



## 777 North Front Street Project

Final Environmental Impact Report

SCH# 2018041012

*prepared by*

**City of Burbank**

Community Development Department

150 North Third Street

Burbank, California 91502

Contact: Leonard Bechet, Senior Planner

*prepared with the assistance of*

**Rincon Consultants, Inc.**

250 East 1st Street, Suite 1400

Los Angeles, California 90012

**October 2019**



**RINCON CONSULTANTS, INC.**

Environmental Scientists | Planners | Engineers

[rinconconsultants.com](http://rinconconsultants.com)

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# 1 Introduction

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This Final Environmental Impact Report (EIR) has been prepared by the City of Burbank (City) for the 777 North Front Street Project (Project). This Final EIR has been prepared in conformance with the California Environmental Quality Act of 1970 (CEQA) statutes (Cal. Pub. Res. Code, Section 21000 et. seq., as amended) and implementing guidelines (Cal. Code Regs., Title 14, Section 15000 et. seq.).

Before approving a project, CEQA requires the lead agency to prepare and certify a Final EIR. The City has the principal responsibility for approval of the proposed Project and is therefore considered the lead agency under CEQA Section 21067. According to the CEQA Guidelines, Section 15132, the Final EIR shall consist of:

- The Draft EIR or a revision of the Draft EIR
- Comments and recommendations received on the Draft EIR either verbatim or in summary
- A list of persons, organizations, and public agencies commenting on the Draft EIR
- The responses of the lead agency to significant environmental points raised in the review and consultation process; and
- Any other information added by the lead agency

The Draft EIR was circulated for a 45-day public review period that began on March 22, 2019 and ended on May 6, 2019. In addition, the Project Description, Air Quality, and Greenhouse Gas sections and the Air Quality/Greenhouse Gas Study of the Draft EIR were recirculated for a 45-day review period that began on July 1, 2019 and ended on August 14, 2019.

## Format of the Final EIR

The Final EIR consists of the following five chapters:

- **Introduction.** This chapter summarizes the contents of the Final EIR, the environmental review process, and provides a summary of the Project characteristics and the alternatives that were analyzed.
- **Response to Comments.** During the public review period for the Draft EIR and the Recirculated Draft EIR, written comment letters were received by the City and oral testimony was provided at public meetings. Chapters 2 and 3 of the Final EIR contain the comment letters for the Draft EIR and Recirculated Draft EIR, respectively, a summary of the oral testimony, and the City's responses to the comments.
- **Errata.** Several of the comments that are addressed in the Response to Comments resulted in minor revisions to the information contained in the March 2019 Draft EIR. Several other revisions have been made to correct typographical errors. These revisions are shown in strikethrough and underline text in this chapter.
- **Mitigation Monitoring and Reporting Program.** This section of the Final EIR provides the mitigation monitoring and reporting program (MMRP) for the proposed Project. The MMRP is presented in table format and identifies mitigation measures for the proposed Project, the

implementation period for each measure, the monitoring period for each measure, and the enforcing agency. The MMRP also provides a section for recordation of mitigation reporting.

## Environmental Review Process

### **Notice of Preparation**

The City of Burbank distributed a Notice of Preparation (NOP) of the EIR for a 30-day agency and public review period starting on April 3, 2018 and ending on May 2, 2018. In addition, the City held an EIR Scoping Meeting on April 10, 2018. The meeting, held from 6:00 PM to 8:00 PM, was aimed at providing information about the proposed Project to members of public agencies, interested stakeholders and residents/community members. The meeting was held at the City of Burbank's Community Services Building at 150 North Third Street, Room 104. No comments were received at the scoping meeting. The City received letters from eight agencies in response to the NOP during the public review period. The NOP is presented in Appendix A of the Draft EIR, along with the Initial Study that was prepared for the Project and the NOP responses received. Table 1-1 in Section 1, *Introduction*, of the Draft EIR, summarizes the content of the letters and Scoping Meeting comments, and identifies where the issues are addressed in the Draft EIR or the Initial Study.

### **Noticing and Availability of the Draft EIR**

The Draft EIR was made available for public review and comment pursuant to CEQA Guidelines Section 15087. The public review period for the Draft EIR started on March 22, 2019 and ended on May 6, 2019. At the beginning of the public review period, 15 copies of the Draft EIR and one copy of the Notice of Completion (NOC) were submitted to the State Clearinghouse. A Notice of Availability (NOA) and an electronic copy of the Draft EIR was mailed to 29 agencies and organizations. Relevant agencies were sent electronic copies of the documents. An NOA was also sent to individuals who had previously requested such notice in writing. The NOA was filed at the Los Angeles County Clerk and published in the Burbank Leader on March 20, 2019. The NOA described where the document is available for public review and how to submit comments on the Draft EIR. The NOA and Draft EIR were also made available for public review at the City of Burbank, Community Services Building, 1<sup>st</sup> Floor Planning Division Public Counter, at 150 North Third Street, Burbank; the Burbank Central Library at 110 North Glenoaks Boulevard, Burbank; the Buena Vista Branch Library at 300 North Buena Vista Street, Burbank; the Northwest Branch Library at 3323 West Victory Boulevard, Burbank; and on the City's website. The public review period provided interested public agencies, groups, and individuals the opportunity to comment on the contents of the Draft EIR. During the public review period, oral comments were received during the Planning Commission meeting on April 22, 2019.

### **Noticing and Availability of the Recirculated Draft EIR**

The Recirculated Draft EIR was made available for public review and comment pursuant to CEQA Guidelines Section 15087. The public review period for the Recirculated Draft EIR started on July 1, 2019 and ended on August 14, 2019. At the beginning of the public review period, 15 copies of the Recirculated Draft EIR and one copy of the Notice of Completion (NOC) were submitted to the State Clearinghouse. A Notice of Availability (NOA) and an electronic copy of the Recirculated Draft EIR was mailed to 29 agencies and organizations. Relevant agencies were sent electronic copies of the documents. An NOA was also sent to individuals who had previously requested such notice in writing. The NOA was filed at the Los Angeles County Clerk and published in the Burbank Leader on

June 29, 2019. The NOA described where the document is available for public review and how to submit comments on the Recirculated Draft EIR. The NOA and Recirculated Draft EIR were also made available for public review at the City of Burbank, Community Services Building, 1<sup>st</sup> Floor Planning Division Public Counter, at 150 North Third Street, Burbank; the Burbank Central Library at 110 North Glenoaks Boulevard, Burbank; the Buena Vista Branch Library at 300 North Buena Vista Street, Burbank; the Northwest Branch Library at 3323 West Victory Boulevard, Burbank; and on the City's website. The public review period provided interested public agencies, groups, and individuals the opportunity to comment on the contents of the Recirculated Draft EIR. During the public review period, oral comments were received during the Planning Commission meeting on July 22, 2019.

## **Final EIR**

The Final EIR addresses the comments received during the public review period and includes minor changes to the text of the Draft EIR and Recirculated Draft EIR in accordance with comments that necessitated revisions. This Final EIR will be presented to the City Council for potential certification as the environmental document for the proposed Project. All persons who commented on the Draft EIR will be notified of the availability of the Final EIR prior to the City Council hearing, and all agencies who commented on the Draft EIR and Recirculated Draft EIR will be provided with a copy of the Final EIR at least 10 days before EIR certification, pursuant to CEQA Guidelines Section 15088(b). The Final EIR will also be posted on the City's website.

Pursuant to CEQA Guidelines Section 15091, the City shall make findings for each of the significant effects identified in this EIR and shall support the findings with substantial evidence in the record. After considering the Final EIR in conjunction with making findings under Section 15091, the lead agency may decide whether or how to approve or carry out the project. The Final EIR for the proposed Project identified potentially significant effects that could result from project implementation. Although the City finds that the inclusion of certain mitigation measures as part of Project approval will reduce most of the potentially significant effects to less than significant, two transportation and traffic impacts will remain significant and unavoidable after implementation of mitigation. As such, the City is preparing a statement of overriding considerations pursuant to CEQA Guidelines Section 15093 for consideration by the City Council.

In addition, when approving a project, public agencies must also adopt a mitigation monitoring and reporting program describing the changes that were incorporated into the proposed project or made a condition of project approval to mitigate or avoid significant effects on the environment (CEQA Guidelines Section 15097). The mitigation monitoring and reporting program is adopted at the time of project approval and is designed to ensure compliance during project implementation. Upon approval of the proposed Project, the City will be responsible for implementation of the Project's mitigation monitoring and reporting program.

## **Revisions to the Draft EIR**

The comments received during the public review period for the Draft EIR resulted in several minor clarifications and modifications in the text of the March 2019 Draft EIR. In addition, minor editorial corrections have been made in sections of the Draft EIR. These changes are included as part of the Final EIR, to be presented to City decision makers for certification and project approval. No edits have been made to the sections under the Recirculated Draft EIR.

CEQA Guidelines Section 15088.5 sets forth requirements for why a lead agency must recirculate an EIR. A lead agency is required to recirculate an EIR when significant new information is added to the



EIR after public notice is given of the availability of the Draft EIR but before certification of the Final EIR. New information may include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not considered significant unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. As defined in CEQA Guidelines Section 15088.5(a), significant new information requiring recirculation includes the following:

1. A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
2. A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
3. A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.
4. The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

The minor clarifications, modifications, and editorial corrections that were made to the Draft EIR are shown in the Errata of this Final EIR. None of the revisions that have been made to the EIR resulted in new significant impacts; none of the revisions resulted in a substantial increase in the severity of an environmental impact identified in the Draft EIR or Recirculated Draft EIR; and, none of the revisions introduced a feasible project alternative or mitigation measure that is considerably different from those set forth in the Draft EIR. Furthermore, the revisions do not cause the Draft EIR or Recirculated Draft EIR to be so fundamentally flawed that it precludes meaningful public review. As none of the CEQA criteria for recirculation have been met, recirculation of the EIR is not warranted. As stated in CEQA Guidelines Section 15088.5(b), "recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR."

## Summary of the Project and Alternatives

The following is a summary of the full Project description, which can be found in Section 2, *Project Description*, of the Recirculated Draft EIR.

The Project site is located at 777 North Front Street in the City of Burbank, California. The site is a generally flat, irregularly-shaped parcel with an area of 352,297 square feet (8.09 acres). It is bounded by North Front Street to the west, Burbank Boulevard to the north, the Golden State Freeway (Interstate 5 or I-5) to the east, and West Magnolia Boulevard to the southeast. There are mounds of soil and construction materials throughout the site as a result of its current use as a construction material storage site for the California Department of Transportation (Caltrans) during the I-5 Freeway project. The site has been previously graded, it is mostly paved and partially fenced along Front Street. The Project area is regionally accessible from I-5, and locally accessible from West Burbank Boulevard and North Front Street, and is surrounded by transportation corridors and urban structures (commercial, office, and industrial buildings/facilities).

The Project site has a General Plan land use designation of Downtown Commercial and is designated as Mixed Commercial/Office/ Industrial in the Burbank Center Plan (Specific Plan). The current zoning classification is Auto Dealership (AD).

The proposed Project would require City approval of the following entitlements:

- Specific Plan Amendment to the Burbank Center Plan to allow residential uses by changing the underlying subarea of the Project site from City Center West to City Center/City Center Access to the Regional Intermodal Transportation Center (RITC).
- Development Review for hotel and residential buildings.
- Rezoning Planned Development (PD) zone and Zone Map Amendment to change the zoning from Auto Dealership (AD) to Planned Development (PD).
- Development Agreement between the City and the Project applicant.
- Tentative Tract Map
- Purchase and Sale Agreement to sell adjacent City property to the Project applicant.
- Approval of associated building and engineering permits and pay applicable development fees to facilitate the creation of open space and pedestrian access to and from Downtown Burbank to the Project site view a new pedestrian bridge and elevator.

## Project Characteristics

The proposed Project would involve clearing and excavation of the Project site and construction of three multistory buildings: two residential buildings and one building for a hotel. A total of 1,454 on-site parking spaces would also be developed as part of the Project.

The residential component of the Project would include construction of one 279,162 square-foot, seven-story building containing 252 units and one 346,644 square-foot, eight-story building containing 321 units for a total of 573 residential units. In addition, a total of 857 parking spaces would be provided for tenants of both residential buildings (including 70 guest parking spaces). The proposed Project would also include 106,400 square feet of open space, including courtyards, a pool deck, publicly accessible ground floor plaza, and private balconies. Approximately 87,050 square feet would be common open space, a minimum of approximately 15 percent of which would be landscaped. Associated residential common areas and amenities constructed may include, but would not be limited to a rooftop terrace, business center/internet café, coffee bar, demonstration kitchen, billiards room, resident lounge, fitness center with indoor exercise studio, resort-style pools with cabanas, Jacuzzis, public plaza and bike trail access, pet grooming station, pet park, concierge services, and bike storage. Residential courtyards and balconies would be located within the interior sides of the buildings.

The hotel component of the Project would include construction of one 212,250 square-foot, seven-story building at the southeastern end of the Project site containing 307 hotel rooms and ancillary uses and 307 associated parking spaces (including 58 tandem or stacked parking spaces). Associated hotel amenities may include but would not be limited to 1,800 square feet of restaurant space, café, bar, pool terrace, fitness center, meeting rooms, and lounge. The hotel's ancillary commercial uses would include accessory retail and restaurant uses on the ground floor. In addition, a 1,067-square foot retail gallery would be provided on Front Street near the intersection of Burbank Boulevard that would have 4 total parking spaces. Additional ancillary uses would include public and private recreational spaces consisting of courtyards, residential balconies, and sky terraces at both parking structure roof levels. The proposed Project would include a publicly accessible open space area on

the adjacent City-owned property located to the south of the project site. The open space area would be approximately 27,800 square feet and contain a variety of landscaping and hardscaping and an elevator and stairway connecting the open space area with the Magnolia Boulevard overcrossing. Along the north/northeast perimeter where the Project site is adjacent to the I-5 Freeway, there would be earthen mounds and wall along the eastern edge of the open space area to provide a sound buffer and landscape screening.

The residential component of the Project would be developed at a density of approximately 71 units per acre, while the retail/hotel portion of the Project would be developed with a FAR of 0.58. The overall Project site would have a building coverage of 81 percent.

Images of the plans and renderings for the proposed Project are included in Section 2, *Project Description*, of the Recirculated Draft EIR. Table 1-1 summarizes the Project characteristics.

**Table 1-1 Project Characteristics**

Component	Floor Area (SF)	Height	Units/Rooms
Residential <sup>1</sup>	645,806	–	–
Building 1	279,162	7-story, 80'-4"	252
Building 2	346,644	8-story, 82'-6"	321
Retail Gallery	1,067	1-story	–
Hotel <sup>2</sup>	212,350	7-story	307
<b>Total</b>	<b>859,223</b>	–	–
<b>Open Space Area</b>			
Courtyards	26,950		
Pool Deck	32,300		
Publicly Accessible Plaza	27,800		
Private Balconies	19,350		
<b>Total Area</b>	<b>106,400</b>		
<b>Parking Stalls</b>			
Type	Residential	Hotel	Retail
Standard	835	238	4
ADA Accessible	22	11	–
Tandem or Stacked	–	58	–
<b>Total</b>			<b>1,168</b>
<b>Bicycle Stalls</b>			
Type	Residential	Hotel	Retail
Short-term	14	4	–
Long-term	43	12	–
<b>Total</b>			<b>73</b>

<sup>1</sup> Residential area includes 20,000 square-foot buffer to the proposal residential area as well as the residential space in both Buildings 1 and 2.

<sup>2</sup> Hotel area includes square footage of 307 hotel rooms, 1,800 sf of restaurant space, a lounge, a bar, a meeting room, and a fitness club.

sf = square feet

The total building area of the proposed project, consisting of the residential, retail, hotel, and basement space, would be 859,223 SF. The 212,305 SF hotel would include the square footage of 307 hotel rooms, a lounge, a bar, a meeting room, a fitness club, and 1,800 SF of ancillary restaurant space and retail areas. The courtyards and balconies associated with the residential uses would face towards the interior sides of the buildings, or Front Street, away from the freeway. As discussed above, the Project would include a publicly accessible, privately maintained 27,800 SF publicly accessible open space on the City-owned property located to the south of the Project site that would include an elevator and stairway connecting the open space area to the Magnolia Boulevard overcrossing and downtown Burbank. Along the north/northeast perimeter where the Project site is adjacent to the I-5 Freeway, there would be earthen mounds and wall along the eastern edge of the open space area to provide a sound buffer and landscape screening.

## Subsurface Assessment and Remediation

Extensive environmental assessment has been conducted since the early 1990s at the Project site, and remediation was conducted from 1998 through 2001. Based on a review of documents provided by the Applicant, as well as review of pertinent documents available on the State Water Resources Control Board (SWRCB) GeoTracker database, identified contaminants of potential concern (COPCs) have been detected in the subsurface at the Project site. COPCs include metals and volatile organic compounds (VOCs). Specifically, copper, lead, and hexavalent chromium (CrVI), have been identified as COPCs detected in shallow soils (up to 12 feet below ground surface (bgs)) and tetrachloroethylene (PCE) and trichloroethylene (TCE) have been identified as COPCs detected in soil vapor at depths of up to 90 feet bgs. The Project site is currently under the oversight of the Los Angeles Regional Water Quality Control Board (LARWQCB).

Soil vapor assessment conducted following the 1998-2001 remedial activities indicated that PCE and TCE remained in soil vapor at concentrations exceeding the worst-case human health risk assessment risk-based concentrations (RBCs). In December 2018, the Applicant submitted to LARWQCB a revised draft Response Plan (RP) in accordance with the provisions of the California Land Reuse and Revitalization Act (CLRRRA) of 2004. The RP was prepared by Geosyntec and will address identified subsurface contamination resulting from historical operations at the Project site. A Soil Contingency and Management Plan (SCMP) prepared by Leighton is included as an appendix to the RP (included as Appendix G of the Draft EIR). Geosyntec's RP will address elevated VOCs in soil and soil vapor, and the SCMP will address elevated metals present in shallow soil. PCE, copper, lead, and Cr(VI) have been detected in soil above their respective US EPA Regional Screening Levels (RSLs).

Section 4.6, *Hazards and Hazardous Materials*, of the Draft EIR includes a detailed summary of environmental assessments previously conducted, as well as remediation and engineering controls currently planned for the site. Section 2, *Response to Comments on the Draft EIR*, and Section 4, *Errata*, of this Final EIR provide detailed updates on the RP, along with the Second Revised Response Plan (SRRP) that is currently under review by the LARWQCB.

## Project Objectives

- Reduce vehicle trips by providing a mixed-use, Transit Oriented Development in close proximity to transit.
- Help meet Citywide housing demand and RHNA requirements through the provision of new, quality living options in the City.

- Enhance linkages to transit by creating a streetscape that encourages pedestrian activity with a widened sidewalk and installing a new bike lane.
- Enhance the value of the site and economic vitality of the City of Burbank through the development of a project at an existing underutilized site that is responsive to market demands.
- Contribute to the economic health of the City through development of a Project that would generate new construction and long-term jobs, house new residents to support local businesses, and provide additional long-term revenues for the City, in the form of transient occupancy and sales taxes.
- Help meet the recreational needs of Project and other residents at no cost to the City by providing publicly accessible, privately maintained open space.

## **Alternatives**

As required by the California Environmental Quality Act (CEQA), the EIR examines alternatives to the proposed project. Studied alternatives include the following four alternatives:

### *Alternative 1: No Project*

The No Project Alternative assumes that the proposed residential buildings, totaling 573 residential units, as well as the 307-room hotel and 1,067 sf retail gallery, would not be constructed. Current uses on the Project site could continue intermittently under the No Project Alternative. However, this alternative would not involve physical changes, and the Project site would remain vacant. As such, the existing conditions on the Project site would generally remain the same with respect to all resource areas, including air quality and greenhouse gas (GHG) emissions, noise, and traffic.

Construction impacts associated with the Project were found to be less than significant, but because there would be no demolition or construction under this alternative, even the Project's less than significant construction impacts, such as air quality emissions, construction stormwater runoff, and equipment noise, would be avoided. However, the No Project Alternative would not achieve the basic project objectives.

### *Alternative 2: Existing Zoning*

The Existing Zoning Alternative would involve development consistent with the existing AD zoning and Downtown Commercial and Mixed Commercial/Office/Industrial land use designations for the Project site. Development under this alternative would involve construction of two automobile dealerships. Dealership 1 would include a three-story showroom, lobby, and office area totaling approximately 63,000 square feet. Adjacent to the showroom would be a one-story office and service center building, totaling approximately 47,000 square feet. Both buildings would include rooftop parking for customers, employees, and inventory. Additional inventory would be parked in parking lots surrounding the buildings. Dealership 2 would consist of a single, one-story showroom and office building with rooftop parking, totaling approximately 45,000 square feet. In addition to the buildings, the dealerships would include approximately 175,000 square feet of paved area for parking, inventory display, and circulation throughout the Project site. Dealership 1 would provide 363 parking spaces for visitors and employees, and additional spaces for inventory. Dealership 2 would provide 149 spaces for visitors and employees, plus additional inventory spaces. The Existing Zoning Alternative would result in reduced trip generation, a substantially shorter construction period, and reduced excavation, which would reduce air quality, noise, and transportation and traffic impacts relative to the Project. Nevertheless, this alternative would not avoid the Project's

significant and unavoidable impact to area intersections, as intersections would still exceed standards due to additional trips generated by the automobile dealerships under this alternative.

#### *Alternative 3: No Hotel*

The No Hotel Alternative would involve construction of the two residential buildings and the 1,067 sf retail gallery on the Project site and would eliminate the proposed hotel. Under this alternative, the seven-story, 85-foot tall building proposed for hotel use under the Project would not be constructed, and the area occupied by the proposed hotel's building footprint would instead be additional open space. Residential Buildings 1 and 2 would be constructed as proposed under the Project and would include 252 units in Residential Building 1 and 321 units in Residential Building 2. As with the Project, a total of 573 residential units would be constructed on the Project site under this alternative.

The total square footage constructed under this alternative would be reduced by 212,350 sf to 646,873 sf. Parking spaces provided for Residential Buildings 1 and 2 would remain the same as under the Project, with 1,143 spaces provided (not including tandem spaces). However, this alternative would not require construction of parking for the hotel and, therefore, would avoid construction of the five-story parking structure and one level of subterranean parking. The No Hotel Alternative would result in similar overall water demand, but reduced wastewater, solid waste, and trip generation, in turn reducing impacts to utilities and transportation and traffic relative to the Project. However, the reduction in trip generation under this alternative would not be sufficient to avoid significant and unavoidable impacts to area intersections.

#### *Alternative 4: Reduced Density*

The Reduced Density Alternative would involve a 45 percent reduction in all land uses proposed under the Project. Like the Project, residential, hotel, and retail gallery land uses would be constructed on the Project site. However, Residential Building 1 would be reduced to four stories and approximately 46 feet in height while Residential Building 2 would be reduced to five stories and approximately 52 feet in height. The residential buildings would contain 63 studios, 135 one-bedroom units, 98 two-bedroom units, and 19 three-bedroom units, consistent with the breakdown of proposed housing units under the Project. In total, the residential component of the Reduced Density Alternative would provide 315 housing units across 344,193 square feet of floor area. The hotel component would involve construction of 169 hotel rooms across 116,793 square feet of floor area. The hotel building under this alternative would be reduced to four stories and approximately 49 feet in height. Additionally, the Reduced Density Alternative would involve construction of a 587-square-foot retail gallery and 990-square-foot high-turnover restaurant. Under this alternative, construction of pedestrian linkages, the publicly-accessible transit plaza, and the bike lane improvements to Front Street would still occur. This alternative would also involve a reduction in parking constructed on the Project site relative to the Project. The Reduced Density Alternative would provide a total of 809 spaces, including 628 residential spaces, 169 hotel spaces, two spaces to serve the retail component, and 10 spaces to serve the restaurant. Given the reduced parking required, this alternative would not involve construction of subterranean parking under the residential buildings and would require only one level of subterranean parking under the hotel building. The Reduced Density Alternative would reduce overall trip generation by approximately 45 percent relative to the Project. While this reduction would avoid certain peak hour impacts to area intersections, overall impacts to area intersections would remain significant and unavoidable. Nonetheless, Alternative 4 would meet all project objectives, though to a lesser degree than the Project given the reduction in housing that would be constructed, and would result in similar



reduction in trip generation relative to the Project as Alternative 3. Because Alternative 4 would meet all project objectives while resulting in reduced environmental impacts, it would be the environmentally superior alternative.

Refer to Section 6, *Alternatives*, of the Draft EIR for the complete alternatives analysis.

## 2 Responses to Comments on the Draft EIR

This section includes comments received during the circulation of the Draft Environmental Impact Report prepared for the 777 North Front Street Project (Project).

The Draft EIR was circulated for a 45-day public review period that began on March 22, 2019 and ended on May 6, 2019. The City of Burbank received 22 comment letters on the Draft EIR. The commenters and the page number on which each commenter’s letter appear are listed below. Responses to oral comments received during the Planning Board meeting held on April 22, 2019 are provided under the Planning Board (P) and Speaker (S) sections as identified below. In addition, the Project Description, Air Quality and Greenhouse Gas sections of the Draft EIR were recirculated for a 45-day review period that began on July 1, 2019 and ended on August 14, 2019. Responses to comments received on the recirculated Draft EIR during the Planning Board meeting held on July 22, 2019 are provided in Section 3.

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<b>Agencies (A)</b>		
A-1	Robert Dalbeck, Assistant Air Quality Specialist, CEQA IGR South Coast Air Management District (April 10, 2019)	2-4
A-2	Pete Cooke, Site Mitigation and Restoration Program – Chatsworth Office, Department of Toxic Substances Control (April 16, 2019)	2-8
A-3	Renee Purdy, Acting Executive Officer, Los Angeles Regional Water Quality Control Board (April 22, 2019)	2-10
A-4	Ron Mathieu, Planning Manager II, Metrolink, Southern California Regional Rail Authority (May 2, 2019)	2-15
A-5	Carlo Ramirez, Student Assistant, Local Development – Intergovernmental Review, California Department of Transportation (May 3, 2019).	2-20
A-6	Lijin Sun, J.D., Program Supervisor, CEQA IGR, Planning, Rule Development and Area Sources, South Coast Air Quality Management District (May 3, 2019)	2-22
A-7	Renee Purdy, Executive Officer, Los Angeles Regional Water Quality Board (May 6, 2019)	2-31
A-8	Shine Ling, Manager, Transit Oriented Communities, Los Angeles County Metropolitan Transportation Authority (May 6, 2019)	2-41
A-9	Miya Edmonson, IGR/CEQA Branch Chief, California Department of Transportation (May 7, 2019)	2-57
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O-2	Richard T. Drury, Lozeau Drury LLP, on behalf of Supporters Alliance for Environmental Responsibility (April 2, 2019)	2-66
O-3	Michael Walbrecht, Vice President, Public Affairs, Warner Bros. Entertainment, Inc. (April 17, 2019)	2-69
O-4	Gideon Kracov, Attorney at Law, on behalf of UNITE HERE Local 11 (May 6, 2019)	2-71

City of Burbank  
**777 North Front Street Project**

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The comment letters and responses follow. The comment letters have been numbered sequentially and each separate issue raised by the commenter, if more than one, has been assigned a number. The responses to each comment identify first the number of the comment letter, and then the number assigned to each issue (Response A-1.1, for example, indicates that the response is for the first issue raised in comment Letter A-1).

Any changes made to the text of the Draft EIR correcting information, data, or intent, other than minor typographical corrections or minor working changes, are noted in the Final EIR as changes from the Draft EIR. Where a comment results in a change to the Draft EIR text, a notation is made in the response indicating that the text is revised. Changes in text are signified by strikeouts (~~strikeouts~~) where text is removed and by underlined font (underlined font) where text is added.

Letter A-1

From: Robert Dalbeck [mailto:RDalbeck@aqmd.gov]  
Sent: Friday, March 29, 2019 4:56 PM  
To: Bechet, Leonard LBechet@burbankca.gov  
Cc: Lijin Sun <LSun@aqmd.gov>

Subject: Technical Data Request for the 777 North Front Street Project (SCH NO. 2018041012)

Dear Mr. Bechet,

SCAQMD staff has received the Notice of Availability of a Draft Environmental Impact Report (DEIR) for the 777 North Front Street Project (SCH NO. 2018041012)(SCAQMD Control Number: LAC190402-03) for review before May 6, 2019.

Please provide all appendices or technical documents related to the air quality, health risk, and greenhouse gas analyses and electronic versions of all air quality modeling and health risk assessment files. These include emission calculation spreadsheets and modeling input and output files (not PDF files). Without all files and supporting documentation, SCAQMD staff will be unable to complete a review of the air quality analysis in a timely manner.

You may burn the data onto a CD and send it to SCAQMD Attn: CEQA-Intergovernmental Review, to the address in my signature below. Or, you may send the above-mentioned documents via a Dropbox link in which they may be accessed and downloaded by SCAQMD staff before April 12, 2019. Thank you.

Best Regards,

Robert Dalbeck | Assistant Air Quality Specialist, CEQA IGR South Coast Air Quality Management District  
21865 Copley Drive | Diamond Bar, CA 91765

Phone: (909) 396-2139 | Email: [RDalbeck@aqmd.gov](mailto:RDalbeck@aqmd.gov)

\*Please note that the SCAQMD is closed on Mondays.

A-1.1

## Letter A-1

**COMMENTER:** Robert Dalbeck, Assistant Air Quality Specialist, CEQA IGR South Coast Air Quality Management District (SCAQMD)

**DATE:** March 29, 2019

### **Response A-1.1**

The commenter requests that all appendices and technical documents related to the air quality, health risk, and greenhouse gas analyses and electronic versions of all air quality modeling and health risk assessment files be sent to SCAQMD for their review.

Per the commenter's request, the aforementioned documents were sent to SCAQMD.



Letter A-2



Jared Blumenfeld  
Secretary for  
Environmental Protection



Department of Toxic Substances Control

Meredith Williams, Ph.D.  
Acting Director  
9211 Oakdale Avenue  
Chatsworth, California 91311



Gavin Newsom  
Governor

April 16, 2019

Leonard Bechet  
Senior Planner  
City of Burbank  
Community Development Department  
150 North Third Street  
Burbank, California 91510

PLANNING DIVISION  
2019 APR 30 A 9:08

NOTICE OF AVAILABILITY OF THE DRAFT ENVIRONMENTAL IMPACT REPORT  
FOR THE 777 NORTH FRONT STREET PROJECT (PROJECT)

Dear Mr. Bechet:

The Department of Toxic Substances Control (DTSC) has received the document for the above-mentioned project.

Based on the review of the document, the DTSC comments are as follows:

- 1) The document needs to identify and determine whether current or historic uses at the project site have resulted in any release of hazardous wastes/substances at the project area.
- 2) The document needs to identify any known or potentially contaminated site within the proposed project area. For all identified sites, the document needs to evaluate whether conditions at the site pose a threat to human health or the environment.
- 3) The document should identify the mechanism to initiate any required investigation and/or remediation for any site that may require remediation, and which government agency will provide appropriate regulatory oversight.
- 4) If during construction of the project, soil contamination is suspected, construction in the area should stop and appropriate health and safety procedures should be implemented. If it is determined that contaminated soil exists, the document should identify how any required investigation or remediation will be conducted, and which government agency will provide appropriate regulatory oversight.

A-2.1

A-2.2

A-2.3

A-2.4

Mr. Leonard Bechet  
April 16, 2019  
Page 2

DTSC provides guidance for Preliminary Endangerment Assessment (PEA) preparation, and cleanup oversight through the Voluntary Cleanup Program (VCP). For additional information on the VCP, please visit DTSC's web site at [www.dtsc.ca.gov](http://www.dtsc.ca.gov). If you would like to meet and discuss this matter further, please contact me at (818) 717-6555 or [Pete.Cooke@dtsc.ca.gov](mailto:Pete.Cooke@dtsc.ca.gov).

A-2.5

Sincerely,



Pete Cooke  
Site Mitigation and Restoration Program - Chatsworth Office

cc: Governor's Office of Planning and Research  
State Clearinghouse  
P.O. Box 3044  
Sacramento, California 95812-3044

Dave Kereazis  
Hazardous Waste Management Program, Permitting Division  
CEQA Tracking  
Department of Toxic Substances Control  
P.O. Box 806  
Sacramento, California 95812-0806

## Letter A-2

**COMMENTER:** Pete Cooke, Site Mitigation and Restoration Program – Chatsworth Office,  
Department of Toxic Substances Control

**DATE:** April 16, 2019

### Response A-2.1

The commenter notes that the Department of Toxic Substances Control (DTSC) has received the Draft EIR for the proposed Project and is providing comments.

Responses to the commenter's individual comments are provided below.

### Response A-2.2

The commenter states that the Draft EIR should identify and determine whether current or historic uses at the Project site have resulted in any release of hazardous wastes/substances on the Project site. The commenter requests that for any identified sites, the Draft EIR needs to evaluate whether conditions at the site pose a threat to human health or the environment.

Section 4.6, *Hazards and Hazardous Materials*, of the Final EIR, includes a discussion of the historic land uses of the Project site (see pg. 4.6-6, *Historical Land Use*), a summary of environmental assessments and remedial activities that have been reported for the Project site (see pg. 4.6-7, *Summary of Environmental Assessments*), and a summary of hazardous material associated with the Project site (see pg. 4.6-14, *Summary of Hazardous Materials*). Based on a review of available and pertinent environmental documents, hazardous materials present resulting from historical operations and regional contamination that warranted discussion in the Draft EIR include the following:

- Copper, lead, hexavalent chromium (Cr(VI)), and tetrachloroethylene (PCE) in shallow soil;
- PCE and trichloroethylene (TCE) in soil vapor;
- Potential asbestos-containing materials;
- Volatile organic compounds ((VOCs), e.g., PCE and TCE) and Cr(VI) in groundwater (San Fernando Valley Area 2 (Crystal Springs) Superfund Site); and
- Abandoned ExxonMobil crude oil pipeline.

As disclosed in *Impact HAZ-1* (see pg. 4.6-15), the Project site has contaminated soil, soil vapor, and groundwater, and is included on a list of hazardous materials sites on a government database. In addition, an unmarked abandoned crude oil pipeline is present at the Project site, and tiles remaining on concrete pads are suspected to contain asbestos.

However, with implementation of the proposed Response Plan (RP) and Soil Contingency and Management (SCMP) Plan, as well as implementation of Project Design Features (PDF) (see Hazards PDF-1 through Hazards PDF-4) and Mitigation Measures (see HAZ-1a and HAZ 1b), potential impacts related to contaminated soils and soil vapor and removal of the on-site oil pipeline would be less than significant. Implementation of mitigation would also be required to reduce potential impacts associated with asbestos removal to a less than significant level (see HAZ-1c). As concluded in the Draft EIR, the remediation plans included as part of the Project, along with the proposed PDFs and Mitigation Measures, would reduce potential contamination impacts to a less than significant level. Therefore, the proposed Project would not pose a threat to human health or the environment.

### Response A-2.3

The commenter states that the Draft EIR needs to identify the mechanism to initiate any required investigation and/or remediation for any site that may require remediation, and which government agency will provide appropriate regulatory oversight.

As discussed in the Draft EIR and in Response A-2.2, a RP and a SCMP have been developed and submitted to the Los Angeles Regional Water Quality Control Board (LARWQCB) for concurrence and approval<sup>1</sup>. Although the LARWQCB's final approval of the RP is pending final certification of the EIR, as discussed in Section 2, *Project Description*, Hazards PDF's 2 through 4 are included as part of the Project to address contamination in shallow soil and shallow and deep soil vapor. Implementation of these Project Design Features (PDFs), under the direction and ongoing oversight of the LARWQCB and in accordance with applicable local, State, and Federal regulations, would reduce potential impacts associated with soil and soil vapor contamination and the unmarked oil pipeline to a less than significant level. The Draft EIR thoroughly discloses the mechanism to initiate remediation and the appropriate regulatory oversight.

### Response A-2.4

The commenter notes that if during construction of the Project, soil contamination is suspected, construction should stop and appropriate health and safety procedures should be implemented.

As discussed above in Response A-2.3, a RP and a SCMP have been developed and submitted to the LARWQCB for concurrence and approval. As discussed in Section 2, *Project Description*, Hazards PDF 1 through 4 are included as part of the Project to address contamination in shallow soil and shallow and deep soil vapor. Implementation of the PDFs, under the direction and continued oversight of the LARWQCB and in accordance with applicable local, State, and federal regulations, includes monitoring requirements during construction and specific measures for the potential encounters with contaminated soil or observations of any previously unknown contamination. These PDFs would implement the actions suggested by the commenter and would reduce potential impacts associated with soil and soil vapor contamination and an unmarked oil pipeline to a less than significant level.

### Response A-2.5

The commenter provides contact information for DTSC.

This comment is noted for the record.

---

<sup>1</sup> As of October 2019, based on written correspondence with the applicant and the LARWQCB dated July 22, 2019, the LARWQCB determined that proper implementation of the Second Revised Response Plan (SRRP) "will constitute 'appropriate care' for the purposes of California Health and Safety Code (HSC) Section 25395.67(a)." This letter constitutes conditional approval of the SRRP's specific actions/measures to address environmental conditions at the site. Prior to final approval, the SRRP will be subject to a separate public notice and 30-day comment period under the direction of the Water Board, which must occur and will be promptly initiated upon final certification of the EIR; i.e., on or around December 11, 2019. Assuming a 30-day comment period from approximately mid-December to mid-January, it is anticipated that the LARWQCB can issue final written approval of the SRRP by on or around January 31, 2019.



Letter A-3



Los Angeles Regional Water Quality Control Board

April 22, 2019

Mr. Alan Skobin  
Northridge Properties, LLC  
15505 Roscoe Blvd.  
North Hills, California 91343

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
7017 0190 0000 4169 8878

Mr. Howard Heitner  
SJ4 Burbank LLC  
1880 Century Park East, Suite 600  
Los Angeles, California 90067

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
7017 0190 0000 4169 8885

**SUBJECT: COMMENTS ON FIRST REVISED RESPONSE PLAN FOR FORMER ZERO CORPORATION FACILITY, AND REQUIREMENTS TO SUBMIT A SECOND REVISED RESPONSE PLAN, PURSUANT TO SJ4 BURBANK LLC'S CALIFORNIA LAND REUSE AND REVITALIZATION ACT OF 2004 ("CLRRRA") AGREEMENT WITH THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, LOS ANGELES REGION**

**SITE/CASE: FORMER ZERO CORPORATION FACILITY LOCATED AT 777 NORTH FRONT STREET, BURBANK, CALIFORNIA (FILE NO. 109.6162; SITE ID NO. 2040473)**

Dear Messrs. Skobin and Heitner,

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board) is the public agency with primary responsibility for the protection of ground and surface waters for all beneficial uses within major portions of Los Angeles and Ventura Counties, including the above-referenced site (Site).

On December 7, 2018, the Regional Board entered into a CLRRRA agreement (Agreement) with SJ4 Burbank, LLC (SJ4 Burbank), the prospective purchaser and developer of the Site, to remediate subsurface contamination for the proposed residential and commercial development of the Site. Pursuant to the Agreement, SJ4 Burbank submitted a response plan (Plan) on December 14, 2018 to the Regional Board to address an unreasonable risk from hazardous materials in the subsurface soils at the Site, in order to protect human health and the groundwater. On February 13, 2019, the Regional Board issued a comment letter (see Attachment 1) in response to the Plan with additional information that SJ4 Burbank needs to provide to the Regional Board in a revised response plan.

On March 18, 2019, the Regional Board received the *First Revised Response Plan* (First Revised Plan) dated March 2019, submitted by your consultants, Geosyntec Consultants, Inc. (GeoSyntec), and Leighton and Associates, Inc. (Leighton). The First Revised Plan was prepared to address the Regional

A-3.1

IRMA MUÑOZ, CHAIR | DEBORAH SMITH, EXECUTIVE OFFICER

320 West 4th St., Suite 200, Los Angeles, CA 90013 | [www.waterboards.ca.gov/losangeles](http://www.waterboards.ca.gov/losangeles)



Board’s comments in the February 13, 2019 letter. On March 18, 2019, a copy of the First Revised Plan was also submitted to the City of Burbank in support of the Draft Environmental Impact Report (DEIR) required by the California Environmental Quality Act (CEQA). Based upon a review of the First Revised Plan, and subsequent discussions and clarification of Regional Board requirements with Geosyntec and Leighton on April 4 and 5, 2019, the Regional Board determined that additional changes/revisions needed to be made and submitted in a second revised plan to adequately address the Regional Board’s comment letter dated February 13, 2019.

A-3.1 (cont’d)

This letter sets forth the additional changes/revisions that need to be included and submitted in a second revised response plan before the Regional Board can issue a determination that proper completion of the Response Plan constitutes “appropriate care” for the purposes of California Health and Safety Code (HSC) Section 25395.67(a).

**REGIONAL BOARD COMMENTS AND REQUIREMENTS:**

1. The vertical definition of the shallow soil profiles: The Soil Contingency and Management Plan (SCMP), as part of the First Revised Plan, proposes three designated areas (see Attachment 2), referred to as, “Area A”, “Area B”, and “Area C” with their respective defined depths of approximately 4.6 feet below ground surface (bgs), 21 feet bgs, and 28 feet bgs for shallow soil cleanup (via excavation). The proposed excavation depth of 4.6 feet for Area A should be extended vertically to a minimum of 10 feet to be considered for a shallow soil closure. The SCMP, including applicable figures, should be revised to properly define the shallow soil profile for the three designated areas.
2. The remediation goals for shallow soil vapor have not been clearly defined in Section 4.1- Remedial Action Objectives of the response plan. To be considered for a shallow soil closure in the future, all contaminants of concern, including metals and volatile organic compounds (VOCs) present in both soil and soil vapor within the properly defined shallow soil profile, need to be mitigated to levels that are protective of human health and groundwater. The Regional Board recommends using the empirically derived default attenuation factor of 0.03 for both residential and commercial scenarios to develop soil vapor screening levels, as recommended by the Office of Environmental Health Hazard Assessment (OEHHA), following guidance from the United States Environmental Protection Agency’s (USEPA) *OSWER Technical Guide for Assessing and Mitigating the Vapor Intrusion Pathway from Subsurface Vapor sources to Indoor Air* dated June 2015. Section 4.1 of the response plan should be revised to include target soil vapor cleanup levels of shallow soil vapor impact at the Site.
3. As discussed with Geosyntec and Leighton in recent conference calls, the Regional Board understands that the proposed soil vapor extraction (SVE) well network for the deeper soils will also be screened within the shallow soil profile as a contingency mitigation measure to address any potential future rebound of shallow soil vapor to levels exceeding the target cleanup goals during post-remedial vapor monitoring. However, this proposed effort was not included in the First Revised Response Plan. As such, Section 4.1 of the response plan should be revised accordingly, and Section 7-Engineering Controls and Remedial Alternative Implementation should include a section discussing the implementation of a contingency remedial plan to address post-remedial elevated shallow soil vapor impacts.
4. A second revised plan should be submitted to the Regional Board by **May 22, 2019**.

A-3.2

A-3.3

A-3.4

A-3.5



If you have any questions regarding this letter, please contact Ms. Anita Fang (Project Manager) at (213) 576-6730 or [anita.fang@waterboards.ca.gov](mailto:anita.fang@waterboards.ca.gov), or Mr. Jeffrey Hu (Unit Chief) at (213) 576-6803 or [jeffrey.hu@waterboards.ca.gov](mailto:jeffrey.hu@waterboards.ca.gov).

