT and greenhouse gas emissions. Such measures are critical to facilitating efficient site access.

Response 5.

The concept of integrating transportation and land use decisions in a way to reduce VMT and GHG emissions is a sound concept that is fully supported by the City of Commerce. Caltrans' suggestion to include transportation demand management (TDM) and intelligent transportation system (ITS) elements into the mitigation program for the Project is well taken. The Project improvements already include the expansion and continuation of its shuttle bus and visitor bus program as well as the required participation in a subarea ITS program through its Fair Share funding of an areawide traffic signal system upgrade.

Comment 6.

After reviewing the Draft Environmental Impact Report (DEIR) and Transportation Impact Study (TIS) for this project, Caltrans has the following comments:

From the Transportation Impact Study (TIS) prepared in January 2019 by Gibson Transportation Consulting, Inc., Table 7A (Project Trip Generation Estimates, the Citadel Site) stated that the project would generate net 12,070 daily trips and 342/1,294/1,932 AM/PM/Saturday midday peak hour trips. Table 78 (Project Trip Generation Estimates, 10-Acre Parcel) stated that the project would generate 3,226 daily trips and 284/270/329 AM/PM/Saturday midday peak hour trips. There are 18 related projects in the project vicinity generating 13,208 daily trips, 702/1,341/1,543 AM/PM/Saturday midday peak hour trips. Many of the project and related trips would be traveling on the State facilities once the projects are built. Caltrans anticipates potential significant cumulative traffic impacts on the State facilities. As a reminder, the decision makers should be aware of this issue and be prepared to mitigate potential significant cumulative traffic impacts.

Response 6.

The comment accurately summarizes the Project trip generation and speculates that the combination of Project and related project trips could result in a significant cumulative impact on the State facilities. The intent of the DEIR transportation analysis is to specifically identify the direct Project significant impacts. The Caltrans analysis in the document also addresses the issue of long-range cumulative impacts and identifies the Project's Fair Share proportion of that cumulative impact.

Comment 7.

On page 117 and 118 of TIS, only Intersection 12 1-5 Northbound Ramps/Camfield Avenue & Telegraph Road and Intersection 17 1-5 Ramps/Commerce Casino & Telegraph Road have proposed mitigation measures. The final feasible mitigation approval would require Caltrans to perform field observation and physical measurement. Caltrans would work with the City to identify/finalize any feasible mitigation at these locations.

Response 7.

Physical improvements at Intersection 12 (I-5 NB Ramps/Camfield Avenue/Telegraph Road) and Intersection 17 (I-5 NB Ramps/Commerce Casino/Telegraph Road) have been described in the DEIR. The traffic study acknowledged that these intersections were partially controlled by Caltrans and that final approval of any physical improvements would need the concurrence of Caltrans. Absent the proposed physical improvement, a significant unmitigated impact would remain. The City realizes that any physical or operational change to these intersections would need Caltrans' approval and the City stands ready to work with Caltrans to develop a feasible mitigation at these locations.

Comment 8.

On page 121 of the TIS, mitigation cost sharing is proposed. Caltrans recommends Mitigation Agreement to be signed with the developer once traffic impact location and mitigation/improvements are finalized. Please clarify how \$5.25 million mitigation cost is calculated. The final cost should submit to Caltrans for approval when the Mitigation Agreement is signed.

Response 8.

The DEIR recommends that an areawide improvement fund be established into which all new projects would contribute according to their traffic generation levels. The allocation of payments and the cost of the improvement program would be determined when the improvement program is finalized.

It will be the City staff recommendation to the Council that the areawide improvement program be adopted and participation in the program would be part of the mitigation program for the Project. The Mitigation Monitoring Program would keep track of payments into the Fund and the City would be happy to notify Caltrans of the payments received.

The Development of the program costs and the potential allocation of the payments on a Fair Share basis are explained on page 121 of the Transportation Impact Study (TIS). The areawide improvement program includes signal synchronization, signal controller upgrades, closed circuit television coverage, and system loops. The costs of that program are explained on page 116 of the TIS where an estimate of \$75,000 per intersection for the 70 signalized intersections in the Study Area results in the overall cost estimate of \$5.2 million. The cost-sharing of that program is based on the number of peak hour trips generated by each new development. The Citadel and the 10-Acre Parcels generate a total of 1,311 afternoon peak hour trips, yielding a Fair Share payment of approximately \$2.6 million toward the total program cost.