Sincerely,

  
Executive Officer

Enclosure:

Attachment 1: Regional Board's Letter titled "Review of, and Comments on, Draft Response Plan for Former Zero Corporation Facility, and Requirements to Submit a Revised Response Plan, Pursuant to SJ4 Burbank LLC's California Land Reuse and Revitalization Act of 2004 ("CLRRA") Agreement with the California Regional Water Quality Control Board, Los Angeles Region", dated February 13, 2019

Attachment 2: Figure 2 – Boundaries and Proposed Shallow-Soil Surface Elevations for Areas A, B, and C

cc: Ms. Bianca Handley, USEPA Region IX (via e-mail)  
Ms. Sophie N. Froelich, State Water Resources Control Board (via e-mail)  
Mr. Peter Nyquist, Greenberg Glusker, LLP (via e-mail)  
Mr. Donald Nanney, Gilchrist & Rutter (via e-mail)  
Ms. Kimberly Paperin, 4Terra (via e-mail)  
Mr. Eric Smalstig, Geosyntec Consultants, Inc. (via e-mail)  
Mr. Robin Ferber, Leighton and Associates, Inc. (via e-mail)  
Mr. Leo Chan, City of Glendale (via e-mail)  
Mr. Bill Mace, City of Burbank Water Supply Department (via e-mail)  
Mr. Ron Davis, City of Burbank, City Manager's Office (via e-mail)  
Mr. Justin Hess, City of Burbank, City Manager's Office (via e-mail)  
Mr. Frederico Ramirez, City of Burbank, Community Development-Planning (via e-mail)  
Mr. Simone McFarland, City of Burbank, Business & Economic Development (via e-mail)  
Mr. Marnell Gibson, City of Burbank, Public Works Department (via e-mail)  
Mr. Jorge Somoano, City of Burbank, Public Works Department (via e-mail)  
Mr. Andrew Linard, LADWP (via e-mail)  
Mr. Vahe Dabbaghian, LADWP (via e-mail)  
Mr. Richard Slade, ULARA Watermaster (via e-mail)

## Letter A-3

**COMMENTER:** Renee Purdy, Acting Executive Officer, Los Angeles Regional Water Quality Control Board (LARWQCB)

**DATE:** April 22, 2019

### Response A-3.1

The commenter states that the California Regional Water Quality Control Board, Los Angeles Region (LARWQCB) is the public agency with primary responsibility for the protection of ground and surface waters for all beneficial uses within major portions of Los Angeles and Ventura counties, including the 777 North Front Street Project. The commenter provides a summary of the LARWQCB's receipt of the Project documents and their responses. The comment letter provides the additional changes/revisions required to be submitted in a second revised response plan before the Regional Board can issue a determination that proper completion of the Response Plan constitutes "appropriate care" for the purposes of California Health and Safety Code (HSC) Section 25395.67(a).

This comment is noted, and responses to the commenter's individual comments are provided below.

### Response A-3.2

The LARWQCB refers to the shallow soil profiles in the Soil Contingency Management Plan (SCMP) and states that the proposed excavation depth of 4.6 feet bgs for Area A should be extended vertically to a minimum of 10 feet bgs to be considered for shallow soil closure.

Based on review of the revised SCMP dated May 20, 2019, the proposed excavation depth for Area A is extended to 10 feet bgs. The shallow soil in Area A will be excavated to a depth of 10 feet and will be profiled for either offsite disposal or reuse onsite. Soil designated as clean fill suitable for a residential setting and protective of groundwater will be placed into the 10-foot deep excavation until the proposed graded pad elevation of approximately 4.6 feet below existing grade is reached. The text and Figure 2 in the SCMP have been updated to reflect this change; however, this change does not result in any revisions to the EIR.

### Response A-3.3

The commenter states that the remediation goals for shallow soil vapor have not been clearly defined in the Response Plan. The LARWQCB requests that all contaminants of concern, including metals and VOCs present in both soil and soil vapor within the defined shallow soil profile (i.e., 10 feet bgs, as noted above), need to be mitigated to levels that are protective of human health and groundwater.

Subsequently, on May 29, 2019, in response to comments from the LARWQCB and to more clearly define remediation goals for the Project, a Second Revised Response Plan (SRRP) was submitted. Following the LARWQCB's detailed review of the Second Revised Plan, subsequent in-person technical discussions of LARWQCB requirements with Geosyntec and Leighton on June 25 and July



10, 2019, Geosyntec submitted a detailed technical memorandum on July 20, 2019.<sup>2</sup> Notably, the July 20, 2019 memorandum, entitled “Technical Summary of Groundwater Protection Evaluation and Vapor Diffusion Analysis,” addressed site-specific vapor diffusion per the LARWQCB’s request, and modeled the attenuative capacity of the site-specific mitigation features. Mitigation measures for the Project, as detailed in the SRRP, include a vapor barrier system and concrete foundation slab. The results of Geosyntec’s analysis indicate that the predicted indoor air concentrations of VOCs (PCE and TCE) are protective of health, including future residents, even accounting for very conservative assumptions in Geosyntec’s analysis. LARWQCB’s concurrence with this analysis, and the target soil vapor cleanup goals as set forth in the SRRP, are reflected in its “appropriate care” letter of July 22, 2019. Therein, the LARWQCB determined that proper implementation and completion of the proposed remedial measures “will constitute ‘appropriate care’ for the purposes of California Health and Safety Code (HSC) Section 25395.67(a) [California Land Reuse & Revitalization Act (“CLRRRA”).” This also reflects the LARWQCB’s express acknowledgment that remediation goals for shallow soil vapor have been clearly and adequately defined in the SRRP.

### **Response A-3.4**

The commenter notes that the proposed soil vapor extraction well network for deeper soils will also be screened within the shallow soil profile as a contingency measure to address any future rebound of shallow soil vapor to levels exceeding target cleanup goals during post-remedial vapor monitoring. The LARWQCB has requested that Section 4.1 of the Response Plan be revised accordingly, and that Section 7 be revised to discuss the implementation of a contingency remedial plan to address post-remedial elevated shallow soil vapor impacts.

Based on review of the Second Revised Response Plan, Sections 6.3 and 7.3 of the Second Revised Response Plan provide details of the soil vapor extraction technology that will be installed and operated in the subsurface beneath the residential component to remediate residual volatile organic compounds (VOCs, i.e., PCE and TCE) in deeper soil. This system will be in place before occupancy of any buildings and will continue to operate until “asymptotic” conditions are achieved. Section 4.1 indicates that shallow soil vapor samples will be collected and analyzed for PCE and TCE. Section 7.2 indicates that engineering controls will be utilized for the protection of future residents, including a vapor barrier and sub-slab ventilation. In addition, ventilation in the form of a strip composite will be installed at the separation of the shallow soils and deeper soil layers in Area A, which Geosyntec notes will limit the ability of VOCs to in soil vapor from deeper soils to migrate into the shallow soil vapor. This “contingency measure” will operate in conjunction with the deeper SVE systems and have the ability to actively or passively maintain a depressurized zone below the shallow soil layer. However, the Second Revised Response Plan does not discuss the use of soil vapor extraction wells screened in the shallow soil profile.

### **Response A-3.5**

The commenter states that a second revised plan has been submitted to the LARWQCB.

This comment is noted.

---

<sup>2</sup> [https://geotracker.waterboards.ca.gov/regulators/deliverable\\_documents/1519723057/Geosyntec%20-%20Second%20Revised%20RP\\_Technical%20Summary%20Calculations\\_2019-7-20.pdf](https://geotracker.waterboards.ca.gov/regulators/deliverable_documents/1519723057/Geosyntec%20-%20Second%20Revised%20RP_Technical%20Summary%20Calculations_2019-7-20.pdf))

Letter A-4



METROLINK

SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY  
900 Wilshire Blvd. Suite 1500 Los Angeles, CA 90017

metrolinktrains.com

May 2, 2019

Mr. Leonard Bechet  
City of Burbank  
Planning Division  
150 North Third Street  
Burbank, CA 91502

**RE: Notice of Availability (NOA) for a Draft Environmental Impact Report (DEIR)  
777 North Front Street**

Dear Mr. Bechet:

The Southern California Regional Rail Authority (SCRRA) has received the above-noted NOA for a DEIR on the proposed development at 777 North Front Street. Thank you for the opportunity to comment on key issues relative to SCRRA and operations of the railroad that operates adjacent to your project limits. As background information, SCRRA is a five-county Joint Powers Authority (JPA) that operates the regional commuter rail system known as Metrolink. The JPA consists of the Los Angeles County Metropolitan Transportation Authority (METRO), San Bernardino County Transportation Authority (SBCTA), Orange County Transportation Authority (OCTA), Riverside County Transportation Commission (RCTC) and Ventura County Transportation Commission (VCTC).

A-4.1

In the DEIR we see that the City proposes to develop a mixed-use project which includes 572 residential units, 1,067 square feet of retail gallery space, 317 hotel rooms and other retail/restaurant use within walking distance of our Metrolink downtown Burbank Station. SCRRA is supportive of Transit Oriented Developments (TODs), including housing and commercial employment centers, being located within close proximity to our stations as it provides mutual beneficial opportunities to increase ridership and provide alternative transportation uses for the tenants of the development.

General Comments include the following:

A-4.2

1. The project will be constructed within close proximity the Metrolink Ventura and Antelope Valley Lines that carry Amtrak, Metrolink and UPRR freight trains. Trains can run 24 hours a day and seven days a week.
2. Trains generate noise, vibrations and visual impacts.

A-4.3

777 North Front Street DEIR  
Page 2

3. Safety of the rail corridor is of utmost importance and SCRRA would request that the development consider ensuring that adequate block walls or fencing be installed at the edge of the railroad right of way within your project limits to preclude any trespassing from residential or commercial tenants or patrons into the railroad right of way.
4. We are encouraged to see that this DEIR now includes provisions for more improved pedestrian and bicycle access between the Metrolink Station and the development along Front Street.
5. During construction of the project, proper temporary traffic control measures shall be in place that will minimize impacts to patrons accessing the Metrolink parking lot and drop off facilities on the north side of the Metrolink downtown station.

A-4.4

A-4.5

A-4.6

Thanks again for providing us with the opportunity to comment on this important transportation project. We look forward to our continued participation with Metro on this important transportation project that will provide many benefits to the commuting public.

A-4.7

Should you have any questions, please feel free to contact me at (213) 452-0456 or via e-mail at mathieur@scrra.net.

Sincerely,



Ron Mathieu  
Planning Manager II

Cc: Jeanet Owens, Metro  
Shine Ling, Metro  
Cassie Truong, Metro  
Roderick Diaz, SCRRA

## Letter A-4

**COMMENTER:** Ron Mathieu, Planning Manager II, Metrolink, Southern California Regional Rail Authority

**DATE:** May 2, 2019

### Response A-4.1

The commenter states that the Southern California Regional Rail Authority (SCRRA) has received the NOA for the Draft EIR. This comment provides background information on the SCRRA and accurately restates the Project description. The commenter also notes SCRRA's support of the Project, as it supports transit-oriented development.

Individual responses to SCRRA's comments are provided below.

### Response A-4.2

The commenter notes that the Project would be constructed in proximity to the Metrolink station and that trains operate 24 hours a day seven days a week.

This comment is noted, but does not pertain to the adequacy of the Draft EIR and raises no environmental issues specific to the proposed Project. Therefore, no further response is warranted.

### Response A-4.3

This comment notes that trains generate noise, vibration and visual impacts.

The Project site is located near the Metro-owned railroad ROW that is operated and maintained by the Southern California Regional Rail Authority (SCRRA), which runs the Metrolink commuter rail service. Amtrak and Union Pacific Railroad also operate on this line. Agencies subject to CEQA generally are not required to analyze the impact of existing environmental conditions on a project's future users or residents. In *California Building Industry Association v. Bay Area Air Quality Management District* (2015) 62 Cal. 4th 369, the California Supreme Court explained that an agency is only required to analyze the potential impact of such hazards on future residents if the project would exacerbate those existing environmental hazards or conditions. In this case, the project would not increase the frequency of passing trains.

While Section 4.1, *Aesthetics*, describes the Project's proximity to the rail line, CEQA thresholds do not include potential visual impacts generated by features in the surrounding environment.

Because the Project would not increase the frequency of passing trains, the Project would not increase associated noise and vibration levels. Thus, bringing a new population into an area where noise and vibration levels currently exist is not a significant environmental impact under CEQA. Nonetheless, Section 4.9, *Noise*, of the EIR discloses the existing noise conditions in the vicinity of the Project site and discusses the potential impacts of the ambient noise environment on the Project for informational purposes. In particular, Noise Measurement #4 captured a passing Metrolink commuter train departing from the Burbank Station at 5:28 PM. Based on the noise exposure levels at the Project site, the Project would be exposed to exterior and interior noise levels in excess of the City's standards. Implementation of the Mitigation Measures N-4a through N-4e would reduce exterior noise at proposed outdoor residential uses (i.e., balconies) to 65 dBA CNEL, would reduce exterior noise at the proposed open space public plaza to 70 dBA CNEL, and would

reduce interior noise in habitable rooms to an acceptable level of 45 dBA CNEL. Exterior and interior noise exposure levels at the Project site would be reduced to less than significant levels.

The Metro-owned railroad would be located approximately 100 feet the nearest forecast residential development. Using guidance from the Federal Transit Administration (FTA) *Transit Noise and Vibration Impact Assessment Manual* (2018)<sup>3</sup> for calculating train vibration, a passing freight train would generate a vibration level up to 65 VdB and a passing passenger train would generate a vibration level up to 71 VdB at the nearest proposed residences<sup>4</sup>. According to the FTA, a vibration velocity level of 75 VdB is the approximate dividing line between barely perceptible and distinctly perceptible levels for many people (FTA 2018). Therefore, passing trains in and near the Project site would not expose residential development to distinctly perceptible vibration levels.

#### **Response A-4.4**

Due to railroad safety concerns, SCRRRA requests that the Project install block walls or fencing at the edge of the railroad right-of-way (ROW) within the Project's limits to preclude trespassing.

There is an existing fence along the eastern boundary of the ROW (west side of Front Street). A project design feature (PDF) has been added to Section 2, *Project Description*, which indicates the Project will include a vegetative screening or vertical landscaping along the existing fence subject to review and approval by SCRRRA. See the full text of the PDF in Section 4, *Errata*, of this Final EIR.

In addition, pedestrian safety is addressed in Section 4.12, *Transportation and Traffic*, of the Draft EIR, which addresses issues associated with pedestrian crossings from the Project site to the Metrolink station.

#### **Response A-4.5**

The commenter supports the pedestrian and bicycle features that have been incorporated into the proposed Project.

This comment is noted but does not pertain to the adequacy of the Draft EIR and raises no environmental issues specific to the proposed Project. Therefore, no further response is warranted.

#### **Response A-4.6**

The commenter states that during construction of the Project, temporary traffic control measures should be in place to minimize impacts to patrons accessing the Metrolink parking lot and drop off facilities on the north side of the Metrolink downtown station.

Section 4.12, *Transportation and Traffic*, of the EIR includes Mitigation Measure T-6, which requires a Construction Management Plan (CMP) to be submitted for review and approval by the City Traffic Engineer and Building Official. Requirements of the CMP that would meet the commenter's request include:

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<sup>3</sup> Federal Transit Administration (FTA) *Transit Noise and Vibration Impact Assessment Manual* (2018): [https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/research-innovation/118131/transit-noise-and-vibration-impact-assessment-manual-fta-report-no-0123\\_0.pdf](https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/research-innovation/118131/transit-noise-and-vibration-impact-assessment-manual-fta-report-no-0123_0.pdf).

<sup>4</sup> Vibration calculations consider distance from the Project site to the railroad (i.e., 100 feet), type of proposed structural development, and estimated speed of passing trains. For passenger trains, the average train speed was assumed to be 36 miles per hour based on Metrolink's Q3 '18-19 Fact Sheet (<https://www.metroinktrains.com/globalassets/about/agency/facts-and-numbers/quarterly-fact-sheet-q3-fact-sheet-2018-2019.pdf>). For passing freight trains, the average train speed was assumed to be 25 miles per hour based on the Union Pacific Corporation 2018 Investor Fact Book ([https://www.up.com/cs/groups/public/@uprr/@investor/documents/invstordocuments/pdf\\_up\\_2018\\_investor\\_fact\\_book.pdf](https://www.up.com/cs/groups/public/@uprr/@investor/documents/invstordocuments/pdf_up_2018_investor_fact_book.pdf)).

- Traffic control for any street closure, detour, or other disruption to traffic circulation.
- Hauling or transport of oversize loads shall be allowed between the hours of 9:00 a.m. and 3:00 p.m. only, Monday through Friday, unless approved otherwise by the City Traffic Engineer. No hauling or transport shall be allowed during nighttime hours, weekends, or Federal holidays.
- Use of local streets shall be prohibited unless otherwise provided for in the CMP.
- Haul trucks entering or exiting public streets shall at all times yield to public traffic.
- All construction-related parking and staging of vehicles shall be kept out of the adjacent public roadways and shall occur on-site or at a nearby site approved by the City Traffic Engineer as part of the CMP.

### **Response A-4.7**

The commenter provides contact information for any questions or coordination.

This comment does not pertain to the adequacy of the Draft EIR and raises no environmental issues specific to the proposed Project. Therefore, no further response is warranted.

Letter A-5

----- Forwarded message -----

From: "Ramirez, Carlo@DOT" <[Carlo.Ramirez@dot.ca.gov](mailto:Carlo.Ramirez@dot.ca.gov)>  
Date: Fri, May 3, 2019 at 1:31 PM -0700  
Subject: 777 North Front Street Project - Caltrans Ref. GTS-07-LA-2018-02381  
To: "Bechet, Leonard" <[LBechet@burbankca.gov](mailto:LBechet@burbankca.gov)>

Good afternoon Mr. Bechet,

This email is in regards to the DEIR for the proposed construction at 777 North Front Street Project. We were hoping for a time extension in order to submit comments. As you know this project is very close in proximity to Caltrans ROW (I-5) and as such, we would like to thoroughly review and assess the DEIR and provide substantial comments.

A-4.5.1

If you could please let me know if this is possible at your earliest convenience, I would greatly appreciate it. I have also left a voicemail detailing such request. I look forward to hearing back and working together on this project! Thank you.

Best,

**Carlo Ramirez**  
Student Assistant – Local Development-Intergovernmental Review  
MS: 12-016  
Division of Planning - Caltrans District 7  
100 S. Main St., Los Angeles, CA, 90012  
[Carlo.Ramirez@dot.ca.gov](mailto:Carlo.Ramirez@dot.ca.gov)

## Letter A-5

**COMMENTER:** Carlo Ramirez, Student Assistant, Local Development – Intergovernmental Review, California Department of Transportation

**DATE:** May 3, 2019

### **Response A-5.1**

The commenter requests a time extension in order to submit comments on the Draft EIR.

The public review period was not extended; however, Section 4.2, *Air Quality*, Section 4.5, *Greenhouse Gas Emissions*, and Appendix E, *Air Quality and Greenhouse Gas Study*, of the Draft EIR were recirculated on July 1, 2019 for another 45-day public review period.



Letter A-6



SENT VIA E-MAIL AND USPS:

[LBechet@burbankca.gov](mailto:LBechet@burbankca.gov)

Leonard Bechet, Senior Planner  
City of Burbank, Community Development Department  
Planning Division  
150 North Third Street  
Burbank, CA 91510

May 3, 2019

**Draft Environmental Impact Report (DEIR) for the Proposed  
777 North Front Street Project (SCH No.: 2018041012)**

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.

South Coast AQMD Staff's Summary of Project Description

The Lead Agency proposes construction of 572 residential units, 1,067 square feet of retail uses, a hotel with 317 rooms, and subterranean parking on 8.09 acres (Proposed Project). The Proposed Project is located on the northeast corner of North Front Street and West Magnolia Boulevard. Based on a review of the DEIR and aerial photographs, South Coast AQMD staff found that the Proposed Project is located within 500 feet of Interstate 5 (I-5). Construction of the Proposed Project is expected to take place in three phases over approximately 61 months with operation beginning in 2025<sup>1</sup>.

A-6.1

South Coast AQMD Staff's Summary of Air Quality and Health Risk Assessment Analyses

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 analysis, the Lead Agency found that the Proposed Project's construction and operational air quality impacts would be less than significant, after the implementation of mitigation measure (MM) AQ-2. MM AQ-2 requires haul trucks used during construction to have engine model years between 2010 and 2018. The Lead Agency also performed a mobile source Health Risk Assessment (HRA) for future residents living at the Proposed Project and found that cancer risk would be below South Coast AQMD's CEQA significance threshold of 10 in one million for cancer risk<sup>2</sup>, after the implementation of project design feature (PDF) AQ-3. PDF AQ-3 requires an additional air quality engineering study to guide the Minimum Efficiency Reporting Value (MERV) rating of 13 or better for the enhanced filters that would be installed at the Proposed Project. If the developer elects to not conduct the study, PDF AQ-3 requires installation of filters with a MERV rating of 15. Based on a review of the California Emissions Estimator Model (CalEEMod) modeling output files, South Coast AQMD staff found that the Lead Agency assumed the use of construction equipment that meets United States Environmental Protection Agency's (U.S. EPA) Tier 3 emissions standard to quantify the Proposed Project's construction emissions<sup>3</sup>.

A-6.2

<sup>1</sup> DEIR, Section 2.7.5 *Construction and Grading*, Page 2-16.

<sup>2</sup> South Coast AQMD has developed the CEQA significance threshold of 10 in one million for cancer risk. When South Coast AQMD acts as the Lead Agency, South Coast AQMD staff conducts a HRA, compares the maximum cancer risk to the threshold of 10 in one million to determine the level of significance for health risk impacts, and identifies mitigation measures if the risk is found to be significant.

<sup>3</sup> *Ibid.*, Appendix D, *Air Quality and Greenhouse Study*, Page 47.

Leonard Bechet

2

May 3, 2019

South Coast AQMD Staff's General Comments

South Coast AQMD staff has comments on the Air Quality Analysis. South Coast AQMD staff found that an overlapping construction and operation scenario (e.g., phase one could overlap with phases two and three) is reasonably foreseeable but was not analyzed in the DEIR. Tier 3 off-road construction equipment was modeled to calculate the Proposed Project's construction emissions. To further reduce the Proposed Project's construction emissions, particularly from NOx and particulate matter, it is recommended that the Lead Agency require the use Tier 4 construction equipment, and make it a requirement as either a project design feature or mitigation measure in the Final EIR. Additionally, MM AQ-2 requires construction contractors to utilize on-road haul trucks with model year engines between 2010 and 2018. To ensure the use of on-road haul trucks with clean engines, including zero-emission or near-zero emission trucks during the entire 61-month construction period, South Coast AQMD staff recommends changes to MM AQ-2 that should be incorporated in the Final EIR. Please see the attachment for more information. The attachment also includes a list of additional mitigation measures as resources to the Lead Agency that should be considered for incorporation into the Final EIR.

A-6.3

Conclusion

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).

A-6.4

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](mailto:RDalbeck@aqmd.gov) or (909) 396-2139, should you have any questions.

Sincerely,  
*Lijin Sun*  
Lijin Sun, J.D.  
Program Supervisor, CEQA IGR  
Planning, Rule Development & Area Sources

Attachment  
LS:RD  
LAC190402-03  
Control Number

ATTACHMENT

Air Quality Analysis – Overlapping Construction and Operation Scenario

1. The Lead Agency stated that the Proposed Project would be completed in three phases. Phase one would include construction of Residential 1 building and earthwork and is expected to occur from September 2019 until July 2022<sup>4</sup>. Phase two would include construction of Residential 2 building and is expected to occur from April 2020 until September 2025<sup>5</sup>. Phase three would include construction of a hotel and is expected to occur from April 2020 until September 2025<sup>6</sup>. Additionally, the Lead Agency stated that “All future development projects were assumed to be built and operational by the Project’s buildout year of 2022.” While the Lead Agency modeled emissions by combining all phases into one continuous phase of construction in CalEEMod, South Coast AQMD staff found that the Lead Agency did not analyze a scenario in which the Proposed Project’s construction and operational activities overlap. Since the Proposed Project’s construction activities will occur in phases, an overlapping construction and operation scenario is reasonably foreseeable (e.g., Residential 1 building may be operational when Residential 2 building and the hotel are under construction). Unless the Lead Agency includes a requirement, as a project design feature, mitigation measure, or condition of approval, to restrict the overlapping of construction and operational activities in the Final EIR, South Coast AQMD staff recommends that the Lead Agency analyze a worst-case impact scenario and revise the Air Quality Analysis to identify potentially overlapping years, combine construction emissions 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 (*emphasis added*). In the event that the Lead Agency, after analyzing an overlapping construction and operation scenario, finds that the Proposed Project’s air quality impacts would be significant, feasible mitigation measures will be required (CEQA Guidelines Sections 15126.2 and 15126.4).

A-6.3

Considerations for Project Design Feature (PDF) 3

2. Sensitive receptors are people that have an increased sensitivity to air pollution or environmental contaminants, such as schools, daycare centers, nursing homes, elderly care facilities, hospitals, and residential dwelling units. As stated above, the Proposed Project will include, among others, construction of 573 residential units and is located within 500 feet of I-5<sup>8</sup>. Therefore, residents living at the Proposed Project would likely be exposed to toxic air contaminants (TACs) such as diesel particulate matter (DPM) from the transportation and idling of heavy-duty, diesel-fueled trucks associated with these land uses. PDF AQ-3 requires installation of enhanced air filtration system and a study to determine the MERV rating, 13 or better, for the filters. If the developer elects to not conduct an air quality engineering study, the Proposed Project would be required to install MERV 15 filters in each residential unit<sup>9</sup>. South Coast AQMD staff recommends that the Lead Agency review the following considerations for PDF AQ-3 and incorporate additional information to provide useful information to future residents in the Final EIR.

*Limitation of Enhanced Filtration Units and Enforceability*

3. Many strategies are available to reduce exposures, including, but not limited to, building filtration systems with Minimum Efficiency Reporting Value (MERV) 13 or better, or in some cases, MERV

<sup>4</sup> DEIR, Section 2.7.5 *Project Description-Construction and Grading*, Page 2-16.

<sup>5</sup> *Ibid*, Page 2-17.

<sup>6</sup> *Ibid*.

<sup>7</sup> DEIR, Section 4.12, *Transportation and Traffic*, Page 4.12-26.

<sup>8</sup> *Ibid*, Figure 2-2, *Project Site Location*, Page 2-3.

<sup>9</sup> DEIR, Section 4.2, *Air Quality*, Page 4.2-10.



15 or better is recommended; building design, orientation, location; vegetation barriers or landscaping screening, etc. Because of the potential adverse health risks involved with siting residential uses near a major freeway, it is essential that any proposed strategy is carefully evaluated before implementation. While enhanced air filtration units would reduce exposure of future residents to TACs, they have limitations. For example, in a study that South Coast AQMD conducted to investigate filters<sup>10</sup>, a cost burden is expected to be within the range of \$120 to \$240 per year to replace each filter. The initial start-up cost could substantially increase if an HVAC system needs to be installed. In addition, because the filters would not have any effectiveness unless the HVAC system is running, there may be increased energy costs to the residents. It is typically assumed that the filters operate 100 percent of the time while residents are indoors, and the environmental analysis does not generally account for the times when the residents have their windows or doors open or are in common space areas of the project. Moreover, these filters have no ability to filter out any toxic gases from vehicle exhaust. Therefore, the presumed effectiveness and feasibility of any filtration units should be carefully evaluated in more detail prior to assuming that they will sufficiently alleviate TAC exposures.

4. To ensure that they are enforceable throughout the lifetime of the Proposed Project and effective in reducing exposures to TACs, South Coast AQMD staff recommends that the Lead Agency provide additional information regarding the ongoing, regular maintenance, and monitoring of filters in the Final EIR. To facilitate a good-faith effort at full disclosure and provide useful information to future residents at the Proposed Project, at a minimum, the Final EIR should include the following information:
  - a) Identify the responsible implementing and enforcement agency such as the Lead Agency's building and safety inspection unit to ensure that enhanced filtration units are inspected and maintained regularly;
  - b) Provide information and guidance to the Project developer or proponent on the importance of ongoing, regular filter inspection and maintenance
  - c) Disclose the potential increase in energy costs for running the HVAC system with MERV filters to prospective residents;
  - d) Provide information to residents on where the MERV filters can be purchased;
  - e) Provide recommended schedules (e.g., every year or every six months) for replacing the enhanced filtration units;
  - f) Identify the responsible entity such as residents themselves, Homeowner's Association (HOA), or property management for ensuring enhanced filtration units are replaced on time, if appropriate and feasible (if residents should be responsible for the periodic and regular purchase and replacement of the enhanced filtration units, the Lead Agency should include this information in the disclosure form);
  - g) Identify, provide, and disclose ongoing cost-sharing strategies between the HOA and residents/tenants, if available, for replacing the enhanced filtration units;

A-6.3

<sup>10</sup> This study evaluated filters rated MERV 13 or better. Accessed at: <http://www.aqmd.gov/docs/default-source/ceqa/handbook/aqmdpilotstudyfinalreport.pdf>. Also see 2012 Peer Review Journal article by South Coast AQMD: <https://www.igair.ca/sites/default/files/documents/Polidori-et-al-2012.pdf>

- h) Set City-wide or Proposed Project-specific criteria for assessing progress in installing and replacing the enhanced filtration units; and
- i) Develop a City-wide or Proposed Project-specific process for evaluating the effectiveness of the enhanced filtration units.

**Mitigation Measures**

- 5. To further reduce the Proposed Project's construction emissions from NOx and particulate matter, South Coast AQMD staff recommends that the Lead Agency require the use of Tier 4 construction equipment and include this requirement as a project design feature or mitigation measure in the Air Quality Section of the Final EIR, not a mere modeling assumption in the CalEEMod modeling output files.

*Tier 4 Construction Equipment and Enforceability*

- 6. The Lead Agency should 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 (USEPA) 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 61 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.

*Zero-Emission or Near-Zero Emission On-Road Haul Trucks during Construction*

- 7. In the DEIR, the Lead Agency requires on-road haul trucks used during construction to have model year engines 2010-2018 (MM AQ-2). To encourage the use of clean haul trucks, including zero-emission or near-zero emission on-road haul trucks during the 61-month construction period, South Coast AQMD staff recommends that the Lead Agency incorporate the following changes to MM AQ-2:

A-6.3

MM AQ-2 All haul trucks used during construction shall have engine model years between 2010 and 2018 to ensure that all truck engines have higher average total fuel efficiency. Require zero-emissions or near-zero emissions on-road haul trucks, such as heavy-duty trucks with natural gas engines that meet the California Air Resources Board (CARB)'s adopted optional NOx emissions standard of 0.02 grams per brake horsepower-hour (g/bhp-hr). At a minimum, require that construction vendors, contractors, and/or haul truck operators commit to using 2010 model year or newer trucks (e.g., material delivery trucks and soil and aggregate import/export) that meet CARB's 2010 engine emission standards of 0.01 g/bhp-hr of particulate matter (PM) and 0.20 g/bhp-hr of NOx emissions or newer, cleaner trucks. Additionally, the Lead Agency should 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 the developer to maintain records of all trucks visiting the Proposed Project during construction 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.

*Additional Recommended Mitigation Measures for Construction Activities*

8. CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized to minimize or eliminate any significant adverse impacts. In addition to MM 4.1-2, South Coast AQMD staff has compiled a list of recommended mitigation measures as suggested resources and guidance to the Lead Agency to further reduce the Proposed Project's construction and operational air quality impacts that the Lead Agency should review and incorporate in the Final EIR. For more information on potential mitigation measures as guidance to the Lead Agency, please visit South Coast AQMD's CEQA Air Quality Handbook website<sup>11</sup>.
- a) 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.
  - b) 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.
  - c) 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>.

A-6.3

<sup>11</sup> South Coast AQMD. Accessed at: <http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook>.

*Additional Recommended Mitigation Measures for Operational Activities*

9. Require at least 5% of all vehicle parking spaces include EV 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.
10. For the hotel component of the Proposed Project, 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 Project.
11. For the hotel component 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.
12. Maximize the planting of trees in landscaping and parking lots.
13. Require use of electric or alternatively fueled street-sweepers with HEPA filters.
14. Require use of electric lawn mowers and leaf blowers.

A-6.3



## Letter A-6

**COMMENTER:** Lijin Sun, J.D., Program Supervisor, CEQA IGR, Planning, Rule Development and Area Sources, South Coast Air Quality Management District (SCAQMD)

**DATE:** May 3, 2019

### Response A-6.1

The commenter states that the following comments are provided as guidance and suggests incorporation into the Final EIR. Additionally, the commenter provides a summary of the project description and the duration of construction.

Responses to the commenter's individual comments are provided below.

### Response A-6.2

The commenter provides a summary of the air quality analysis and Health Risk Assessment provided in the Draft EIR.

This comment is noted but does not pertain to the adequacy of the Draft EIR and raises no environmental issues specific to the proposed Project. Therefore, no further response is warranted.

Please note that Section 4.2, *Air Quality*, Section 4.5, *Greenhouse Gas Emissions*, and Appendix E, *Air Quality and Greenhouse Gas Study*, of the Draft EIR were recirculated on July 1, 2019.

### Response A-6.3

The commenter states that an overlapping construction and operation scenario should be included in the air quality analysis. The commenter also states the Lead Agency should require Tier 4 construction equipment and also provided multiple mitigation measures that should be considered for incorporation into the Final EIR.

As stated in Response A-6.2, the air quality analysis has been revised and included in the Recirculated Draft EIR, which includes an emissions analysis from the overlapping construction phases and operation of Building 1. Mitigation Measure AQ-3 has also been added that states the following:

*AQ-3 NOx Reduction from Combined Operational and Construction Emissions*

All off-road diesel-powered construction equipment shall meet or exceed the California Air Resources Board (CARB) and U.S. EPA Tier 4 off-road emissions standards for equipment rated at 50 horsepower or greater during construction activities that overlap with building occupancy. Contractors shall demonstrate the ability to supply compliant equipment for review and approval by the City prior to the commencement of any construction activities and issuance of building occupancy permits. A copy of each unit's certified tier specification and CARB or SCAQMD operating permit (if applicable) shall be available upon request at the time of mobilization of each applicable unit of equipment. If use of Tier 4 construction equipment is not feasible, the contractor shall provide evidence that Tier 4 construction equipment is not feasible and shall provide a report to the City for review and approval, demonstrating that other technologies/strategies would reduce emissions from overlapping construction and operational phases to below SCAQMD's operational thresholds. 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 Project, and/or limiting the number of individual construction project phases occurring simultaneously, if applicable. If it cannot be demonstrated that emissions during construction activities that overlap with building occupancy would not exceed SCAQMD's operational thresholds, then building occupancy shall be delayed until all construction activities are complete.

The full text of the Recirculated Draft EIR is available on the City's website at the following link:

<https://www.burbankca.gov/departments/community-development/planning/current-planning/777-front-street>

#### **Response A-6.4**

The commenter asks the Lead Agency to provide SCAQMD with written responses to their comments, and states that issues raised in the comments should be addressed in detail and give reasons why specific comments are not accepted.

As required by CEQA Section 15088, the City has provided written responses to SCAQMD 10 days prior to certification of the Final EIR.

Letter A-7



Los Angeles Regional Water Quality Control Board

May 6, 2019

Mr. Leonard Bechet
City of Burbank
Community Development Department
150 North Third Street, P.O. Box 6459
Burbank, California 91510-6459

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7017 0190 0000 4169 8908

SUBJECT: COMMENTS ON DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE 777 NORTH FRONT STREET PROJECT SCH No. 2018041012
SITE/CASE: FORMER ZERO CORPORATION FACILITY LOCATED AT 777 NORTH FRONT STREET, BURBANK, CALIFORNIA (FILE NO. 109.6162; SITE ID NO. 2040473)

Dear Mr. Bechet,

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board) is the public agency with primary responsibility for the protection of ground and surface waters for all beneficial uses within major portions of Los Angeles and Ventura Counties, including the Former Zero Corporation Facility located at 777 North Front Street, Burbank, California (Site).

A-7.1

The Regional Board staff has reviewed the Draft Environmental Impact Report (DEIR) for the 777 North Front Street Project (Project) dated March 2019. The DEIR summarizes the characteristics of the proposed Project and its alternatives and evaluates the environmental impacts and mitigation measures associated with the proposed Project. The proposed Project involves clearing and excavation of the Project site and construction of three multi-story buildings: two residential buildings and one building for a hotel with associated common areas and amenities. Specific Project elements include:

- One 7-story building containing a total of 252 residential units (279,162 square feet);
• One 8-story building containing a total of 321 residential units (346,644 square feet);
• 1,067 square feet of commercial retail space;
• One 7-story building containing 307 hotel rooms (212,350 square feet); and
• A total of 1,454 parking spaces in an integrated parking structure with one level of subterranean parking and up to 7-levels of above grade parking.

A-7.2

Section 2.0, Project Descriptions, and Section 4.6, Hazards and Hazardous Materials, of the DEIR also provide a detailed summary of environmental assessments previously conducted, and the proposed remediation and engineering controls currently planned for the site.

IRMA MUÑOZ, CHAIR | RENEÉ PURDY, EXECUTIVE OFFICER

320 West 4th St., Suite 200, Los Angeles, CA 90013 | www.waterboards.ca.gov/losangeles



On December 7, 2018, the Regional Board entered into a California Land Reuse and Revitalization Act of 2004 (CLRRA) Agreement with SJ4 Burbank, LLC (SJ4 Burbank), the prospective purchaser and developer of the Site, to remediate subsurface contamination for the proposed residential and commercial development of the Site. Pursuant to the Agreement, SJ4 Burbank submitted a response plan (Plan) on December 14, 2018 to the Regional Board to address an unreasonable risk from hazardous materials in the subsurface soils at the site, in order to protect human health and the groundwater. On February 13, 2019, the Regional Board issued a comment letter (February 2019 Comment Letter) in response to the Plan with additional information that SJ4 Burbank needs to provide to the Regional Board in a revised response plan. The additional changes/revisions that needed to be made to address the issues raised in the February 2019 Comment Letter are also included in Section 4.6, *Hazards and Hazardous Materials*, of the DEIR.

On March 18, 2019, the Regional Board received the *First Revised Response Plan* (First Revised Plan) dated March 2019, submitted by Geosyntec Consultants, Inc. (Geosyntec), and Leighton and Associates, Inc. (Leighton). The First Revised Plan, including the Soil Contingency Management Plan (SCMP), were submitted in response to the February 2019 Comment Letter and are included as Appendix G of the DEIR. After reviewing the First Revised Plan, the Regional Board sent Geosyntec, Leighton and SJ4 Burbank a letter dated April 22, 2019 (the April 2019 Letter), detailing additional changes that need to be made to the First Revised Plan before the Regional Board can issue a determination that proper completion of the Response Plan constitutes "appropriate care" for the purposes of California Health and Safety Code (HSC) Section 25395.67(a).

A-7.3

This letter provides Regional Board's comments on the DEIR, which include both (a) comments on the DEIR itself and (b) the comments to the First Revised Plan. Ultimately, the First Revised Plan should be changed and updated according to the April 2019 Letter. Once the Regional Board determines that the "Second Revised Plan" (which would be the First Revised Plan, plus any changes made to it as a result of the April 2019 Letter) constitutes "appropriate care" for the purposes of HSC Section 25395.67(a), that version of the First Revised Plan should be substituted as APPENDIX G of the DEIR.

**REGIONAL BOARD COMMENTS ON THE DEIR:**

1. Shallow Soil Vapor Impacts in Section 2.7.6 of the DEIR states that, "Engineering controls are proposed to prevent VOC migration into indoor air. Remediation goals are not applicable to this mitigation measure (p. 2-18)." The Regional Board requires mitigation of VOCs in shallow soil vapor to levels that are protective of human health for the proposed residential and commercial uses. Appropriate remediation goals for shallow soil vapor must be clearly defined so that they can be used to determine if the impacted shallow soil has met the cleanup standards in the future. The DEIR should be revised to include target soil vapor cleanup levels of shallow soil vapor impacts at the Site.
2. Deep Soil and Soil Vapor in Section 2.7.6 of the DEIR states that, "Because offsite sources of groundwater contamination may continue to impact deep soil and soil vapor, numerical cleanup goals may not be achievable and it may be necessary for goals to be performance-based, whereby asymptotic influent concentrations will serve as evidence that VOCs have been removed to the extent feasible and practicable (p. 2-18)." The Regional Board understands that VOCs in deep soils and soil vapors are subject to performance-based remediation goals. However, the mass removal of VOCs in deep soils shall continue until influent concentrations

A-7.4

A-7.5

from the proposed SVE system reach *low and sustainable asymptotic levels* that are protective of groundwater. The DEIR should be revised accordingly.

3. Hazards PDF2-Shallow Soil Vapor in Sections 2.7.8 (p. 2-26 to 2-27) and 4.6.2 (p. 4.6-17 to 4.6-19) of the DEIR describes the engineering controls that will be installed beneath the building foundations to prevent the migration of VOCs in shallow soil vapor into the proposed buildings. The Regional Board understands that a vapor barrier and venting system will be installed and an Operation, Maintenance, and Monitoring (OMM) plan will be developed and submitted to the Regional Board concurrently with the final Design Report of the proposed SVE system. However, to address any potential future rebound of shallow soil vapor to levels exceeding the target cleanup goals during post-remedial vapor monitoring, the Regional Board also requires the development of a contingency remedial plan to be included in a Second Revised Response Plan to address post-remedial elevated shallow soil vapor impacts. The DEIR should be revised to include the Regional Board's additional requirement.
  
4. Mitigation Measures Haz-1a in Section 4.6.2 of the DEIR provide a list of mitigation measures that the Regional Board requires to address soil and soil vapor impacts (p. 4.6-21). The list should include the contingency remedial plan required in Comment No. 3.

A-7.6

A-7.7

**REGIONAL BOARD COMMENTS ON THE FIRST REVISED PLAN (APPENDIX G OF THE DEIR):<sup>1</sup>**

5. The vertical definition of the shallow soil profiles: The SCMP, as part of the First Revised Plan, proposes three designated areas, referred to as, "Area A", "Area B", and "Area C" with their respective defined depths of approximately 4.6 feet below ground surface (bgs), 21 feet bgs, and 28 feet bgs for shallow soil cleanup (via excavation). The proposed excavation depth of 4.6 feet for Area A should be extended vertically to a minimum of 10 feet to be considered for a shallow soil closure. The SCMP, including applicable figures, should be revised to properly define the shallow soil profile for the three designated areas.
  
6. The remediation goals for shallow soil vapor have not been clearly defined in Section 4.1-Remedial Action Objectives of the response plan. To be considered for a shallow soil closure in the future, all contaminants of concern, including metals and volatile organic compounds (VOCs) present in both soil and soil vapor within the properly defined shallow soil profile, need to be mitigated to levels that are protective of human health and groundwater. The Regional Board recommends using the empirically derived default attenuation factor of 0.03 for both residential and commercial scenarios to develop soil vapor screening levels, as recommended by the Office of Environmental Health Hazard Assessment (OEHHA), following guidance from the United States Environmental Protection Agency's (USEPA) *OSWER Technical Guide for Assessing and Mitigating the Vapor Intrusion Pathway from Subsurface Vapor sources to Indoor Air* dated June 2015. Section 4.1 of the response plan should be revised to include target soil vapor cleanup levels of shallow soil vapor impact at the Site.
  
7. As discussed with Geosyntec and Leighton in recent conference calls, the Regional Board understands that the proposed soil vapor extraction (SVE) well network for the deeper soils will

A-7.8

<sup>1</sup> These comments were originally provided to Geosyntec, Leighton and SJ4 Burbank in the April 2019 Letter. The April 2019 Letter is enclosed herein as Exhibit A.

also be screened within the shallow soil profile as a contingency mitigation measure to address any potential future rebound of shallow soil vapor to levels exceeding the target cleanup goals during post-remedial vapor monitoring. However, this proposed effort was not included in the First Revised Response Plan. As such, Section 4.1 of the response plan should be revised accordingly, and Section 7-Engineering Controls and Remedial Alternative Implementation should include a section discussing the implementation of a contingency remedial plan to address post-remedial elevated shallow soil vapor impacts.

A-7.8, cont'd

If you have any questions regarding this letter, please contact Ms. Anita Fang (Project Manager) at (213) 576-6730 or [anita.fang@waterboards.ca.gov](mailto:anita.fang@waterboards.ca.gov), or Mr. Jeffrey Hu (Unit Chief) at (213) 576-6803 or [jeffrey.hu@waterboards.ca.gov](mailto:jeffrey.hu@waterboards.ca.gov).

Sincerely,

  
Renee Purdy  
Executive Officer

cc: Ms. Bianca Handley, USEPA Region IX (via e-mail)  
Ms. Sophie N. Froelich, State Water Resources Control Board (via e-mail)  
Mr. Peter Nyquist, Greenberg Glusker, LLP (via e-mail)  
Mr. Donald Nanney, Gilchrist & Rutter (via e-mail)  
Ms. Kimberly Paperin, 4Terra (via e-mail)  
Mr. Eric Smalstig, Geosyntec Consultants, Inc. (via e-mail)  
Mr. Robin Ferber, Leighton and Associates, Inc. (via e-mail)  
Mr. Leo Chan, City of Glendale (via e-mail)  
Mr. Bill Mace, City of Burbank Water Supply Department (via e-mail)  
Mr. Ron Davis, City of Burbank, City Manager's Office (via e-mail)  
Mr. Justin Hess, City of Burbank, City Manager's Office (via e-mail)  
Mr. Frederico Ramirez, City of Burbank, Community Development-Planning (via e-mail)  
Mr. Simone McFarland, City of Burbank, Business & Economic Development (via e-mail)  
Mr. Marnell Gibson, City of Burbank, Public Works Department (via e-mail)  
Mr. Jorge Somoano, City of Burbank, Public Works Department (via e-mail)  
Mr. Andrew Linard, LADWP (via e-mail)  
Mr. Vahe Dabbaghian, LADWP (via e-mail)  
Mr. Richard Slade, ULARA Watermaster (via e-mail)

## EXHIBIT A



**Los Angeles Regional Water Quality Control Board**

April 22, 2019

Mr. Alan Skobin  
Northridge Properties, LLC  
15505 Roscoe Blvd.  
North Hills, California 91343

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
7017 0190 0000 4169 8878

Mr. Howard Heitner  
SJ4 Burbank LLC  
1880 Century Park East, Suite 600  
Los Angeles, California 90067

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
7017 0190 0000 4169 8885

**SUBJECT: COMMENTS ON FIRST REVISED RESPONSE PLAN FOR FORMER ZERO CORPORATION FACILITY, AND REQUIREMENTS TO SUBMIT A SECOND REVISED RESPONSE PLAN, PURSUANT TO SJ4 BURBANK LLC'S CALIFORNIA LAND REUSE AND REVITALIZATION ACT OF 2004 ("CLRRA") AGREEMENT WITH THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, LOS ANGELES REGION**

**SITE/CASE: FORMER ZERO CORPORATION FACILITY LOCATED AT 777 NORTH FRONT STREET, BURBANK, CALIFORNIA (FILE NO. 109.6162; SITE ID NO. 2040473)**

Dear Messrs. Skobin and Heitner,

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board) is the public agency with primary responsibility for the protection of ground and surface waters for all beneficial uses within major portions of Los Angeles and Ventura Counties, including the above-referenced site (Site).

On December 7, 2018, the Regional Board entered into a CLRRA agreement (Agreement) with SJ4 Burbank, LLC (SJ4 Burbank), the prospective purchaser and developer of the Site, to remediate subsurface contamination for the proposed residential and commercial development of the Site. Pursuant to the Agreement, SJ4 Burbank submitted a response plan (Plan) on December 14, 2018 to the Regional Board to address an unreasonable risk from hazardous materials in the subsurface soils at the Site, in order to protect human health and the groundwater. On February 13, 2019, the Regional Board issued a comment letter (see Attachment 1) in response to the Plan with additional information that SJ4 Burbank needs to provide to the Regional Board in a revised response plan.

On March 18, 2019, the Regional Board received the *First Revised Response Plan* (First Revised Plan) dated March 2019, submitted by your consultants, Geosyntec Consultants, Inc. (GeoSyntec), and Leighton and Associates, Inc. (Leighton). The First Revised Plan was prepared to address the Regional

IRMA MUÑOZ, CHAIR | DEBORAH SMITH, EXECUTIVE OFFICER

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Board's comments in the February 13, 2019 letter. On March 18, 2019, a copy of the First Revised Plan was also submitted to the City of Burbank in support of the Draft Environmental Impact Report (DEIR) required by the California Environmental Quality Act (CEQA). Based upon a review of the First Revised Plan, and subsequent discussions and clarification of Regional Board requirements with Geosyntec and Leighton on April 4 and 5, 2019, the Regional Board determined that additional changes/revisions needed to be made and submitted in a second revised plan to adequately address the Regional Board's comment letter dated February 13, 2019.

This letter sets forth the additional changes/revisions that need to be included and submitted in a second revised response plan before the Regional Board can issue a determination that proper completion of the Response Plan constitutes "appropriate care" for the purposes of California Health and Safety Code (HSC) Section 25395.67(a).

**REGIONAL BOARD COMMENTS AND REQUIREMENTS:**

1. The vertical definition of the shallow soil profiles: The Soil Contingency and Management Plan (SCMP), as part of the First Revised Plan, proposes three designated areas (see Attachment 2), referred to as, "Area A", "Area B", and "Area C" with their respective defined depths of approximately 4.6 feet below ground surface (bgs), 21 feet bgs, and 28 feet bgs for shallow soil cleanup (via excavation). The proposed excavation depth of 4.6 feet for Area A should be extended vertically to a minimum of 10 feet to be considered for a shallow soil closure. The SCMP, including applicable figures, should be revised to properly define the shallow soil profile for the three designated areas.
2. The remediation goals for shallow soil vapor have not been clearly defined in Section 4.1- Remedial Action Objectives of the response plan. To be considered for a shallow soil closure in the future, all contaminants of concern, including metals and volatile organic compounds (VOCs) present in both soil and soil vapor within the properly defined shallow soil profile, need to be mitigated to levels that are protective of human health and groundwater. The Regional Board recommends using the empirically derived default attenuation factor of 0.03 for both residential and commercial scenarios to develop soil vapor screening levels, as recommended by the Office of Environmental Health Hazard Assessment (OEHHA), following guidance from the United States Environmental Protection Agency's (USEPA) *OSWER Technical Guide for Assessing and Mitigating the Vapor Intrusion Pathway from Subsurface Vapor sources to Indoor Air* dated June 2015. Section 4.1 of the response plan should be revised to include target soil vapor cleanup levels of shallow soil vapor impact at the Site.
3. As discussed with Geosyntec and Leighton in recent conference calls, the Regional Board understands that the proposed soil vapor extraction (SVE) well network for the deeper soils will also be screened within the shallow soil profile as a contingency mitigation measure to address any potential future rebound of shallow soil vapor to levels exceeding the target cleanup goals during post-remedial vapor monitoring. However, this proposed effort was not included in the First Revised Response Plan. As such, Section 4.1 of the response plan should be revised accordingly, and Section 7-Engineering Controls and Remedial Alternative Implementation should include a section discussing the implementation of a contingency remedial plan to address post-remedial elevated shallow soil vapor impacts.
4. A second revised plan should be submitted to the Regional Board by **May 22, 2019**.



Former Zero Corporation  
File No. 109.6162

- 3 -

April 22, 2019

If you have any questions regarding this letter, please contact Ms. Anita Fang (Project Manager) at (213) 576-6730 or [anita.fang@waterboards.ca.gov](mailto:anita.fang@waterboards.ca.gov), or Mr. Jeffrey Hu (Unit Chief) at (213) 576-6803 or [jeffrey.hu@waterboards.ca.gov](mailto:jeffrey.hu@waterboards.ca.gov).

Sincerely,

Executive Officer

Enclosure:

Attachment 1: Regional Board's Letter titled "Review of, and Comments on, Draft Response Plan for Former Zero Corporation Facility, and Requirements to Submit a Revised Response Plan, Pursuant to SJ4 Burbank LLC's California Land Reuse and Revitalization Act of 2004 ("CLRRA") Agreement with the California Regional Water Quality Control Board, Los Angeles Region", dated February 13, 2019

Attachment 2: Figure 2 – Boundaries and Proposed Shallow-Soil Surface Elevations for Areas A, B, and C

cc: Ms. Bianca Handley, USEPA Region IX (via e-mail)  
Ms. Sophie N. Froelich, State Water Resources Control Board (via e-mail)  
Mr. Peter Nyquist, Greenberg Glusker, LLP (via e-mail)  
Mr. Donald Nanney, Gilchrist & Rutter (via e-mail)  
Ms. Kimberly Paperin, 4Terra (via e-mail)  
Mr. Eric Smalstig, Geosyntec Consultants, Inc. (via e-mail)  
Mr. Robin Ferber, Leighton and Associates, Inc. (via e-mail)  
Mr. Leo Chan, City of Glendale (via e-mail)  
Mr. Bill Mace, City of Burbank Water Supply Department (via e-mail)  
Mr. Ron Davis, City of Burbank, City Manager's Office (via e-mail)  
Mr. Justin Hess, City of Burbank, City Manager's Office (via e-mail)  
Mr. Frederico Ramirez, City of Burbank, Community Development-Planning (via e-mail)  
Mr. Simone McFarland, City of Burbank, Business & Economic Development (via e-mail)  
Mr. Marnell Gibson, City of Burbank, Public Works Department (via e-mail)  
Mr. Jorge Somoano, City of Burbank, Public Works Department (via e-mail)  
Mr. Andrew Linard, LADWP (via e-mail)  
Mr. Vahe Dabbaghian, LADWP (via e-mail)  
Mr. Richard Slade, ULARA Watermaster (via e-mail)

## Letter A-7

**COMMENTER:** Renee Purdy, Executive Officer, Los Angeles Regional Water Quality Board

**DATE:** May 6, 2019

### Response A-7.1

The commenter notes that the California Regional Water Quality Control Board, Los Angeles Region (LARWQCB) is the public agency with primary responsibility for the protection of ground and surface waters for all beneficial uses within major portions of Los Angeles and Ventura Counties, including the Former Zero Corporation Facility located at 777 North Front Street, Burbank, California (Site).

This comment is noted, and responses to the commenter's individual comments are provided below.

### Response A-7.2

The commenter notes that the LARWQCB has reviewed the Draft Environmental Impact Report (Draft EIR) for the 777 North Front Street Project (Project) dated March 2019. The commenter summarizes the characteristics of the proposed Project and its alternatives and evaluates the environmental impacts and mitigation measures associated with the proposed Project.

This comment is noted but does not pertain to the adequacy of the Draft EIR and raises no environmental issues specific to the proposed Project. Therefore, no further response is warranted.

### Response A-7.3

The commenter provides a summary of the LARWQCB's receipt of the Project documents and their responses. The commenter states that their comment letters include comments on the Draft EIR and the First Revised Plan. The commenter states that the First Revised Plan should be updated in accordance with the April 2019 letter and that once the Regional Board determines that the "Second Revised Plan" constitutes "appropriate care" for the purposes of HSC Section 25395.67, Appendix G of the Draft EIR should be replaced with the "Second Revised Plan."

This comment is noted, and responses to the commenter's individual comments are provided below. In regard to updating Appendix G, as discussed under Response A-2.3, based on correspondence with the LARWQCB dated July 22, 2019, the LARWQCB determined that proper implementation of the Second Revised Response Plan (SRRP) "will constitute 'appropriate care' for the purposes of California Health and Safety Code (HSC) Section 25395.67(a)." This letter constitutes conditional approval of the SRRP's specific actions/measures to address environmental conditions at the site. Prior to final approval, the SRRP will be subject to a separate public notice and 30-day comment period under the direction of the Water Board, which must occur and will be promptly initiated upon final certification of the EIR; i.e., on or around December 11, 2019. Assuming a 30-day comment period from approximately mid-December to mid-January, it is anticipated that the LARWQCB can issue final written approval of the SRRP by on or around January 31, 2019.

### Response A-7.4

The commenter notes that the LARWQCB requires mitigation of VOCs in shallow soil vapor to levels that are protective of human health for the proposed residential and commercial uses. Appropriate

remediation goals for shallow soil vapor must be clearly defined to determine if the impacted shallow soil has met the cleanup standards in the future.

Shallow soil vapor remediation goals are addressed in Response A-3.4.

### **Response A-7.5**

Regarding Section 2.7.6 of the Draft EIR, the LARWQCB understands that VOCs in deep soils and soil vapors are subject to performance-based remediation goals. However, the mass removal of VOCs in deep soils shall continue until influent concentrations from the proposed SVE system reach low and sustainable asymptotic levels that are protective of groundwater.

As discussed in Sections 6.3 and 7.3 of the Second Revised Response Plan, soil vapor extraction technology will be installed and operated in the subsurface beneath the residential component to remediate residual volatile organic compounds (VOCs, i.e., PCE and TCE) in deeper soil. This system will be in place before occupancy of any buildings and will continue to operate until asymptotic conditions are achieved. In addition, as shown in Figures 2 of the Soil Contingency Management Plan the minimum excavation depth will be 10' bgs in "Area A," although based on a geotechnical assessment the actual depth in Area A may extend to 14' bgs. Minimum proposed excavation depths for Areas B and C are 21' and 28.2' bgs, respectively. Based on soil analytical data, there is no need to excavate beyond these depths to ensure protection of groundwater. The LARWQCB has identified residual VOCs in deeper soil beneath Area A as a potential threat to groundwater; however, this issue is being addressed through active remediation by way of the SVE system.

### **Response A-7.6**

The commenter notes that Hazards PDF2-Shallow Soil Vapor in Sections 2.7.8 and 4.6.2 of the Draft EIR describes the engineering controls that will be installed beneath the building foundations to prevent the migration of VOCs in shallow soil vapor into the proposed buildings. A vapor barrier and venting system will be installed and an Operation, Maintenance, and Monitoring (OMM) plan will be developed and submitted to the LARWQCB with the final Design Report of the Proposed SVE system. The LARWQCB requires the development of a contingency remedial plan to be included in a Second Revised Response Plan to address post-remedial elevated shallow soil vapor impacts.

The Draft EIR has been revised to reflect this statement. See Section 4, *Errata*, of this Final EIR for the revisions to Section 2, *Project Description*, and Section 4.6, *Hazards and Hazardous Materials*.

### **Response A-7.7**

The commenter notes that Mitigation Measures HAZ-1a in Section 4.6.2 of the Draft EIR provides a list of mitigation measures required by the LARWQCB, which include the engineering controls (vapor barrier and venting system) that will be installed beneath the building foundations to prevent the migration of VOCs in shallow soil vapor into the proposed buildings, along with implementation of the OMM plan.

The contingency plan has been added to the list of mitigation measures in Section 4.6.2 under Mitigation Measure HAZ-1a. See Section 4, *Errata*, of this Final EIR for the revisions to Section 4.6, *Hazards and Hazardous Materials*.

### **Response A-7.8**

The commenter provides a summary of their comments on the First Revised Plan.

Responses to the LARWQCB April 22, 2019 letter are addressed in Letter A-3, above.

Letter A-8



Los Angeles County  
Metropolitan Transportation Authority

One Gateway Plaza  
Los Angeles, CA 90012-2952

213.922.2000 Tel  
metro.net

May 6, 2019

Leonard Bechet  
Planning Division  
City of Burbank  
150 North Third Street  
Burbank, CA 91502

RE: 777 North Front Street –Draft Environmental Impact Report – Metro Comments

Dear Mr. Bechet:

Thank you for coordinating with the Los Angeles County Metropolitan Transportation Authority (Metro) regarding the proposed 777 North Front Street (Project) located in the City of Burbank (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 the Metrolink connector facilities and services, which may be affected by the proposed Project.

A-8.1

**Project Description**

The Project includes the clearing and excavation of an eight-acre site to build a new mixed-use development, including: 572 residential units, over 1,000 square feet of retail gallery space, and a 317-room hotel with ground floor and rooftop retail/ restaurant uses. The Project would be constructed in three separate buildings: a seven-story building, an eight-story building, and a 15-story building. The Project would include a publicly accessible plaza area on the adjacent City-owned property located to the south of the project site. In total, the Project will consist of 1,462 parking spaces for residential, hotel, and commercial uses.

**Preliminary Comments**  
*Metrolink Adjacency*

The southern boundary of the Project site is in close proximity to Metro-owned railroad right-of-way (ROW), separated by Front Street. This ROW is operated and maintained by the Southern California Regional Rail Authority (SCRRA), which runs Metrolink commuter rail service. Amtrak intercity passenger trains and Union Pacific Railroad freight trains also operate on this line. Rail service operates in both directions and trains may operate in and out of revenue service, 24 hours a day, seven days a week in the ROW near the proposed Project. The Applicant will be required to notify Metro and

A-8.2

777 N. Front Street  
DEIR – Metro Comments  
May 6, 2019

SCRRA of any changes to the construction/building plans that may or may not impact the ROW.  
Please also see the comment letter from Ron Mathieu of SCRRA, dated May 2, 2019 (attached).

A-8.2 (cont'd)

**Transit Orientation**

Considering the proximity of the Project to the Downtown Burbank Metrolink Station, Metro would like to identify the potential synergies associated with transit-oriented development:

1. **TOD Planning Grant:** The City is a recipient of Metro's TOD Planning Grant, which requires local jurisdictions to develop and adopt transit-supportive regulations that promote equitable, sustainable, transit supportive planning to increase transit ridership. To achieve Metro's program objectives, it is strongly recommended that the Applicant review the Transit-Supportive Planning Toolkit which identifies 10 elements of transit-supportive places and applied collectively has shown to reduce vehicle miles traveled by establishing community-scaled density, diverse land use mix, combination of affordable housing, and infrastructure projects for pedestrians, bicyclists, and people of all ages and abilities. This resource is available at <http://www.metro.net/projects/tod-toolkit>.
2. **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 Applicant to be mindful of the Project's proximity to the Downtown Burbank Metrolink Station, including orienting pedestrian pathways towards the station.
3. **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 and rail station. Metro supports Mitigation Measures T-5a (Bicycle and Pedestrian Access) and T-5b (ADA Access) that are currently included in the EIR and encourages the City to consider further improvements.
4. **Active Transportation:** Metro encourages the City to work with the Applicant to promote bicycle use through adequate short-term bicycle parking, such as ground level bicycle racks, as well as secure and enclosed long-term bicycle parking for residents, employees and guests. Bicycle parking facilities should be highly visible, easy to locate, and sited so they can be safely and conveniently accessed. Additionally, the Applicant should help facilitate safe and convenient connections for pedestrians, people riding bicycles, and transit users to/from the Project site and nearby destinations such as Burbank Station, Downtown Burbank, and the Bob Hope Airport. The Applicant is also encouraged to support these connections with wayfinding signage inclusive of all modes of transportation.
5. **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](mailto:GloverL@metro.net).

A-8.3

A-8.4

777 N. Front Street  
 DEIR – Metro Comments  
 May 6, 2019

6. 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](mailto:Grays@metro.net).
7. 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 or parking benefit districts. These strategies could be pursued to encourage more transit-oriented development and reduce automobile-orientation in design and travel demand.
8. Multi-modal: 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 station including pedestrian connections and bike lanes/paths. Appropriate analyses could include multi-modal LOS calculations, pedestrian audits, etc.
9. Transit Pass: Metro would like to inform the Applicant 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](mailto:DemingD@metro.net).

A-8.4 (cont'd)

A-8.5

A-8.6

A-8.7

*Congestion Management Program*

Beyond impacts to Metro facilities and operations, Metro must also notify the Applicant 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:

1. 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. weekday peak hour (of adjacent street traffic).
2. 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.
3. 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.
4. Caltrans must also be consulted through the NOP process to identify other specific locations to be analyzed on the state highway system.

A-8.8

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.

City of Burbank  
**777 North Front Street Project**

777 N. Front Street  
DEIR – Metro Comments  
May 6, 2019

If you have any questions regarding this response, please contact me at 213-922-2671, or by email at [LingS@metro.net](mailto:LingS@metro.net), or by mail at:

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

Sincerely,



Shine Ling, AICP  
Manager, Transit Oriented Communities

Cc: Ron Mathieu, SCRRA

Attachments:

- CMP Appendix D: Guidelines for CMP Transportation Impact Analysis
- Ron Mathieu, SCRRA Comment Letter - May 2, 2019

A-8.9





**Metro**

Los Angeles County  
Metropolitan Transportation Authority

One Gateway Plaza  
Los Angeles, CA 90012-2952

213.922.2000 Tel  
metro.net

### **Congestion Management Program**

Metro must 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:

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2. 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.
3. 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.
4. Caltrans must also be consulted through the NOP process to identify other specific locations to be analyzed on the state highway system.

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, please contact David Lor by phone at 213-922-2883, by email at [lord@metro.net](mailto:lord@metro.net), or by mail at the following address:

**Metro Development Review  
One Gateway Plaza MS 99-22-3  
Los Angeles, CA 90012-2952**



APPENDIX  
D

## GUIDELINES FOR CMP TRANSPORTATION IMPACT ANALYSIS

*Important Notice to User: This section provides detailed travel statistics for the Los Angeles area which will be updated on an ongoing basis. Updates will be distributed to all local jurisdictions when available. In order to ensure that impact analyses reflect the best available information, lead agencies may also contact MTA at the time of study initiation. Please contact MTA staff to request the most recent release of "Baseline Travel Data for CMP TIAs."*

### D.1 OBJECTIVE OF GUIDELINES

The following guidelines are intended to assist local agencies in evaluating impacts of land use decisions on the Congestion Management Program (CMP) system, through preparation of a regional transportation impact analysis (TIA). The following are the basic objectives of these guidelines:

- Promote consistency in the studies conducted by different jurisdictions, while maintaining flexibility for the variety of project types which could be affected by these guidelines.
- Establish procedures which can be implemented within existing project review processes and without ongoing review by MTA.
- Provide guidelines which can be implemented immediately, with the full intention of subsequent review and possible revision.

These guidelines are based on specific requirements of the Congestion Management Program, and travel data sources available specifically for Los Angeles County. References are listed in Section D.10 which provide additional information on possible methodologies and available resources for conducting TIAs.

### D.2 GENERAL PROVISIONS

Exhibit D-7 provides the model resolution that local jurisdictions adopted containing CMP TIA procedures in 1993. TIA requirements should be fulfilled within the existing environmental review process, extending local traffic impact studies to include impacts to the regional system. In order to monitor activities affected by these requirements, Notices of Preparation (NOPs) must be submitted to MTA as a responsible agency. Formal MTA approval of individual TIAs is not required.

The following sections describe CMP TIA requirements in detail. In general, the competing objectives of consistency & flexibility have been addressed by specifying standard, or minimum, requirements and requiring documentation when a TIA varies from these standards.

*2010 Congestion Management Program for Los Angeles County*

### D.3 PROJECTS SUBJECT TO ANALYSIS

In general a CMP TIA is required for all projects required to prepare an Environmental Impact Report (EIR) based on local determination. A TIA is not required if the lead agency for the EIR finds that traffic is not a significant issue, and does not require local or regional traffic impact analysis in the EIR. Please refer to Chapter 5 for more detailed information.

CMP TIA guidelines, particularly intersection analyses, are largely geared toward analysis of projects where land use types and design details are known. Where likely land uses are not defined (such as where project descriptions are limited to zoning designation and parcel size with no information on access location), the level of detail in the TIA may be adjusted accordingly. This may apply, for example, to some redevelopment areas and citywide general plans, or community level specific plans. In such cases, where project definition is insufficient for meaningful intersection level of service analysis, CMP arterial segment analysis may substitute for intersection analysis.

### D.4 STUDY AREA

The geographic area examined in the TIA must include the following, at a minimum:

- All CMP arterial monitoring intersections, including monitored freeway on- or off-ramp intersections, where the proposed project will add 50 or more trips during either the AM or PM weekday peak hours (of adjacent street traffic).
- If CMP arterial segments are being analyzed rather than intersections (see Section D.3), 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 AM or PM weekday peak hours.
- Caltrans must also be consulted through the Notice of Preparation (NOP) process to identify other specific locations to be analyzed on the state highway system.

**If the TIA identifies no facilities for study based on these criteria, no further traffic analysis is required. However, projects must still consider transit impacts (Section D.8.4).**

### D.5 BACKGROUND TRAFFIC CONDITIONS

The following sections describe the procedures for documenting and estimating background, or non-project related traffic conditions. Note that for the purpose of a TIA, these background estimates must include traffic from all sources without regard to the exemptions specified in CMP statute (e.g., traffic generated by the provision of low and very low income housing, or trips originating outside Los Angeles County. Refer to Chapter 5, Section 5.2.3 for a complete list of exempted projects).

**D.5.1 Existing Traffic Conditions.** Existing traffic volumes and levels of service (LOS) on the CMP highway system within the study area must be documented. Traffic counts must

*2010 Congestion Management Program for Los Angeles County*

be less than one year old at the time the study is initiated, and collected in accordance with CMP highway monitoring requirements (see Appendix A). Section D.8.1 describes TIA LOS calculation requirements in greater detail. Freeway traffic volume and LOS data provided by Caltrans is also provided in Appendix A.

**D.5.2 Selection of Horizon Year and Background Traffic Growth.** Horizon year(s) selection is left to the lead agency, based on individual characteristics of the project being analyzed. In general, the horizon year should reflect a realistic estimate of the project completion date. For large developments phased over several years, review of intermediate milestones prior to buildout should also be considered.

At a minimum, horizon year background traffic growth estimates must use the generalized growth factors shown in Exhibit D-1. These growth factors are based on regional modeling efforts, and estimate the general effect of cumulative development and other socioeconomic changes on traffic throughout the region. Beyond this minimum, selection among the various methodologies available to estimate horizon year background traffic in greater detail is left to the lead agency. Suggested approaches include consultation with the jurisdiction in which the intersection under study is located, in order to obtain more detailed traffic estimates based on ongoing development in the vicinity.

## **D.6 PROPOSED PROJECT TRAFFIC GENERATION**

Traffic generation estimates must conform to the procedures of the current edition of Trip Generation, by the Institute of Transportation Engineers (ITE). If an alternative methodology is used, the basis for this methodology must be fully documented.

Increases in site traffic generation may be reduced for existing land uses to be removed, if the existing use was operating during the year the traffic counts were collected. Current traffic generation should be substantiated by actual driveway counts; however, if infeasible, traffic may be estimated based on a methodology consistent with that used for the proposed use.

Regional transportation impact analysis also requires consideration of trip lengths. Total site traffic generation must therefore be divided into work and non-work-related trip purposes in order to reflect observed trip length differences. Exhibit D-2 provides factors which indicate trip purpose breakdowns for various land use types.

For lead agencies who also participate in CMP highway monitoring, it is recommended that any traffic counts on CMP facilities needed to prepare the TIA should be done in the manner outlined in Chapter 2 and Appendix A. If the TIA traffic counts are taken within one year of the deadline for submittal of CMP highway monitoring data, the local jurisdiction would save the cost of having to conduct the traffic counts twice.

## **D.7 TRIP DISTRIBUTION**

For trip distribution by direct/manual assignment, generalized trip distribution factors are provided in Exhibit D-3, based on regional modeling efforts. These factors indicate Regional Statistical Area (RSA)-level tripmaking for work and non-work trip purposes.

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(These RSAs are illustrated in Exhibit D-4.) For locations where it is difficult to determine the project site RSA, census tract/RSA correspondence tables are available from MTA.

Exhibit D-5 describes a general approach to applying the preceding factors. Project trip distribution must be consistent with these trip distribution and purpose factors; the basis for variation must be documented.

Local agency travel demand models disaggregated from the SCAG regional model are presumed to conform to this requirement, as long as the trip distribution functions are consistent with the regional distribution patterns. For retail commercial developments, alternative trip distribution factors may be appropriate based on the market area for the specific planned use. Such market area analysis must clearly identify the basis for the trip distribution pattern expected.

## **D.8 IMPACT ANALYSIS**

CMP Transportation Impact Analyses contain two separate impact studies covering roadways and transit. Section Nos. D.8.1-D.8.3 cover required roadway analysis while Section No. D.8.4 covers the required transit impact analysis. Section Nos. D.9.1-D.9.4 define the requirement for discussion and evaluation of alternative mitigation measures.

**D.8.1 Intersection Level of Service Analysis.** The LA County CMP recognizes that individual jurisdictions have wide ranging experience with LOS analysis, reflecting the variety of community characteristics, traffic controls and street standards throughout the county. As a result, the CMP acknowledges the possibility that no single set of assumptions should be mandated for all TIAs within the county.

However, in order to promote consistency in the TIAs prepared by different jurisdictions, CMP TIAs must conduct intersection LOS calculations using either of the following methods:

- The Intersection Capacity Utilization (ICU) method as specified for CMP highway monitoring (see Appendix A); or
- The Critical Movement Analysis (CMA) / Circular 212 method.

Variation from the standard assumptions under either of these methods for circumstances at particular intersections must be fully documented.

TIAs using the 1985 or 1994 Highway Capacity Manual (HCM) operational analysis must provide converted volume-to-capacity based LOS values, as specified for CMP highway monitoring in Appendix A.

**D.8.2 Arterial Segment Analysis.** For TIAs involving arterial segment analysis, volume-to-capacity ratios must be calculated for each segment and LOS values assigned using the V/C-LOS equivalency specified for arterial intersections. A capacity of 800 vehicles per hour per through traffic lane must be used, unless localized conditions necessitate alternative values to approximate current intersection congestion levels.

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**D.8.3 Freeway Segment (Mainline) Analysis.** For the purpose of CMP TIAs, a simplified analysis of freeway impacts is required. This analysis consists of a demand-to-capacity calculation for the affected segments, and is indicated in Exhibit D-6.

**D.8.4 Transit Impact Review.** CMP transit analysis requirements are met by completing and incorporating into an EIR the following transit impact analysis:

- Evidence that affected transit operators received the Notice of Preparation.
- A summary of existing transit services in the project area. Include local fixed-route services within a ¼ mile radius of the project; express bus routes within a 2 mile radius of the project, and; rail service within a 2 mile radius of the project.
- Information on trip generation and mode assignment for both AM and PM peak hour periods as well as for daily periods. Trips assigned to transit will also need to be calculated for the same peak hour and daily periods. Peak hours are defined as 7:30-8:30 AM and 4:30-5:30 PM. Both “peak hour” and “daily” refer to average weekdays, unless special seasonal variations are expected. If expected, seasonal variations should be described.
- Documentation of the assumption and analyses that were used to determine the number and percent of trips assigned to transit. Trips assigned to transit may be calculated along the following guidelines:
  - Multiply the total trips generated by 1.4 to convert vehicle trips to person trips;
  - For each time period, multiply the result by one of the following factors:
    - 3.5% of Total Person Trips Generated for most cases, except:
      - 10% primarily Residential within 1/4 mile of a CMP transit center
      - 15% primarily Commercial within 1/4 mile of a CMP transit center
      - 7% primarily Residential within 1/4 mile of a CMP multi-modal transportation center
      - 9% primarily Commercial within 1/4 mile of a CMP multi-modal transportation center
      - 5% primarily Residential within 1/4 mile of a CMP transit corridor
      - 7% primarily Commercial within 1/4 mile of a CMP transit corridor
      - 0% if no fixed route transit services operate within one mile of the project

To determine whether a project is primarily residential or commercial in nature, please refer to the CMP land use categories listed and defined in Appendix E, *Guidelines for New Development Activity Tracking and Self Certification*. For projects that are only partially within the above one-quarter mile radius, the base rate (3.5% of total trips generated) should be applied to all of the project buildings that touch the radius perimeter.

- Information on facilities and/or programs that will be incorporated in the development plan that will encourage public transit use. Include not only the jurisdiction’s TDM Ordinance measures, but other project specific measures.

***2010 Congestion Management Program for Los Angeles County***

- Analysis of expected project impacts on current and future transit services and proposed project mitigation measures, and;
- Selection of final mitigation measures remains at the discretion of the local jurisdiction/lead agency. Once a mitigation program is selected, the jurisdiction self-monitors implementation through the existing mitigation monitoring requirements of CEQA.

## D.9 IDENTIFICATION AND EVALUATION OF MITIGATION

**D.9.1 Criteria for Determining a Significant Impact.** For purposes of the CMP, a significant impact occurs when the proposed project increases traffic demand on a CMP facility by 2% of capacity ( $V/C \geq 0.02$ ), causing LOS F ( $V/C > 1.00$ ); if the facility is already at LOS F, a significant impact occurs when the proposed project increases traffic demand on a CMP facility by 2% of capacity ( $V/C \geq 0.02$ ). The lead agency may apply a more stringent criteria if desired.

**D.9.2 Identification of Mitigation.** Once the project has been determined to cause a significant impact, the lead agency must investigate measures which will mitigate the impact of the project. Mitigation measures proposed must clearly indicate the following:

- Cost estimates, indicating the fair share costs to mitigate the impact of the proposed project. If the improvement from a proposed mitigation measure will exceed the impact of the project, the TIA must indicate the proportion of total mitigation costs which is attributable to the project. This fulfills the statutory requirement to exclude the costs of mitigating inter-regional trips.
- Implementation responsibilities. Where the agency responsible for implementing mitigation is not the lead agency, the TIA must document consultation with the implementing agency regarding project impacts, mitigation feasibility and responsibility.

Final selection of mitigation measures remains at the discretion of the lead agency. The TIA must, however, provide a summary of impacts and mitigation measures. Once a mitigation program is selected, the jurisdiction self-monitors implementation through the mitigation monitoring requirements contained in CEQA.

**D.9.3 Project Contribution to Planned Regional Improvements.** If the TIA concludes that project impacts will be mitigated by anticipated regional transportation improvements, such as rail transit or high occupancy vehicle facilities, the TIA must document:

- Any project contribution to the improvement, and
- The means by which trips generated at the site will access the regional facility.

**D.9.4 Transportation Demand Management (TDM).** If the TIA concludes or assumes that project impacts will be reduced through the implementation of TDM measures, the TIA must document specific actions to be implemented by the project which substantiate these conclusions.

*2010 Congestion Management Program for Los Angeles County*

**D.10 REFERENCES**

1. *Traffic Access and Impact Studies for Site Development: A Recommended Practice*, Institute of Transportation Engineers, 1991.
2. *Trip Generation*, 5th Edition, Institute of Transportation Engineers, 1991.
3. *Travel Forecast Summary: 1987 Base Model - Los Angeles Regional Transportation Study (LARTS)*, California State Department of Transportation (Caltrans), February 1990.
4. *Traffic Study Guidelines*, City of Los Angeles Department of Transportation (LADOT), July 1991.
5. *Traffic/Access Guidelines*, County of Los Angeles Department of Public Works.
6. *Building Better Communities*, Sourcebook, Coordinating Land Use and Transit Planning, American Public Transit Association.
7. *Design Guidelines for Bus Facilities*, Orange County Transit District, 2nd Edition, November 1987.
8. *Coordination of Transit and Project Development*, Orange County Transit District, 1988.
9. *Encouraging Public Transportation Through Effective Land Use Actions*, Municipality of Metropolitan Seattle, May 1987.

## Letter A-8

**COMMENTER:** Shine Ling, Manager, Transit Oriented Communities, Los Angeles County Metropolitan Transportation Authority (Metro)

**DATE:** May 6, 2019

### Response A-8.1

The commenter states that the purpose of the letter is to outline recommendations from Metro concerning issues that are germane to their statutory responsibility in relation to the Metrolink connector facilities and services. The commenter also summarizes the characteristics of the proposed Project.

This comment is noted, and responses to the commenter's individual comments are provided below.

### Response A-8.2

The commenter states the southern boundary of the Project site is in close proximity to the Metro-owned railroad ROW that is operated and maintained by the Southern California Regional Rail Authority (SCRRA), which runs the Metrolink commuter rail service. Amtrak and Union Pacific Railroad also operate on this line. The commenter states the Project applicant will be required to notify Metro and SCRRA of any changes to the construction/building plans that may or may not impact the ROW.

Metro and SCRRA are on the Project distribution list and will be provided with all Project notices.

### Response A-8.3

The City is a recipient of Metro's TOD Planning Grant. The commenter recommends that the applicant review the Transit-Supportive Planning toolkit that identifies 10 elements of transit-supportive places, including community-scaled density, diverse mix of land uses, affordable housing, and infrastructure for pedestrian and bicyclists, which have shown to reduce vehicle miles traveled. The commenter also encourages the City and applicant to be mindful of the Project's proximity to the Metrolink Station, including orienting pedestrian pathways towards the station, and encourages pedestrian improvements along the public streets, and states the City should work with the applicant to promote bicycle use and active transportation. The commenter supports Mitigation Measures T-5a (Bicycle and Pedestrian Access) and T-5b (ADA Access).

The maximum allowable Floor Area Ratio (FAR) and maximum density for the site are FAR of 2.5 and a density of 87 units per acre, respectively. The proposed Project includes the following characteristics: the residential component of the Project would be developed at a density of approximately 85 units per acre, while the retail/hotel portion of the Project would be developed with a FAR of 0.61; the Project includes a mix of residential and commercial land uses, and a publicly accessible open space area; 12% of the proposed residential units will be deed restricted as affordable to eligible moderate income households helping meet the City's Regional Housing Needs Allocation of moderate income units. The Project would include a retail gallery with a pedestrian link to Burbank Boulevard at the northern portion of the Project site, and a publicly accessible, privately-maintained open space plaza with a pedestrian bridge and elevator to Magnolia Street on the southern portion of the Project site. The Project would also provide enhanced bicycle infrastructure



on-site and in the adjacent public right of way through the inclusion of PDFs that provide for on-site bicycle parking and a new two-way bike lane along the Project site's Front Street property frontage, which will provide improved bicycle access for the Project, local residents, and employees travelling along Front Street and going to and from the Project Site, Downtown Burbank, and the existing Metrolink Station. Therefore, the Project includes several elements that contribute to a transit-supportive development consistent with the Metro's transit-supportive toolkit and would not only link the Project site to Downtown Burbank and the Downtown Burbank Metrolink Station, but also improve the community transit connectivity between all three of these major locations.

#### **Response A-8.4**

The commenter states the connections to the Downtown Burbank Metrolink Station should be supported by wayfinding signage and provides contact information for review and approval of any temporary or permanent wayfinding signage. The commenter also encourages integration of art and culture into public spaces.

These comments are noted but do not pertain to the adequacy of the Draft EIR and raise no environmental issues specific to the proposed Project. Therefore, no further response is warranted.

#### **Response A-8.5**

The commenter encourages the incorporation of transit- and pedestrian-oriented parking strategies to encourage transit-oriented development and reduce automobile-orientation in design and travel demand.

Parking is not an environmental issue under CEQA. In addition, because the Project is located within 0.5-mile of a transit station (i.e., Burbank-Downtown Metrolink station), the Project qualifies as a Transit Priority Project per Public Resources Code Section 21099(b)(7). According to the Public Resources Code Section 21009(d)(1), aesthetic and parking impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area shall not be considered significant impacts on the environment. Nonetheless, refer to Response A-8.3 for the Project elements that contribute to a transit-supportive development.

#### **Response A-8.6**

The commenter encourages an analysis of impacts on non-motorized transportation modes and consideration of improved non-motorized access to the station including pedestrian connections and bike lines.

Impact T-5 in Section 4.12, *Transportation and Traffic*, of the Draft EIR discussed the project-related impacts on the pedestrian and bicycle network in the study area. Potential impacts include disruptions to existing facilities, interference with planned facilities, and conflicts with adopted plans, guidelines, policies, or standards relating to pedestrian and bicycle facilities. The analysis states that the Project's connection to the Downtown Burbank Metrolink Station would introduce new pedestrian and bicycle trips that would be required to cross North Front Street from the Project site, where there are currently no signalized intersections or crossings. Because of the high posted speed limit of 40 miles per hour (mph) on North Front Street and the anticipated increase in pedestrian and bicyclist activity at this location due to the Project, the Project would create a potentially significant impact at this location. However, the Draft EIR includes Mitigation Measure T-5a (Bicycle and Pedestrian Access) which requires installation of ADA curb ramps, crosswalks, and a rectangular rapid flashing beacon (RRFB) at the northernmost driveway of the Downtown Burbank

Metrolink Station to provide access to the station for pedestrians and bicyclists; and Mitigation Measure T-5b (ADA Access) which requires installation of a pedestrian crosswalk at Front Street at the northernmost driveway of the Downtown Burbank Metrolink Station directly south of the Magnolia Boulevard overcrossing. The crosswalk shall include appropriate signage and a RRFB. The widened sidewalk along the eastern edge of Front Street shall also be extended south of the Project site to the Downtown Burbank Metrolink Station. Upon compliance with these measures, the Project would minimize disruption to existing pedestrian facilities and comply with the City's Bicycle Master Plan; potential impacts would be less than significant. In addition, refer to Response A-8.3 for the Project elements that contribute to a transit-supportive development.

### **Response A-8.7**

The commenter would like to inform the applicant of Metro's employer transit pass programs and provides details for more information.

This comment is noted but does not pertain to the adequacy of the Draft EIR and raises no environmental issues specific to the proposed Project. No further response is warranted.

### **Response A-8.8**

The commenter states a Transportation Impact Analysis (TIA) is required under the State Congestion Management Program statute. The commenter provides a summary of the requirements for the geographic area examined in the TIA, which include arterial monitoring intersections, arterials segments, and freeway-monitoring locations, along with coordination with Caltrans during the Notice of Preparation (NOP) process to identify any other locations. The commenter also states that analysis of roadways and transit must be provide in the TIA. If the TIA identifies no facilities for study, no further analysis is required. However, an analysis of transit impacts still must be considered.

The DEIR includes the requested analysis that is based on Fehr & Peers' *777 N Front Street Project Transportation Impact Analysis* (refer to Appendix J-1 of the Draft EIR). Section 7, *Congestion Management Program Analysis*, of the TIA complies with the requirements listed by the commenter. The TIA found that none of the study area intersections are CMP arterial monitoring locations and no CMP arterial analysis is required.

For the freeway-monitoring locations, regional access to the Project site is provided by Interstate 5 (I-5), State Route (SR) 170, and SR 134 Freeways. The analysis found that fewer than 150 trips would be added during the AM or PM peak hours in either direction at any of the freeway segments near the study area. Therefore, no further analysis of the freeway segments is required for CMP purposes.

Caltrans is on the distribution list for the Project. A letter from Caltrans was received on May 1, 2018 during the NOP process (see Appendix A-3 of the Draft EIR), which identifies I-5 and states the existing and future scenario for traffic volumes at the northbound and southbound, on/off-ramps at West Burbank and North Front Street should be analyzed. The TIA includes this analysis.

The TIA also provides an estimate of the potential increases in transit person trips generated by the proposed Project, which is approximately one percent of available transit capacity during the peak hours. Based on this estimate, the Project impact to transit operations is expected to be less than significant.

### **Response A-8.9**

The commenter provides contact information for any questions, and provides the CMP guidelines and SCCRA comment letter as attachments.

The contact information is noted but does not pertain to the adequacy of the Draft EIR. Refer to Response A-8.8 for the Project TIA's compliance with the CMP guidelines. Letter A-4, above, consists of the SCCRA letter and responses.

**DEPARTMENT OF TRANSPORTATION**  
DISTRICT 7- OFFICE OF REGIONAL PLANNING  
100 S. MAIN STREET, SUITE 100  
LOS ANGELES, CA 90012  
PHONE (213) 897-6536  
FAX (213) 897-1337  
TTY 711  
www.dot.ca.gov

**Letter A-9**



*Making Conservation  
a California Way of Life.*

May 7, 2019

Leonard Bechet  
Senior Planner  
Community Development Department  
City of Burbank  
150 N. Third Street  
Burbank, CA 91502

RE: 777 N Front Street  
SCH# 2018041012  
GTS# 07-LA-2018-02381  
Vic. LA-5/ PM 29.727

Dear Mr. Bechet:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above referenced project. The project site is located on an 8-acre, irregularly shaped parcel located along Front St in the city of Burbank. The proposed project would involve clearing and excavation of the site for development of a mixed-use project that would include 572 residential units, 1,067 sf of retail gallery space, and 317 hotel rooms with ground floor and rooftop retail/restaurant uses. The project would be developed over three separate buildings a 7-story building, an 8-story building, and a 15-story building. The project would include 1,462 parking spaces, a publicly accessible plaza and pedestrian bridge that connects the plaza to Magnolia Blvd and Downtown Burbank on city-owned land immediately south of the project site.

A-9.1

As Caltrans continues to strive to improve its standards and processes to provide flexibility while maintaining safety and integrity of the State's transportation system. It is our goal to implement strategies that are in keeping with our mission statement, which is to "provide a safe, sustainable, integrated, and efficient transportation system to enhance California's economy and livability." After reviewing the Draft Environmental Impact Report (DEIR), Caltrans has the following comments:

Caltrans acknowledges and agrees that the proposed project will have significant impacts to Interstate 5 on and off-ramps in the vicinity of the project. The DEIR mentions potential mitigation efforts to alleviate traffic flow at these on and off-ramps. Please provide detailed projections and studies of mitigation impacts to further analyze effects to Caltrans facilities.

A-9.2

An encroachment permit will be required for any project work proposed or in the vicinity of the Caltrans Right of Way and all environmental concerns must be adequately

A-9.3

*"Provide a safe, sustainable, integrated and efficient transportation system  
to enhance California's economy and livability"*

Mr. Bechet  
May 7, 2019  
Page 2

addressed. Please note that any modifications to the State facility (I-5) will be subject to additional review by the Office of Permits prior to issuance of the permit.

A-9.3 (cont'd)

Due to the scope of the project and the proximity to Caltrans facilities, we encourage the lead agency to coordinate and cooperate with Caltrans in order to best identify solutions and improvements in the project area. Please contact Caltrans to explore and develop these reasonable measures and plans.

A-9.4

Additionally, we encourage the Lead Agency to consider any reduction in vehicle speeds in order to benefit pedestrian and bicyclist safety, as there is a direct link between impact speeds and the likelihood of fatality. Methods to reduce pedestrian and bicyclist exposure to vehicles improve safety by lessening the time that the user is in the likely path of a motor vehicle. These methods include the construction of physically separated facilities such as sidewalks, raised medians, refuge islands, and off-road paths and trails, or a reduction in crossing distances through roadway narrowing.

A-9.5

Pedestrian and bicyclist warning signage, flashing beacons, crosswalks, and other signage and striping should be used to indicate to motorists that they should expect to see and yield to pedestrians and bicyclists. Formal information from traffic control devices should be reinforced by informal sources of information such as lane widths, landscaping, street furniture, and other road design features.