Caltrans would not be a signatory on this Areawide Improvement Program and therefore Caltrans would not have approval authority over the Agreement.

Comment 9.

Caltrans' concern in terms of traffic is that the potential traffic conflict (rear-end accident) may occur at off-ramps when a speed differential is occurred. From our review, research, and observation, we still have traffic concerns about the following State intersections:

- a. Intersection No. 20, 1-5 NB Ramps & Telegraph Rd. During a weekday AM peak hours, occasionally the off-ramp may have queue developed. Additional traffic assigning to this off-ramp would contribute cumulative traffic impact. Caltrans would like to discuss this further with the City.*
- b. Intersection No. 22, Eastern Ave & 1-5 Ramps/Stevens Pl. During a weekday, when the freeway 1-5 is operating near capacity during the PM peak hours, the off-ramp queue is starting to approach capacity as well. Additional traffic (159 project PM peak hour trips)*

assigning to this off-ramp would contribute cumulative traffic impact. Caltrans would like to discuss this further with the City.

- c. *Intersection No. 25, I-5 SB Ramps & Washington Blvd. On Table 15, significant traffic impact is identified. Feasible traffic mitigation should be proposed at this location. Caltrans would like to discuss this further with the City.*
- d. *Intersection No. 28, I-5 SB Ramps & Bandini Blvd. On page 107 of the TIS, when the intersection is overflow (LOS F), any additional traffic assigning to this off-ramp would contribute significant traffic impact. The City should consider upgrading this location from a stop-controlled to a signalized intersection or other feasible alternative. Caltrans would like to discuss this further with the City.*

Response 9.

I-5 NB Ramps/Telegraph Road ramps were evaluated as part of the queue length studies. Tables F-12 and F-13 show the off-ramp queue studies for 2018 and 2025, respectively. In both study years, the addition of Project traffic did not add sufficient traffic to create a back-up onto the mainline freeway lanes.

Appendix F acknowledged that the Year 2040 conditions would experience a backup onto the mainline freeway, with or without the addition of Project traffic. Project traffic adds approximately 1.5 vehicle lengths (33 feet) to the “without Project” Year 2040 queue. The City acknowledges Caltrans’ request for additional discussion on this location and will comply with that request.

At Intersection No. 22 (I-5 Ramps/Stevens Place & Eastern Avenue), Tables F-12 through F-14 indicate that the off-ramp in question does not back up onto the freeway under any of the scenarios tested. In Year 2040 at the 95th percentile queue, the Project would add four car lengths to the through and to the right turn queue lengths, leaving an additional seven car lengths of storage before the queue even reached the back of the turn lane storage length itself.

The City acknowledges Caltrans’ request for additional discussion on this location and will comply with that request.

At Intersection 25 (I-5 SB Ramps & Washington Boulevard), the comment correctly states that Table 15 identifies a significant impact at the intersection in question. Tables 18 and 19, however, show that the impact at this intersection has been mitigated through the application of the TDM and the signal synchronization programs.

The comment calls for the Project to install a traffic signal at this unsignalized location because “any additional traffic assigning to this off-ramp would contribute significant traffic impact”. The right turn movement leaving the freeway and entering Bandini and the left turn movement from Bandini onto the freeway on-ramp both operate under free flow conditions. In addition to the fact that the location does not meet State of California signal warrants, any signalization of this location would be a detriment to traffic entering and leaving the freeway.

The City acknowledges Caltrans' request for additional discussion on this location and will comply with that request.

Comment 10.

As a reminder, Caltrans is concerned that additional traffic exiting the freeway may potentially back into the mainline through lanes if the queue exceeds the storage capacity on the off ramps. A queuing analysis (such as Table F-12 Freeway off-Ramp Queue Evaluation) should be performed using HCM methodology. The capacity of the off-ramp should be calculated by the actual length of the off-ramp between the terminuses to the gore point with some safety factor. The existing queue length should be calculated from the traffic counts, actual signal timing and the actual percent of truck assignments with an adequate passenger car equivalent factor. Signal optimization should be considered as a mitigation measure.