Furthermore, any transportation of heavy construction equipment and/or materials which requires use of oversized-transport vehicles of State highways will need a Caltrans transportation permit. We recommend large size truck trips be limited to off-peak commute periods.

A-9.6

Also, storm water run-off is a sensitive issue for Los Angeles and Ventura counties. The project need to be designed to discharge clean run-off water. The completed project could incorporate green design elements that can capture storm water. Incorporating measures such as permeable pavement, landscaping, and trees to reduce urban water run-off should be considered.

A-9.7

We look forward to your cooperation and reviewing any proceeding documents related to this project. If you have any questions, please contact project coordinator Mr. Carlo Ramirez, at [carlo.ramirez@dot.ca.gov](mailto:carlo.ramirez@dot.ca.gov) and refer to GTS# 07-LA-2018-02381.

A-9.8

Sincerely,



MIYA EDMONSON  
IGR/CEQA Branch Chief  
Cc: Scott Morgan, State Clearinghouse

*"Provide a safe, sustainable, integrated and efficient transportation system  
to enhance California's economy and livability"*

## Letter A-9

**COMMENTER:** Miya Edmonson, IGR/CEQA Branch Chief, California Department of Transportation

**DATE:** May 7, 2019

### Response A-9.1

The commenter summarizes the characteristics of the Project, provides Caltrans' mission statement, and states that the letter provides their comments on the Draft EIR.

These comments are noted, and responses to the commenter's individual comments are provided below.

### Response A-9.2

The commenter states they agree that the Project will have significant impacts to I-5 on- and off-ramps, and requests detailed projections and studies of mitigation impacts to further analyze effects to Caltrans facilities.

Section 5 of the TIA (Appendix J-1 of the Draft EIR) provides an analysis of the proposed mitigation measures, along with conceptual drawings of the mitigation measures for Intersection 9 (Interstate 5 Southbound Ramps/Front Street & Burbank Boulevard) and Intersection 18 (Victory Boulevard & Olive Avenue). The *Highway Capacity Manual* level of service analysis of the proposed partial mitigation is shown for informational purposes in Table 12 with analysis sheets shown in Appendix B of the TIA. In addition, as discussed in Response A-1.3 in Section 3, *Responses to Comments on the Recirculated Draft EIR*, an analysis of the southbound on ramps from Burbank Boulevard and Front Street shows that the existing and projected volumes do not exceed the maximum capacity of the ramp meters. However, should a situation occur where queuing affects the local street, Caltrans has the ability to adjust the ramp meter flow rates to better manage the traffic. This analysis also accounts for the new ramp configurations that are under construction as part of the Interstate 5 North HOV/Empire Interchange Project.

### Response A-9.3

The commenter states an encroachment permit will be required for any project work proposed or in the vicinity of the Caltrans ROW. Any modification to ROW will be subject to additional review by the Office of Permits.

Mitigation Measure T-1a is included for traffic impacts at the I-5 southbound off-ramp/N Front Street and Burbank Boulevard. This intersection is under the jurisdiction of Caltrans and would therefore require Caltrans approval. In addition, Noise PDF-2 (Sound Wall) includes a Sound Wall located on either ROW or on the Project site and City ROW adjacent to southbound I-5. If located in the Caltrans ROW, final design and construction of the Sound Wall is subject to review and approval by Caltrans. Upon approval of the Project, the City and applicant will coordinate with Caltrans for all necessary permits.

### Response A-9.4

The commenter encourages the City to coordinate and cooperate with Caltrans to explore and develop reasonable measures and plans.

Refer to Response A-9.3. This comment is noted but does not pertain to the adequacy of the Draft EIR and raises no environmental issues specific to the proposed Project. No further response is warranted.

### **Response A-9.5**

The commenter encourages the City to consider any reduction in vehicle speeds to benefit pedestrian and bicyclist safety. The commenter provides methods including construction of physically separated facilities, such as sidewalks, raised medians, refuge islands, and off-road paths and trails, or a reduction in crossing distances through roadway narrowing. The commenter also states pedestrian and bicyclist warning signage, flashing beacons, crosswalks and other signage should be used to for safety.

Mitigation Measures T-5a (Bicycle and Pedestrian Access) requires a Class IV cycle track shall be installed on the eastern side of Front Street along with an 11 foot pedestrian path of travel from the Project site to the Downtown Burbank Metrolink Station's northernmost driveway. The measure also requires Project installation of ADA curb ramps, crosswalks, and rectangular rapid flashing beacons at the northernmost driveway of the Downtown Burbank Metrolink Station to provide access to the station for pedestrians and bicyclists. Mitigation Measure T-5b (ADA Access) requires installation of a pedestrian crosswalk at Front Street at the northernmost driveway of the Downtown Burbank Metrolink Station directly south of the Magnolia Boulevard overcrossing. Implementation of these measures would benefit pedestrian and bicyclist safety.

### **Response A-9.6**

The commenter states transportation of heavy construction equipment or materials will require a Caltrans transportation permit.

The applicant will obtain all necessary Caltrans' permits. This comment is noted but does not pertain to the adequacy of the Draft EIR and raises no environmental issues specific to the proposed Project. No further response is warranted.

### **Response A-9.7**

The commenter states the Project needs to be designed to discharge clean run-off water, and incorporating green design elements that capture stormwater to reduce urban water run-off should be considered.

As discussed in Section 4.7, *Hydrology and Water Quality*, of the Draft EIR, the Project would require implementation of Best Management Practices (BMPs) to reduce polluted runoff from the Project site by retaining and treating polluted runoff on-site. Development of the Project would be required to comply with applicable regulations, standards, and policies that would prevent violations of water quality standards and waste discharge requirements. In addition, Hydrology PDF 1 and Hydrology PDF 2 proposed by the applicant would address potential impacts associated with stormwater runoff and water quality through implementation of a Low Impact Development Plan and a Soil Management Plan. All PDFs would also be incorporated into the Development Agreement review process as Conditions of Approval.

**Response A-9.8**

The commenter provides contact information for any questions.

The contact information is noted but does not pertain to the adequacy of the Draft EIR. No further response is warranted.



Letter O-1



T 510.836.4200 | 1939 Harrison Street, Ste. 150 | www.lozeaudrury.com  
F 510.836.4205 | Oakland, CA 94612 | richard@lozeaudrury.com

*Via Email and U.S. Mail*

April 2, 2019

Leonard Bechet, Senior Planner  
Community Development Dept.  
City of Burbank  
Community Services Building, First Floor  
150 N. Third Street  
Burbank, CA 91502  
[lbechet@burbankca.gov](mailto:lbechet@burbankca.gov)

Patrick Prescott, Director  
Community Development Dept.  
City of Burbank  
Community Services Building, Second Floor  
150 North Third Street  
Burbank, CA 91502  
[pprescott@burbankca.gov](mailto:pprescott@burbankca.gov)

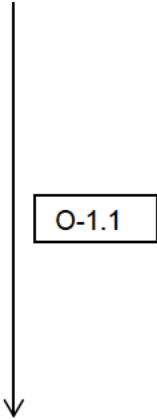
Zizette Mullins, City Clerk  
Office of the City Clerk  
City of Burbank  
275 East Olive Avenue  
P.O. Box 6459  
Burbank, CA 91510  
[zmullins@burbankca.gov](mailto:zmullins@burbankca.gov)

Re: **CEQA and Land Use Notice Request for the project known as 777 North Front Street (State Clearinghouse #2018041012)**

Dear Mr. Bechet, Mr. Prescott, and Ms. Mullins:

I am writing on behalf of the Supporters Alliance For Environmental Responsibility ("SAFER") regarding the Draft Environmental Impact Report ("DEIR") prepared for the Project known as 777 Front Street (State Clearinghouse #2018041012), including all actions related or referring to the proposed clearing and excavation of a project site and construction of three multistory buildings including one 279,162 square-foot, seven-story residential building containing 252 units, one 346,644 square-foot, eight-story residential building containing 321 units, and one 212,250 square-foot, seven story hotel building at the southeastern end of the Project site containing 307 hotel rooms, with a total of 1,454 onsite parking spaces located at 777 North Front Street in the City of Burbank, California ("Project").

We hereby request that the City of Burbank ("City") send by electronic mail, if possible or U.S. mail to our firm at the address below notice of any and all actions or hearings related to activities undertaken, authorized, approved, permitted, licensed, or certified by the City and any of its subdivisions, and/or supported, in whole or in part, through contracts, grants, subsidies, loans or other forms of assistance from the City, including, but not limited to the following:



April 2, 2019  
CEQA and Land Use Notice Request for the project known as 777 North Front Street (State Clearinghouse #2018041012)  
Page 2 of 3

- Notice of any public hearing in connection with the Project as required by California Planning and Zoning Law pursuant to Government Code Section 65091.
- Any and all notices prepared for the Project pursuant to the California Environmental Quality Act (“CEQA”), including, but not limited to:
  - Notices of any public hearing held pursuant to CEQA.
  - Notices of determination that an Environmental Impact Report (“EIR”) is required for the Project, prepared pursuant to Public Resources Code Section 21080.4.
  - Notices of any scoping meeting held pursuant to Public Resources Code Section 21083.9.
  - Notices of preparation of an EIR or a negative declaration for the Project, prepared pursuant to Public Resources Code Section 21092.
  - Notices of availability of an EIR or a negative declaration for the Project, prepared pursuant to Public Resources Code Section 21152 and Section 15087 of Title 14 of the California Code of Regulations.
  - Notices of approval and/or determination to carry out the Project, prepared pursuant to Public Resources Code Section 21152 or any other provision of law.
  - Notices of approval or certification of any EIR or negative declaration, prepared pursuant to Public Resources Code Section 21152 or any other provision of law.
  - Notices of determination that the Project is exempt from CEQA, prepared pursuant to Public Resources Code section 21152 or any other provision of law.
  - Notice of any Final EIR prepared pursuant to CEQA.
  - Notice of determination, prepared pursuant to Public Resources Code Section 21108 or Section 21152.

O-1.1  
Cont.

Please note that we are requesting notices of CEQA actions and notices of any public hearings to be held under any provision of Title 7 of the California Government Code governing California Planning and Zoning Law. **This request is filed pursuant to Public Resources Code Sections 21092.2 and 21167(f), and Government Code Section 65092**, which require local counties to mail such notices to any person who has filed a written request for them with the clerk of the agency’s governing body.

In addition, we request that the City send to us via email or U.S. Mail a copy of all Planning Commission and City Council meeting and/or hearing agendas.

Please send notice by electronic mail, if possible or U.S. mail to:

Richard Drury  
Komalpreet Toor  
Hannah Hughes  
Lozeau Drury LLP  
1939 Harrison Street, Suite 150  
Oakland, CA 94612  
[richard@lozeaudrury.com](mailto:richard@lozeaudrury.com)  
[komal@lozeaudrury.com](mailto:komal@lozeaudrury.com)  
[hannah@lozeaudrury.com](mailto:hannah@lozeaudrury.com)

Please call if you have any questions. Thank you for your attention to this matter.

City of Burbank  
**777 North Front Street Project**

April 2, 2019  
CEQA and Land Use Notice Request for the project known as 777 North Front Street (State  
Clearinghouse #2018041012)  
Page 3 of 3

Sincerely,



Komalpreet Toor  
Legal Assistant  
Lozeau | Drury LLP



O-1.1  
Cont.

## Letter O-1

**COMMENTER:** Komalpreet Toor, Lozeau Drury LLP, on behalf of Supporters Alliance for Environmental Responsibility

**DATE:** April 2, 2019

### **Response O-1**

The commenter accurately restates the project description for the proposed Project, as described in the Draft EIR. The commenter requests that the City of Burbank send all notices actions or hearings related to the Project to the address and/or email address provided at the end of the comment letter.

The City complied with this request and added the commenter to the Project's distribution list. The Recirculated Draft EIR was sent to the commenter and they will receive all future Project notices.



T 510.836.4200  
F 510.836.4205

1939 Harrison Street, Ste. 150  
Oakland, CA 94612

www.lozeaudrury.com  
richard@lozeaudrury.com

Letter O-2

*Via Email and U.S. Mail*

April 2, 2019

Leonard Bechet, Senior Planner  
Community Development Dept.  
City of Burbank  
Community Services Building, First Floor  
150 N. Third Street  
Burbank, CA 91502  
[lbechet@burbankca.gov](mailto:lbechet@burbankca.gov)

Patrick Prescott, Director  
Community Development Dept.  
City of Burbank  
Community Services Building, Second Floor  
150 North Third Street  
Burbank, CA 91502  
[pprescott@burbankca.gov](mailto:pprescott@burbankca.gov)

Zizette Mullins, City Clerk  
Office of the City Clerk  
City of Burbank  
275 East Olive Avenue  
P.O. Box 6459  
Burbank, CA 91510  
[zmullins@burbankca.gov](mailto:zmullins@burbankca.gov)

Re: Comment on Draft Environmental Impact Report, 777 North Front Street  
(State Clearinghouse #2018041012)

Dear Mr. Bechet, Mr. Prescott, and Ms. Mullins:

I am writing on behalf of Supporters Alliance For Environmental Responsibility (“SAFER”) regarding the Draft Environmental Impact Report (“DEIR”) prepared for the Project known as 777 North Front Street (State Clearinghouse #2018041012), including all actions related or referring to the proposed clearing and excavation of a project site and construction of three multistory buildings including one 279,162 square-foot, seven-story residential building containing 252 units, one 346,644 square-foot, eight-story residential building containing 321 units, and one 212,250 square-foot, seven story hotel building at the southeastern end of the Project site containing 307 hotel rooms, with a total of 1,454 onsite parking spaces located at 777 North Front Street in the City of Burbank, California (“Project”).

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

O-2.1



April 2, 2019


SAFER Comment on Draft Environmental Impact Report, 777 North Front Street (State Clearinghouse #2018041012)

Page 2 of 2

impacts. SAFER request that the Community Development Department address these shortcomings in a revised draft environmental impact report ("RDEIR") and recirculate the RDEIR prior to considering approvals for the Project. We reserve the right to supplement these comments during review of the Final EIR for the Project and at public hearings concerning the Project. *Galante Vineyards v. Monterey Peninsula Water Management Dist.*, 60 Cal. App. 4th 1109, 1121 (1997).

O-2.1  
Cont.

Sincerely,



Richard T. Drury  
Lozeau Drury LLP  
Attorneys for SAFER

## Letter O-2

**COMMENTER:** Richard T. Dury, Lozeau Drury LLP, on behalf of Supporters Alliance for Environmental Responsibility

**DATE:** April 2, 2019

### Response O-2.1

The commenter accurately restates the project description for the proposed Project, as described in the Draft EIR. The commenter concludes that the EIR fails as an informational document and fails to impose all feasible mitigation measures to reduce the Project's impacts. The commenter, on behalf of "Supporters Alliance for Environmental Responsibility" ("SAFER") requests that the Community Development Department address the shortcomings in a revised Draft EIR and recirculate the Draft EIR prior to considering approvals for the Project. The commenter states that they reserve the right to supplement comments during public hearings discerning the Project.

The commenter does not provide any details as to why and where the Draft EIR fails as an informational document or fails to impose all feasible mitigation measures to reduce project impacts. The commenter is correct that the Project may have adverse environmental impacts and, consistent with the analysis in Sections 4.1 through 4.13 of the Draft EIR, identified potential adverse impacts that have been mitigated to less than significant levels (Section 4.2, *Air Quality*, Section 4.3, *Cultural Resources*, Section 4.6, *Hazards and Hazardous Materials*, Section 4.9, *Noise*, and Section 4.12, *Transportation and Traffic*). The Draft EIR discloses that one impact identified in Section 4.12, *Transportation and Traffic*, would remain significant and unavoidable despite implementation of mitigation. In addition, in response to comments provided on the Draft EIR, Section 4.2, *Air Quality*, Section 4.5, *Greenhouse Gas Emissions*, and Appendix E, *Air Quality and Greenhouse Gas Study*, of the Draft EIR were recirculated on July 1, 2019. As the commenter does not provide specific inadequacies in the Draft EIR, no further response is warranted.

Letter O-3



WARNER BROS.  
ENTERTAINMENT INC.

Michael Walbrecht  
Vice President  
Public Affairs

April 17, 2019

Mr. Leonard Bechet  
City of Burbank, Planning Division  
150 N. Third Street  
Burbank, CA 91502-1264  
Via email: [lbechet@burbankca.gov](mailto:lbechet@burbankca.gov)

**Re: Support for LaTerra Development Project – 777 N. Front Street**

Dear Leonard:

I am writing to voice support for the proposed LaTerra Select Burbank development project located at 777 N. Front Street. We believe there is an insufficient number of housing opportunities in Burbank and LaTerra is a piece of the puzzle towards a long-term solution.

As you know, Warner Bros. just announced our Second Century Project, which will see us consolidate and grow in our hometown over the next five years, but this will serve to highlight the shortcomings of the housing sector in the city if more workforce housing is not approved that local employees can access.

The LaTerra development provides 573 LEED-rated, market-rate and affordable rental units, a 307-room hotel, public plaza, and onsite parking right next to mass transit, and is within walking distance of downtown, all on a parcel that has been underutilized for more than two decades.

To tackle such a large and important issue as this one, the City must commit to approving smartly designed housing projects or this chronic problem will only continue to grow. Approval of LaTerra is a step in the right direction for the City, its residents and its businesses.

Sincerely,

A handwritten signature in blue ink, appearing to read 'M. Walbrecht'.

Michael Walbrecht

O-3.1

A Time Warner Company

4000 Warner Boulevard, Burbank, California 91522  
(818) 954-1910 • Fax (818) 954-2409 • [michael.walbrecht@warnerbros.com](mailto:michael.walbrecht@warnerbros.com)



## Letter O-3

**COMMENTER:** Michael Walbrecht, Vice President, Public Affairs, Warner Bros. Entertainment, Inc.

**DATE:** April 17, 2019

### **Response O-3.1**

The commenter states their support for the Project. The commenter believes that there are insufficient housing opportunities in Burbank and that development of the Project would help alleviate workforce housing issues. In addition, the commenter notes that Project would encourage public transit ridership and pedestrian accessibility due to its location to Downtown Burbank and the Metrolink station.

The commenters support is noted. This comment raises no environmental issues specific to the proposed Project. No further response is warranted.

Letter O-4

GIDEON KRACOV
Attorney at Law
801 South Grand Avenue
11th Floor
Los Angeles, California 90017

(213) 629-2071
Fax: (213) 623-7755

gk@gidconlaw.net
www.gidconlaw.net

May 6, 2019

VIA EMAIL:

Leonard Bechet
Community Development Department
City of Burbank
150 N. Third Street PO Box 6459
Burbank, CA 91510-6459
lbechet@burbankca.gov

Re: Comments on the 777 North Front Street Project (Project No. 170001265);
Draft EIR (SCH # 2018041012);

Dear Mr. Bechet:

On behalf of UNITE HERE Local 11 ("Local 11") and residents Cristian Castillo and Benito Soto (collectively or "Commentors"), this Office respectfully provides the City of Burbank ("City") the following comments regarding the Draft Environmental Impact Report ("DEIR")<sup>1</sup> and requested land use approvals ("Entitlements") (collectively "Project Approvals") for the referenced mixed-use development ("Project") located on a 6.77-acre site within the City ("Site") proposed by La Terra Development ("Applicant"). Commentors are concerned with the Project's compliance with the California Environmental Quality Act, Pub. Res. Code § 21000 et seq., ("CEQA") and the Burbank Municipal Code ("BMC" or "Code").

Local 11 works to make our region and the City a place of opportunity for all – a place where its members can work and afford to live. Local 11 and its hundreds of members who live or work in the Burbank area join together to advocate for improved land use and housing policies. Commentors, therefore, are concerned that this Project lacks sufficient affordable housing, particularly as it relates to low- and very-low-income levels which the City admits it desperately needs. Additionally, as fully discussed in the attached expert environmental comments of SWAPE (attached hereto as Exhibit A), the DEIR understates the Project's various air quality and greenhouse gas ("GHG") impacts—such as the DEIR's reliance on the City's outdated, unmonitored Greenhouse Gas Reduction Plan ("GGRP") adopted in 2013. Furthermore, due to the DEIR's flawed analysis, it fails to provide a reasonable range of alternatives, such as an alternative that provides greater commitments to affordable housing, which will have the co-benefit of reducing the Project's mobile emissions (i.e., air quality, GHG, traffic impacts).

O-4.1

<sup>1</sup> Inclusive of the all appendices ("APP-##"). Unless other specified, all documents are retrieved from City website (https://www.burbankca.gov/departments/community-development/planning/current-planning/777-front-street). Furthermore, please note that pages cited herein are either to the page's stated pagination (referenced herein as "p. ##") or the page's location in the referenced PDF document (referenced herein as "PDF p. ##").



*These Project Approvals are discretionary, not by right.* The Project's affordable housing plan inconsistencies and GHG analysis must be better identified and adequately addressed in order to make the required City Zoning Code findings. The Project's lack of sufficient affordable housing and the City's failure to effectively, monitor, update, and track its GGRP concern Commentors. Absent compliance with the issues addressed herein, the Project's Entitlements and DEIR should be denied.

O-3.1  
(cont'd)

#### I. STANDING OF COMMENTORS

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 Burbank, 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.

Ms. Castillo and Mr. Soto both live within a half-mile of the Site and frequent the immediately adjacent area almost daily including neighboring restaurants, grocery stores, coffee shops, and public parks. 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."); BMC §§ 9-3-108, 10-1-1907.2.B, 10-1-1907.3.B, 10-1-1910.A, 10-1, 1911.A ("any interested party" may appeal an environmental decision and "any person" may appeal a decision regarding land use entitlements).

O-3.2

Commentors have public interest standing given the 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.

O-4.2  
(cont'd)

**II. PROJECT BACKGROUND**

The Applicant is proposing the redevelopment of the 6.77-acre Site surrounded by commercial and industrial zones with the Interstate 5 Freeway to the northeast and the Downtown Burbank Metrolink Station to the southwest of the Project Site. The subject property is located in the Burbank Center Plan with a land use designation of Mixed Commercial/Office/Industrial and a zoning designation of Auto Dealership (DEIR, p. ES:1).<sup>2</sup> The Project includes 1,537 parking stalls and 965,623 square feet ("SF") of residential, hotel, retail, and open space amenity construction, including:

O-4.3

- A 7-story, 272,162-SF building containing a total of 252 residential units;
- An 8-story, 346,644-SF building containing a total of 321 residential units;
- 1,067-SF of commercial retail space;
- A 7-story, 212,250-SF hotel with 307 hotel rooms; and
- A total of 1,537 parking spaces in an integrated parking structure with one level of subterranean parking and up to 7-levels of above grade parking (DEIR, pp. ES:2-3, 2:15-16).

**III. PROJECT LACKS SUFFICIENT AFFORDABLE HOUSING**

Here, the Project includes 573 apartment units comprised of a mix of studios, one-bedroom, two-bedroom, and three-bedroom units, with *potentially* 12 percent of the apartment units as deed restricted to be maintained affordable to *moderate-income* households for no less than fifty-five years (DEIR, p. 4.8-18). In addition to the Project, the DEIR evaluated several project alternatives (DEIR, pp. ES:6-7.), including a reduced density alternative (45 percent reduction in all land uses proposed), which would also potentially have 12 percent of the units restricted to affordable at moderate income level (id. at p. 6:30). However, no alternative was considered focusing on more profound strides of affordability, particularly for low- or very-low-income levels, which is desperately needed (as discussed below).

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First, it must be noted that neither the DEIR's project design features nor mitigation measures commit the Applicant to provide any percentage, let alone 12 percent, of the units to affordability. Whatever level of affordability is assumed in the DEIR, it must be made enforceable via a specific condition of approval that will bind the Applicant and its successors in interest.

Second, while the DEIR discloses the City's most recent Regional Housing Needs Allocation ("RHNA") requirements for the 2014-2021 planning period (DEIR, pp. 4.10:3), the DEIR fails to disclose the City's track record of providing its fair share of housing at all income levels. According to the most recent General Plan Annual Implementation and Housing Element Annual Progress

<sup>2</sup> See also City (2019) Aerial of Project Site, <https://www.burbankca.gov/home/showdocument?id=47493>.





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Report, the City is not on track of meeting its affordability housing goals. More than half-way into the planning period, the City must still come up with 683 very-low-income units (98 percent of its 694 RHNA allocation) and 393 low-income units (95 percent of its RHNA allocation) (see excerpt below):

**FIGURE 1: 2018 HOUSING ELEMENT<sup>3</sup>**

Income Level		RHNA Allocation by Income Level (2014-2021)	2014	2015	2016	2017	2018	Total Units to Date (all years)	Total Remaining RHNA by Income Level
Very Low	Deed Restricted	694		11				11	683
	Non-Deed Restricted								
Low	Deed Restricted	413					20	20	393
	Non-Deed Restricted								
Moderate	Deed Restricted	443					6	6	437
	Non-Deed Restricted								
Above Moderate		1134	19	14	275	17	35	360	774
<b>Total RHNA Allocation</b>		<b>2684</b>							
<i>subtotals</i>			19	25	275	17	61	397	2287

O-4.4

Thus, even if all 155 project applications submitted in 2018 were approved, only seven low-income and 228 moderate-income units would be created, inclusive of this Project's 69 moderate-income units.<sup>4</sup> This is inadequate for such a large and opportune Site such as this Project – given the City is admittedly mostly built-out with few remaining vacant parcels for future development (DEIR, p. 4.10:6). For example, the Project Site is identified as one of ten opportunity sites under the Burbank Center Plan ("Specific Plan") that could serve as catalysts for future development (DEIR, pp. 4.1:10-11; Specific Plan,<sup>5</sup> pp. 13-15; Specific Plan Appendix A,<sup>6</sup> PDF pp. 8-40). However, most of the opportunity sites have been redeveloped with mostly commercial uses (e.g., office use, Ikea, AMC theater on opportunity sites 3, 6, and 10a [respectively]); and with seemingly no low- or very-low-income housing. *This begs the question, if not on this Project Site, how does the City reasonably expect to locate its 1,076 low- and very-low-income housing in time to meet its 2021 RHNA requirements?*

Third, the City and greater Los Angeles area is suffering an affordability housing crisis. According to the UCLA Ziman Center, Los Angeles housing prices have grown about four times faster than incomes since 2000 and "affordable housing production and preservation needs to accelerate."<sup>7</sup> Los Angeles 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

<sup>3</sup> Burbank Community Development (3/19/19) Staff Report: 2018 General Plan Annual Implementation Progress Report and 2018 Housing Element Annual Progress Report, p. 4.

[https://burbank.granicus.com/Viewer.php?view\\_id=42&clip\\_id=8610&meta\\_id=350702](https://burbank.granicus.com/Viewer.php?view_id=42&clip_id=8610&meta_id=350702).

<sup>4</sup> *Ibid.*, Appendix B, PDF p. 2, 20.

[https://burbank.granicus.com/Viewer.php?view\\_id=42&clip\\_id=8610&meta\\_id=350704](https://burbank.granicus.com/Viewer.php?view_id=42&clip_id=8610&meta_id=350704).

<sup>5</sup> <https://www.burbankca.gov/home/showdocument?id=2627>.

<sup>6</sup> <https://www.burbankca.gov/home/showdocument?id=2626>.

<sup>7</sup> <http://www.anderson.ucla.edu/Documents/areas/cts/ziman/2014-08WPprev.pdf>.



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region for middle-class people seeking to buy a home.<sup>8</sup> Burbank City officials and staff are on record noting the City's affordability issues. When recommending low-income housing should be included in housing projects, Burbank Housing Authority Manager stated:

"When comparing housing costs and wages of our current residents and workforce, our community does not have housing to accommodate the large number of highly paid workers, let alone affordable housing options for lower- and moderate-income households ... almost 10,000 households pay more than 50% of their gross income on housing costs ... That is one in every four households."<sup>9</sup>

Fourth, the lack of affordable housing has a disparate effect on working-class communities who are forced to commute from further distances into the City.<sup>10</sup> Admittedly, the City is a "jobs rich" community in which more workers commute to the City from other communities for their jobs than residents commute to points outside the City for their jobs" (DEIR, p. 4.10:2). This, in turn, increases vehicle miles traveled ("VMT") which has an adverse impact on air quality, GHG emissions, and traffic. For these reasons, numerous studies have urged municipalities to increase affordable housing units near transit-oriented developments, like the Project here.<sup>11</sup>

Fifth, the Project's lack of affordable housing for low- and very-low-income levels is inconsistent with goals, policies, and standards under applicable the land use plans (many of which improperly are ignored or not identified in the DEIR), including but not limited to the following pages:

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O-4.4

<sup>8</sup> Los Angeles Times (1/11/15) L.A. has a serious housing crisis and it's time for city officials to do something about it <http://www.latimes.com/opinion/editorials/la-ed-affordable-housing-part-1-20150111-story.html>.

<sup>9</sup> Los Angeles Times (11/5/16) Rent and home prices in Burbank are higher than residents can afford, city official says. <https://www.latimes.com/social/burbank-leader/news/tn-blr-me-housing-20161104-story.html>.

<sup>10</sup> Brookings Institution (Feb. 2008) Commuting to Opportunity-The Working Poor and Commuting in the United States, p. 3. ("Households make trade-offs in housing and transportation expenses, spending more for housing located near jobs or choosing more affordable housing farther from jobs with higher transportation costs, including long and expensive commutes. A recent study by the Center for Housing Policy (CHP) finds that this trade-off between housing and transportation is disappearing for many; finding housing that a working family can afford—those that earn between the minimum wage and 120 percent of a median income—means commuting long distances to work."), <https://www.brookings.edu/wp-content/uploads/2016/06/0314-transportation-puentes.pdf>.

<sup>11</sup> National Center for Sustainable Transportation (Apr. 2017) Affordable Housing in Transit-Oriented Developments-Impacts on Driving and Policy Approaches, pp. iii, 3, 14 ("...the location of affordable housing near transit provides meaningful benefits, particularly for lower-income residents and transit operators ..."). <https://ncst.ucdavis.edu/wp-content/uploads/2015/10/NCST-TO-027-Boarnet-Bostic-Affordable-TOD-White-Paper-FINALv2.pdf>; California Housing Partnership Corporation (May 2014) Why Creating And Preserving Affordable Homes Near Transit Is A Highly Effective Climate Protection Strategy, p. 3 ("Lower income households drive 25-30% fewer miles when living within 1/2 mile of transit than those living in non-TOD areas ... This underscores why it is critical to ensure that low-income families can afford to live in these areas."); <http://www.transformca.org/sites/default/files/CHP%20TF%20Affordable%20TOD%20Climate%20Strategy%20BOOKLET%20FORMAT.pdf>.



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Burbank 2035 General Plan <sup>12</sup>
<b>Introduction</b>
Housing Variety: Burbank offers a wide range of housing to meet the needs of all age groups, family types, and income levels, as well as those with special housing needs.
<b>Land Use</b>
Policy 5.3: Provide more diverse housing opportunities, increase homeownership opportunities, and support affordable housing by encouraging alternative and innovative forms of housing.
Policy 5.5: Provide options for more people to live near work and public transit by allowing higher residential densities in employment centers such as Downtown Burbank and the Media District.
<b>Plan realization</b>
Program LU-10: Inter-Agency Consultation: Identify opportunities for public/private partnerships to provide affordable housing and/or address public and social needs.
<b>Housing Element<sup>13</sup></b>
Goal 2-Variety Of Housing Sites: Burbank seeks to provide housing sites that accommodate a range of housing types to meet the diverse needs of existing and future residents.
Goal 3-Affordable Housing: Burbank will assist in the development of housing affordable to all economic segments of the community.
Policy 3.1: Encourage the production of a variety of housing types to address the needs of lower (including extremely low), moderate, and upper-income households to maintain an economically diverse and balanced community.
Policy 3.3: Provide regulatory incentives and concessions to facilitate the development of affordable housing.
Policy 3.5: Encourage the development of affordable housing for large families and the disabled by providing specific incentives and concessions within the City's Inclusionary Housing Ordinance.

O-4.4

Sixth, the *DEIR's failure to adequately identify the Project's inconsistency with the abovementioned affordable housing provisions is fatal under CEQA*. 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).

Seventh, the Project requires numerous Entitlements (DEIR, p. ES-1-2, 2:31),<sup>14</sup> mandating discretionary land use findings. As such, *this Project is discretionary, not by right*. The City has the leverage to disapprove the Project or to ensure that it actually benefits the City through more affordable housing. Please use it.

<sup>12</sup> <https://www.burbankca.gov/home/showdocument?id=23448>.

<sup>13</sup> <https://www.burbankca.gov/home/showdocument?id=23868>.

<sup>14</sup> See also City (219) 777 Front Street, <https://www.burbankca.gov/departments/community-development/planning/current-planning/777-front-street>.





In sum, 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 for low- or very-low-income residents so that City residents like Commentors can afford to live there.

O-4.4  
(cont'd)

**IV. INADEQUATE ALTERNATIVES ANALYSIS**

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 “mis nomer” given they only advanced certain rapid bus projects, left rail/trolley projects largely unchanged, and provided no increased transit projects/services).

O-4.5

Here, the DEIR identified alternative 4 (the reduced density alternative) as the environmentally superior alternative (DEIR, p. 6:36). However, this conclusion is reached only because the DEIR improperly failed to identify land use impacts stemming from the Project’s lack of low- and very-low-income affordable housing discussed above, as well as air quality and GHG impacts discussed in the endorsed expert comment letter. The DEIR should have included an alternative that provided more affordable housing, including units for low- and very-low-income levels that represent a mix-income housing alternative. Such an alternative would also have the co-benefit of reducing VMTs and thus further mitigating mobile emissions (i.e., air quality, GHG, and traffic impacts). Furthermore, such an alternative would attain most of the Project objectives and purpose.

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#### V. THE PROJECT'S AIR QUALITY AND GHG IMPACTS ARE UNDERSTATED

As outlined in the May 6, 2019 SWAPE comment letter, attached hereto as Exhibit A and incorporated herein in its entirety by this reference, the DEIR does not adequately analyze the Project's complete air quality or GHG impacts. In short, SWAPE found that:

##### AIR QUALITY IMPACT:

- The DEIR used unsubstantiated input parameters when estimating the Project's air emissions, such as underestimating of the number of hauling truck trips expected to occur during grading.
- When correct, an updated analysis showed an 88 percent increase in construction-related NOx emissions, which exceed thresholds set forth by the South Coast Air Quality Management District ("SCAQMD").
- The DEIR does not adequately analyze through a health risk assessment ("HRA") whether the Project will expose residential sensitive receptors to substantial pollutant concentrations during Project construction and operation, including diesel particulate matter through the use of diesel-fueled construction equipment on-site.
- Upon conducting its own screening-level preliminary HRA, SWAPE found that the infant, child, and lifetime cancer risks exceed the SCAQMD threshold of 10 in one million.
- The DEIR fails to account for overlapping emissions when residential building 1 (phase 1) will likely be operational, and residential building 2 and the hotel is being constructed (phase 2 and 3). This must be analyzed in a revised modeling, or a condition that would bar operation until all phases of construction have been completed.

##### GHG IMPACT:

- The City has failed to update, monitor, or implement its Greenhouse Gas Reduction Plan ("GGRP")—a type of climate action plan ("CAP") used by the Applicant for streamline CEQA review—and no longer meets the requirements of CEQA Guidelines § 15183.5(h)(1)(E) that requires CAPs to be monitored and amended if the plan is not achieving specified GHG reduction levels.
- The 2013 GGRP is outdated and fails to account for the newer interim target of 40 percent reduction in GHG emissions compared to 1990 levels by 2030 under SB 32 made law in 2016, which is a "widely acknowledged as a necessary interim target to ensure that California meets its longer-range goal of reducing greenhouse gas emissions to 80 percent below 1990 levels by the year 2050." *Cleveland National Forest Foundation v. San Diego Assn. of Governments* ("Cleveland II") (2017) 3 Cal.5th 497, 519.
- The DEIR performs a perfunctory review of the Project's consistency with the City's GGRP and ignores numerous project-level mitigation measures found in the GGRP and other applicable plans, such as those under the California Air Resources Board ("CARB") 2017 Scoping Plan adopted in response to SB 32.
- Notwithstanding the Project's building efficiency measures, the Project fails to provide for additionality, as required under CEQA<sup>15</sup> and necessary for the State to meet its 2030 and

O-4.6

<sup>15</sup> See CEQA Guideline § 15064.4(b)(1); see also *Center for Biological Diversity v. Cal. Dept. of Fish and Wildlife* (2015) 62 Cal.4th 204, 226, 229.



2050 GHG goals according to CARB, which confirms that *California "is not on track" to meet GHG reductions expected under SB 375* (i.e., Sustainable Communities Strategy).<sup>16</sup>

- The DEIR fails to make a good-faith effort to disclose the Project's GHG emissions, as required by CEQA Guidelines § 15064.4. Buried in its appendices, the DEIR shows that the Project will result in 10,610 metric tons of carbon dioxide equivalents per year ("MTCO<sub>2</sub>e/yr") or 5.2 MTCO<sub>2</sub>e/yr per service population<sup>17</sup> ("MTCO<sub>2</sub>e/yr/sp"), which exceeds SCAQMD's project-level efficiency threshold of 4.8 and 5.2 MTCO<sub>2</sub>e/yr/sp for target years 2020 and 2035 (respectively)—thresholds proposed prior to the more aggressive targets adopted per SB 32.
- In the face of a facially outdated and unenforced CAP, the DEIR's failure to apply SCAQMD's efficiency threshold and find a significant GHG impacts amounts to a failure to evaluate cumulative GHG impacts consistent with evolving scientific knowledge and regulatory schemes—as required under CEQA. *See Cleveland II*, 3 Cal.5th at 504, 515, 518, 519.
- Due to the DEIR's flawed GHG analysis discussed above, the DEIR failed to recognize the Project's significant GHG impact or include a meaningful project alternative that would reduce said impacts, such as a project alternative that would include: more in the form of affordable housing, specified commitments to onsite renewable energy, an aggressive VMT reducing plan with generous public transit program, greater water efficiency requirements, and the possible utilization of carbon offsets via the State's Cap-n-Trade program.

O-4.6  
(cont'd)

**VI. STATEMENT OF OVERRIDING CONSIDERATION**

The DEIR admits, at a minimum, that the Project will have significant, unmitigated traffic 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).

O-4.7

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).

<sup>16</sup> CARB (Nov. 2018) 2018 Progress Report, p. 4-7 (emphasis added), [https://ww2.arb.ca.gov/sites/default/files/2018-11/Final2018Report\\_SBI50\\_112618\\_02\\_Report.pdf](https://ww2.arb.ca.gov/sites/default/files/2018-11/Final2018Report_SBI50_112618_02_Report.pdf).

<sup>17</sup> Service population includes residents, employees, and hotel guests served by the Project.



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.

O-4.7  
(cont'd)

Here, the DEIR only references the paltry affordable housing units—none of which are for low- or very-low-income levels. 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.

O-4.8

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.

## VII. CONCLUSION

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. Local 11, therefore, is a stakeholder in this Project, and its members including hundreds who live or work in the City, join together to fight for improved land use and housing policies. 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.

Again, the DEIR is fundamentally flawed because the DEIR fails to properly analyze the Project's land use, air quality, and GHG impacts; consider a reasonable range of alternatives, or provide sufficient information regarding a potential statement of overriding consideration. The Project Approvals are discretionary, not by right. Absent compliance with the issues addressed 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.

O-4.9

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).



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Finally, on behalf of Commentor, 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., 901 S. Grand Avenue, 11th Fl., Los Angeles, CA 90017, [gk@gideonlaw.net](mailto:gk@gideonlaw.net) (cc: [jordan@gideonlaw.net](mailto:jordan@gideonlaw.net)).

O-4.9  
(cont'd)

Sincerely,



\_\_\_\_\_  
Gideon Kracov  
Attorney for Commentors

Attachment:

Exhibit A: Expert Comment of SWAPE dated May 6, 2019



**Exhibit A**





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May 6, 2019

Leonard Bechet  
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**Subject: Comments on the 777 North Front Street Project (Draft EIR SCH # 2018041012)**

Dear Mr. Bechet,

We have reviewed the March 2019 Draft Environmental Impact Report (DEIR) for the 777 North Front Street Project (Project) located in the City of Burbank (City). The Project proposes to construct 573 residential units, a 307-room hotel, 1,067 square feet of retail gallery space, a 1,800 square foot restaurant, and 1,537 total parking spaces on the 8.09-acre site.

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

O-4.10

The remainder of this comment letter identifies specific issues with the DEIR.<sup>1</sup>

### Air Quality

#### Unsubstantiated Input Parameters Used to Estimate Project Emissions

The DEIR relies on emissions calculated from the California Emissions Estimator Model Version CalEEMod.2016.3.2 ("CalEEMod").<sup>2</sup> CalEEMod provides recommended default values based on site-specific information, such as land use type, meteorological data, total lot acreage, project type, and typical equipment associated with project type. If more specific project information is known, the user

O-4.11

<sup>1</sup> Please note that pages cited herein are either to the page’s stated pagination (referenced herein as “p. ##”) or the page’s location in the referenced PDF document (referenced herein as “pp. ##”).

<sup>2</sup> CalEEMod (Nov. 2017) User Guide, [http://www.aqmd.gov/docs/default-source/caleemod/01\\_user-39-s-guide2016-3-2\\_15november2017.pdf?sfvrsn=4](http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4).

can change the default values and input project-specific values, but the California Environmental Quality Act (CEQA) requires that such changes be justified by substantial evidence.<sup>3</sup> Once all of the values are inputted into the model, the Project's construction and operational emissions are calculated, and "output files" are generated. These output files disclose to the reader what parameters were utilized in calculating the Project's air pollutant emissions, and make known which default values were changed as well as provide justification for the values selected.<sup>4</sup>

When we reviewed the Project's CalEEMod output files, provided with the Air Quality and Greenhouse Gas Study ("AQ/GHG Study") in Appendix D, we found that some values inputted into the model were not consistent with information disclosed in the DEIR. As a result, the Project's construction emissions are underestimated. An updated DEIR should be prepared to include an updated air quality analysis that adequately evaluates the impacts that construction of the Project will have on local and regional air quality.

*Underestimation of the Number of Hauling Truck Trips Expected to Occur During Grading*  
 Review of the DEIR and the Project's CalEEMod output files reveals that an incorrect number of hauling truck trips was inputted into the air model for the grading phase of construction. As a result, construction emissions are significantly underestimated.

The DEIR states that the "entire Project site would be graded and approximately 90,000 cubic yards of cut soil would be exported from the Project site" (DEIR, p. ES-4). Additionally, according to the "User Entered Comments & Non-Default Data" table in the CalEEMod output files, the Applicant assumes a 24-cubic yard haul truck capacity would haul the waste to the Kettleman landfill (Appendix D, pp. 46, 89, 132). As a result, the Project Applicant models emissions assuming 3,750 round trips haul trucks would be required ((see excerpt below) (Appendix D, pp. 54, 97, 142).

O-4.11  
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**Trips and VMT**

Phase Name	Offroad Equipment Count	Worker Trip Number	Vendor Trip Number	Hauling Trip Number	Worker Trip Length	Vendor Trip Length	Hauling Trip Length	Worker Vehicle Class	Vendor Vehicle Class	Hauling Vehicle Class
Site Preparation	7	18.00	0.00	0.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Grading	6	15.00	0.00	3,750.00	14.70	6.90	190.00	LD_Mix	HDT_Mix	HHDT
Building Construction	9	779.00	204.00	0.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Paving	6	15.00	0.00	0.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Architectural Coating	1	166.00	0.00	0.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT

According to Appendix D, Kettleman landfill is approximately 170 miles away, then trucks must travel another 20 miles to the site (Appendix D, pp. 184). Therefore, 190 miles does not reflect the round-trip distance a hauling trucks would travel. This is confirmed by Google Maps which demonstrates that a haul route would be approximately 170 miles. As a result, the Project Applicant is only modeling half of

<sup>3</sup> *Ibid.*, p. 2, 9

<sup>4</sup> *Ibid.*, p. 7, 13. A key feature of the CalEEMod program is the "remarks" feature, where the user explains why a default setting was replaced by a "user defined" value. These remarks are included in the report.

the one-way trips required to haul the grading soil off-site. Instead, it is anticipated that the proposed Project will generate 7,500 one-way hauling truck trips during the grading phase of construction (DEIR, p. 2-17; Appendix D, pp. 184).<sup>5</sup> In order to accurately estimate emissions, the Applicant should have inputted this value into the CalEEMod model. Review of the model output files, however, demonstrates that the Applicant failed to account for all of the hauling trips required by the Project when estimating emissions

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As seen above, the Applicant only modeled half of the total hauling truck trips needed to remove all material during grading. As a result, the Project's construction-related emissions that will be generated during the grading phase of Project construction as a result of hauling trips are significantly underestimated and the air pollution model within the DEIR should not be relied upon to determine significance.

**Updated Analysis Indicates Significant Pollutant Emissions**

In an effort to accurately determine the Project's construction and operational emissions, we prepared an updated CalEEMod model that includes more site-specific information and corrected input parameters. In the updated model, we inputted a total of 7,500 hauling trips during the grading phase of construction to accurately reflect the export of 90,000 cubic yards of material.

When correct, site-specific input parameters are used to model emissions, we find that the Project's construction-related NOx emissions increase significantly when compared to the DEIR's model and exceeds the 100 pounds per day (lbs/day) thresholds set forth by the South Coast Air Quality Management District (SCAQMD) (see table below).<sup>6</sup>

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Maximum Daily Construction Emissions (lbs/day)	
Model	NOx
DEIR	129.2
SWAPE	243.5
<b>Percent Increase</b>	<b>88%</b>
SCAQMD Significance Threshold	100
<b>Exceed?</b>	<b>Yes</b>

<sup>5</sup> 90,000 CY material ÷ 24 CY capacity per hauling truck = 3,750 one-way trips. In order to calculate the total number of hauling truck trips needed to export the material, which includes a one-way trip to and from the Project site, we multiplied the number of hauling trips by 2, consistent with the CalEEMod User's Guide (3,750 one-way trips × 2 = 7,500 total hauling truck trips). *Ibid.*, p. 35.

<sup>6</sup> SCAQMD (Apr. 2019) South Coast AQMD Air Quality Significance Thresholds, <http://www.aqmd.gov/docs/default-source/ceqa/handbook/scaqmd-air-quality-significance-thresholds.pdf>.



When correct input parameters are used to model the Project's emissions, construction-related NOx emissions increase by approximately 88 percent, as well as exceed the SCAQMD's construction significance threshold of 100 lbs/day.

Our updated model demonstrates that when the Project's construction emissions are estimated correctly, the Project will result in a more significant air quality impact than stated in the DEIR. The Project proposes mitigation measure AQ-2 in an effort to reduce construction-related NOx emissions. Specifically, the DEIR states:

"Mitigation Measure AQ-2 requires the use of hauling trucks with engines having higher average total fuel efficiency... Using heavy duty truck engines with model years 2010 through 2018 would reduce maximum daily NOx emissions associated with hauling by approximately 56.8 lbs/day during the worst day from 114.3 lbs/day to 57.5 lbs/day, based on the calculation included in Appendix D. The combined maximum daily construction emissions on the worst day for offsite emissions sources, including hauling, and onsite sources would be 72.4 lbs/day of NOx, which would be below the threshold of 100 lbs/day of NOx. Because implementation of Mitigation Measure AQ-2 would reduce NOx emissions to be below SCAQMD thresholds, residual impacts would be less than significant" (DEIR, p. 4.2-15).

As the above excerpt demonstrates, the DEIR claims that mitigation measure AQ-2 would reduce construction-related NOx emissions to less than significant levels. However, our updated CalEEMod air model demonstrates that construction-related NOx emissions exceed thresholds to a greater extent than was determined by the DEIR. Thus, the Project Applicant must either demonstrate that mitigation measure AQ-2 will still reduce construction NOx emissions to a less-than-significant level or include additional mitigation to the extent necessary. As a result, an updated DEIR should be prepared to include an updated air pollution model which adequately estimates the Project's construction and operational emissions, and additional mitigation measures should be identified and incorporated to reduce these emissions to a less-than-significant level.

#### *Failure to Account for Overlapping Emissions*

Review of the DEIR demonstrates that the Project will be constructed in three phases. During Phase 1, Residential Building 1 will be constructed and all earthwork across the site will take place. Phase 1 is anticipated to occur from September 2019 to July 2022. Phases 2 and 3 will construct the Residential Building Two and the Hotel, respectively. Both Phase 2 and 3 are anticipated to occur from April 2020 to September 2025 (p. ES-4). Therefore, there are over three years between the end Phase 1 construction and the completion of Phases 2 and 3. It is highly unlikely that a residential building with approximately 252 units would not be in operation over that period of time nor does the DEIR stipulate that Phase 1 will not be operational until 2025 (p. ES-7). However, the construction and operational emissions are analyzed separately, and the DEIR fails to estimate the overlap in emissions that will likely occur during Phase 1 operation and Phases 2 through 3 construction (DEIR, Table 4.2-4, p. 4.2-14 and DEIR, Table 4.2-5, p. 4.2-16). An updated DEIR should be prepared that either: (1) analyzes this overlap; or (2) includes mitigation or a project design feature that would not allow Phase 1 operation until full project build out.

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### Diesel Particulate Matter Health Risk Emissions Inadequately Evaluated

The Project Applicant conducts a health risk assessment (HRA) in order to determine the health risk posed to *new, on-site* residential receptors due to proximity to the Interstate 5 freeway and the Southern California Regional Rail Authority right-of-way (Appendix C, p. 2). However, the DEIR fails to conduct a construction or operational HRA to determine the health risk posed to *existing, nearby* sensitive receptors as a result of Project construction and operation. The DEIR claims that Project construction and operation will result in a less than significant health risk impact to these existing, nearby sensitive receptors, stating:

“Given the short-term construction schedule of approximately 30 months, the Project would not result in a long-term (i.e., 70-year) source of TAC emissions. No residual emissions and corresponding individual cancer risk are anticipated after construction. Because there is such a short-term exposure period (54 out of 840 months), construction TAC emissions would result in a less-than-significant impact... Because the Project is a mixed-use residential and retail development, Project operation would not generate toxic air contaminants, nor would the Project substantially increase diesel traffic to the Project site, like an industrial warehouse or rest area would” (DEIR, p. 4.2-18).

This justification and subsequent significance determination, however, are incorrect and unsubstantiated.

Simply because the Project Applicant claims that no toxic air contaminant (TAC) generation will result from the proposed Project’s implementation does not mean that an HRA for the proposed Project is not needed. According to the South Coast Air Quality Management District (SCAQMD), the lead air pollution control agency for the proposed Project, preparation of a health risk assessment is not restricted to specific land uses that may involve use of carcinogenic or non-carcinogenic TACs. Instead, the SCAQMD recommends performing an HRA for any project that is expected to generate mobile emissions from diesel-powered equipment and trucks. According to SCAQMD’s Mobile Source Toxics Analysis page on AQMD’s website (emphasis added):

“In August 2002, the SCAQMD’s Mobile Source Committee approved the ‘Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Emissions.’ This document provided guidance for analyzing cancer risks from diesel particulate matter from mobile sources at facilities such as truck stops and warehouse distribution centers. Subsequently, SCAQMD staff revised the aforementioned document to expand the analysis to provide technical guidance for analyzing cancer risks from potential diesel particulate emissions impacts from truck idling and movement (such as, but not limited to, truck stops, warehouse and distribution centers, or transit centers), ship hotelling at ports, and train idling. This revised guidance document titled, ‘Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis’ was presented to and approved by the SCAQMD’s Mobile Source Committee at its March 28, 2003 committee

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meeting. It is suggested that projects with diesel powered mobile sources use the following guidance document to quantify potential cancer risks from the diesel particulate emission.<sup>7</sup>

As you can see in the excerpt above, the SCAQMD explicitly states that if the proposed Project generates or attracts vehicular trips, a mobile source health risk assessment must be prepared. The SCAQMD does not state that the preparation of an HRA should be restricted to specific land uses. Rather, the SCAQMD simply states that “it is suggested that projects with diesel powered mobile sources” use the SCAQMD’s Health Risk Assessment Guidance “to quantify potential cancer risks from the diesel particulate emission.”<sup>8</sup> Given that Project construction is expected to occur over a 6-year period, it is reasonable to assume that a significant amount of diesel particulate matter (DPM), a known human carcinogen, will be emitted from the exhaust stacks of equipment required for Project construction (DEIR, p. ES-4).<sup>9</sup> Similarly, operational activities will include approximately 5,261 daily vehicle trips (DEIR, p. 4.12-24 [Tbl. 4.12-5]), 45 percent of which will be light/medium/heavy/other-duty trucks (*id.* at p. 5-5 [Tbl. 5-3]), and thus generating large amounts of diesel exhaust over the duration of Project operation. As such, the DEIR should have conducted a construction and operational health risk assessment, as long-term exposure to DPM and other TACs may result in a significant health risk impact and therefore, should be properly assessed.

Finally, the omission of a quantified health risk assessment is inconsistent with the most recent guidance published by Office of Environmental Health Hazard Assessment (OEHHA), the organization responsible for providing recommendations and guidance on how to conduct health risk assessments in California. In February of 2015, OEHHA released its most recent *Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments*, which was formally adopted in March of 2015.<sup>10</sup> This guidance document describes the types of projects that warrant the preparation of a health risk assessment. As previously stated, grading and construction activities for the proposed Project will produce emissions of DPM through the exhaust stacks of construction equipment over an approximately 6-year period (p. ES-4). The OEHHA document recommends that all short-term projects lasting at least two months be evaluated for cancer risks to nearby sensitive receptors.<sup>11</sup> Once construction is complete, Project operation will generate truck trips, which will generate additional exhaust emissions, thus continuing to expose nearby sensitive receptors to DPM emissions. The OEHHA document recommends that exposure from projects lasting more than six months should be evaluated for the duration of the project, and recommends that an exposure duration of 30 years be used to estimate cancer risk for the maximally exposed individual resident (MEIR).<sup>12</sup> Even though we were not provided with the expected lifetime of

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<sup>7</sup> SCAQMD (2019) Mobile Source Toxics Analysis, <http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook/mobile-source-toxics-analysis>.

<sup>8</sup> *Ibid.*

<sup>9</sup> The DEIR’s Air Quality section states that construction will take place over 30 months (DEIR, p. 4.2-8), however elsewhere in the DEIR, it is noted that construction will occur over a five-year period (*id.*, at ES-4). However, since construction is expected to occur from September 2019 to September 2025, construction will actually take place over a six-year period (*id.* at ES-4).

<sup>10</sup> “OEHHA (Feb.2015) Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments, <https://oehha.ca.gov/media/downloads/crnrr/2015guidancemanual.pdf>.

<sup>11</sup> *Ibid.*, p. 8-18

<sup>12</sup> *Ibid.*, p. 8-6, p. 8-15

the Project, we can reasonably assume that the Project will operate for at least 30 years, if not more. Therefore, per SCAQMD and OEHHA guidelines, health risk impacts from Project construction and operation should have been evaluated by the DEIR. These recommendations reflect the most recent health risk assessment policy, and as such, an assessment of health risks to nearby sensitive receptors from construction and operation should be included in a revised CEQA evaluation for the Project.

In an effort to demonstrate the potential risk posed by Project construction and operation to nearby sensitive receptors, we prepared a simple screening-level HRA. The results of our assessment, as described below, provide substantial evidence that the Project’s construction and operational DPM emissions may result in a potentially significant health risk impact that was not previously identified.

In order to conduct our screening-level risk assessment we relied upon AERSCREEN, which is a screening-level air quality dispersion model.<sup>13</sup> The model replaced SCREEN3, and AERSCREEN is included in the OEHHA<sup>14</sup> and the California Air Pollution Control Officers Associated (CAPCOA)<sup>15</sup> guidance as to the appropriate air dispersion model for Level 2 health risk screening assessments (“HRSAs”). A Level 2 HRSA utilizes a limited amount of site-specific information to generate maximum reasonable downwind concentrations of air contaminants to which nearby sensitive receptors may be exposed. If an unacceptable air quality hazard is determined to be possible using AERSCREEN, it is suggested that a more refined air model be conducted to analyze the link between air emissions and health risk.

We prepared a preliminary HRA of the Project’s health-related impact to sensitive receptors using the annual PM10 exhaust estimates from SWAPE’s updated annual CalEEMod output files. According to the DEIR, the closest residential receptor is approximately 0.2 miles, or 322 meters, from the Project site (DEIR, p. 4.2-5). Consistent with recommendations set forth by OEHHA, we used a residential exposure duration of 30 years, starting from the 3rd-trimester stage of life. We also assumed that the construction and operation of the Project would occur in quick succession, with no gaps between each Project phase. Our updated CalEEMod model’s annual emissions indicate that construction activities will generate approximately 324.6 pounds of DPM over the 6-year, or approximately 2,220-day, construction period. The AERSCREEN model relies on a continuous average emission rate to simulate maximum downward concentrations from point, area, and volume emission sources. To account for the variability in equipment usage and truck trips over Project construction, we calculated an average DPM emission rate by the following equation.

$$\text{Emission Rate} \left( \frac{\text{grams}}{\text{second}} \right) = \frac{324.6 \text{ lbs}}{2,220 \text{ days}} \times \frac{453.6 \text{ grams}}{\text{lbs}} \times \frac{1 \text{ day}}{24 \text{ hours}} \times \frac{1 \text{ hour}}{3,600 \text{ seconds}} = 0.000768 \text{ g/s}$$

Using this equation, we estimated a construction emission rate of 0.000768 grams per second (g/s). Subtracting the 2,220-day construction duration from the total residential exposure duration of 30

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<sup>13</sup> USEPA (Apr. 2011) AERSCREEN Released as the EPA Recommended Screening Model, [http://www.epa.gov/ttn/scram/guidance/clarification/20110411\\_AERSCREEN\\_Release\\_Memo.pdf](http://www.epa.gov/ttn/scram/guidance/clarification/20110411_AERSCREEN_Release_Memo.pdf).

<sup>14</sup> OEHHA (February 2015), *supra* fn. 10.

<sup>15</sup> CAPCOA (Jul. 2009) Health Risk Assessments for Proposed Land Use Projects, [http://www.capcoa.org/wp-content/uploads/2012/03/CAPCOA\\_HRA\\_LU\\_Guidelines\\_8-6-09.pdf](http://www.capcoa.org/wp-content/uploads/2012/03/CAPCOA_HRA_LU_Guidelines_8-6-09.pdf).



years, we assumed that after Project construction, the MEIR would be exposed to the Project's operational DPM emissions for an additional 23.9 years. Our updated annual CalEEMod output files indicate that operational activities will generate approximately 253 pounds of DPM per year over the 23.9 years of operation. Applying the same equation used to estimate the construction DPM emission rate, we estimated the following emission rate for Project operation.

$$\text{Emission Rate } \left( \frac{\text{grams}}{\text{second}} \right) = \frac{253 \text{ lbs}}{365 \text{ days}} \times \frac{453.6 \text{ grams}}{\text{lbs}} \times \frac{1 \text{ day}}{24 \text{ hours}} \times \frac{1 \text{ hour}}{3,600 \text{ seconds}} = 0.003639 \text{ g/s}$$

Using this equation, we estimated an operational emission rate of 0.003639 g/s. Construction and operational activity were simulated as an 8.08-acre rectangle area source in AERSCREEN, with dimensions of 574 meters by 57 meters. A release height of three meters was selected to represent the height of exhaust stacks on operational equipment and other heavy-duty vehicles, and an initial vertical dimension of one and a half meters was used to simulate instantaneous plume dispersion upon release. An urban meteorological setting was selected with model-default inputs for wind speed and direction distribution.

The AERSCREEN model generates maximum reasonable estimates of single-hour DPM concentrations from the Project site. EPA guidance suggests that in screening procedures, the annualized average concentration of an air pollutant be estimated by multiplying the single-hour concentration by 10 percent.<sup>16</sup> For example, for the MEIR the single-hour concentration estimated by AERSCREEN for Project construction is approximately 0.5186 µg/m<sup>3</sup> DPM at approximately 325 meters downwind. Multiplying this single-hour concentration by 10 percent, we get an annualized average concentration of 0.05186 µg/m<sup>3</sup> for Project construction at the MEIR. For Project operation, the single-hour concentration at the MEIR estimated by AERSCREEN is approximately 2.457 µg/m<sup>3</sup> DPM at approximately 325 meters downwind. Multiplying this single-hour concentration by 10 percent, we get an annualized average concentration of 0.2457 µg/m<sup>3</sup> for Project operation at the MEIR.

We calculated the excess cancer risk to the residential receptors located closest to the Project site using applicable HRA methodologies prescribed by OEHHA and the SCAQMD. Consistent with the construction schedule proposed by the DEIR, the annualized average concentration for construction was used for the entire 3rd trimester of pregnancy (0.25 years), the entire infantile stage of life (0 to 2 years), and the first 3.83 years of the child stage of life (2 to 16 years). The annualized average concentration for the operation was used for the remainder of the 30-year exposure period, which makes up the remainder of the child stage of life and the entirety of the adult stage of life (16 to 30 years). Consistent with OEHHA guidance, we used Age Sensitivity Factors (ASFs) to account for the heightened susceptibility of young children to the carcinogenic toxicity of air pollution.<sup>17</sup> According to the updated guidance, quantified cancer risk should be multiplied by a factor of ten during the first two years of life (infant) and should be

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<sup>16</sup> EPA (Oct. 1992) Screening Procedures for Estimating the Air Quality Impact of Stationary Sources Revised, [http://www.epa.gov/ttn/scram/guidance/guide/EPA-454R-92-019\\_OCR.pdf](http://www.epa.gov/ttn/scram/guidance/guide/EPA-454R-92-019_OCR.pdf); see also OEHHA (February 2015), *supra* fn. 10, p. 4-36 (Tbl. 4.2).

<sup>17</sup> OEHHA (February 2015), *supra* fn. 10.

multiplied by a factor of three during the child stage of life (2 to 16 years). Furthermore, in accordance with the guidance set forth by OEHHA, we used 95<sup>th</sup> percentile breathing rates for infants.<sup>18</sup> Finally, according to SCAQMD guidance, we used a Fraction of Time At Home (FAH) Value of 1 for the 3rd trimester, infant, and child receptors and we used a FAH Value of 0.73 for the adult receptors.<sup>19</sup> We used a cancer potency factor of 1.1 (mg/kg-day)<sup>-1</sup> and an averaging time of 25,550 days. The results of our calculations are shown below.

The Maximum Exposed Individual at an Existing Residential Receptor (MEIR)					
Activity	Duration (years)	Concentration (µg/m <sup>3</sup> )	Breathing Rate (L/kg-day)	ASF	Cancer Risk
Construction	0.25	0.05186	361	10	7.1E-07
<b>3rd Trimester Duration</b>	<b>0.25</b>			<b>3rd Trimester Exposure</b>	<b>7.1E-07</b>
Construction	2.00	0.05186	1090	10	1.7E-05
<b>Infant Exposure Duration</b>	<b>2.00</b>			<b>Infant Exposure</b>	<b>1.7E-05</b>
Construction	3.83	0.05186	572	3	5.1E-06
Operation	10.17	0.2457	572	3	6.5E-05
<b>Child Exposure Duration</b>	<b>14.00</b>			<b>Child Exposure</b>	<b>7.0E-05</b>
Operation	14.00	0.2457	261	1	9.9E-06
<b>Adult Exposure Duration</b>	<b>14.00</b>			<b>Adult Exposure</b>	<b>9.9E-06</b>
<b>Lifetime Exposure Duration</b>	<b>30.00</b>			<b>Lifetime Exposure</b>	<b>9.7E-05</b>

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The excess cancer risk posed to adults, children, infants, and during the third trimester of pregnancy at the MEIR located approximately 325 meters away, over the course of Project construction and operation are approximately 9.9, 70, 17, and 0.71 in one million, respectively. Furthermore, the excess cancer risk over the course of a residential lifetime (30 years) at the MEIR is approximately 97 in one million. 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, and lifetime cancer risks exceed the SCAQMD threshold of 10 in one million.

An agency must include an analysis of health risks that connects the Project’s air emissions with the health risk posed by those emissions. Our analysis represents a screening-level HRA, which is known to be more conservative and tends to err on the side of health protection.<sup>20</sup> The purpose of the screening-level HRA shown above is to demonstrate this link between the proposed Project’s emissions and the potential health risk. Our screening-level HRA demonstrates that construction and operation of the Project could result in a potentially significant health risk impact, when correct exposure assumptions

<sup>18</sup> SCAQMD (6/5/15) Supplemental Guidelines for Preparing Risk Assessments for the Air Toxics ‘Hot Spots’ Information and Assessment Act, p. 19, <http://www.aqmd.gov/docs/default-source/planning/risk-assessment/ab2588-risk-assessment-guidelines.pdf?sfvrsn=6>; see also OEHHA (Feb. 2015), *supra* fn. 10.

<sup>19</sup> SCAQMD (Aug. 2017) Risk Assessment Procedures for Rules 1401, 1401.1, and 212, p. 7, [http://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/1401/riskassessmentprocedures\\_2017\\_080717.pdf](http://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/1401/riskassessmentprocedures_2017_080717.pdf).

<sup>20</sup> OEHHA (Feb. 2015), *supra* fn. 10, p. 1-5.

and up-to-date, applicable guidance are used. Therefore, since our screening-model HRA finds a potentially significant impact, the Project Applicant should include a reasonable effort to connect the Project's air quality emissions and the potential health risks posed to nearby receptors; for example, by preparing a more refined health risk assessment that examines the air quality impacts generated by Project construction and operation using site-specific meteorology.

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### Greenhouse Gas

#### Reliance on Outdated Climate Action Plan Results in Failure to Demonstrate Consistency with Long-Term Statewide Goals

The DEIR determines that the Project is consistent with the City's February 2013 Greenhouse Gas Reduction Plan (GGRP), a climate action plan (CAP) prepared pursuant to Pub. Res. Code § 15183.5 allowing streamline environmental analysis if a proposed project is consistent with the CAP. The Project Applicant asserts that because the proposed Project is consistent with the GGRP, the Project will have a less than significant GHG impact, stating:

"[T]he mixed-use Project would be consistent with the local GGRP policies related to GHG emission reduction; therefore, impacts would be less than significant, and mitigation is not required. Due to consistency with the applicable GHG reduction plan, City's General Plan, and the SCAG RTP/SCS, Project impacts would be less than significant under the with SCAQMD's draft tiered approach" (DEIR, p. 4.5-13).

However, the above claim is entirely incorrect because:

- (1) The City has failed to update or implement the goals set by the GGRP;
- (2) The GGRP was developed in 2013 and thus only accounts for statewide reduction targets set forth in Assembly Bill 32 (AB 32) and Executive Order S-3-05 (EO S-3-05); and (3) the Project Applicant fails to quantify GHG emissions. Additionally, when we compare the DEIR's GHG emissions to applicable thresholds, we find that the GHG emissions will result in a significant impact that was not previously identified.
- (3) The DEIR performed a perfunctory review of the Project's consistency with the GGRP—which demonstrates the GGRP no longer qualifies as a CAP for CEQA streamline review—and failed to consider other GHG-reducing measures found in applicable plans;
- (4) The Project fails to provide for additional GHG measures necessary for newer development projects;
- (5) The DEIR fails to explicitly state the Project's GHG emissions, contrary to other projects reviewed by the City;
- (6) When we comparing the Project's GHG emissions—buried in Appendix D—to applicable thresholds, the GHG emissions will result in a significant impact that was not previously identified;
- (7) The DEIR's failure to apply SCAQMD's screening and efficiency thresholds amount to a failure of staying in step with evolving scientific knowledge and regulatory schemes; and
- (8) The DEIR failed to provide a meaningful project alternative that would reduce the Project's significant GHG impacts.

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1) *Failure to Update or Implement Greenhouse Gas Reduction Plan*

As previously mentioned, the Project relies upon consistency with the City of Burbank's GGRP to determine Project significance, however, review of the GGRP demonstrates that the City has failed to monitor, track, or update the GGRP since its approval in 2013.

When adopting the GGRP, the City committed to monitoring the plan to ensure its effectiveness at achieving the now outdated goal of a 15 percent reduction in GHG emissions from 2010 levels.<sup>21</sup> To this end, the GGRP includes numerous "action steps" and "performance metrics" allowing the public to track the overall progress of the plan; rely on "updates" to the GGRP to stay in line with emerging technology and legislation and updated community-wide emissions inventories conducted every 3-5 years; and even hire a sustainability coordinator to oversee and monitor implementation of the plan, and report to City decision-makers on an annual basis.<sup>22</sup> For example, the GGRP explicitly states (emphasis added):

*"As 2020 approaches, the City will reevaluate its emissions projections and reduction targets and goals to incorporate progress toward long-term GHG reductions, and will repeat this process as 2035 approaches as well ... Communitywide GHG emission inventories will provide the best indication of GGRP effectiveness. It will be important to reconcile actual growth in the City versus the growth projected when the GGRP was developed. Conducting these inventories periodically will enable direct comparison to the 2010 baseline inventory and will demonstrate the GGRP's ability to achieve the adopted reduction target. The Community Development Department will prepare communitywide inventories every three to five years following adoption of the GGRP to assess progress toward the GHG emissions reduction target ... The proposed Sustainability Coordinator (or Community Development Department staff) will report progress on the GGRP action items to decision-makers on an annual basis ... The progress report will include a cursory assessment of progress and implementation of individual GGRP measures, including how new development projects have incorporated relevant measures. The progress report will identify measure gaps and recommend corrections on a more regular basis, through the addition of new GGRP measures ... To remain relevant, the City must be prepared to adapt and transform the GGRP over time ... It is also possible that future inventories will indicate that the community is not achieving its adopted target. As part of the evaluations identified above, the City will assess the implications of new scientific findings and technology, explore new opportunities for GHG reduction, respond to changes in climate policy, and incorporate these changes in future updates to the GGRP to ensure an effective and efficient program."* GGRP, p. 3-5, 5-2.

Upon review of the City's website, not a single document could be located that charts the City's progress on implementing the various action items or progress toward meeting the City's 2020 performance metrics—*less than one year away*. According to the City's Community Development Department, as of

<sup>21</sup> City of Burbank (Feb. 2013) Greenhouse Gas Reduction Plan, p. 2-2, 3-6, 4-2, 5-1, <https://www.burbankca.gov/home/showdocument?id=23440>.

<sup>22</sup> *Ibid.*, p. 2-2, 4-3, 4-12, 4-32, 5-1, 5-3, 4-31 – 4-32, 5-2 (particularly Chapter 4 of the GGRP).



March 2018, the City has “*not started*” a new GGRP, an update to the communitywide GHG inventory, a carbon offset fee program, prepare a sustainability element, or secure a sustainability coordinator.<sup>23</sup> On its face, the GGRP is outdated given its: (1) failure to adapt to significant changes in State legislation (as further described below), (2) failure to include an updated GHG inventory, and (3) reliance on overestimated population growth. For example, the GGRP anticipated the City’s population would grow from 103,340 in 2010 to 113,789 in 2020 (GGRP, p. A-6), roughly a 0.97 percent compound annual growth rate (CAGR). According to the most recent Census data, however, the City’s population was only 104,834 in mid-2017,<sup>24</sup> a CAGR of 0.21 percent—*off by more than four times the actual growth rate*. Data from both the DEIR and California Department of Financing show the City’s population growth is not in keeping with the assumptions underlying the City’s 2013 CAP.<sup>25</sup>

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This inaccuracy alone, discounting similar inaccuracies and outdated data elsewhere, will adversely impact the City’s per capita/service population efficiency levels, which would require additional offset by even more demanding GHG reduction measures and actions. This is why the GGRP and other local climate action plans require strict monitoring and corrective action when reality does not meet City expectations. Unfortunately, the City has failed to adequately monitor or update the GGRP, which can no longer be relied upon for CEQA’s streamlined CEQA review. This violates CEQA.<sup>26</sup>

<sup>23</sup> City of Burbank Community Development Department (3/27/18) Draft City of Burbank General Plan: Annual Implementation Progress Report 2013 to 2017, pp. 51, 61,

[http://burbank.granicus.com/MetaViewer.php?view\\_id=6&event\\_id=4535&meta\\_id=336052](http://burbank.granicus.com/MetaViewer.php?view_id=6&event_id=4535&meta_id=336052).

<sup>24</sup> United States Census (2019) Quick Facts: Burbank City, California,

<https://www.census.gov/quickfacts/fact/table/burbankcitycalifornia/IPE120217>.

<sup>25</sup> See DEIR, p. 4.10-1 (claiming current population is 107,149); see also California Department of Finance (May 2019) Tables of January 2019 City Population Ranked by Size, Numeric, and Percent Change (showing City’s total population of 105,952—*a 0.21 percent decrease over 2018 levels*),

[http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-1/documents/RankCities\\_2019.xls](http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-1/documents/RankCities_2019.xls).

<sup>26</sup> See CEQA Guidelines § 15183.5(b)(1)(E) (requiring CAPs to have mechanism to monitor plan progress and require amendment if plan is not achieving GHG reductions); see also *Center for Biological Diversity v. Cal. Dept. of Fish and Wildlife (Newhall Ranch)* (2015) 62 Cal.4th 204, 227, 229 (EIR inadequate where “analytical gap left by the EIR’s failure to establish, through substantial evidence and reasoned explanation, a quantitative equivalence between the Scoping Plan’s statewide comparison and the EIR’s own project-level comparison deprived the EIR of its sufficiency as an informative document ... A significance analysis based on compliance with such statewide regulations, however, only goes to impacts within the area governed by the regulations.” [internal quotes omitted]); *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 504 (*Cleveland II*) (“CEQA requires public agencies ... to ensure that such analysis stay in step with evolving scientific knowledge and state regulatory schemes.”); *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 17 Cal.App.5th 413 (*Cleveland III*) (on remand, Fourth District of Appeals held EIR did not adequately consider GHG mitigation measures that could both substantially lessen GHG impacts and feasibly be implemented, there were not enough alternatives in the EIR, such as a VMT reducing alternative, and deferred analysis of mitigation measures without performance standards); *Golden Door Properties, LLC v. County of San Diego* (2018) 27 Cal.App.5th 892 (held GHG threshold was inadequate because, *inter alia*, it was not supported by substantial evidence that adequately explaining how its service population number was an appropriate GHG metric to use for all projects in the area). These cases are instructive here, because the GGRP reduction targets and efficiency goals are based on now outdated GHG reduction goals and does not cover SB 32 goals. The DEIR fails to provide the analytical gap showing the Project’s compliance with GGRP, which we contest herein, is sufficient to reach the 2020 targets or the newer 2030 goals under SB 32 discussed below.

2) Failure to Demonstrate Compliance with Senate Bill 32

As previously stated, the DEIR fails to demonstrate or even address Project compliance with the emissions reduction target set forth in SB 32. Therefore, the Project may conflict with an applicable plan, policy, or regulation and, therefore, may be significant.

On June 1, 2005, Governor Schwarzenegger issued EO S-3-05,<sup>27</sup> establishing statewide GHG emissions targets to reduce GHG emissions to 2000 levels by 2010, 1990 levels by 2020, and to 80 percent below 1990 levels by 2050.<sup>28</sup> Pursuant to AB 32, the California Air Resources Board (CARB) approved in 2008 (and re-approved in 2011) its initial Scoping Plan to serve as a roadmap to achieve the 2020 and 2050 goals, including the recommendation that local governments—as an “essential partner”—reduce their respective emissions by 15 percent by 2020.<sup>29</sup> To this end, the City adopted the GGRP in 2013, which included “binding, enforceable” strategies to reduce the City’s GHG emissions by 15 percent below 2010 levels by 2020, and established a mere “goal” that the City “should strive” to achieve 30 percent below 2010 levels by 2035 (Appendix D, p. 33; GGRP p. 1-3, 2-1).

However, since the City’s adoption of the GGRP in 2013, the State has taken new aggressive action to address California’s contribution to GHG emissions. In 2014, CARB approved its first update to the Scoping Plan, where it recommended a minimum 40 percent reduction from 1990 levels by 2030, a minimum 60 percent reduction from 1990 levels by 2040.<sup>30</sup> In April 2015, Governor Brown signed Executive Order B-30-15 establishing a California GHG reduction target of 40 percent below 1990 levels by 2030 and called on CARB and sister agencies to update the AB 32 Scoping Plan to incorporate the 2030 targets.<sup>31</sup> In 2016, this goal was made into law with the passage of SB 32 (Health & Safety Code § 38566). In 2017, the California Supreme Court explained (emphasis added):

“This 40 percent reduction is *widely acknowledged as a necessary interim target* to ensure that California meets its longer-range goal of reducing greenhouse gas emissions to 80 percent below 1990 levels by the year 2050.” *Cleveland II*, 3 Cal.5th at 519.

Therefore, since the Project will be fully operational in 2026 and continue to operate through 2030 and 2050, it is required to meet SB 32’s 40 percent reduction in GHG emissions compared to 1990 levels, which is a necessary target to comply with the State’s longer 2050 target (i.e., 80 percent below 1990 levels). Additionally, since the approval of SB 32, CARB’s Scoping Plan was again updated in 2017 where CARB makes clear that the statewide goals for 2030 and 2050 cannot be achieved without “critical” land

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<sup>27</sup> California (2019) California Climate Change Executive Orders, [https://www.climatechange.ca.gov/state/executive\\_orders.html](https://www.climatechange.ca.gov/state/executive_orders.html).

<sup>28</sup> *Cleveland III*, 17 Cal.App.5th at 428.

<sup>29</sup> CARB (2008) Initial Scoping Plan, p. 26-27, 34, 43, [https://www.arb.ca.gov/cc/scopingplan/document/adopted\\_scoping\\_plan.pdf](https://www.arb.ca.gov/cc/scopingplan/document/adopted_scoping_plan.pdf).

<sup>30</sup> CARB (May 2014) First Update Scoping Plan, p. 7, 34, 132, [https://www.arb.ca.gov/cc/scopingplan/2013\\_update/first\\_update\\_climate\\_change\\_scoping\\_plan.pdf](https://www.arb.ca.gov/cc/scopingplan/2013_update/first_update_climate_change_scoping_plan.pdf).

<sup>31</sup> See California (4/29/15) Governor Brown Establishes Most Ambitious Greenhouse Gas Reduction Target in North America, <https://www.ca.gov/archive/gov39/2015/04/29/news18938/>.

use actions made by local governments,<sup>32</sup> such as reaching community-wide goal of no more than 6.0 metric tons of carbon dioxide equivalents per year per service population (“MTCO<sub>2</sub>e/yr/sp”) by 2030, and no more than 2.0 MTCO<sub>2</sub>e/yr/sp by 2050—a goal that “expands upon the reduction of 15 percent” previously recommended in the 2008 Initial Scoping Plan.<sup>33</sup> Local strategies include promoting the deployment of renewable energy, zero emission, and low carbon technologies such as zero net energy buildings, renewable fuel production facilities, zero-emission charging stations, incorporating on-site design features that reduce emissions especially from VMTs, and adopting “beyond” CalGreen Code (Title 24) building efficiency standards.<sup>34</sup> Many of these beyond CalGreen Code measures are listed in the following section.

Hence, the Project’s purported compliance with the outdated GGRP is irrelevant regarding compliance with the interim 2030 goal set by SB 32 or with CARB’s 2017 Scoping Plan Update. For example, compliance with GGRP will achieve a mere 7.6 percent reduction from 2010 levels by 2035, which falls woefully below the goal set by SB 32 (GGRP, p. 3-8 – 3-9, 4-3). This violates CEQA and the recent case law.<sup>35</sup>

In an effort to demonstrate that “the proposed Project would not conflict with any applicable plan, policy, or regulation adopted for the purposed of reducing emissions of GHGs,” the DEIR simply conducts a cursory consistency analysis with GGRP emissions reduction measures, as summarized in Table 4.5-1 (DEIR, p. 4.5-12). However, as previously stated, the DEIR fails to offer any analysis or evidence that the proposed Project would be consistent with the more aggressive emissions reduction target set by SB 32. Without a comprehensive analysis, we are unable to determine whether the proposed Project is consistent with the more stringent goal set forth in SB 32. Because the City’s GGRP does not address or account for the reductions required to meet the SB 32 interim 2030 emissions reductions target (i.e., 40 percent below 1990 levels)—widely acknowledged as a necessary interim target to meet the longer 2050 reduction target (i.e., 80 percent below 1990 levels)—the Project may

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<sup>32</sup> CARB (Nov. 2017) California’s 2017 Climate Change Scoping Plan, p. 19, 97, 100 (“Regional, Tribal, and local governments and agencies are critical leaders in reducing emissions through actions that reduce demand for electricity, transportation fuels, and natural gas, and improved natural and working lands management ... Local actions are critical for implementation of California’s ambitious climate agenda ... Local decision-making has an especially important role in achieving reductions of GHG emissions generated from transportation ... Local governments are essential partners in achieving California’s goals to reduce GHG emissions ... Local governments also have broad jurisdiction, and sometimes unique authorities, through their community-scale planning and permitting processes, discretionary actions, local codes and ordinances, outreach and education efforts, and municipal operations.” Emphasis added), [https://www.arb.ca.gov/cc/scopingplan/scoping\\_plan\\_2017.pdf](https://www.arb.ca.gov/cc/scopingplan/scoping_plan_2017.pdf); see also *id.* at 100 (CARB notes that while programs such as renewable energy and energy efficiency are helping achieve the near-term 2020 target, “longer-term targets cannot be achieved without land use decisions that allows more efficient use and management of land and infrastructure ... Local governments are essential partners in achieving California’s goals to reduce GHG emissions.” Emphasis added).

<sup>33</sup> *Ibid.*, p. 99-101.

<sup>34</sup> *Ibid.*, p. 19, 62, 99-102.

<sup>35</sup> *Supra* fn. 26.



not do enough to reduce the City’s GHG emissions and, therefore, the DEIR cannot claim the Project has a less than significant GHG impact.

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*3) Perfunctory Review of Project’s Consistency with City’s CAP and Failure to Consider Other Applicable GHG-Reducing Measures*

As mentioned above, the DEIR and AQ/GHG Study rely on consistency with the City’s GGRP through a perfunctory review of select goals, policies, and mandatory/voluntary measures found in the outdated CAP (DEIR, p. 4.5-12 – 4.5-13; Appendix D, p. 36-37). Notwithstanding various mitigation measures (MM) and project design features (PDF) that directly or indirectly reduces GHG emissions (e.g., MMs AQ-2, U-3, and Air Quality PDFs 1-3) (DEIR, p. ES-10, ES-21 - ES-23), the Project and City actions are inconsistent with numerous goals and policies discussed in the City’s GGRP and Burbank 2035 General Plan (i.e., Air Quality and Climate Change Element), including but not limited to those listed below:

Measure	Project/City Inconsistency
<b>Burbank 2035 Greenhouse Gas Reduction Plan<sup>36</sup></b>	
<b>Mandatory Measures</b>	
<p><b>Measure E-1.1: Energy Efficiency in New Construction</b> (GGRP, p. 4-5 – 4-6): The City will require new commercial projects to be constructed to Title 24 Tier 1 levels (e.g., exceed current efficiency standards by 15%) beginning in January 2015. This measure requires various performance metrics, including:</p> <ul style="list-style-type: none"> <li>• 2020: 2.1 million square feet of new non-residential construction exceeds baseline energy code by 15%</li> <li>• 2035: 8.4 million square feet of new non-residential construction exceeds baseline energy code by 15%</li> </ul>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet said performance metrics. Additionally, project design feature (i.e., Air Quality PDF 1) states the Project will provide minimum “Tier 1 or LEED Gold Certification” (DEIR, p. ES-21). While Gold Certification may nevertheless achieve Tier 1 efficiencies, it should be made clear that Tier 1 efficiencies must be achieved—just like other projects reviewed by the City.<sup>37</sup></p>
<p><b>Measure E-1.2: Energy Efficiency Retrofits</b> (GGRP, p. 4-6 – 4-8): The City will adopt an ordinance requiring point-of-sale energy performance ratings to be conducted by a Home Energy Rating System (HERS)-certified contractor for all residential buildings (i.e., single-family and multi-family). The City will also adopt a mandatory energy audit ordinance for all residential and commercial properties sold within the City. This measure requires various actions by the City, such as (1) adopt an ordinance requiring HERS-certified energy performance ratings for all residential buildings sold within the City, (2) adopt an</p>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet said performance metrics. In such an event, more may be required from this Project to offset the lost expected GHG reductions from this measure.</p>

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<sup>36</sup> *Supra* fn. 21.

<sup>37</sup> See e.g., First Street Village Project (Aug. 2016) Final MND, pp. 56, [http://burbank.granicus.com/MetaViewer.php?view\\_id=6&clip\\_id=7907&meta\\_id=323500](http://burbank.granicus.com/MetaViewer.php?view_id=6&clip_id=7907&meta_id=323500).

<p>ordinance requiring point-of-sale energy audits for all residential and commercial buildings sold within the City, and (3) develop a comprehensive energy efficiency upgrade outreach program. The measure also provides various performance metrics, including:</p> <ul style="list-style-type: none"> <li>• 2020: <ul style="list-style-type: none"> <li>○ 15% of existing single-family units install an advanced retrofit package;</li> <li>○ 15% of existing multi-family units install an advanced retrofit package</li> <li>○ 10% of existing commercial floor area installs medium retrofit package</li> <li>○ 5% of existing commercial floor area installs advanced retrofit package</li> </ul> </li> <li>• 2035: <ul style="list-style-type: none"> <li>○ 30% of existing single-family units install an advanced retrofit package</li> <li>○ 30% of existing multi-family units install an advanced retrofit package</li> <li>○ 40% of existing commercial floor area installs medium retrofit package</li> <li>○ 20% of existing commercial floor area installs advanced retrofit package</li> </ul> </li> </ul>	
<p><b>Measure E-1.7: Building Shade Trees</b> (GGRP, p. 4-12 – 4-13): Burbank Water &amp; Power (BWP) will continue to administer the Made in the Shade Program. The City will update its Street Tree Plan and Urban Forestry program, with a focus on identifying streets that currently lack street trees, parking lots that could accommodate additional shade trees, and locations for new tree plantings in City parks and open space. This measure requires various City action, including: (1) Amend the Zoning Ordinance to require installation of two on-site shade trees for each new single-family residential unit, (2) Continue the BWP Made in the Shade Program, and (3) Update the Street Tree Plan and Urban Forestry program. The measure also provides various performance metrics, including:</p> <ul style="list-style-type: none"> <li>• 2020: Plant 5,250 shade trees</li> <li>• 2035: Plant 12,775 shade trees</li> </ul>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet said performance metrics. In such an event, more may be required from this Project to offset the lost expected GHG reductions from this measure.</p>
<p><b>Measure E-2.1: Renewable Energy Requirements</b> (GGRP, p. 4-13 – 4-14): The City will require new single-family residential homes to include a 1.8</p>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet</p>

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<p>kWh solar photovoltaic system, and will require new multi-family and commercial construction to provide 10% of the building’s modeled energy use from renewable sources (e.g., solar PV, geothermal heat pumps). The City will require installation of solar water heaters in all new residential construction, to the fullest extent possible. The City will also require pre-wiring and pre-plumbing on new construction for residential solar PV and solar water heaters to provide for easier and less costly future installation. This measure requires various City action, including: (1) adopt an ordinance requiring new single-family residential construction to include 1.8 kWh solar PV systems, and new multi-family residential and commercial construction to meet 10% of its expected energy needs from on-site renewable sources, (2) adopt an ordinance requiring solar water heaters to be installed in all new residential construction, and (3) update the building code to require pre-wiring and pre-plumbing for solar PV and solar hot water systems in all new construction. The measure also provides various performance metrics, including:</p> <ul style="list-style-type: none"> <li>• 2020:             <ul style="list-style-type: none"> <li>○ 925 single-family residential units install a 1.8 kWh solar PV system</li> <li>○ New multi-family residential units and commercial buildings install 2.0 MW combined of solar PV</li> <li>○ 925 single-family residential units install a solar hot water system</li> <li>○ 1,150 multi-family residential units install a solar hot water system</li> </ul> </li> <li>• 2035:             <ul style="list-style-type: none"> <li>○ 2,150 single-family residential units install a 1.8 kWh solar PV system</li> <li>○ New multi-family residential units and commercial buildings install 3.0 MW combined of solar PV</li> <li>○ 2,150 single-family residential units install a solar hot water system</li> <li>○ 2,650 multi-family residential units install a solar hot water system</li> </ul> </li> </ul>	<p>said performance metrics. In such an event, more may be required from this Project to offset the lost expected GHG reductions from this measure. Additionally, the AQ/GHG Study merely states that the Project would include “roof-top solar panels” (Appendix D, p. 36) with no reference to how much solar PV will be achieved or whether it will provide a minimum 10 percent of the necessary energy. If the City is no on track with its PV goals, this may project may require more than 10 percent (e.g., 20, 50, or even nearly 100 percent of its energy needs).</p>
<p><b>Measure T-2.1: Transportation Management Organization Expansion</b> (GGRP, p. 4-22 – 4-23): The City will work with the TMO to expand the geographic reach of its programs and the extent of</p>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet said performance metrics. In such an event,</p>

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<p>services it currently provides. TMO expansion to existing businesses will include an aggressive outreach campaign to advertise the full range of services provided through the TMO. To that end, the City will work with the TMO to update the TMO webpage so that that interested employers can research current programs, incentives, membership opportunities, and requirements. The TMO will work with partners to expand its ridesharing program through the adoption of current technologies that make participation easier for members. The TMO will develop and/or upgrade its ride-matching systems to use current technologies (e.g., cell phone-enabled ride-match applications), and develop a ride-match social networking website and online electronic payment options. The City will evaluate its guaranteed ride home policy to ensure it applies to small businesses. The City will also evaluate its existing carpool parking preference requirements, and study the impacts of lowering the thresholds to apply to more businesses. This measure requires various City action, including: (1) update the TMO website to provide program information to current and potential members, (2) develop a TMO business outreach strategy to increase membership and active participation in TMO programs, (3) expand geographic boundary of TMO into Golden State and Empire areas by 2020 and citywide by 2035, (4) require all new businesses with 25 employees or more within the TMO boundary to join the TMO and fulfill required reporting procedures, (5) expand the carpool/rideshare program through adoption of current technologies, (6) evaluate the City's guaranteed ride home policy to ensure its applicability to small businesses, and (7) evaluate the City's carpool parking preference requirements. The measure also provides various performance metrics, including:</p> <ul style="list-style-type: none"> <li>• 2020: 46% of total employees working within Burbank participate in a voluntary TDM program that offers rideshare promotion, telecommuting/alternative schedules, and parking cash-out options</li> <li>• 2035: 52% of total employees working within Burbank participate in a voluntary TDM</li> </ul>	<p>more may be required from this Project to offset the lost expected GHG reductions from this measure. Additionally, the AQ/GHG Study merely states that the Project will participate in the TMO and include bicycles (Appendix D, p. 37). No discussion is given to the extent the Project and future tenants will have access to carpool and ridesharing programs, ride-matching systems and social networks, guaranteed ride home program, or to what extent parking preferences will be provided for carpools.</p>
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<p>program that offers rideshare promotion, telecommuting/alternative schedules, and parking cash-out options</p>	
<p><b>Measure SW-1.1: Food Scrap and Compostable Paper Diversion Ordinance</b> (GGRP, p. 4-27 – 4-28): The City will adopt a food scraps and compostable paper diversion ordinance, requiring all food waste and compostable paper to be diverted from the waste stream to composting facilities. The program will allow the collection of all food products: fruits, vegetables, breads, cereals, dairy, meat, and fish (including bones); coffee grounds, filters, and tea bags; and food-soiled paper: paper towels, plates, napkins, and pizza boxes. The City will develop an outreach campaign to inform solid waste customers about the change to the yard waste collection program, identify what can and cannot be included in the yard waste bins, and provide helpful tips to minimize pest and odor problems. The City will also perform spot checks on multi-family and commercial properties to ensure compliance with the ordinance. This measure requires various City action, including: (1) adopt a food scrap and compostable paper diversion ordinance, and (2) revise yard waste collection program to allow co-mingling of yard waste, food scraps, and compostable paper. The measure also provides various performance metrics, including:</p> <ul style="list-style-type: none"> <li>• 100% of residential units divert 75% of food scraps and compostable paper</li> <li>• 100% of commercial businesses divert 90% of food scraps and compostable paper</li> </ul>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet said performance metrics. According to a recent MND prepared for the City in August 2016, the City had yet to adopt a food scrap and compostable paper diversion ordinance.<sup>38</sup> Nor does the City’s Community Development Department’s General Plan Annual Implementation Progress Report 2013-2017 mention any diversion ordinance.<sup>39</sup> The AQ/GHG Study merely states that the Project “would be required to comply with all applicable City ordinances, including those specific to diverting food scraps and compostable paper” (Appendix D, p. 37). Given the ordinance has not been timely adopted since the GGRP was adopted in 2013, GHG reductions are entirely illusory and more may be required from this Project.</p>
<p><b>Measure SW-1.2: Yard Waste Diversion Ordinance</b> (GGRP, p. 4-28 – 4-29): The City will adopt an ordinance banning the disposal of yard waste in trash bins. Multi-family residential and non-residential properties that are not currently served by the City’s solid waste collection program would need to contract with a yard-waste collection service provider. This measure requires the City to adopt a yard waste diversion ordinance banning the disposal of yard waste in trash bins or</p>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet said performance metrics. The AQ/GHG Study merely states that the Project would comply with all applicable City ordinances (Appendix D, p. 37). Absent timely adoption and enforcement of the ordinance, this measure is illusory and more may be required from this Project.</p>

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<sup>38</sup> *Ibid.*, pp. 56.  
<sup>39</sup> *Supra* fn. 23.