Response 10.

The freeway off-ramp queue analyses summarized in Tables F-12 through F-14 did indeed utilize the Highway Capacity Manual methodology as requested in the comment. The "safety factor" used in the analysis is taken into account by the fact that the 95th percentile queue length was used. In other words, the queue lengths that can be expected at the off-ramp would be less than the calculations shown in the tables 95% of the time. The queue length was calculated using actual signal phasing and predominant maximum signal cycle lengths for the area. The signal timing for each phase was optimized and would only differ from the actual signal timing if the actual signal timing was not set to be responsive to actual traffic conditions.

Comment 11.

On page 159, Table 20 Existing with Project Condition (Year 2018) LOS needs to be verified again with Caltrans data. Currently, this segment of the freeway is operating at LOS F on SB 1-5 during the PM Peak Hours.

Response 11.

Comment noted. The data presented in Table 20 is based on published Caltrans data in the Caltrans 2018 *Performance Measurement System (PeMS)* as identified in Footnote (c) of the table. The volume data represents an average of the traffic count data from September 2018 weekday volumes.

Comment 12.

From Table F-4 to Table F-7, there will be cumulative traffic impact on the mainline 1-5 in which the project will assign 248 project trips to 1-5 in the future when the freeway is near/at capacity. Proportion of Project-Related Traffic in percentage is calculated. Any future improvements on the State facilities could use this proportion percentage methodology to calculate fair share contribution. Caltrans would like to discuss this further with the City.

Response 12.

Response: Table F-7 calculates the proportion of future traffic growth represented by Project traffic. The City acknowledges Caltrans' request for additional discussion on this topic and will comply with that request.

Comment 13.

Caltrans concurs and would like to work and discuss with the City with the mitigation program for the Project includes the following major components:

- a. Implementation of a Transportation Demand Management (TOM) program for the Project site to promote peak period trip reduction.*
- b. Transportation Systems Management (TSM) improvements, including signal system coordination, signal controller updates and installation of closed circuit television (CCTV) at key intersections within the study area.*
- c. Specific intersection improvements, including physical mitigations and signal phasing enhancements.*

Response 13.

The comment calls for a comprehensive mitigation program that includes a Transportation Demand Management Program, a Transportation System Management program, and specific intersection improvements. All three of these elements are already included in the Project mitigation program. As stated above, the City acknowledges Caltrans' request for additional discussion regarding the specific intersection improvements that are under Caltrans jurisdiction and will comply with this request.

Comment 14.

Storm water run-off is a sensitive issue for Los Angeles and Ventura counties. Please be mindful that projects should be designed to discharge clean run-off water. Additionally, discharge of storm water run-off is not permitted onto State highway facilities without any storm water management plan.

Response 14.

The comment is noted for the record. The project contractors will comply with all stormwater runoff and clean water act regulations.

Comment 15.

Transportation of heavy construction equipment and/or materials, which requires the use of oversized-transport vehicles on State highways, will require a transportation permit from Caltrans. It is recommended that large size truck trips be limited to off-peak commute periods.

Response 15.

The comment is noted for the record.

Comment 16.

We would like to invite the City and traffic consultant to discuss potential traffic impact and mitigation/improvement on the State facilities in the project vicinity. If you have any questions, please feel free to contact Alan Lin the project coordinator at (213) 897-8391 and refer to GTS # 07-LA-2016-02387AL-DEIR.

Response 16.

The City and its consultant will coordinate with Caltrans regarding the improvements and mitigation to State facilities.

Response to Comment Letter Dated May 13, 2019

Scott Morgan, Director

State of California Governor's Office of Planning and Research, State Clearinghouse and Planning Unit

Comment 1.

The State Clearinghouse submitted the above named EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on 5/10/2019, and the comments from the responding agency (ies) is (are) available on the CEQA database for your retrieval and use. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Response 1.

The comment is noted for the record. No response is required.

Comment 2.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

Check the CEQA database for submitted comments for use in preparing your final environmental document: <https://ceqanet.opr.ca.gov/2016091024/4>. Should you need more information or clarification of the comments, we recommend that you contact the commenting agency directly.

Response 2.

The comment is noted for the record. No response is required.

Comment 3.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Response 3.

The comment is noted for the record. No response is required.