<p>dumpsters and provides the following performance metrics:</p> <ul style="list-style-type: none"> <li>• 100% of residential units divert yard waste from landfills</li> <li>• 100% of commercial businesses divert yard waste from landfills</li> </ul>	
<p><b>Measure SW-1.3: Lumber Diversion Ordinance</b> (GGRP, p. 4-29): The City will amend its existing ordinance to explicitly require the diversion of 75% of waste from construction and demolition debris generated by new construction and renovations, including scrap lumber. This measure requires the City to modify Construction and Debris Diversion Ordinance to include requirements for 75% diversion and provides the following performance metric:</p> <ul style="list-style-type: none"> <li>• 2020 and 2035: 75% of all construction and demolition lumber waste is diverted from landfills</li> </ul>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet said performance metrics. According to the City’s website, construction projects are required to recycle only 65 percent of construction debris (DEIR, p. 4.13-16).<sup>40</sup> The AQ/GHG Study fails to even mention this mandatory requirement. Unlike other projects reviewed by the City,<sup>41</sup> the Applicant fails even to commit that it will achieve a minimum of 75 percent diversion of lumber waste. Absent timely adoption and enforcement of the ordinance, this measure is illusory and more may be required from this Project.</p>
<p><b>Voluntary Measures</b></p>	
<p><b>Measure E-1.3: ENERGY STAR Appliances</b> (GGRP, p. 4-8 - 4-9): The City will encourage voluntary community participation to install ENERGY STAR appliances or other energy efficient appliance models in both new and existing residential units. This measure requires the City to develop a public outreach program to increase community participation in ENERGY STAR appliance installation and provides the following performance metrics:</p> <ul style="list-style-type: none"> <li>• 2020: 9,300 ENERGY STAR refrigerators, 7,200 ENERGY STAR clothes washers, and 8,100 ENERGY STAR dishwashers are installed</li> <li>• 2035: 20,200 ENERGY STAR refrigerators, 14,300 ENERGY STAR clothes washers, and 10,800 ENERGY STAR dishwashers are installed</li> </ul>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet said performance metrics. Notwithstanding the Project including ENERGY STAR appliances in new residential units (Appendix D, pp. 37), more may be required to off-set loss GHG reductions in the event the City is not reaching the said performance metrics (e.g., Project’s hotel, retail, commercial, and other uses requiring ENERGY STAR appliances and other GHG reducing design features).</p>
<p><b>Measure E-1.4: Smart Grid Integration</b> (GGRP, p. 4-9 - 4-10): The City will encourage voluntary adoption of smart grid technology in new and</p>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet</p>

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<sup>40</sup> See also City of Burbank (2019) Construction & Demolition Debris Diversion Ordinance, <https://www.burbankca.gov/departments/community-development/building/building-codes/c-d>.

<sup>41</sup> *Supra* fn. 37, pp. 56.

<p>existing construction, promoting the use of smart appliances in homes and businesses and the use of OPower to track building energy use. The City will develop an outreach campaign highlighting the benefits of smart grid integration that can occur following a smart meter installation. The outreach campaign should describe how energy management systems work inside a building, including internet-based displays that show how much energy is being used and smart appliances that can defer discretionary electricity use to off-peak hours. BWP will continue advancing time-of-use pricing to its residential customers, with full adoption completed by 2020. BWP will also continue implementation of its thermal energy storage system demonstration program to reduce peak electricity demand by 2 MW by 2015. This measure requires various City action, including: (1) develop an outreach campaign for smart grid integration, (2) expand the City's thermal energy storage system demonstration project, (3) promote the demonstration project to familiarize local businesses with smart grid technology. The measure also provides various performance metrics, including:</p> <ul style="list-style-type: none"> <li>• 2020:             <ul style="list-style-type: none"> <li>○ 5% of existing residential units and existing commercial floor area install smart grid-compatible technologies, such as smart appliances, programmable thermostats, and internet-based displays</li> <li>○ 15% of new residential units and new commercial floor area install smart grid-compatible technologies, such as smart appliances, programmable thermostats, and internet-based displays</li> </ul> </li> <li>• 2035:             <ul style="list-style-type: none"> <li>○ 10% of existing residential units and existing commercial floor area install smart grid-compatible technologies, such as smart appliances, programmable thermostats, and internet-based displays</li> <li>○ 20% of new residential units and new commercial floor area install smart grid-compatible technologies, such as smart</li> </ul> </li> </ul>	<p>said performance metrics. Nor is it known if the City and BWP are on track on advancing time-of-use pricing to its residential customers, implementing its thermal energy storage, or expanding its thermal energy storage system. Additionally, the AQ/GHG Study is completely silent as to whether the Project will incorporate smart grid technology, building energy management systems, effectively incorporate off-peak hour electricity use, or whether residents and tenants will have access to internet-based tracking. Absent timely action by the City, more may be required from this Project such as these voluntary measures to offset loss GHG reductions anticipated under the GGRP.</p>
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<p>appliances, programmable thermostats, and internet-based displays</p>	
<p><b>Measure E-1.5: Cool Roofs</b> (GGRP, p. 4-10 - 4-11): The City will extend its current Cool Roof Pilot Program, and will advertise BWP’s non-residential cool roof incentives to building owners when they obtain permits for re-roofing. This measure requires various City action, including: (1) secure funding to extend the City’s Cool Roof Pilot Program, and (2) provide information about BWP’s cool roof incentives to non-residential building owners. The measure also provides various performance metrics, including:</p> <ul style="list-style-type: none"> <li>• 2020: <ul style="list-style-type: none"> <li>○ Six homes per year install a cool roof through 2020</li> <li>○ 100,000 sq ft of non-residential buildings per year install cool roofs through 2020</li> </ul> </li> <li>• 2035: <ul style="list-style-type: none"> <li>○ Six homes per year install a cool roof through 2035</li> <li>○ 100,000 sq ft of non-residential buildings per year install cool roofs through 2035</li> </ul> </li> </ul>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet said performance metrics. While the DEIR states that the Project will include “cool roofs” (DEIR, p. ES-5), no other information is provided, such as the square footage or the solar reflective rating anticipated to be achieved. Absent timely reaching said performance metrics, more may be required from this Project to off-set loss GHG reductions anticipated under the GGRP.</p>
<p><b>Measure E-1.6: BWP Energy Conservation Programs</b> (GGRP, p. 4-1 - 4-12): BWP provides a variety of energy conservation programs to its residential and business customers to help meet its goal of 1% annual reductions in projected energy loads. Several of these programs are described throughout the GGRP to highlight the City’s current successes in emissions reductions. All of BWP’s current energy conservation programs are described in Energy Efficiency in California’s Public Power Sector, March 2012, an annual report summarizing publicly-owned utilities’ progress toward implementing energy efficiency and demand reduction programs. In fiscal year 2010-2011, BWP spent nearly \$3.0 million in Public Benefits Charge funds on energy efficiency programs, which resulted in net energy savings of 12,244 MWh. This measure requires various City action, including: (1) maintain funding sources for energy conservation programs, and (2) provide information to Community Development Department staff regarding progress toward annual conservation goals for incorporation into</p>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet said performance metrics. While the DEIR states the project would include efficient HVAC systems, cool roofs, LED lighting, rooftop solar, and high-performance glazing (DEIR, p. ES-5), Air Quality PDF 1 requires only that the project achieves either Tier 1 or LEED Gold certification (id. at ES-21). It is undisclosed to what extent these measures will be implemented and, more importantly, what level of energy savings can be reasonably expected. Absent timely reaching said performance metrics, more may be required from this Project to off-set loss GHG reductions anticipated under the GGRP, such as LEED Platinum, net-zero or near-zero energy use via entirely renewable on-site energy, or even carbon offsets through the State’s Cap-n-Trade program.</p>

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<p>future GGRP updates. The measure also provides various performance metrics, including:</p> <ul style="list-style-type: none"> <li>• 2020: Achieve net annual energy savings of 9,900 MWh</li> <li>• 2035: Achieve net annual energy savings of 9,900 MWh</li> </ul>	
<p><b>Measure E-2.2: Solar Photovoltaic Systems</b> (GGRP, p. 4-15): The City will actively promote the development of building-scale solar energy. The City will develop an outreach campaign to ensure BWP’s Solar Photovoltaic Power program is fully subscribed between 2013 and 2016 to meet its solar goal. The City will also reduce or remove its third-party electrical review for non-residential solar PV permits through January 1, 2017 to further encourage full participation in the program. This measure requires various City action, including: (1) develop an aggressive outreach campaign for the BWP Solar Photovoltaic Power program, and (2) reduce or remove third-party electrical review fee associated with non-residential solar PV installations through January 1, 2017. The measure also provides various performance metrics, including:</p> <ul style="list-style-type: none"> <li>• 2020: Install 3.5 MW of solar PV on residential and commercial buildings, in addition to requirements discussed in Measure E-2.1</li> <li>• 2035: Install 5.0 MW of solar PV on residential and commercial buildings, in addition to requirements discussed in Measure E-2.1</li> </ul>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet said performance metrics. For example, it is unknown whether the City has met its 2013 and 2016 solar goals, or on track to meet its 2020 and 2035 goals of installing 3.5 and 5.0 MW of solar PV in the years 2020 and 2035, respectively. While the DEIR states solar will be provided on the rooftop, no info about its size or capacity is provided, much less how much will be generated to off-set the Project’s new energy demands. Absent timely reaching said performance metrics, more may be required from this Project to off-set loss GHG reductions anticipated under the GGRP, such as providing sufficient solar PV to meet the Project’s entire energy needs or even securing carbon offsets through the State’s Cap-n-Trade program.</p>
<p><b>Measure W-1.1: Water Conservation Programs</b> (GGRP, p. 4-25): The City will implement water conservation programs described in the Urban Water Management Plan (UWMP) in support of BWP’s goal to reduce water consumption by 1% annually. This measure requires the City to implement UWMP water conservation programs and provides the performance metric of reducing water use by 110 million gallons (MG) annually.</p>	<p>Here, the DEIR discloses that the Project is anticipated to require approximately 1.68 MG of water a day—more than 24 percent of the anticipated future water demand for the entire City by 2040 (DEIR, p. 4.13-24). This amounts to 613 MG a year—<u>more than five times the amount of water BWP and the City attempts to save annually</u>. This is a significant amount of water demand given the admitted uncertainty of the State’s water supply with the Sierra snowpack expected to experience 25 to 40 percent reduction from the historic average by 2050 (Appendix D, p. 29). Additionally, the Project’s water demand was utilized in the CalEEMod calculations (DEIR, p. 4.13-17), which</p>

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	discloses that the Project’s mitigated water demand would achieve only a 4.4 percent reduction as compared to the Project’s unmitigated water demand. <sup>42</sup> Given the substantial amount of water demanded by the Project, which leads to GHG emissions, the Project must be as water efficient as possible to avoid said GHG emissions—such as exceeding Tier 1 efficiency standards and other water efficiency measures discussed below.
<p><b>Measure W-1.2: Recycled Water Use Master Plan</b> (GGRP, p. 4-26): The City will complete the recycled water system expansion outlined in the Recycled Water Use Master Plan and implement recycled water requirements for large irrigation users. This measure requires various City action, including: (1) expand the recycled water system, and (2) increase number of targeted large irrigation customers required to use recycled water. The measure also provides various performance metrics, including:</p> <ul style="list-style-type: none"> <li>• 2020: Use 1.0 billion gallons of recycled water</li> <li>• 2035: Use 1.0 billion gallons of recycled water</li> </ul>	Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet said performance metrics. Additionally, given the substantial amount of water the Project will demand (as discussed above), the Project needs to be as water efficient as possible, such as participating in the City’s recycled water system.
<p><b>Measure CG 1.1: Sustainability Coordinator</b> (GGRP, p. 4-31 - 4-32): The City will establish a sustainability coordinator position to oversee and monitor the implementation of the GGRP. Roles and responsibilities would include: (a) updating the communitywide emissions inventory every 3-5 years, (b) maintaining contact with BWP to ensure energy and water consumption data is readily available for future inventory updates, (c) identifying new statewide efficiency legislation or regulations that can be quantified for inclusion in future GGRP updates, and (d) promoting sustainability messaging throughout all City departments. This measure requires the City to identify funding sources to support a full-time sustainability coordinator position.</p>	Here, the City has failed to effectively monitor and update the GGRP. As of March 2018, the City admittedly has “ <i>not started</i> ” the process of securing a sustainability coordinator, updating the communitywide emissions inventory, identify new GHG related legislation or regulations, or prepare a new/updated GGRP. <sup>43</sup> As such, and in the face of facially outdated CAP, neither the City nor the Applicant can rely on the GGRP for streamline review because more may be required of this Project to offset loss GHG reductions anticipated under the GGRP.
<p><b>Measure CG 1.2: Sustainability Element</b> (GGRP, p. 4-32 - 4-33): The City will prepare a Sustainability</p>	Here, again, the City admits that as of March 2018, it has “ <i>not started</i> ” to prepare

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<sup>42</sup> Calculated: [(Sum of annual unmitigated indoor/outdoor use) – (sum of annual mitigated indoor/outdoor use)] / (sum of annual unmitigated indoor/outdoor use). See Appendix D, pp. 178-179.

<sup>43</sup> *Supra* fn. 23, pp. 51, 61.



<p>Element for adoption as an amendment to Burbank2035. The element will present policy language supported by justification from state legislation and public input, together with illustrative diagrams, photos, and maps. This measure requires the City to prepare Sustainability Element for Burbank2035 (i.e., General Plan).</p>	<p>Sustainability Element to provide comprehensive direction regarding how best to incorporate sustainability in all City policies and operations, including the carrying out of the GGRP.<sup>44</sup></p>
<p><b>Burbank 2035 General Plan - Air Quality and Climate Change Element<sup>45</sup></b></p>	
<p><b>GOAL 3-Reduction of GHGs:</b> Burbank seeks a sustainable, energy-efficient future and complies with statewide greenhouse gas reduction goals.</p>	
<p><b>Policy 3.1:</b> Develop and adopt a binding, enforceable reduction target and mitigation measures and actions to reduce community-wide greenhouse gas emissions within Burbank by at least 15% from current levels by 2020.</p>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, the measures cannot ensure the City will achieve a 15 percent reduction from 2010 levels by 2020.</p>
<p><b>Policy 3.2:</b> Establish a goal and strategies to reduce community-wide greenhouse gas emissions by at least 30% from current levels by 2035.</p>	<p><i>Ibid.</i> Additionally, the GGRP admits that even if the CAP were successfully being implemented, the City would achieve only a 7.6 percent reduction from 2010 levels by 2035—“short of the City’s 2035 reduction goal by 377,462 MTCO<sub>2</sub>e/yr” (GGRP, p. 4-3). Moreover, the GGRP fails to account for SB 32 newer, more aggressive targets of 40 percent below 1990 levels by 2030.</p>
<p><b>Policy 3.4:</b> Reduce greenhouse gas emissions from new development by promoting water conservation and recycling; promoting development that is compact, mixed-use, pedestrian-friendly, and transit-oriented; promoting energy-efficient building design and site planning; and improving the jobs/housing ratio.</p>	<p>Here, as discussed above, the water demand of this Project is enormous and the Project as mitigated will achieve only a 4.4 percent reduction as compared to the Project’s unmitigated water demand. Additionally, the DEIR fails to mention whether any of the residential units will be affordable housing units. This is particularly problematic given the DEIR admits the City is “jobs rich’ community in which more workers commute to the City from other communities for their jobs than residents commute to points outside the City for their jobs” (DEIR, p. 4.10-2). Lack of affordable housing has a disparate impact on working-class people who cannot find nearby housing opportunities and are forced to commute from far away jurisdictions (e.g., Inland Empire, Orange County, etc.) which can result in commutes exceeding two hours each way. This,</p>

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<sup>44</sup> *Ibid.*, at pp. 61.

<sup>45</sup> <https://www.burbankca.gov/home/showdocument?id=23448>.

	in turn, results in greater VMT and mobile-emissions, including greater GHG emissions.
<b>Policy 3.5:</b> Submit an annual report on the implementation of the Greenhouse Gas Reduction Plan, in conjunction with the annual report to the City Council regarding the implementation of Burbank2035.	Here, the City has failed to effectively monitor and update the GGRP and, therefore, the Project cannot rely on it for streamline CEQA review (as discussed further below).
<b>Policy 3.8:</b> Transition all economic sectors, new development, and existing infrastructure and development to low- or zero-carbon energy sources. Encourage implementation and provide incentives for low- or zero-carbon energy sources.	Here, the DEIR lacks any meaningful information regarding how much low- or zero-carbon energy will be generated by the Project via Tier 1 or LEED Gold certification.
<b>GOAL 4-Climate Change: Prepare for and adapt to anticipated effects of climate change</b>	
<b>Policy 4.1:</b> Evaluate the potential effects of climate change on Burbank’s human and natural systems and prepare strategies that allow the City to respond appropriately.	Here, the City has failed to effectively monitor and update the GGRP, much less incorporate new strategies to be incorporated in a new or updated CAP.
<b>Policy 4.2:</b> Consult with state resource and emergency management agencies regarding updates to climate change science and development of adaptation priorities.	Here, the City has failed to effectively monitor and update the GGRP, much less incorporate or stay in step with evolving information, technology, or state legislation regarding climate change.

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As the above table indicates, the DEIR fails to provide sufficient information, analysis, or reconcile Project inconsistencies with various mandatory/voluntary measures and goals/policies under the GGRP and Burbank 2035 General Plan. It is clear that the City has failed to effectively monitor and update the GGRP to ensure its effectiveness to serve as a CAP which projects can rely on for streamline CEQA review. Admittedly, adoption of the GGRP was “the City’s *initial* attempt to create an organized, communitywide plan to reduce GHG emissions” (GGRP, p. 5-2, emphasis added). While the City should be applauded for this initial step, it has not met the promised follow up actions to ensure the GGRP policy is translated into “on-the-ground results” showing the City is on the right path to achieve its GHG reductions, such as:

- GGRP plan realization meetings taking place several times a year;
- Evaluate the GGRPs performance over time and be ready to alter or amend the plan if it is not achieving its reduction targets;
- Conducting GHG inventories periodically every three to five years;
- Reevaluate or replace under-performing measures;
- Provide summarized progress reports regarding the GHG reduction targets;

- Adapt and transform the GGRP over time in the face of new information, new technology, strategies, legislation, and incorporate these changes in future updates to the GGRP to ensure an effective and efficient program (GGRP, p. 5-1 – 5-3).

The importance of this monitoring requirement cannot be overstated. An essential element of a CAP is “[e]stablish a mechanism to monitor the plan’s progress toward achieving the level and to require amendment if the plan is not achieving specified levels[.]” CEQA Guidelines § 15183.5(b)(1)(E). This is echoed by the Governor’s Office of Planning and Research (OPR), which notes that absent ongoing monitoring and successful implementation of a CAP, paper plans and strategies “may become stale, particularly as methods used to quantify GHG emissions evolve and economic growth projections change[;]” and plans may not “remain[] eligible for CEQA streamlining.”<sup>46</sup> Given the failure to follow through with the above-listed monitoring mechanism, *the GGRP lacks the necessary element to qualify as a CAP, and the Project may not rely on it for streamline CEQA review.*

In addition to failing to show that the Project is consistent with the City’s GGRP and General Plan, the DEIR fails to demonstrate the Project is consistent with numerous measures and goals of other applicable plans that directly or indirectly affect air quality, GHG, and utility impacts, including but not limited to those listed in the below table and continuing on the following pages:

<b>GHG Reduction Measures, Strategies, and Goals of Other Applicable Plans</b>
<b>AB 32 and SB 32</b>
The California Global Warming Solutions Act of 2006 (“AB 32”) was signed into law in September 2006. The law instructs the California Air Resources Board (“CARB”) to develop and enforce regulations for the reporting and verifying of statewide GHG emissions. The heart of AB 32 is the requirement that statewide GHG emissions be reduced to 1990 levels by 2020 (Health & Saf. Code § 38500 <i>et seq.</i> ). However, in April 2015, Governor Edmund G. Brown Jr. issued Executive Order B-30-15 that, <i>inter alia</i> , establish a California GHG reduction target of 40 percent below 1990 levels by 2030 as a step toward the ultimate goal of reducing emissions by 80 percent below 1990 levels by 2050. In September 2016, this goal was made into law with Governor Brown’s signing of Senate Bill 32 (“SB 32”) (enacting Health & Saf. Code § 38566). To this end, CARB released various guidance documents outlining how the State is to achieve the abovementioned goals, including its adoption of its 2017 Scoping Plan in November 2017 that proposes various project-specific measures including:
<b>CARB 2017 Scoping Plan<sup>47</sup></b>
<b>Operation:</b>
<ul style="list-style-type: none"> <li>• Require on-site EV charging capabilities for parking spaces serving the project to meet jurisdiction-wide EV proliferation goals.</li> <li>• Dedicate on-site parking for shared vehicles.</li> <li>• Require organic collection in new developments.</li> </ul>

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<sup>46</sup> See OPR (7/31/17) General Plan Guidelines, p. 224, 231. [http://www.opr.ca.gov/docs/OPR\\_C8\\_final.pdf](http://www.opr.ca.gov/docs/OPR_C8_final.pdf); see also OPR (Dec. 2008) Draft CEQA and Climate Change Advisory Update, p. 17-18 (directing readers to Chapter 8-Climate Change of OPR’s General Plan Guidelines for guidance on CAPs), [http://opr.ca.gov/docs/20181228-Discussion\\_Draft\\_Climate\\_Change\\_Advisory.pdf](http://opr.ca.gov/docs/20181228-Discussion_Draft_Climate_Change_Advisory.pdf).

<sup>47</sup> CARB (Jan. 2017) 2017 Scoping Plan, Appendix B-Local Action, p. 7-9, [https://www.arb.ca.gov/cc/scopingplan/app\\_b\\_local\\_action\\_final.pdf](https://www.arb.ca.gov/cc/scopingplan/app_b_local_action_final.pdf).

- Require low-water landscaping in new developments. Require water-efficient landscape maintenance to conserve water and reduce landscape waste.
- Achieve Zero Net Energy performance targets prior to dates required by CALGreen.
- Require preferential parking spaces for park and ride to incentivize carpooling, vanpooling, commuter bus, electric vehicles, and rail service use.
- Require a transportation management plan for specific plans which establishes a numeric target for non-SOV travel and overall VMT.
- Develop a rideshare program targeting commuters to major employment centers.
- Require the design of bus stops/shelters/express lanes in new developments to promote the usage of mass transit.
- Require gas outlets in residential backyards for use with outdoor cooking appliances such as gas barbeques if natural gas service is available.
- Require the installation of electrical outlets on the exterior walls of both the front and back of residences to promote the use of electric landscape maintenance equipment.
- Require the design of the electric boxes in new residential unit garages to promote electric vehicle usage.
- Require electric vehicle charging station (conductive/inductive) and signage for non-residential developments.
- Provide electric outlets to promote the use of electric landscape maintenance equipment to the extent feasible on parks and public/quasi-public lands.
- Require the installation of energy conserving appliances such as on-demand tank-less water heaters and whole-house fans.
- Require large-scale residential developments and commercial buildings to report energy use, and set specific targets for per-capita energy use.
- Require each residential and commercial building to utilize low flow water fixtures such as low flow toilets and faucets.
- Incorporate water retention in the design of parking lots and landscaping.
- Require the development project to propose an off-site mitigation project which should generate carbon credits equivalent to the anticipated GHG emission reductions. This would be implemented via an approved protocol for carbon credits from California Air Pollution Control Officers Association ("CAPCOA"), the California Air Resources Board, or other similar entities determined acceptable by the local air district.
- Require the project to purchase carbon credits from the CAPCOA GHG Reduction Exchange Program, American Carbon Registry ("ACR"), Climate Action Reserve ("CAR") or other similar carbon credit registry determined to be acceptable by the local air district.
- Encourage the applicant to consider generating or purchasing local and California-only carbon credits as the preferred mechanism to implement its offsite mitigation measure for GHG emissions and that will facilitate the State's efforts in achieving the GHG emission reduction goal.

**CARB 2017 Scoping Plan, Appendix A: Final Environmental Justice Advisory Committee Recommendations<sup>48</sup>**

- CARB needs to identify the SB 375 targets. Specifically, since the target setting process will not conclude until Fall 2017, CARB needs to identify the amount of emissions reduction SB 375 related implementation need to achieve for the state to reach the 2030 and 2050 targets in the Scoping Plan, directing staff to ensure that the SB 375 targets are conducive to meeting those goals. Implementation and tracking of these targets should focus on reducing vehicle miles traveled to

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<sup>48</sup> [https://www.arb.ca.gov/cc/scopingplan/2030sp\\_appa\\_ejac\\_final.pdf](https://www.arb.ca.gov/cc/scopingplan/2030sp_appa_ejac_final.pdf).



- promote secondary goals of reducing sprawl, focusing on housing affordability and job access, as well as encouraging alternative modes of travel.
- CARB must prioritize projects identified by communities. To that end, there should always be technical assistance, translation, and a transparent process to allocate funding. Environmental justice communities should work with funders to define what “benefit” looks like to them, and to select projects that are of best service to the community. Any project selected should focus on local job creation, or hiring local organizations to conduct the work. No project should rely on free or volunteer labor from environmental justice communities, but should pay those participants for their time.
  - CARB should explore ways to promote the use of recycled water for funding projects.
  - Set goals for new and green buildings: all new constructions to be zero net energy (ZNE) by 2020, with none using natural gas or biogas. Include affordable housing buildings in ZNE goals.
  - Support community land trusts to address gentrification and preserve affordability and access.

**SB 375 and SCAG’s RTP/SCS Strategies  
SCAG 2012-2035 and 2016-2040 RTP/SCS and PEIR**

In September 2008, SB 375 (Gov. Code § 65080(b) *et seq.*) was instituted to help achieve AB 32 goals through, *inter alia*, requiring regional agencies to prepare a Sustainable Communities Strategy (“SCS”) to be incorporated into their Regional Transportation Plan (“RTP”) that effectively links land use planning with the regional transportation system so that the region can grow smartly and sustainably, while also demonstrating how the region will meet targets set by CARB that reduce the per capita GHG emission from passenger vehicles in the region.<sup>49</sup> Pursuant to SB 375, CARB set the per capita GHG emission reduction targets for the Southern California Association of Governments (“SCAG”) region at 8 percent below 2005 per capita emissions levels by 2020, and 13 percent below 2005 per capita emissions levels by 2035.<sup>50</sup>

In April 2012, SCAG adopted its 2012-2035 RTP/ SCS (“2012 RTP/SCS”), which proposed specific land use policies and transportation strategies for local governments to implement that will help the region achieve GHG emission reductions of 9 percent per capita in 2020 and 16 percent per capita in 2035.<sup>51</sup> In April 2016, SCAG adopted the 2016-2040 RTP/SCS (“2016 RTP/SCS”), which incorporates and builds upon the policies and strategies in the 2012 RTP/SCS,<sup>52</sup> that will help the region achieve GHG emission reductions that would reduce the region’s per capita transportation emissions by eight percent by 2020 and 18 percent by 2035.<sup>53</sup> For both the 2012 and 2016 RTP/SCS, SCAG prepared Program Environmental Impact Reports (“PEIR”) that include Mitigation Monitoring and Reporting Programs (“MMRP”) that list project-level environmental mitigation measures that directly and/or indirectly relate to a project’s GHG impacts and contribution to the region’s GHG emissions.<sup>54</sup> These environmental mitigation measures serve to help local municipalities when identifying mitigation to reduce impacts on a project-specific basis that can and should be implemented when they identify and mitigate project-specific

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<sup>49</sup> SCAG (Apr. 2012) 2012 RTP/SCS, p. xiii (Resolution No. 12-538-2), <http://rtpscs.scag.ca.gov/Documents/2012/final/f2012RTPSCS.pdf>.

<sup>50</sup> *Ibid.*, p. 3, 108, 151-156, 197.

<sup>51</sup> *Ibid.*, p. 107-164;

<sup>52</sup> SCAG (Apr. 2016) 2016 RTP/SCS, p. 69, 75-115, <http://scagrtpscscs.net/Documents/2016/final/f2016RTPSCS.pdf>.

<sup>53</sup> *Ibid.*, p. 8, 15, 153, 166.

<sup>54</sup> *Ibid.*, p. 116-124; *see also* SCAG 2012 RTP/SCS, *supra* fn. 49, p. 77-86.

promote secondary goals of reducing sprawl, focusing on housing affordability and job access, as well as encouraging alternative modes of travel.

- CARB must prioritize projects identified by communities. To that end, there should always be technical assistance, translation, and a transparent process to allocate funding. Environmental justice communities should work with funders to define what “benefit” looks like to them, and to select projects that are of best service to the community. Any project selected should focus on local job creation, or hiring local organizations to conduct the work. No project should rely on free or volunteer labor from environmental justice communities, but should pay those participants for their time.
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**SB 375 and SCAG’s RTP/SCS Strategies  
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<sup>49</sup> SCAG (Apr. 2012) 2012 RTP/SCS, p. xiii (Resolution No. 12-538-2), <http://rtpscs.scag.ca.gov/Documents/2012/final/f2012RTPSCS.pdf>.

<sup>50</sup> *Ibid.*, p. 3, 108, 151-156, 197.

<sup>51</sup> *Ibid.*, p. 107-164;

<sup>52</sup> SCAG (Apr. 2016) 2016 RTP/SCS, p. 69, 75-115, <http://scagrtpscscs.net/Documents/2016/final/f2016RTPSCS.pdf>.

<sup>53</sup> *Ibid.*, p. 8, 15, 153, 166.

<sup>54</sup> *Ibid.*, p. 116-124; *see also* SCAG 2012 RTP/SCS, *supra* fn. 49, p. 77-86.



<p>environmental impacts.<sup>55</sup> Below outline applicable land use policies, transportation strategies, and project-level mitigation measures identified in the 2012 and 2016 RTP/SCS and PEIRs.</p>
<p><b>Land Use Policies<sup>56</sup></b></p> <ul style="list-style-type: none"> <li>• <b>Affordable Housing:</b> Local municipalities should incorporate strategies such as collaborate with local jurisdictions and agencies to acquire a regional fair share housing allocation that reflects existing and future needs.</li> <li>• <b>Combating Gentrification and Displacement:</b> Adding to the local housing stock rather than maintaining the current stock by changing the residential population, as well as pursuing the production of permanent affordable housing that will provide some units for affordable to lower-income households.</li> <li>• <b>Provide More Options for Short Trips:</b> Given 38 percent of all trips in the SCAG region are less than three miles, projects that further policies that encourage replacing motor vehicle use with Neighborhood Electric Vehicle (“NEV”) is encouraged. These land use policies shifting retail growth from large centralized retail strip malls to smaller distributed centers and the creation of these mixed-use districts by co-locating housing, employment, and a mix of retail and services that meet most daily needs of local residents with the opportunity to patronize their local area and run daily errands by walking or cycling rather than traveling by automobile.</li> </ul>
<p><b>Transportation Network Strategies<sup>57</sup></b></p> <ul style="list-style-type: none"> <li>• <b>Transit Fare Discounts:</b> Incorporating strategies such as encourage transit fare discounts and local vendor product and service discounts for residents and employees of TOD/HQTAs, or for a jurisdiction’s local residents in general who have fare media.</li> <li>• <b>Transit Integration Strategies:</b> This refers to a suite of strategies designed to better integrate active transportation and transit by improving access for pedestrians, bicyclists and other people traveling under their own power around transit stations. Strategies include: <ul style="list-style-type: none"> <li>○ Bike share services in closely packed bike rental kiosks in heavily urbanized areas designed to replace short-distance motor vehicle trips, reduce parking demand and complement local bus services such as DASH in the City of Los Angeles;</li> <li>○ Education/encouragement campaigns such as advertising, public service announcements and media kits designed to educate the public on the importance of safety.</li> </ul> </li> </ul>
<p><b>Transportation Demand Management (TDM) Strategies<sup>58</sup></b></p> <ul style="list-style-type: none"> <li>• Incorporating strategies such as: <ul style="list-style-type: none"> <li>○ Support work-based programs that encourage emission reduction strategies.</li> <li>○ Encourage the development of telecommuting programs by employers through review and revision of policies that may discourage alternative work options</li> <li>○ Emphasize active transportation projects as part of complying with the Complete Streets Act (AB 1358).</li> </ul> </li> <li>• Furthering SCAG’s three main focus areas under the 2016 RTP/SCS, including: <ul style="list-style-type: none"> <li>○ Redistributing or eliminating vehicle trips from peak demand periods through incentives for telecommuting and alternative work schedules or encouraging the development of telecommuting programs by employers through review and revision of policies that may discourage alternative work options.</li> </ul> </li> </ul>

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<sup>55</sup> SCAG 2012 RTP/SCS, *supra* fn. 49, p. 77; *see also* SCAG 2016 RTP/SCS, *supra* fn. 52, p. 115.

<sup>56</sup> SCAG 2012 RTP/SCS, *supra* fn. 49, Tbls. 4.3 – 4.7; *see also* SCAG 2016 RTP/SCS, *supra* fn. 52, p. 75-114.

<sup>57</sup> *Ibid.*

<sup>58</sup> *Ibid.*

<ul style="list-style-type: none"> <li>○ Reducing the number of SOV trips and overall vehicle miles traveled (VMT) through ridesharing, which includes carpooling, vanpooling and supportive policies for shared ride services such as Uber and Lyft.</li> <li>○ Reducing the number of SOV trips through the use of other modes of travel such as transit, rail, bicycling and walking.</li> <li>● Expand and encourage the implementation of TDM strategies to their fullest extent such as:             <ul style="list-style-type: none"> <li>○ rideshare incentives and rideshare matching,</li> <li>○ parking management and parking cash-out policies,</li> <li>○ preferential parking or parking subsidies for carpoolers,</li> <li>○ intelligent parking programs,</li> <li>○ promotion and expansion of Guaranteed Ride Home programs,</li> <li>○ incentives for telecommuting and flexible work schedules,</li> <li>○ integrated mobility hubs and first/last mile strategies,</li> <li>○ incentives for employees who bike and walk to work,</li> <li>○ investments in active transportation infrastructure, and</li> <li>○ investments in Safe Routes to School programs and infrastructure.</li> </ul> </li> </ul>
<p><b>Clean Vehicle Technology Strategies<sup>59</sup></b></p> <ul style="list-style-type: none"> <li>● <b>NEVs:</b> Support sub-regional strategies to develop infrastructure and supportive land uses to accelerate fleet conversion to electric technologies, zero-emissions vehicles, and Neighborhood Electric Vehicles (“NEVs”).</li> <li>● <b>Anticipating Shared Mobility Platforms, Car-To-Car Communication, and Automated Vehicle Technologies:</b> Shared Mobility encompasses a wide range of services including Return Trip Car Sharing, Point-to-Point Car Sharing, Peer-to-Peer Car Sharing, Ridesourcing, Dynamic On-Demand Private Transit, Vanpool and Private Employer Charters.</li> </ul>
<p><b>Project-Level Environmental Mitigation Measures<sup>60</sup></b></p> <p><b>GHG Emissions:</b></p> <ul style="list-style-type: none"> <li>● Reduction in emissions resulting from a project through implementation of project features, project design, or other measures, such as those described in Appendix F of the State CEQA Guidelines,<sup>61</sup> such as:             <ul style="list-style-type: none"> <li>○ Potential measures to reduce wasteful, inefficient and unnecessary consumption of energy during construction, operation, maintenance and/or removal. The discussion should explain why certain measures were incorporated in the project and why other measures were dismissed.</li> <li>○ The potential siting, orientation, and design to minimize energy consumption, including transportation energy.</li> </ul> </li> </ul>

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<sup>59</sup> *Ibid.*

<sup>60</sup> SCAG 2012 RTP/SCS (Mar. 2012) Final PEIR MMRP, p. 6-2—6-14 (including mitigation measures (“MM”) AQ3, BIO/OS3, CUL2, GEO3, GHG15, HM3, LU14, NO1, POP4, PS12, TR23, W9 [stating “[l]ocal agencies *can and should comply* with the requirements of CEQA to mitigate impacts to [the environmental] as applicable and feasible ... [and] may refer to *Appendix G* of this PEIR for examples of potential mitigation to consider when appropriate in reducing environmental impacts of future projects.” (Emphasis added)]), <http://rtpscs.scag.ca.gov/Documents/peir/2012/final/Final2012PEIR.pdf>; see also *id.*, Final PEIR Appendix G (including MMs AQ1-23, GHG1-8, PS1-104, TR1-83, W1-62), [http://rtpscs.scag.ca.gov/Documents/peir/2012/final/2012fPEIR\\_AppendixG\\_ExampleMeasures.pdf](http://rtpscs.scag.ca.gov/Documents/peir/2012/final/2012fPEIR_AppendixG_ExampleMeasures.pdf); see also SCAG 2016 RTP/SCS (Mar. 2016) Final PEIR MMRP, p. 11–63 (including MMs AIR-2(b), AIR-4(b), EN-2(b), GHG-3(b), HYD-1(b), HYD-2(b), HYD-8(b), TRA-1(b), TRA-2(b), USS-4(b), USS-6(b)), [http://scagrtpscs.net/Documents/2016/peir/final/2016fPEIR\\_ExhibitB\\_MMRP.pdf](http://scagrtpscs.net/Documents/2016/peir/final/2016fPEIR_ExhibitB_MMRP.pdf).

<sup>61</sup> CEQA Guidelines, Appendix F-Energy Conservation, [http://resources.ca.gov/ceqa/guidelines/Appendix\\_F.html](http://resources.ca.gov/ceqa/guidelines/Appendix_F.html).

- The potential for reducing peak energy demand.
- Alternate fuels (particularly renewable ones) or energy systems.
- Energy conservation which could result from recycling efforts.
- Off-site measures to mitigate a project’s emissions.
- Measures that consider incorporation of Best Available Control Technology (BACT) during design, construction and operation of projects to minimize GHG emissions, including but not limited to:
  - Use energy and fuel-efficient vehicles and equipment;
  - Deployment of zero- and/or near zero emission technologies;
  - Use cement blended with the maximum feasible amount of flash or other materials that reduce GHG emissions from cement production;
  - Incorporate design measures to reduce GHG emissions from solid waste management through encouraging solid waste recycling and reuse;
  - Incorporate design measures to reduce energy consumption and increase use of renewable energy;
  - Incorporate design measures to reduce water consumption;
  - Use lighter-colored pavement where feasible;
  - Recycle construction debris to maximum extent feasible;
- Adopting employer trip reduction measures to reduce employee trips such as vanpool and carpool programs, providing end-of-trip facilities, and telecommuting programs.
- Designate a percentage of parking spaces for ride-sharing vehicles or high-occupancy vehicles, and provide adequate passenger loading and unloading for those vehicles;
- Land use siting and design measures that reduce GHG emissions, including:
  - Measures that increase vehicle efficiency, encourage use of zero and low emissions vehicles, or reduce the carbon content of fuels, including constructing or encouraging construction of electric vehicle charging stations or neighborhood electric vehicle networks, or charging for electric bicycles; and
  - Measures to reduce GHG emissions from solid waste management through encouraging solid waste recycling and reuse.

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**Hydrology & Water Quality:**

- Incorporate measures consistent in a manner that conforms to the standards set by regulatory agencies responsible for regulating water quality/supply requirements, such as:
  - Reduce exterior consumptive uses of water in public areas, and should promote reductions in private homes and businesses, by shifting to drought-tolerant native landscape plantings (xeriscaping), using weather-based irrigation systems, educating other public agencies about water use, and installing related water pricing incentives.
  - Promote the availability of drought-resistant landscaping options and provide information on where these can be purchased. Use of reclaimed water especially in median landscaping and hillside landscaping can and should be implemented where feasible.
  - Implement water conservation best practices such as low-flow toilets, water-efficient clothes washers, water system audits, and leak detection and repair.
  - Ensure that projects requiring continual dewatering facilities implement monitoring systems and long-term administrative procedures to ensure proper water management that prevents degrading of surface water and minimizes, to the greatest extent possible, adverse impacts on groundwater for the life of the project. Comply with appropriate building codes and standard practices including the Uniform Building Code.
  - Maximize, where practical and feasible, permeable surface area in existing urbanized areas to protect water quality, reduce flooding, allow for groundwater recharge, and preserve wildlife

- habitat. Minimized new impervious surfaces to the greatest extent possible, including the use of in-lieu fees and off-site mitigation.
- Avoid designs that require continual dewatering where feasible.
- Where feasible, do not site transportation facilities in groundwater recharge areas, to prevent conversion of those areas to impervious surface.
- Incorporate measures consistent in a manner that conforms to the standards set by regulatory agencies responsible for regulating and enforcing water quality and waste discharge requirements, such as:
  - Complete, and have approved, a Stormwater Pollution Prevention Plan (“SWPPP”) before initiation of construction.
  - Implement Best Management Practices to reduce the peak stormwater runoff from the project site to the maximum extent practicable.
  - Comply with the Caltrans stormwater discharge permit as applicable; and identify and implement Best Management Practices to manage site erosion, wash water runoff, and spill control.
  - Complete, and have approved, a Standard Urban Stormwater Management Plan, prior to occupancy of residential or commercial structures.
  - Ensure adequate capacity of the surrounding stormwater system to support stormwater runoff from new or rehabilitated structures or buildings.
  - Prior to construction within an area subject to Section 404 of the Clean Water Act, obtain all required permit approvals and certifications for construction within the vicinity of a watercourse (e.g., Army Corps § 404 permit, Regional Waterboard § 401 permit, Fish & Wildlife § 401 permit).
  - Where feasible, restore or expand riparian areas such that there is no net loss of impervious surface as a result of the project.
  - Install structural water quality control features, such as drainage channels, detention basins, oil and grease traps, filter systems, and vegetated buffers to prevent pollution of adjacent water resources by polluted runoff where required by applicable urban stormwater runoff discharge permits, on new facilities.
  - Provide structural stormwater runoff treatment consistent with the applicable urban stormwater runoff permit where Caltrans is the operator, the statewide permit applies.
  - Provide operational best management practices for street cleaning, litter control, and catch basin cleaning are implemented to prevent water quality degradation in compliance with applicable stormwater runoff discharge permits; and ensure treatment controls are in place as early as possible, such as during the acquisition process for rights-of-way, not just later during the facilities design and construction phase.
  - Comply with applicable municipal separate storm sewer system discharge permits as well as Caltrans’ stormwater discharge permit including long-term sediment control and drainage of roadway runoff.
  - Incorporate as appropriate treatment and control features such as detention basins, infiltration strips, and porous paving, other features to control surface runoff and facilitate groundwater recharge into the design of new transportation projects early on in the process to ensure that adequate acreage and elevation contours are provided during the right-of-way acquisition process.
  - Design projects to maintain volume of runoff, where any downstream receiving water body has not been designed and maintained to accommodate the increase in flow velocity, rate, and volume without impacting the water’s beneficial uses. Pre-project flow velocities, rates, and volumes must not be exceeded. This applies not only to increases in stormwater runoff from the

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<p>project site, but also to hydrologic changes induced by flood plain encroachment. Projects should not cause or contribute to conditions that degrade the physical integrity or ecological function of any downstream receiving waters.</p> <ul style="list-style-type: none"> <li>○ Provide culverts and facilities that do not increase the flow velocity, rate, or volume and/or acquiring sufficient storm drain easements that accommodate an appropriately vegetated earthen drainage channel.</li> <li>○ Upgrade stormwater drainage facilities to accommodate any increased runoff volumes. These upgrades may include the construction of detention basins or structures that will delay peak flows and reduce flow velocities, including expansion and restoration of wetlands and riparian buffer areas. System designs shall be completed to eliminate increases in peak flow rates from current levels.</li> <li>○ Encourage Low Impact Development (“LID”) and incorporation of natural spaces that reduce, treat, infiltrate and manage stormwater runoff flows in all new developments, where practical and feasible.</li> </ul> <ul style="list-style-type: none"> <li>● Incorporate measures consistent with the provisions of the Groundwater Management Act and implementing regulations, such as:             <ul style="list-style-type: none"> <li>○ For projects requiring continual dewatering facilities, implement monitoring systems and long-term administrative procedures to ensure proper water management that prevents degrading of surface water and minimizes, to the greatest extent possible, adverse impacts on groundwater for the life of the project, Construction designs shall comply with appropriate building codes and standard practices including the Uniform Building Code.</li> <li>○ Maximize, where practical and feasible, permeable surface area in existing urbanized areas to protect water quality, reduce flooding, allow for groundwater recharge, and preserve wildlife habitat. Minimize to the greatest extent possible, new impervious surfaces, including the use of in-lieu fees and off-site mitigation.</li> <li>○ Avoid designs that require continual dewatering where feasible.</li> <li>○ Avoid construction and siting on groundwater recharge areas, to prevent conversion of those areas to impervious surface.</li> <li>○ Reduce hardscape to the extent feasible to facilitate groundwater recharge as appropriate.</li> </ul> </li> <li>● Incorporate mitigation measures to ensure compliance with all federal, state, and local floodplain regulations, consistent with the provisions of the National Flood Insurance Program, such as:             <ul style="list-style-type: none"> <li>○ Comply with Executive Order 11988 on Floodplain Management, which requires avoidance of incompatible floodplain development, restoration and preservation of the natural and beneficial floodplain values, and maintenance of consistency with the standards and criteria of the National Flood Insurance Program.</li> <li>○ Ensure that all roadbeds for new highway and rail facilities be elevated at least one foot above the 100-year base flood elevation. Since alluvial fan flooding is not often identified on FEMA flood maps, the risk of alluvial fan flooding should be evaluated and projects should be sited to avoid alluvial fan flooding. Delineation of floodplains and alluvial fan boundaries should attempt to account for future hydrologic changes caused by global climate change.</li> </ul> </li> </ul>	
<p><b>Transportation, Traffic, and Safety:</b></p> <ul style="list-style-type: none"> <li>● Institute teleconferencing, telecommute and/or flexible work hour programs to reduce unnecessary employee transportation.</li> <li>● Create a ride-sharing program by designating a certain percentage of parking spaces for ride sharing vehicles, designating adequate passenger loading and unloading for ride sharing vehicles, and providing a web site or message board for coordinating rides.</li> <li>● Provide a vanpool for employees.</li> </ul>	

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- Provide a Transportation Demand Management (TDM) plan containing strategies to reduce on-site parking demand and single occupancy vehicle travel. The TDM shall include strategies to increase bicycle, pedestrian, transit, and carpools/vanpool use, including:
  - Inclusion of additional bicycle parking, shower, and locker facilities that exceed the requirement.
  - Direct transit sales or subsidized transit passes.
  - Guaranteed ride home program.
  - Pre-tax commuter benefits (checks).
  - On-site car-sharing program (such as City Car Share, Zip Car, etc.).
  - On-site carpooling program.
  - Distribution of information concerning alternative transportation options.
  - Parking spaces sold/leased separately.
  - Parking management strategies; including attendant/valet parking and shared parking spaces.
- Promote ride sharing programs e.g., by designating a certain percentage of parking spaces for high-occupancy vehicles, providing larger parking spaces to accommodate vans used for ride-sharing, and designating adequate passenger loading and unloading and waiting areas.
- Encourage the use of public transit systems by enhancing safety and cleanliness on vehicles and in and around stations, providing shuttle service to public transit, offering public transit incentives and providing public education and publicity about public transportation services.
- Build or fund a major transit stop within or near transit development upon consultation with applicable CTCs.
- Work with the school districts to improve pedestrian and bike access to schools and to restore or expand school bus service using lower-emitting vehicles.
- Purchase, or create incentives for purchasing, low or zero-emission vehicles.
- Provide the necessary facilities and infrastructure to encourage the use of low or zero-emission vehicles.
- Promote ride sharing programs, if determined feasible and applicable by the Lead Agency, including:
  - Designate a certain percentage of parking spaces for ride-sharing vehicles.
  - Designate adequate passenger loading, unloading, and waiting areas for ride-sharing vehicles.
  - Provide a web site or message board for coordinating shared rides.
  - Encourage private, for-profit community car-sharing, including parking spaces for car share vehicles at convenient locations accessible by public transit.
  - Hire or designate a rideshare coordinator to develop and implement ridesharing programs.
- Support voluntary, employer-based trip reduction programs, if determined feasible and applicable by the Lead Agency, including:
  - Provide assistance to regional and local ridesharing organizations.
  - Advocate for legislation to maintain and expand incentives for employer ridesharing programs.
  - Require the development of Transportation Management Associations for large employers and commercial/ industrial complexes.
  - Provide public recognition of effective programs through awards, top ten lists, and other mechanisms.
- Implement a “guaranteed ride home” program for those who commute by public transit, ride-sharing, or other modes of transportation, and encourage employers to subscribe to or support the program.
- Encourage and utilize shuttles to serve neighborhoods, employment centers and major destinations.

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- Create a free or low-cost local area shuttle system that includes a fixed route to popular tourist destinations or shopping and business centers.
  - Work with existing shuttle service providers to coordinate their services.
  - Facilitate employment opportunities that minimize the need for private vehicle trips, such as encourage telecommuting options with new and existing employers, through project review and incentives, as appropriate.
  - Organize events and workshops to promote GHG-reducing activities.
  - Implement a Parking Management Program to discourage private vehicle use, including:
    - Encouraging carpools and vanpools with preferential parking and a reduced parking fee.
    - Institute a parking cash-out program or establish a parking fee for all single-occupant vehicles.
- Utilities & Service Systems:**
- Integrate green building measures consistent with CALGreen (Title 24, part 11), U.S. Green Building Council’s Leadership in Energy and Environmental Design, energy Star Homes, Green Point Rated Homes, and the California Green Builder Program into project design including, but not limited to the following:
    - Reuse and minimization of construction and demolition (C&D) debris and diversion of C&D waste from landfills to recycling facilities.
    - Inclusion of a waste management plan that promotes maximum C&D diversion.
    - Development of indoor recycling program and space.
    - Discourage exporting of locally generated waste outside of the SCAG region during the construction and implementation of a project.<sup>62</sup> Encourage disposal within the county where the waste originates as much as possible. Promote green technologies for long-distance transport of waste (e.g., clean engines and clean locomotives or electric rail for waste-by-rail disposal systems) and consistency with SCAQMD and 2016 RTP/SCS policies can and should be required.
    - Develop ordinances that promote waste prevention and recycling activities such as: requiring waste prevention and recycling efforts at all large events and venues; implementing recycled content procurement programs; and developing opportunities to divert food waste away from landfills and toward food banks and composting facilities.
    - Develop alternative waste management strategies such as composting, recycling, and conversion technologies.
    - Develop and site composting, recycling, and conversion technology facilities that have minimum environmental and health impacts.
    - Require the reuse and recycle construction and demolition waste (including, but not limited to, soil, vegetation, concrete, lumber, metal, and cardboard).
    - Integrate reuse and recycling into residential industrial, institutional and commercial projects.
    - Provide recycling opportunities for residents, the public, and tenant businesses.
    - Provide education and publicity about reducing waste and available recycling services.
    - Implement or expand city or county-wide recycling and composting programs for residents and businesses. This could include extending the types of recycling services offered (e.g., to include food and green waste recycling) and providing public education and publicity about recycling services.

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<sup>62</sup> Here, 90,000 cubic yards of material would be exported to Kettleman Landfill approximately 170 miles from the Project site outside of SCAG region (DEIR, p. 4.2-6).

As the above-listed measures suggest, there is a great deal of overlap between the applicable plans, which are consistent with the GHG reduction goals of the outdated GGRP. Many of these project design features and mitigation measures are featured in multiple plans and have become standard Conditions of Approval for other projects approved by the nearby City of Los Angeles.<sup>63</sup>

<sup>63</sup> See e.g., Lizard Hotel (DCP Case No. ENV-2015-2356-EIR) Draft EIR, pp. 24-30 (noting PDFs consistent with applicable GHG plan), <https://planning.lacity.org/eir/SpringStHotel/Deir/DEIR%20Sections/Spring%20St%20Hotel%20IV.E%20Greenhouse%20Gas%20Emissions.pdf>; see also Final EIR Mitigation Monitoring Reporting Program (MMRP), pp. 9 (MM TR-1), [https://planning.lacity.org/eir/SpringStHotel/FEIR/FEIR%20Sections/V.%20MMP%20\(Spring%20Street\)%20public%20review%20110917.pdf](https://planning.lacity.org/eir/SpringStHotel/FEIR/FEIR%20Sections/V.%20MMP%20(Spring%20Street)%20public%20review%20110917.pdf); Bixel Residence (DCP Case No. ENV-2015-3927) MND, pp. 67- 79 (MMs III-60, XVII-100), [http://cityplanning.lacity.org/staffrpt/mnd/Pub\\_102716/ENV-2015-3927.pdf](http://cityplanning.lacity.org/staffrpt/mnd/Pub_102716/ENV-2015-3927.pdf); Selma Wilcox Hotel (DCP Case No. ENV-2016-2602) MND, pp. 17-19, 108-117 (MMs Traffic-2), [https://planning.lacity.org/staffrpt/mnd/Pub\\_010418/ENV-2016-2602.pdf](https://planning.lacity.org/staffrpt/mnd/Pub_010418/ENV-2016-2602.pdf); 800-824 S. Western Ave. (DCP Case No. ENV-2016-3609) MND, pp. 14-32 (PDFs/MMs RCM 3-1 through 3-4, RCM 9-1 through 9-4, 16-1, RCM 18-2 through 10, 18-1 through 18-2), [https://planning.lacity.org/staffrpt/mnd/Pub\\_100517/ENV-2016-3609.pdf](https://planning.lacity.org/staffrpt/mnd/Pub_100517/ENV-2016-3609.pdf); 3100 W. 8th St. (DCP Case No. ENV-2014-4933) MND, pp. 14-15, 57-59 (PDFs/MMs AQ-1 through AQ-6, GHG 1-5), [http://cityplanning.lacity.org/staffrpt/mnd/Pub\\_090116/ENV-2014-4933-A.pdf](http://cityplanning.lacity.org/staffrpt/mnd/Pub_090116/ENV-2014-4933-A.pdf); 2789 W. Olympic Blvd. (DCP Case No. ENV-2014-3704-MND) MND, p. 2-3 (MMs III-60 through 70, XVII-60), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2014-3704.pdf>; 2800 W. Olympic Blvd. (DCP Case No. ENV-2014-1954-MND) MND, pp. 2-9 (MMs III-10, VII-10, IX-20, XV-10, XVII-10 through 100), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2014-1954.pdf>; 903 S. New Hampshire Ave. (DCP Case No. ENV-2013-582-MND) MND, pp. 2-4 (MMs III-10, VII-10, IX-20 and 30, XIII-30, XV-10), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2013-582.pdf>; 968 S. Berendo St. (DCP Case No. ENV-2013-2-MND) MND, pp. 2-8 (MMs III-10 through 60, VII-10, IX-20, XVI-10, XVII-10 through 100), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2013-2.pdf>; 2889 W. Olympic Blvd. (DCP Case No. ENV-2012-2757-MND) MND, pp. 2-3 (MMs III-60, VII-10, XVII-60 through 100), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2012-2757.pdf>; 936 S. Fedora St. (DCP Case No. ENV-2007-2441-MND) MND, pp. 2-5 (MMs III-d1, VI-b2, VIII-c2, XII-d, XVI-d and f), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2007-2441.pdf>; 712 S. Manhattan Pl. (DCP Case No. ENV-2016-105-MND), MND, pp. 2 (MMs III-60, III-70, III-90), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2016-105.pdf>; 3100 W. 8th St. (DCP Case No. ENV-2014-4933-MND), MND, pp. 3 (MM III-0), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2014-4933.pdf>; 1047 S. Serrano Ave. (DCP Case No. ENV-2015-2216-MND), MND, pp. 3 (MM VII-10), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2015-2216.pdf>; 3076 W. Olympic Blvd. (DCP Case No. ENV-2014-3572-MND), MND, pp. 3 (MM VII-10), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2014-3572.pdf>; 1011 S. Serrano Ave. (DCP Case No. ENV-2014-3973) MND, pp. 3-4 (MM VII-10), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2014-3973.pdf>; 2800 W. Olympic Blvd. (DCP Case No. ENV-2014-1954-MND) MND, pp. 2-9 (MMs III-10, VII-10, IX-20, XV-10, XVII-10 through 90), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2014-1954.pdf>; 1038 S. Mariposa Ave. (DCP Case No. ENV-2014-0179-MND) MND, pp. 2-6 (MMs III-10, III-60, VII-10, XV-10, XVII-20 through 90), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2014-0179.pdf>; 837 S. Harvard Blvd. (DCP Case No. ENV-2014-145-MND) MND, pp. 2-7 (MMs III-10, VII-10, IX-20, XV-10, XVII-10 through 100), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2014-145.pdf>; 940 S. Western Ave. (DCP Case No. ENV-2013-3576-MND) MND, pp. 2- 7 (MMs III-10, VII-10, IX-20, XV-10, XVII-10 through 100), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2013-3576.pdf>; 3418 W. 8th St. (DCP Case No. ENV- 2013-3373-MND) MND, pp. 3-9 (MMs III-10, VII-10, XV-10 through 20, XVII-10 through 100), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2013-3373.pdf>; 1020 ½ S. Fedora St. (DCP Case No. ENV-2012-2332-MND) MND, pp. 2-6 (MMs III-10, III-60, X-0, XVII-10 through 100), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2012-2332.pdf>; 975 S. Serrano Ave. (DCP Case No. ENV-2011-1142-MND) MND, pp. 2-7 (MMs III-10 through 60, VII-10, IX-20, XIII-30, XVII-10 through 100), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2011-1142.pdf>; 1011 S. Serrano Ave. (DCP Case No. ENV-2011-1025-MND) MND, pp. 2-7 (MMs 111-10 through 50, VII-10, IX-20, X-40, XV-10, XVII-10 through 90), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2011-1025.pdf>; 2914 W. 8th St. (DCP Case No. ENV-2009-1727-MND) MND, pp. 6-10 (MMs III-d1, VI-b, VIII-c2, XVI-d through f), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2009-1727.pdf>

However, because the DEIR and AQ/GHG Study’s perfunctory GHG analysis failed to mention—*much less demonstrate consistency with the above-list measures, strategies, and goals*—the DEIR’s claim that the Project is consistent with applicable GHG reducing plans, policies, or regulations is without substantial evidence. To the extent the Project fails to comply with the measures mentioned above, the Project is inconsistent with applicable GHG-reducing plans and, therefore, the Project is considered to have a significant GHG impact that requires all feasible mitigation, including compliance with the measures mentioned above and other applicable mitigation measures.<sup>64</sup>

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4) *Failure to Demonstrate Additionality*

The Project Applicant’s reliance on the outdated GGRP is inadequate, as projects must incorporate emissions reductions measures beyond those that comprise basic requirements. Just because “a project is designed to meet high building efficiency and conservation standards ... does not establish that its [GHG] emissions from transportation activities lack significant impacts.” *Newhall Ranch*, 62 Cal.4<sup>th</sup> at 229 (citing Natural Resources Agency).<sup>65</sup> This concept is known as “additionality” whereby GHG emission reductions otherwise required by law or regulation are appropriately considered part of the baseline and, pursuant to CEQA Guideline § 15064.4(b)(1), a new project’s emissions should be compared against

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[1727.pdf](#); 6100 N. Topanga Canyon Blvd. (DCP Case No. ENV-2016-3909-EIR) DEIR, pp. 43-44 (GHG PDFs D-1 through D-6 and TDM Program), [https://planning.lacity.org/eir/Promenade\\_2035/deir/files/D\\_IVD.pdf](https://planning.lacity.org/eir/Promenade_2035/deir/files/D_IVD.pdf); 3900 S. Figueroa St. (DCP Case No. ENV-2016-1892-EIR) DEIR, pp. 38 (GHG PDFs E-1 through E-4), [https://planning.lacity.org/eir/TheFigProject/deir/files/D\\_IVE.pdf](https://planning.lacity.org/eir/TheFigProject/deir/files/D_IVE.pdf); 1540 Highland Ave. (DCP Case No. ENV-2015-2026-EIR) FEIR MMRP, pp. 6-44 (PDFs/MMs AES-5, AIR-2, AIR-4 through 6, GHG-1 through 6, TRA-1 and 2, UTL-1 through 5), [https://planning.lacity.org/eir/CrossroadsHwd/FEIR/files/F\\_IV.pdf](https://planning.lacity.org/eir/CrossroadsHwd/FEIR/files/F_IV.pdf); 1240 S. Figueroa St. (DCP Case No. ENV-2016-2594-EIR) FEIR MRRP, pp. 122-134 (PDFs/MMs AQ-1 through 3, TRAF-1, WS-1), <https://planning.lacity.org/eir/figPico/FEIR/figPico%20Final%20EIR.pdf>; 1020 S. Figueroa St. (DCP Case No. ENV-2015-1159-EIR) FEIR MRRP, pp. 3-20 (PDFs/MMs AQ-1 through 3, TRAF-1, WS-1), <https://planning.lacity.org/eir/1020SoFigueroa/FEIR/files/4.0%20Mitigation%20Monitoring%20Program.pdf>; 1057 S. San Pedro St. (DCP Case No. ENV-2012-3003-EIR) FEIR MMRP, pp. 5-23 (PDFs/MMs B-1 through B-9, E-1 through E-2, K.1-1 and 1-2, L.1-1 through 3-2), <https://planning.lacity.org/eir/CityMarketProject/FEIR/assets/IV.MMP.pdf>; 3650 W. Martin Luther King, Jr. Blvd. (DCP Case No. ENV-2012-1962-EIR), FEIR MMRP, pp. 5-49 (PDFs/MMs B-1 through B-25, I-9, L-6 through L-13, M.2-1 through 2-13), [http://planning.lacity.org/eir/BaldwinHillsCrenshawPlaza/FEIR/FEIR/4\\_MMP.pdf](http://planning.lacity.org/eir/BaldwinHillsCrenshawPlaza/FEIR/FEIR/4_MMP.pdf); 1900 S. Broadway (DCP Case No. ENV-2014-1773-EIR) FEIR MMRP, pp. 4-22 (PDFs/MMs AQ-1 and 2, GHG-1 through 4, TR-12 and 13, UT-2 through 7), [https://planning.lacity.org/eir/TheReef/FEIR/FEIR%20Sections/V.%20MMP%20\(The%20Reef\)%20Public%20Review%20060616.pdf](https://planning.lacity.org/eir/TheReef/FEIR/FEIR%20Sections/V.%20MMP%20(The%20Reef)%20Public%20Review%20060616.pdf); 1770 N. Vine St. (DCP Case No. ENV-2011-675-EIR) FEIR MMRP, pp. 472-511 (PDFs/MMs B.1-1 through 1-9, F-8, F-10, F-19, J.4-2 and 4-3, K.1-5 through 1-9), [https://planning.lacity.org/eir/Millennium%20Hollywood%20Project/FEIR/FEIR%20Sections/FEIR%20Millennium%20Hollywood\\_compiled.pdf](https://planning.lacity.org/eir/Millennium%20Hollywood%20Project/FEIR/FEIR%20Sections/FEIR%20Millennium%20Hollywood_compiled.pdf); 911 S. Georgia St. (DCP Case No. ENV-2016-4889-EIR) DEIR Executive Summary, pp. 23-34 (PDFs/MMs AIR-1 through 6m TR-1,), [https://planning.lacity.org/eir/1001\\_Olympic/Deir/DEIR%20Sections/I.%20Executive%20Summary.pdf](https://planning.lacity.org/eir/1001_Olympic/Deir/DEIR%20Sections/I.%20Executive%20Summary.pdf) see also DEIR GHG Analysis, pp. 31-32 (PDFs GHG-1 and 2), [https://planning.lacity.org/eir/1001\\_Olympic/Deir/DEIR%20Sections/IV.F%20GHG.pdf](https://planning.lacity.org/eir/1001_Olympic/Deir/DEIR%20Sections/IV.F%20GHG.pdf).

<sup>64</sup> CAPCOA (Aug. 2010) Quantifying Greenhouse Gas Mitigation Measures, p. 433, <http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf>

<sup>65</sup> See California Natural Resources Agency (Dec. 2009) Final Statement of Reasons for Regulatory Action: Amendments to State CEQA Guidelines Addressing Analysis and Mitigation of GHG Emissions Pursuant to SB-97, p. 23 (while a Platinum LEED® rating may be relevant to emissions from a building’s energy use, “that performance standard may not reveal sufficient information to evaluate transportation-related emissions associated with that proposed project”), [http://resources.ca.gov/ceqa/docs/Final\\_Statement\\_of\\_Reasons.pdf](http://resources.ca.gov/ceqa/docs/Final_Statement_of_Reasons.pdf).



that existing baseline.<sup>66</sup> Hence, a “project should not subsidize or take credit for emissions reductions which would have occurred regardless of the project.”<sup>67</sup> In short, as observed by the Court, newer developments must be more GHG-efficient. See *Newhall Ranch*, 62 Cal.4<sup>th</sup> at 226.

Furthermore, even compliance with SCAG’s RTP/SCS is not enough according to CARB, which has recently found that California “*is not on track*” to meet GHG reductions expected under SB 375 (i.e., Sustainable Communities Strategy).<sup>68</sup> As warned by CARB (emphasis added), “with emissions from the transportation sector continuing to rise despite increases in fuel efficiency and decreases in the carbon content of fuel, *California will not achieve the necessary [GHG] emissions reductions to meet mandates for 2030 and beyond ...*”<sup>69</sup> This is further supported by two recent climate change reports where scientists described the *quickenning rate of carbon dioxide emissions as a “speeding freight train”* with an unexpected surge in people buying more cars and driving them farther than in the past — “*more than offsetting any gains from the spread of electric vehicles.*”<sup>70</sup>

Notwithstanding the Project’s project design features, the Project may require more GHG-reducing measures to offset the lost GHG reductions anticipated under the GGRP, such as the net-zero approach utilized in the wake of the Supreme Court’s *Newhall Ranch* decision. See *Center for Biological Diversity v. Cal. Dept. of Fish and Wildlife* (2015) 62 Cal.4<sup>th</sup> 204, 226 (“a greater degree of reduction may be needed from new land use projects ...”); see also *Californians for Alternatives to Toxics v. Department of Food and Agriculture* (2005) 136 Ca.1.App.4<sup>th</sup> 1, 17 (“[c]ompliance with the law is not enough to support a finding of no significant impact under the CEQA.”). Additional reduction efforts should be required for the Project, including those new, feasible mitigation measures found in CAPCOA’s *Quantifying Greenhouse Gas Mitigation Measures*, which attempt to reduce GHG levels.

#### 5) Failure to Quantify the Proposed Project’s GHG Emissions

Review of the DEIR demonstrates that the Project Applicant failed to quantify GHG emissions and, as a result, there is a gap in the DEIR’s GHG analysis. According to the DEIR, the Project failed to quantify emissions given that:

“The SCAQMD has not adopted GHG emissions thresholds that apply to land use projects where the SCAQMD is not the lead agency. Additionally, the City of Burbank has not adopted quantitative GHG emissions thresholds. However, the City has adopted a qualified local GHG reduction plan

<sup>66</sup> *Ibid.*, p. 89; see also CAPCOA, *supra* fn. 64, p. 32, A3 (“... in practice is that if there is a rule that requires, for example, increased energy efficiency in a new building, the project proponent cannot count that increased efficiency as a mitigation or credit unless the project goes beyond what the rule requires; and in that case, only the efficiency that is in excess of what is required can be counted.”).

<sup>67</sup> CAPCOA, *supra* fn. 64, p. 433.

<sup>68</sup> CARB (Nov. 2018) 2018 Progress Report, p. 4-7 (emphasis added), [https://ww2.arb.ca.gov/sites/default/files/2018-11/Final2018Report\\_SB150\\_112618\\_02\\_Report.pdf](https://ww2.arb.ca.gov/sites/default/files/2018-11/Final2018Report_SB150_112618_02_Report.pdf).

<sup>69</sup> *Ibid.*, emphasis added.

<sup>70</sup> New York Times (12/5/18) Greenhouse Gas Emissions Accelerate Like a ‘Speeding Freight Train’ in 2018 (emphasis added), <https://www.nytimes.com/2018/12/05/climate/greenhouse-gas-emissions-2018.html>; see also Global Carbon Project (Dec. 2018) Global Carbon Budget 2018, <https://www.earth-syst-sci-data.net/10/2141/2018/essd-10-2141-2018.pdf>; R.B. Jackson, et al. (Dec. 2015) Global Energy Growth Is Outpacing Decarbonization, <http://iopscience.iop.org/article/10.1088/1748-9326/aaf303/pdf>.

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O-4.20

(the GGRP) that establishes GHG emissions targets for 2020 and 2035 and is consistent with CEQA Section 15183.5(b). Therefore, the Project's GHG-related impacts would be considered less than significant if the Project would be consistent with the City's GGRP (Tier 2).” DEIR, p. 4.5-11; Appendix D, p. 35.

However, regardless that the Applicant attempted to use a Tier 2 analysis to determine Project significance, CEQA Guidelines § 15064.4 requires lead 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 [GHG] emission resulting from a project.” While the DEIR prepares a CalEEMod model to estimate the Project's emissions, the DEIR fails to explicitly state the proposed Project's GHG emissions within the DEIR or the AQ/GHG Study, a common practice across Southern California even when demonstrating significance through a Climate Action Plan—including projects in the City.<sup>71</sup> The failure to clearly state the Project's quantified GHG emissions makes it difficult for the public to understand if the Project is in line with various efficiency targets used by other agencies, such as CARB's 2017 Scoping Plan target of 6.0 and 2.0 MTCO<sub>2</sub>e/yr/sp by 2030 and 2050 (respectively), or the SCAQMD project-level efficiency targets of 4.8 and 3.0 MTCO<sub>2</sub>e/sp/yr for years 2020 and 2035 (respectively).<sup>72</sup> It should be noted that while the Project Applicant states that the SCAQMD's thresholds not apply to the Project, these thresholds have been applied across many other CEQA projects throughout SCAQMD's jurisdiction, whether the SCAQMD is the lead agency or not.<sup>73</sup> Additionally, the SCAQMD released its *Interim CEQA GHG Significance Threshold for Stationary Sources, Rules, and Plans* report (“*Interim Thresholds*”) in December 2008, that proposed a multi-tiered approach for evaluating the GHG impacts of a project, including GHG thresholds under Tier 3.<sup>74</sup> Therefore, these thresholds were created before the passage of SB 32 and, as a result, more stringent thresholds may be applicable to reach the reduction goals set by SB 32 (as described above).

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<sup>71</sup> Supra fn. 37, pp. 55.

<sup>72</sup> SCAQMD (9/28/10) Minutes for the GHG CEQA Significance Working Group # 15, p. 2, [http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-\(ghg\)-ceqa-significance-thresholds/year-2008-2009/ghg-meeting-15/ghg-meeting-15-minutes.pdf](http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-(ghg)-ceqa-significance-thresholds/year-2008-2009/ghg-meeting-15/ghg-meeting-15-minutes.pdf); see also SCAQMD (12/5/08) Interim CEQA GHG Significance Threshold for Stationary Sources, Rules and Plans, p. 6, [http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-\(ghg\)-ceqa-significance-thresholds/ghgboardsynopsis.pdf?sfvrsn=2](http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-(ghg)-ceqa-significance-thresholds/ghgboardsynopsis.pdf?sfvrsn=2); SCAQMD (Oct. 2008) Draft Guidance Document – Interim CEQA Greenhouse Gas (GHG) Significance Threshold, [http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-\(ghg\)-ceqa-significance-thresholds/ghgattachmente.pdf](http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-(ghg)-ceqa-significance-thresholds/ghgattachmente.pdf).

<sup>73</sup> See e.g., 1209 6<sup>th</sup> Avenue Initial Study (DCP Case No. ENV-2014-1988-EIR), pp. 85-86 (applying the SCAQMD's 3,500 MTCO<sub>2</sub>e/yr threshold for residential project; where the City of Los Angeles is lead agency), [https://planning.lacity.org/eir/nops/1209\\_6thAvenueInitialStudy/1209\\_InitialStudySigned\\_100716.pdf](https://planning.lacity.org/eir/nops/1209_6thAvenueInitialStudy/1209_InitialStudySigned_100716.pdf); 333 La Cienega Blvd. Project Initial Study (DCP Case No. ENV-2015-897-EIR), pp. 89-90 (applying the SCAQMD's 3,000 MTCO<sub>2</sub>e/yr threshold for mixed-use project; where the City of Los Angeles is lead agency), <http://planning.lacity.org/eir/nops/333LaCienega/is.pdf>; 15116 S. Vermont Avenue Staff Report (DCP Case No. ENV-2017-1015-MND) pp. 182, 220 (containing MND applying the SCAQMD's 10,000 MTCO<sub>2</sub>e/yr threshold for industrial project; where the City of Los Angeles is lead agency), <http://planning.lacity.org/StaffRpt/InitialRpts/CPC-2017-1014.PDF>.

<sup>74</sup> SCAQMD (12/5/08), supra fn. 72; see also SCAQMD (Oct. 2008), supra fn. 72.

Due to the unreliability of the GGRP and the absence of a good-faith effort to quantify and compare the Project’s emissions to an applicable threshold, the DEIR fails to serve as an informational document or stay in step with the CEQA Guidelines, City’s past practice, or the evolving scientific and regulatory standards on GHG analysis. This violates CEQA case law.<sup>75</sup>

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*6) Updated Greenhouse Gas Analysis Demonstrates Significant Impact*

Notwithstanding the flawed GHG evaluation discussed above, other applicable thresholds demonstrate that the Project would have a significant GHG impact. As previously mentioned, in December 2008, SCAQMD released its *Interim Thresholds* that proposed the use of a 1,400 MTCO<sub>2</sub>e/yr threshold for commercial developments, a 3,000 MTCO<sub>2</sub>e/yr threshold for mixed-use developments, a 3,500 MTCO<sub>2</sub>e/yr threshold for residential developments, and a 10,000 MTCO<sub>2</sub>e/yr threshold for industrial projects.<sup>76</sup> Because the proposed Project is mixed-use, the most appropriate screening threshold to apply to the Project would be the 3,000 MTCO<sub>2</sub>e/yr threshold recommended by the SCAQMD for mixed-use developments.

Buried in Appendix D, the CalEEMod output files disclose the Project’s mitigated GHG emissions, which include 12,580 MTCO<sub>2</sub>e of total construction emissions (Appendix D, pp. 137 [sum of emissions from 2019 through 2025]), and 10,191 MTCO<sub>2</sub>e/yr of annual operational emissions (*id.* at 140 [sum of area, energy, mobile, waste, and water emissions]). When these emissions are compared to the 3,000 threshold, we find that the Project’s GHG emissions vastly exceed SCAQMD’s mixed-use threshold (see table below).

DEIR Annual Greenhouse Gas Emissions	
Model	Proposed Project (MT CO <sub>2</sub> e/year)
Construction (amortized over 30 years)	419
Area	10
Energy	3,698
Mobile	6,104
Waste	173
Water	206
<b>Total</b>	<b>10,610</b>
SCAQMD Significance Threshold	3,000
<b><i>Exceed?</i></b>	<b>Yes</b>

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As you can see in the table above, the proposed Project would generate 10,610 MTCO<sub>2</sub>e/year, which significantly exceeds the 3,000 MTCO<sub>2</sub>e/year mixed-use project screening threshold.<sup>77</sup>

<sup>75</sup> *Supra* fn. 27.

<sup>76</sup> *Supra* fn. 72.

<sup>77</sup> It should further be noted that this amounts to a mere 0.08 percent reduction of GHG emissions as compared to the Project’s unmitigated emissions (i.e., 10,619 MTCO<sub>2</sub>e/year). Calculate similarly based on the CalEEMod output files unmitigated GHG emissions. See Appendix D, pp. 136, 139).



Furthermore, according to the SCAQMD, if a project's emissions exceed the screening-level threshold, a more detailed review of the project's GHG emissions is warranted.<sup>78</sup> SCAQMD proposed per capita efficiency targets to be used in these detailed reviews. SCAQMD proposed a 2020 efficiency target of 4.8 MTCO<sub>2</sub>e/yr/sp for project-level analyses and 6.6 MTCO<sub>2</sub>e/yr/sp for plan-level projects (e.g., program-level projects such as general plans). Those per capita efficiency targets are based on AB 32's GHG reduction target and the 2020 GHG emissions inventory prepared for CARB's 2008 Scoping Plan. SCAQMD also created a 2035 efficiency thresholds by reducing the 2020 thresholds by 40 percent, resulting in an efficiency threshold for plans of 4.1 MTCO<sub>2</sub>e/yr/sp and an efficiency threshold at the project level of 3.0 MTCO<sub>2</sub>e/yr/sp.<sup>79</sup> Therefore, per SCAQMD guidance, because the Project's GHG emissions exceed SCAQMD's 3,000 MTCO<sub>2</sub>e/yr screening-level threshold, the Project's emissions should be compared to the proposed 2020 efficiency target of 4.8 MT CO<sub>2</sub>e/sp/yr and the 2035 efficiency target of 3.0 MT CO<sub>2</sub>e/sp/yr, as the Project is not anticipated to be redeveloped prior to 2035.

According to CAPCOA's CEQA & Climate Change report, service population is defined as "the sum of the number of residents and the number of jobs supported by the project."<sup>80</sup> The DEIR states that the proposed Project would generate approximately 1,433 new residents and 247 employees (DEIR, p. 4.2-13, 4.10-6). Additionally, utilizing the City's reported average hotel occupancy rate of roughly 80 percent,<sup>81</sup> and using a 1.5 person per room ratio used by the City of Los Angeles,<sup>82</sup> it can be estimated that the proposed Project will typically serve 368 hotel guests.<sup>83</sup> As a result, we estimate that the Project's service population would be approximately 2,048 people (1,433 residents + 247 employees + 348 hotel guests). Dividing the Project's GHG emissions by a service population value of 2,048 people, we find that the Project would emit approximately 5.2 MTCO<sub>2</sub>e/sp/yr.<sup>84</sup> When we compare the Project's per service population GHG emissions to the SCAQMD 2020 efficiency threshold of 4.8 MT CO<sub>2</sub>e/sp/yr and the 2035 efficiency target of 3.0 MT CO<sub>2</sub>e/sp/yr, we find that the Project would result in a significant GHG impact (see table following page).

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<sup>78</sup> SCAQMD (12/5/08), *supra* fn. 72, p. 6; *see also* SCAQMD (9/28/10), *supra* fn. 72, p. 2.

<sup>79</sup> *Ibid.*

<sup>80</sup> CAPCOA (Jan. 2008) CEQA & Climate Change, p. 71-72, <http://www.capcoa.org/wp-content/uploads/2012/03/CAPCOA-White-Paper.pdf>.

<sup>81</sup> *See* Burbank Hospitality Association (2019) *See the Bigger Picture: Burbank Accomplishments FY 2017-2018*, pp. 16 (showing occupancy rate ranging from 75 percent in 2012 to 82.5 percent in 2018), <https://www.visitburbank.com/wp-content/uploads/2018/10/2017-18vb-annual-report-vf6-lowres.pdf>; *see also* City of Los Angeles (2017) *Hotel Market Study*, p. 3, 7,

[https://d3n8a8pro7vhm.cloudfront.net/cd14/pages/2723/attachments/original/1508870241/CD14\\_Hotel\\_Market\\_Study-2017\\_Full\\_Report-Final.pdf?1508870241](https://d3n8a8pro7vhm.cloudfront.net/cd14/pages/2723/attachments/original/1508870241/CD14_Hotel_Market_Study-2017_Full_Report-Final.pdf?1508870241); City of Los Angeles (2017) *2017 Annual Report*, p. 6, <https://ctd.lacity.org/sites/default/files/2017%20CTD%20Annual%20Report.pdf>.

<sup>82</sup> Lizard Hotel Draft EIR, *supra* fn. 63, pp. 24.

<sup>83</sup> Calculated: (307 rooms) x (80 percent occupancy rate) x (1.5 person per room) = (368.4 patrons).

<sup>84</sup> Calculated: (10,618 MTCO<sub>2</sub>e/year) / (2,048 service population) = (5.18 MTCO<sub>2</sub>e/sp/yr).

Annual Greenhouse Gas Emissions Efficiency		
Source	Project Emissions	Unit
DEIR Annual Emissions	10,618	MT CO <sub>2</sub> e/year
Maximum Service Population	2,048	Residents, Employees, Hotel Guests
<b>Per Service Population Annual Emissions</b>	<b>5.2</b>	<b>MT CO<sub>2</sub>e/sp/year</b>
2020 SCAQMD Project Level Efficiency Threshold	4.8	MT CO <sub>2</sub> e/sp/year
<i>Exceed?</i>	<i>Yes</i>	-
<b>Per Service Population Annual Emissions</b>	<b>5.2</b>	<b>MT CO<sub>2</sub>e/sp/year</b>
2035 SCAQMD Project Level Efficiency Threshold	3.0	MT CO <sub>2</sub> e/sp/year
<i>Exceed?</i>	<i>Yes</i>	-

As you can see in the table above, when we compare the per service population emissions estimated by SWAPE to the SCAQMD threshold of 4.8 MTCO<sub>2</sub>e/sp/yr for 2020 and 3.0 MTCO<sub>2</sub>e/sp/yr for 2035, we find that the Project’s emissions would significantly exceed each of these thresholds, thus resulting in a potentially significant impact. According to CEQA Guidelines § 15064.4(b), if there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding compliance with the adopted regulations or requirements, a full CEQA analysis must be prepared for the project. The City may not ignore this analysis and application of a routinely used GHG threshold by claiming discretion in deciding what thresholds it wishes to employ. As one court explained when setting aside an EIR where commenters questioned the city’s use of a particular threshold, the discretion granted to lead agencies are not “unbounded” and (emphasis added):

*“[T]he fact that a particular environmental effect meets a particular threshold cannot be used as an automatic determinant that the effect is or is not significant ... a threshold of significance cannot be applied in a way that would foreclose the consideration of other substantial evidence tending to show the environmental effect to which the threshold relates might be significant.” East Sacramento Partnership for a Livable City v. City of Sacramento (2016) 5 Cal.App.5th 281, 300, 303-304 (internal citations omitted).*

Thus, the results of the above analysis provide substantial evidence that the proposed Project’s GHG emissions are still cumulatively considerable notwithstanding its purported compliance with the City’s GGRP (as challenged herein). Therefore, an updated CEQA analysis must be prepared for the Project, and mitigation should be implemented where necessary, per CEQA Guidelines.

O-4.21  
 (cont'd)

7) *Failure to Evaluate Cumulative Greenhouse Gas Impact Consistent with Evolving Scientific Knowledge and Regulatory Schemes*

It is commonly recognized by California air districts that a project's impact on climate change is cumulative in nature.<sup>85</sup> According to the Technical Advisory prepared by the Office of Planning and Research ("OPR"), "[t]he potential effects of a project may be individually limited but cumulatively considerable[]" and that "[l]ead agencies should not dismiss a proposed project's direct and/or indirect climate change impacts without careful consideration, supported by substantial evidence ... [including] analysis should be provided for any project that may significantly contribute to new GHG emissions, either individually or cumulatively, directly or indirectly."<sup>86</sup> Furthermore, OPR rightfully acknowledge, consistent with state regulatory scheme and CEQA case law, that "thresholds cannot be used to determine automatically whether a given effect will or will not be significant; instead, thresholds of significance can be used only as a measure of whether a certain environmental effect will normally be determined to be significant or normally will be determined to be less than significant by the agency."<sup>87</sup>

O-4.22

<sup>85</sup> See e.g., SCAQMD (Oct. 2008), *supra* fn. 72, p. 1-4 - 1-5 (citing the OPR Technical Advisor: "When assessing whether a project's effects on climate change are 'cumulatively considerable' even though its GHG contribution may be individually limited, the lead agency must consider the impact of the project when viewed in connection with the effects of past, current, and probable future projects."), [http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-\(ghg\)-ceqa-significance-thresholds/ghgattachmente.pdf](http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-(ghg)-ceqa-significance-thresholds/ghgattachmente.pdf); Bay Area Air Quality Management District ("BAAQMD") (May 2017) CEQA Air Quality Guidelines, p. 2-1 ("No single project could generate enough GHG emissions to noticeably change the global average temperature [but rather] [t]he combination of GHG emissions from past, present, and future projects contribute substantially to the phenomenon of global climate change and its associated environmental impacts."), [http://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa\\_guidelines\\_may2017-pdf.pdf?la=en](http://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en); Placer County Air Pollution Control District ("PCAPCD") (Oct. 2016) CEQA thresholds of Significance Justification Report, p. 2 ("CEQA requires that the lead agency review not only a project's direct effects on the environment, but also the cumulative impacts of a project and other projects causing related impacts. When the incremental effect of a project is cumulatively considerable, the lead agency must discuss the cumulative impacts in an EIR. [citing CEQA Guidelines § 15064]"), <file:///C:/Users/jorda/Downloads/CEQAThresholdsJustificationReport.pdf>; San Luis Obispo County Air Pollution Control District ("SLOAPCD") (Mar. 28, 2012) GHG Threshold and Supporting Evidence, p. 5 ("No single land use project could generate enough GHG emissions to noticeably change the global average temperature. Cumulative GHG emissions, however, contribute to global climate change and its significant adverse environmental impacts. Thus, the primary goal in adopting GHG significance thresholds, analytical methodologies, and mitigation measures is to ensure new land use development provides its fair share of the GHG reductions needed to address cumulative environmental impacts from those emissions."), <https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/Greenhouse%20Gas%20Thresholds%20and%20Supporting%20Evidence%204-2-2012.pdf>; Sacramento Metropolitan Air Quality Management District ("SMAQMD") (May 2018) Guide to Air Quality Assessment in Sacramento County, p. 6-1-3, ("(GHG) emissions adversely affect the environment through contributing, on a cumulative basis, to global climate change ... *the District recommends that lead agencies address the impacts of climate change on a proposed project and its ability to adapt to these changes in CEQA documents* ... [thus urging] evaluating whether the GHG emissions associated with a proposed project will be responsible for making a cumulatively considerable contribution to global climate change." [emphasis original]), <http://www.airquality.org/LandUseTransportation/Documents/Ch6GHGFinal5-2018.pdf>.

<sup>86</sup> OPR (6/19/08) Technical Advisory on CEQA and Climate Change, p. 6, <http://opr.ca.gov/docs/june08-ceqa.pdf>.

<sup>87</sup> OPR (Nov. 2017) Proposed Updates to the CEQA Guidelines, p. 7 (citing CEQA Guidelines §§ 15064 and 15064.7 and *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1108-1109), [http://opr.ca.gov/docs/20171127\\_Comprehensive\\_CEQA\\_Guidelines\\_Package\\_Nov\\_2017.pdf](http://opr.ca.gov/docs/20171127_Comprehensive_CEQA_Guidelines_Package_Nov_2017.pdf).

Recognizing this principle, CEQA Guidelines § 15064.7(c) permits the use of thresholds developed by other public agencies.

Similarly, the California Supreme Court has made clear that CEQA demands robust GHG analysis to assess a project's impact on climate change, and while lead agencies have discretion, that discretion must be exercised "based to the extent possible on scientific and factual data" and "stay[ing] in step with evolving scientific knowledge and state regulatory schemes." *Cleveland National Forest Foundation v. San Diego Assn. of Governments* ("Cleveland II") (2017) 3 Cal.5th 497, 504, 515, 518 (quoting CEQA Guidelines § 15064(b)); *see also* 519 (noting to meet the State's long-term climate goals, "regulatory clarification, together with improved methods of analysis, may well change the manner in which CEQA analysis of long-term [GHG] emission impacts is conducted."). Hence, a GHG analysis which "understates the severity of a project's impacts impedes meaningful public discussion and skews the decisionmaker's perspective concerning the environmental consequences of the project, the necessity for mitigation measures, and the appropriateness of project approval." *Id.*, on remand ("Cleveland III"), 17 Cal.App.5th 413, 444; *see also* *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564 (quoting *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 392).

Here, SCAQMD's multi-tiered approach under its *Interim Threshold*, although not officially adopted, represents the current standard of evolving scientific data and regulatory scheme notwithstanding even more aggressive efforts taken at the State level (i.e., SB 32, CARB's 2017 Scoping Plan). Given the City's GGRP is facially outdated and stale, the Applicant cannot ignore the *Interim Threshold* simply because SCAQMD failed to adopt these measures. To do so would not be in keeping with the evolving scientific knowledge and state regulatory schemes.

Consistent with the edicts of SB 32, other air control districts have adopted more aggressive GHG thresholds for project-level analysis that mirror SCAQMD's *Interim Thresholds*, including but not limited to the Sacramento Metropolitan Air Quality Management District (SMAQMD), Bay Area Air Quality Management District (BAAQMD), Placer County Air Pollution Control District (PCAPCD), and San Luis Obispo Air Pollution Control District (SLOAPCD) (as summarized in the table starting on the following page). Given the cumulative nature of GHG emissions and consistent with CEQA Guidelines § 15064.7(c), these recommended thresholds complement SCAQMD's *Interim Thresholds* and further support the conclusion that they constitute the current standard for evaluating a project's GHG significance.

O-4.22  
(cont'd)



**Current GHG Thresholds from Other Air Districts**  
*SMAQMD (May 2018) Guide to Air Quality Assessment*<sup>88</sup>

Land Development and Construction Projects		
Construction Phase		Operational Phase
Greenhouse Gas Emissions (GHG) Thresholds		
GHG as CO <sub>2</sub> e	1,100 metric tons/year	1,100 metric tons/year

Stationary Source Only		
Construction Phase		Operational Phase
Greenhouse Gas Emissions (GHG) Thresholds		
GHG as CO <sub>2</sub> e	1,100 metric tons/year	10,000 metric tons/year

- 1) Construction phase of all project types – 1,100 MT CO<sub>2</sub>e/yr.<sup>89</sup>
- 2) Operational phase of a land development project – 1,100 MT CO<sub>2</sub>e/yr.
- 3) Stationary source operational emissions – 10,000 MT CO<sub>2</sub>e/yr.

O-4.22  
(cont'd)

*BAAQMD (May 2017) CEQA Air Quality Guidelines*<sup>90</sup>

GHGs – Projects other than Stationary Sources	Compliance with Qualified GHG Reduction Strategy OR 1,100 MT of CO <sub>2</sub> e/yr OR 4.6 MT CO <sub>2</sub> e/SP/yr (residents+employees)
GHGs – Stationary Sources	10,000 MT/yr

<sup>88</sup> SMAQMD (May 2018), *supra* fn. 85, p. 6-10-12; see also SMAQMD Thresholds of Significance Table, <http://www.airquality.org/LandUseTransportation/Documents/CH2ThresholdsTable5-2015.pdf>.

<sup>89</sup> According to the DEIR’s CalEEMod output files, the annual construction GHG emissions from 2020 through 2025 would all exceed SMAQMD’s 1,100 MT CO<sub>2</sub>e/year threshold (Appendix D, pp. 137).

<sup>90</sup> BAAQMD (May 2017), *supra* fn. 85, p. 2-2 - 2-4. Like the SCAQMD area, BAAQMD is designated as a nonattainment area for state/national ozone and particulate matter (“PM”) and thresholds would seem particularly apt for the Project. *Compare id.* at p. 2-1 with SCAQMD NAAQS/CAAQS Attainment Status (noting “extreme” and “serious” nonattainment for multiple ozone and PM standards), <http://www.aqmd.gov/docs/default-source/clean-air-plans/air-quality-management-plans/naaqs-qaqs-feb2016.pdf>.



PCAPCD (Oct. 2016) CEQA Threshold Significance Justification Report<sup>91</sup>

- 1) **De Minimis Level** for the operational phases of 1,100 MTCO<sub>2</sub>e/yr.
- 2) **Efficiency Matrix** for the operational phase of land use developments that exceed the De Minimis Level that is dependent on their location (urban v. rural), whether its residential in nature (e.g., single-family, condo, apartment) or non-residential (e.g., general commercial, office, industrial), and service population (i.e., per capita inclusive of residents and jobs for residential projects, or 1,000 square feet of non-residential development).<sup>92</sup>
- 3) **Bright-line Threshold** of 10,000 MTCO<sub>2</sub>e/yr for the construction and operational phases of land use projects as well as the stationary source projects.

Bright-line Threshold 10,000 MT CO <sub>2</sub> e/yr			
Efficiency Matrix			
Residential		Non-residential	
Urban	Rural	Urban	Rural
(MT CO <sub>2</sub> e/capita)		(MT CO <sub>2</sub> e/1,000sf)	
4.5	5.5	26.5	27.3
De Minimis Level 1,100 MT CO <sub>2</sub> e/yr			

O-4.22  
(cont'd)

SLOAPCD (Mar. 2012) GHG Thresholds and Supporting Evidence<sup>93</sup>

GHG Emissions Threshold Summary	
Residential and Commercial Projects	Compliance with Qualified GHG Reduction Strategy OR Bright-Line Threshold of 1,150 MT of CO <sub>2</sub> e/yr. OR Efficiency Threshold of 4.9 MT CO <sub>2</sub> e/SP*/yr.
Industrial (Stationary Sources)	10,000 MT of CO <sub>2</sub> e/yr.

- 1) **CAP**: Consistency with qualitative reduction strategies (e.g., Climate Action Plans).
- 2) **Bright-Line Threshold**: 1,150 MTCO<sub>2</sub>e/yr after inclusion of emission-reducing features of a proposed project, those still exceeding the threshold would have to reduce their emissions below that level to be considered less than significant.
- 3) **Efficiency-Based Threshold**: 4.9 MTCO<sub>2</sub>e/sp/yr dependent on per capita basis for residential projects or the sum of jobs and residents for mixed-use projects.<sup>94</sup>

<sup>91</sup> PCAPCD (Oct. 2016), *supra* fn. 85, p. E-2, 17-22; *see also* PCAPCD (11/21/17) CEQA Thresholds And Review Principles, <http://www.placerair.org/landuseandceqa/ceqathresholdsandreviewprinciples>.

<sup>92</sup> The 777 North Front Street Project exceeds the PCAPCD's urban residential efficiency threshold.

<sup>93</sup> SLOAPCD (Mar. 28, 2012), *supra* fn. 85, p. 25-30, 42.

<sup>94</sup> The 777 North Front Street Project exceeds the SLOAPCD's urban residential efficiency threshold.

Although more demanding, the above-listed thresholds adopted by these air districts are analogous with the application of SCAQMD’s Tier 3 screening threshold for mixed-use developments (3,000 MTCO<sub>2</sub>e/yr) and SCAQMD’s Tier 4 efficiency target goals (4.8 and 3.0 MTCO<sub>2</sub>e/yr/sp for target years 2020 and 2035, respectively).<sup>95</sup> The overwhelming weight of the actions taken by the other air districts, the regulatory agencies with the most expertise in the area of assessing GHG emission impacts, is the most compelling rationale for why the *Interim Thresholds* apply here as the current standard set of evolving scientific knowledge and regulatory schemes. Thus, only through application of SCAQMD’s Tier 3 screening threshold of 3,000 MTCO<sub>2</sub>e/yr for mixed-use projects and comparison to SCAQMD’s Tier 4 efficiency target goals can the City be consistent with the improved analysis methods that are regularly practiced by other air districts, and further CEQA’s demand for “conservative analysis” to afford “fullest possible protection of the environment.”<sup>96</sup> Absent this, the DEIR’s GHG analysis is inconsistent with evolving scientific knowledge or regulatory standards, and its conclusion that the Project has an insignificant GHG impact is not supported by substantial evidence. The Project Applicant must prepare an updated CEQA Analysis which includes a robust GHG emissions analysis and mitigation to the extent necessary.

O-4.22  
(cont'd)

8) *Failure to Include a Meaningful Project Alternative*

Due to the DEIR’s flawed GHG analysis discussed above, the DEIR failed to recognize the Project’s significant GHG impact. As such, the DEIR failed to include a meaningful project alternative that would reduce said impacts, such as a project alternative that would be more GHG-efficient including additional GHG-reduction measures, such as those voluntary measures found in the GGRP and found in other applicable plans (identified above). Chief among those measures and design features would include a project alternative that would include but not limited to:

O-4.23

- (1) More aggressive commitments to affordable housing units,<sup>97</sup> such as affordability at the low-income and very-low-income levels, which have the co-benefit of reducing VMTs and thus further mitigating mobile emissions (i.e., air quality, GHG, and traffic impacts);<sup>98</sup>

<sup>95</sup> SCAQMD (12/5/08), *supra* fn. 85; see also SCAQMD (Oct. 2008), *supra* fn. 72; SCAQMD (9/28/10), *supra* fn. 72.

<sup>96</sup> SCAQMD (June 2014) Warehouse Truck Trip Study Data Results and Usage Presentation: Inland Empire Logistics Council, p. 3, [http://www.aqmd.gov/docs/default-source/ceqa/handbook/high-cube-warehouse-trip-rate-study-for-air-quality-analysis/final-ielc\\_6-19-2014.pdf?sfvrsn=2](http://www.aqmd.gov/docs/default-source/ceqa/handbook/high-cube-warehouse-trip-rate-study-for-air-quality-analysis/final-ielc_6-19-2014.pdf?sfvrsn=2); see also *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 390 (“The foremost principle under CEQA is that the Legislature intended the act to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.”) (internal citations omitted).

<sup>97</sup> According to the DEIR, the Project would be consistent with the City of Burbank’s General Plan Policy 5.3 which would require the Project to designate up to 12 percent of the units as affordable to moderate units (DEIR, p. 4.8-18). However, the DEIR fails to include such a requirement in the project description, project design features, or mitigation measures.

<sup>98</sup> Brookings Institution (Feb. 2008) *Commuting to Opportunity-The Working Poor and Commuting in the United States*, p. 3, (“Households make trade-offs in housing and transportation expenses, spending more for housing located near jobs or choosing more affordable housing farther from jobs with higher transportation costs, including long and expensive commutes. A recent study by the Center for Housing Policy (CHP) finds that this trade-off between housing and transportation is disappearing for many; finding housing that a working family can afford—those that earn between the minimum wage and 120 percent of area median income—means commuting

- (2) a commitment to onsite renewable energy that would off-set all or majority of the Project's energy demands;
- (3) aggressive VMT reducing plan (e.g., providing Neighborhood Electric Vehicles and shuttle services for residents to major employment centers);
- (4) a generous public transit program for residents and employees on the Project site;
- (5) greater water efficiency requirements; and
- (6) the possible utilization of carbon off-sets via the State's Cap-n-Trade program.

O-4.23  
(cont'd)

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

O-4.24

Sincerely,



Matt Hagemann, P.G., C.Hg.



Kaitlyn Heck

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long distances to work.”), <https://www.brookings.edu/wp-content/uploads/2016/06/0314-transportation-puentes.pdf>; National Center for Sustainable Transportation (Apr. 2017) Affordable Housing in Transit-Oriented Developments-Impacts on Driving and Policy Approaches, pp. iii., 3, 14 (“...the location of affordable housing near transit provides meaningful benefits, particularly for lower-income residents and transit operators ...”), <https://ncst.ucdavis.edu/wp-content/uploads/2015/10/NCST-TO-027-Boarnet-Bostic-Affordable-TOD-White-Paper-FINALv2.pdf>; California Housing Partnership Corporation (May 2014) Why Creating And Preserving Affordable Homes Near Transit Is A Highly Effective Climate Protection Strategy, p. 3 (“Lower Income households drive 25-30% fewer miles when living within 1/2 mile of transit than those living in non-TOD areas ... This underscores why it is critical to ensure that low-income families can afford to live in these areas.”), <http://www.transformca.org/sites/default/files/CHPC%20TF%20Affordable%20TOD%20Climate%20Strategy%20BOOKLET%20FORMAT.pdf>.

## Letter O-4

**COMMENTER:** Gideon Kracov, Attorney at Law, on behalf of UNITE HERE Local 11

**DATE:** May 6, 2019

### **Response O-4.1**

The commenter states he is submitting comments on behalf of the UNITE HERE Local 11 (Local 11) and introduces Local 11. The commenter summarizes the main comments and states the Draft EIR understates the Project's impacts associated with air quality and greenhouse gas emissions. In addition, he states the Draft EIR fails to provide a reasonable range of alternatives and lacks sufficient affordable housing.

Responses to the commenter's individual comments are provided below.

### **Response O-4.2**

The commenter provides the "Standings of the Commenters," which includes details regarding Local 11's members and locations, and states that unions have standing to litigate land use and environmental claims. He also states two Local 11 members live within a half-mile of the Project site and will be adversely impacted if the issues brought up in this comment are not cured.

These comments are noted; however, no specific comments are discussed and responses to the commenter's individual comments on the Draft EIR are provided below.

### **Response O-4.3**

The commenter provides a summary of the proposed Project.

This comment raises no environmental issues specific to the proposed Project. No further response is warranted.

### **Response O-4.4**

The commenter states that the Draft EIR did not include project design features or mitigation measures that commit the applicant to provide any percentage of affordable units and that the project lacks sufficient affordable housing. The commenter states the Draft EIR discloses the City's Regional Housing Needs Allocation requirements but fails to disclose the City's track record of providing its fair share of housing at all income levels. The commenter states that lack of affordable housing has a disparate effect on working class communities who are forced to commute further distances to the City, thereby resulting in air quality, GHG, and traffic impacts. The commenter contends that by failing to include affordable housing, the Project is inconsistent with certain goals and policies of the Burbank 2035 General Plan.

The Draft EIR focuses on environmental impacts; the amount of affordable housing in a project is not an environmental impact but an economic or social one. Pursuant to CEQA Guidelines Section 15131(a), economic or social effects of a project shall not be treated as significant effects on the environment, unless a cause and effect relationship can be established that an economic and social effect would result in an adverse physical effect on the environment. The commenter does not provide evidence that there is a relationship between the amount of affordable housing in the Project and any adverse physical effect on the environment.

As noted, 12% of the Project's residential units will be deed-restricted as affordable housing.; the allocation of these units as affordable to moderate income households will assist the City in building need affordable, moderate income households, which is consistent with the City's Burbank 2035 General Plan and Housing Element and are also one of the affordable housing unit types that are part of the City's RHNA allocation during the current 2014-2021 report period. This requirement will be incorporated into the Development Agreement review process as a Condition of Approval.

The commenter states his opinion that the City will not meet its 2021 RHNA requirements unless the Project includes affordable housing. These requirements are imposed on the City and not on individual development projects. No further discussion of this issue is required in the DEIR.

The Project site is currently vacant. As such the Project would not displace any market rate or affordable housing. Therefore, it would not cause workers in the City to commute further distances by car. On the contrary, by creating market rate and affordable housing near transit, the Project has the potential to decrease vehicle miles traveled.

State CEQA Guidelines Section 15125(d) requires that a draft EIR discuss any inconsistencies only with those applicable goals, policies, and objectives that were adopted for the purpose of avoiding or mitigating an environmental effect. A project is considered consistent with the provisions and general policies of an applicable City or regional land use plan if it is consistent with the overall intent of the plan and would not preclude the attainment of its primary goals. A project does not need to be in perfect conformity with each and every policy. More specifically, according to the ruling in *Sequoyah Hills Homeowners Association v. City of Oakland*<sup>5</sup>, state law does not require an exact match between a project and the applicable general plan. Rather, to be "consistent," the project must be "compatible with the objectives, policies, general land uses, and programs specified in the applicable plan," meaning that a project must be in "agreement or harmony" with the applicable land use plan to be consistent with that plan. The commenter contends that because the project lacks affordable housing, it is inconsistent with certain goals and policies of the Burbank 2035 General Plan pertaining to housing. As noted above, 12% of the Project's residential units will be deed-restricted as affordable units, and the Project will be located in close proximity to transit.; these units will assist the City with meeting a portion of our RHNA moderate income housing need. The Project would therefore be consistent with Policies 5.3 and 5.5. Goal 2, Goal 3 and Policies 3.1, 3.3, and 3.5. are directed at the City and not individual development projects. Further, these goals and policies address economic and social considerations and were not adopted for the purpose of avoiding or mitigating an environmental effect. Moreover, as set forth in Section 4.8, Land Use and Planning, of the Draft EIR, the Project is consistent with the overall intent of the Burbank 2035 General Plan and would not preclude the attainment of its primary goals. Therefore, impacts are less than significant.

## **Response O-4.5**

The commenter provides the intent of a "reasonable range of alternatives" under CEQA, and states the discussion must focus on alternatives capable of eliminating significant adverse environmental effects or reduce them to a level of insignificance. The commenter states the Draft EIR failed to identify land use impacts stemming from the Project's lack of low- and very-low-income affordable housing, and air quality and greenhouse gas (GHG) emissions impacts; and the Draft EIR should have included an alternative that provided more affordable housing units.

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<sup>5</sup> *Sequoyah Hills Homeowners Association v. City of Oakland* (1993) 23 Cal.App.4th 704, 719.



Refer to Response O-4.4. CEQA Guidelines section 15126.6(a). An EIR must consider “only those alternatives necessary to permit a reasoned choice.” CEQA Guidelines section 15126.6(f). Every conceivable alternative need not be considered; rather, the range of alternatives should be designed to foster informed decision-making and public participation. CEQA Guidelines sections 15126.6(a), 15126.6(f). The lead agency (in this case the City) is responsible for selecting the range of project alternatives for examination. CEQA Guidelines section 15126.6(a).

An EIR is not required to study an alternative that is effectively a hybrid of several alternatives already analyzed<sup>6</sup>, or alternatives to alternatives that it evaluates<sup>7</sup>. Numerous variations on the same theme need not be discussed<sup>8</sup>. Further, an EIR need not include alternatives that do not offer significant environmental advantages over the alternatives presented in the EIR.<sup>9</sup>

The commenter’s suggested reduced project alternative with more affordable is a variation on the reduced project alternative already in the DEIR. As discussed in Response to Comment O-4.4, the Project is consistent with the Burbank 2035 General Plan; therefore, adding more affordable units would not substantially reduce or eliminate any significant land use impacts. The commenter speculates that including more affordable units would reduce air quality, GHG, and traffic impacts of the Project.

CEQA Guidelines 15126.6(c) provides that alternatives should avoid or substantially lessen one or more of the significant effects of the project. Commenter’s suggested alternative would not do so as the Project would not result in any significant air quality or GHG impacts. Further, as set forth in Section 6, Alternatives, of the DEIR, an approximately 97 percent reduction of the Project would be required to reduce the project trips to an extent that the Project’s significant traffic impacts would be less than significant. Including a greater amount of affordable units in the project, which would only incrementally reduce residential trips, would not achieve such a trip reduction. The commenter provides no evidence that it would.

## Response O-4.6

The commenter states the Draft EIR does not adequately analyze the air quality or GHG impacts and provides a list of the deficiencies for each issue area. The commenter also refers to and restates comments in the May 6, 2019 SWAPE comment letter that is provided as an Exhibit A.

Section 4.2, *Air Quality*, Section 4.5, *Greenhouse Gas Emissions*, and Appendix E, *Air Quality and Greenhouse Gas Study*, of the Draft EIR were recirculated on July 1, 2019. The full text of the Recirculated Draft EIR is available on the City’s website at the following link:

<https://www.burbankca.gov/departments/community-development/planning/current-planning/777-front-street>

Responses to Exhibit A are provided in Responses O-4.10 through O-4.24, below.

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<sup>6</sup> *Saltonstall v. City of Sacramento*, 234 Cal. App. 4th 549, 577-578 (2015)

<sup>7</sup> *Marin Municipal Water Dist. v. KG Land Cal. Corp.*, 235 Cal. 3d 1652 (1991)

<sup>8</sup> *Village Laguna of Laguna Beach, Inc. v. Bd. of Supervisors*, 134 Cal. App. 3d 1022, 1028-1029 (1982)

<sup>9</sup> *Tracy First v. City of Tracy*, 177 Cal. App 4<sup>th</sup> 912, 929 (2009); *Mann v. Redev. Agency* 233 Cal.App.3d 1143,1151 (1991)

### **Response O-4.7**

The commenter states the Project fails to impose all feasible mitigation measures or identify a CEQA-compliant statement of overriding considerations. The commenter provides an overview of the definition and purpose of a statement of overriding considerations.

A statement of overriding considerations will be submitted to the Planning Board and the City Council, along with the Final EIR, for their consideration of the Project.

The commenter suggests that the provision of housing, including 12% of the units as affordable, is insufficient to support a statement of overriding considerations. Burbank has a significant jobs-to-housing imbalance, which equates to a jobs-to-housing ratio of 3.5. The City needs housing at all income levels to meet these needs. The proposed 12% affordable units for qualifying moderate-income households will help improve the jobs to housing imbalance while adding new units to the City's housing stock, consistent with the RHNA projected need in the moderate income level.<sup>10</sup> The City Council, the City's duly elected legislative body, will make the determination of whether the Project's benefits will outweigh the one significant impact. Contrary to the comment, the City Council does not need to find that the Project will provide employment opportunities for highly trained workers; this is just an example of the type of "other considerations" that could be found to support a finding that mitigation measures or alternatives are infeasible.

### **Response O-4.8**

The commenter states the Draft EIR references the affordable housing units (none of which are low- or very-low-income levels), but does not determine whether new jobs created by the Project will be for highly trained workers, and does not state the likely salary range. He states the City should require payment of prevailing wages for all construction and operational workers. Overall, he states the City cannot find that the economic benefits of the Project outweigh the environmental cost if the Project does not provide more affordable units at low- or very-low-income levels, and does not know what the economic benefits will be.

CEQA does not require the potential economic impacts associated with a project. Analysis associated with the type of workers, average salaries, and prevailing wages are outside the scope of CEQA analysis. Therefore, this comment raises no environmental issues specific to the proposed Project. No further response is warranted.

### **Response O-4.9**

The commenter concludes by reiterating the flaws he perceives in the Draft EIR associated with land use (lack of affordable housing), air quality and GHG impacts, the range of alternatives, and statement of overriding considerations. The commenter requests to receive all notices of CEQA actions and public hearings to be held on the Project.

Responses to the commenter's concerns regarding the Draft EIR have been addressed in the responses to his comments above. The commenter has been added to the Project distribution list. The Recirculated Draft EIR was sent to the commenter, and all notices of upcoming CEQA actions and public hearings will be provided.

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<sup>10</sup> Refer to the February 5, 2019 Staff Report for the City Council, Item 4 - Housing Presentation-Setting A Proactive Housing Goal. Web link: [https://burbank.granicus.com/MetaViewer.php?view\\_id=42&clip\\_id=8561&meta\\_id=348727](https://burbank.granicus.com/MetaViewer.php?view_id=42&clip_id=8561&meta_id=348727)

### Response O-4.10

The commenter summarizes the proposed project and states the Draft EIR fails to adequately evaluate the Project's impacts associated with air quality and greenhouse gas emissions. He states that as a result, the Draft EIR underestimates the emissions and health risk impacts associated with construction and operation of the Project. The remainder of the comment letter identifies specific issues with the Draft EIR.

These comments are noted, and responses to the commenter's individual comments are provided below.

### Response O-4.11

The commenter states the Draft EIR relies on unsubstantiated input parameters to estimate the Project's emissions, which included underestimating the number of hauling truck trips during the grading period.

Subsequent to the circulation of the Draft EIR, a re-analysis of the air quality emissions was prepared based on the following input modifications to the California Emissions Estimator Model (CalEEMod):

- The Draft EIR reported that 90,000 cubic yards (cy) of soil would be exported from the Project site, this amount was updated to 127,000 cy.
- The Draft EIR used 24 cy of capacity per haul truck, the more conservative CalEEMod default assumption of 16 cubic yards of capacity per haul truck was used. Given an estimated haul truck capacity of 16 cubic yards, approximately 7,938 haul trucks (equivalent to 15,876 total one-way truck trips) would be required for soil export.
- The Draft EIR assumed all export would be hauled to Kettleman Landfill, located approximately 170 miles from the project site. The amount of contaminated soil has been updated by the Project applicant, so the analysis was updated with the assumption that approximately 32,000 cubic yards of the total exported soil is contaminated, requiring hauling to Kettleman Hills Landfill, approximately 170 miles from the Project site. The remainder of the exported soil (95,000 cubic yards) is expected to be clean and would be transported to the Simi Valley Landfill, approximately 30 miles from the Project site. This distribution of landfill destinations was incorporated into CalEEMod using a weighted hauling trip length of 65.3 miles for all one-way hauling trips.
- The operational analysis includes an additional scenario to consider overlap of Residential Building 1 operation, starting in 2022, and construction from 2022 to 2025. For the purposes of this scenario, it was assumed that in addition to the residential units in Building 1 (252 units), the associated parking garage and pool would also be operational.

The Recirculated Draft EIR was released for public review on July 1, 2019. The document includes Section 2, *Project Description*, Section 4.2, *Air Quality*, Section 4.5, *Greenhouse Gas Emissions*, and Appendix D, *Air Quality and Greenhouse Gas Study*. The comment period ended on August 14, 2019.

### Response O-4.12

The commenter ran CalEEMod using site-specific information and 7,500 hauling trips, according to their calculations. Both the Draft EIR and the commenter found that the Project would exceed the

SCAQMD's NO<sub>x</sub> emissions threshold. However, based on the commenter's CalEEMod inputs, the NO<sub>x</sub> emissions would increase from the amount reported in the Draft EIR by 88%.

Refer to Response O-4.11.

### **Response O-4.13**

The commenter states the air quality emissions analysis should either include the overlap in emissions during Phase 1 operation and Phases 2 and 3 of construction or include mitigation that would not allow Phase 1 operation until full project build out.

Refer to Response O-4.11.

### **Response O-4.14**

The commenter states the Draft EIR should provide a health risk assessment (HRA) to determine the health risk posed to existing nearby sensitive receptors as a result of Project construction or operation. The commenter provides information from SCAQMD's website that states the *Health Risk Assessment Guidance for Analyzing Cancer Risk from Mobile Source Diesel Emissions* should be used for preparation of an HRA for any project that is expected to generate mobile emissions from diesel-powered equipment and trucks. The commenter contends that omission of a quantified HRA is inconsistent with the most recent guidance published by the Office of Environmental Health Hazard Assessment (OEHHA). The commenter prepared a screening-level HRA that relied on AERSCREEN (a screening-level air quality dispersion model) for the purpose of showing the link between the Project's emissions and the potential health risks. They state their assumptions and the results of their HRA demonstrate that the cancer risk posed to sensitive receptors during construction and operation of the Project could result in a potentially significant health risk impact. The commenter concludes that the Project applicant should prepare a more refined HRA that examines the air quality impacts generated by Project construction and operation using site-specific meteorology.

The commenter's statement that SCAQMD's *Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Emissions* recommends that projects that generate vehicular trips must conduct an HRA is incorrect. This HRA guidance documents are primarily applicable to substantial operational sources of DPM emissions. The examples provided in this comment referenced from this guidance document include substantial sources of diesel emissions, such as truck stops, warehouse and distribution centers, or transit centers, ship hoteling at ports, and train idling. These examples are all long-term operational sources and not related to construction activities or typical residential and commercial activities. The commenter has misconstrued the recommend guidance from the SCAQMD. The commenter is referred to the following more recent SCAQMD guidance that provides clarification as to when an HRA may be warranted. The SCAQMD published and adopted the *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*, which provides recommendations regarding the siting of new sensitive land uses near potential sources of air toxic emissions (e.g., freeways, distribution centers, rail yards, ports, refineries, chrome plating facilities, dry cleaners, and gasoline dispensing facilities).<sup>11</sup> The SCAQMD recommends that HRAs be conducted for substantial sources of DPM (e.g., truck stops and warehouse distribution facilities that generate more than 100 trucks per day or more than 40 trucks

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<sup>11</sup> SCAQMD, *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*, May 6, 2005.

with operating transport refrigeration units). Based on this guidance, there was no quantitative analysis required for future cancer risk from Project construction or operation.

The SCAQMD as a Responsible Commenting Agency, provided the following comment on January 4, 2017, regarding the proposed Green Line Mixed Use Specific Plan ([www.aqmd.gov/docs/default-source/ceqa/comment-letters/2017/deirgreenline010417.pdf?sfvrsn=5](http://www.aqmd.gov/docs/default-source/ceqa/comment-letters/2017/deirgreenline010417.pdf?sfvrsn=5)), which further supports that only substantial operational diesel truck activity warrants further evaluation in an HRA:

If the proposed project will expose future sensitive receptors to potential adverse health impacts from carcinogenic emissions generated by the SCAQMD permitted stationary sources and from the nearby rail and truck operations, SCAQMD staff recommends that a health risk assessment (HRA) be conducted. The HRA should include the SCAQMD permitted sources (i.e., the gasoline storage and dispensing equipment, the auto-body shop spray booths) emitting toxic air contaminants (TACs) within one quarter mile of the project site. The HRA should also include all warehouse sites within 1,000 feet that include truck activity that exceeds 100 trucks per day, or where more than 40 trucks with operating transport refrigeration units (TRUs) per day, or where TRU units exceed 300 hours per week. No additional analysis of operational health risk impacts is warranted based on this comment.

The commenter contends that the Project will include a substantial number of diesel truck trips during operation. However, given that nature of the Project land uses (i.e., residential, retail, and hotel), the Project would only generate fewer than 40 trips per day by diesel powered vehicles.

The SCAQMD Handbook also does not recommend analysis of TACs from short-term construction activities. The rationale for not requiring a health risk assessment for construction activities is the limited duration of exposure. According to SCAQMD methodology, health effects from carcinogenic air toxics are usually described in terms of individual cancer risk. Specifically, "Individual Cancer Risk" is the likelihood that a person continuously exposed to concentrations of TACs over a 70-year lifetime will contract cancer based on the use of standard risk assessment methodology. Given the short-term construction schedule of approximately 73 months, the Project would not result in a long-term (i.e., 70-year) source of TAC emissions. No residual emissions and corresponding individual cancer risk are anticipated after construction. Because there is such a short-term exposure period (73 out of 840 months of a 70-year lifetime), further evaluation of construction TAC emissions within the Draft EIR was not warranted.

Although there is no requirement or guidance for preparing a construction or operational HRA by SCAQMD, a refined HRA has been prepared in response to this comment to demonstrate that no significant health risk impacts would occur from construction or operation of the Project. The HRA is provided in Appendix M of this Final EIR. The refined HRA demonstrates that health risks from the Project would be a maximum of 0.61 in one million for closest residences north of the Project site, which is well below the applicable significance threshold of 10 in one million. No additional analysis or mitigation measures are necessary based on this comment.

The comment correctly identifies that the Office of Environmental Health Hazard Assessment (OEHHA) adopted a new version of the Air Toxics Hot Spots Program Guidance Manual for the Preparation of Risk Assessments (Guidance Manual) in March of 2015.<sup>7</sup> The Guidance Manual was developed by OEHHA, in conjunction with CARB, for use in implementing the Air Toxics "Hot Spots" Program (Health and Safety Code Section 44360 et. seq.). The Air Toxics "Hot Spots" Program requires stationary sources to report the types and quantities of certain substances routinely released into the air. The goals of the Air Toxics "Hot Spots" Act are to collect emission data, to



identify facilities having localized impacts, to ascertain health risks, to notify nearby residents of significant risks, and to reduce those significant risks to acceptable levels.

The new Guidance Manual provides recommendations related to cancer risk evaluation of certain short-term projects. As discussed in Section 8.2.10 of the Guidance Manual, “The local air pollution control districts sometimes use the risk assessment guidelines for the Hot Spots program in permitting decisions for short-term projects such as construction or waste site remediation.” Short-term projects that would require a permitting decision by South Coast Air Quality Management District (SCAQMD) typically would be limited to site remediation (e.g., stationary soil vapor extractors) and would not be applicable to the proposed Project. The new Guidance Manual does not provide specific recommendations for evaluation of short-term use of mobile sources (e.g., heavy-duty diesel construction equipment).

Additionally, in comments presented to the SCAQMD Governing Board (Meeting Date: June 5, 2015, Agenda No. 28) relating to toxic air contaminant exposures under Rules 1401, 1401.1, 1402 and 212 revisions, use of the OEHHA guidelines specifically related to the applicability and use of early-life exposure adjustments for projects subject to CEQA, it was reported that:

The Proposed Amended Rules are separate from the CEQA significance thresholds. The Response to Comments Staff Report PAR 1401, 1401.1, 1402, and 212 A - 8 June 2015. SCAQMD staff is currently evaluating how to implement the Revised OEHHA Guidelines under CEQA. The SCAQMD staff will evaluate a variety of options on how to evaluate health risks under the Revised OEHHA Guidelines under CEQA. The SCAQMD staff will conduct public workshops to gather input before bringing recommendations to the Governing Board. In the interim, staff will continue to use the previous guidelines for CEQA determinations.

To date, the SCAQMD, as a commenting agency, has not conducted public workshops or developed policy relating to the application of early-life exposure adjustments utilizing OEHHA guidance for projects prepared by other public/lead agencies subject to CEQA.

The commenter’s screening level analysis and related technical appendices were carefully reviewed for purposes of considering the potential of the project to result in health risk impacts. Based on this evaluation, methodological flaws were identified that undermine the accuracy of the commenter’s results as compared with the much more refined, site-specific analysis that is included in Appendix M of this Final EIR. A key limitation with the commenter’s analysis is that it relied on a “screening level” model to evaluate health risks. A screening level analysis can be appropriate to assess whether more detailed, refined modeling assessment is needed. Screening models typically rely on rough, very conservative assumptions to check if a project *could* cause a significant health impact. If, based on the screening, there is no potential for a significant impact, then no additional analysis is required. In this way, screening models can help save time and money by eliminating the need for some projects to complete more expensive, time-consuming dispersion modeling.

This use of screening models is consistent with industry standard and agency guidance. As recommended by the Office of Environmental Health Hazard Assessment (OEHHA), page 4-25 of The Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments states

“Screening models are normally used when no representative meteorological data are available and may be used as a preliminary estimate to determine if a more detailed assessment is warranted.”<sup>12</sup>

As noted above, screening level results that show a potential significant impact are only relevant to demonstrate that commenter should have then conducted additional analysis using a refined model, which, notably, is exactly what is provided in Appendix M of this Final EIR. As discussed therein, health risks were analyzed consistent with SCAQMD methodology and used AERMOD to complete refined dispersion modeling. AERMOD accounts for a variety of refined, site-specific conditions that facilitate a more accurate assessment of Project impacts compared to the less refined AERSCREEN screening model used in the commenter’s screening level analysis. The most important differences between AERSCREEN and AERMOD are the following:

- **Meteorological Data**—The AERSCREEN model uses user-defined conditions, which assume worst-case meteorological conditions occurring 24 hours per day, 365 days per year for the entire construction duration along with the maximum daily emissions occurring each of those days. The HRA provided Appendix M instead used AERMOD which allows for SCAQMD representative meteorological data to be used in calculation of annual concentrations. This SCAQMD meteorological data provides hourly conditions (e.g., wind speed, wind direction, and stability class) over a five-year period (43,800 hours). With these conditions, the AERMOD model is more representative of likely Project impacts compared to the AERSCREEN model.
- **Site-Specific Conditions**—AERMOD allows for analysis of multiple volume sources and to account for complex terrain in the area (elevation), which is required to adequately represent Project construction. The use of a single rectangular source with a release height of three meters to represent construction and operational activities provided in the commenter’s analysis does not adequately represent the Project site, does not account for complex terrain conditions, and likely overstates emissions because of the plume interaction with terrain. In addition, a volume source and not an area source is the type of source recommended by the SCAQMD for modeling construction equipment and diesel truck exhaust emissions (SCAQMD LST Guidelines). In addition, the SCAQMD LST Guidelines recommend a 5-meter release height instead of 3 meters, which would also overestimate potential concentrations. By accounting for the complex terrain around the project site, the AERMOD model is more representative of likely Project impacts compared to the AERSCREEN model.

Consequently, the coarser AERSCREEN evaluation provides a much less accurate assessment of Project health risks compared to the refined AERMOD evaluation. Moreover, as discussed in the specific comments below, the commenter’s screening level analysis was not performed in accordance with requirements included in SCAQMD’s LST methodology and OEHHA’s guidance. The analysis also did not account for the following: (1) site-specific conditions; (2) use of a refined dispersion model; and (3) use of SCAQMD-mandated meteorological data from the closest/most representative meteorological monitoring site within the Project area. If the commenter’s analysis accounted for the guidance and data discussed above, then the results would have been substantially less.

Further, the commenter incorrectly assumes that all of the PM<sub>10</sub> generated from on-site Project operations would be DPM. In fact, onsite emissions sources (e.g., hearths, landscape maintenance

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<sup>12</sup> California Environmental Protection Agency. *Air Toxics Hot Spots Program Risk Assessment Guidelines, The Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments*. Available at [www.oehha.ca.gov/air/hot\\_spots/pdf/HRAfinalnoapp.pdf](http://www.oehha.ca.gov/air/hot_spots/pdf/HRAfinalnoapp.pdf), accessed August 2019.

equipment, and energy related emissions are associated with natural gas and electricity consumption) would not generate DPM. Although a portion of vehicle start emissions are generated on-site, they are primarily associated with gasoline-fueled vehicles and not diesel vehicles. Therefore, the commenter's screening level analysis substantially overstates DPM during Project operations.

In addition, the excess cancer risk calculated in the commenter's assessment factored in the use of Age Sensitivity Factors (ASFs) from OEHHA's new Guidance Manual and resulted in much greater impacts. Use of these factors is not applicable to this Project, as neither the City, as Lead Agency, nor SCAQMD has developed recommendations on whether these factors should be used for CEQA analysis of potential construction impacts. Furthermore, a review of relevant guidance was conducted to determine applicability of the use of early life exposure adjustments to identified carcinogens. The U.S. Environmental Protection Agency provides guidance relating to the use of early life exposure adjustment factors (Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens, EPA/630/R-003F) whereby adjustment factors are only considered when carcinogens act "through the mutagenic mode of action." The U.S. Environmental Protection Agency has identified numerous compounds that elicit a mutagenic mode of action. For diesel particulates, polycyclic aromatic hydrocarbons (PAHs) and their derivatives, which are known to exhibit a mutagenic mode of action, comprise less than 1 percent of the exhaust particulate mass. To date, the U.S. Environmental Protection Agency reports that whole diesel engine exhaust has not been shown to elicit a mutagenic mode of action. (USEPA, 2018).

Additionally, the California Department of Toxic Substances Control (DTSC), which is charged with protecting individuals and the environment from the effects of toxic substances and responsible for assessing, investigating and evaluating sensitive receptor populations to ensure that properties are free of contamination or that health protective remediation levels are achieved has adopted the U.S. Environmental Protection Agency's policy in the application of early-life exposure adjustments that is consistent with the methodology considered in the assessment of residential exposures. Therefore, the early life exposure adjustments made in the commenter's analysis are neither required nor appropriate.

### **Response O-4.15**

The commenter states that the analysis of GHG emissions relies on an outdated climate action plan, which results in a failure to demonstrate the Project's consistency with long-term statewide goals. The commenter provides a summarized list of the eight reasons why the analysis is flawed and the remainder of the comment letter identifies specific issues with the Draft EIR associated with each of these reasons.

These comments are noted, and responses to the commenter's individual comments are provided below.

### **Response O-4.16**

The commenter states the Project relies upon consistency with the City's Greenhouse Gas Reduction Plan (GGRP) to determine Project significance. The commenter further states a review of the GGRP demonstrates that the City has failed to monitor, track, or update the GGRP since it was adopted in 2013 and provides examples.

Section 4.5 of the Recirculated Draft EIR is a revised analysis of the Project's impacts regarding GHG emissions. As set forth therein, in the absence of any applicable adopted numeric threshold, the

significance of the Project's GHG emissions is evaluated consistent with CEQA Guidelines Section 15064.4(b)(2) by considering whether the Project complies with applicable plans, policies, regulations and requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of GHG emissions. For this Project, as a land use development project, the most directly applicable adopted regulatory plan to reduce GHG emissions is the 2016 RTP/SCS, which is designed to achieve regional GHG reductions from the land use and transportation sectors as required by SB 375 and the State's long-term climate goals. This analysis also considers consistency with regulations or requirements of the City's GGRP, and CARB's 2017 Scoping Plan, both of which are designed to achieve the GHG reduction goals of AB 32, SB 375, and SB 32. As set forth in Section 4.5, the Project would be consistent with the applicable goals, policies, and objectives of these plans. In addition, the City conducted the *GGRP Mitigation Measure Quantification Analysis* (progress report) for the GGRP, which is included as Appendix N to the Final EIR. The progress report found that the City has been and is actively implementing the GGRP measures to achieve the 2020 and 2035 targets. Based on the analysis of the City's emissions data, the City has achieved 95 percent of the 2020 target and the City will continue to implement measures to achieve the 2035 target. The City's current GGRP (Burbank2035) aligns with AB 32 (2020 emission target), but it does not specifically address the SB 32 2030 emission target. As such, projects that become operational post-2020 would not be able to tier off the Burbank 2035 GGRP.

The City is undertaking an update to the GGRP to specifically address SB 32 2030 goals based off an updated emissions inventory in a manner that is consistent with CEQA Guidelines Section 15183.5, which will provide a qualified GGRP and allow for CEQA streamlining for projects operational post-2020. Additionally, developing an updated GGRP will allow the City to incorporate the best practices in GHG reduction measures that have been adopted since the adoption of the 2012 GGRP as well as improve the established data tracking for future quantification. Therefore, impacts would be less than significant.

### **Response O-4.17**

The commenter states the Draft EIR fails to address the Project's compliance with the emissions reduction target set forth by Senate Bill (SB) 32. Since the Project will be operational in 2026 and continue to operate through 2030 and 2050, it is required to meet the 40 percent reduction in GHG emissions compared to 1990 levels (i.e., the interim 2030 emissions reduction target), which is necessary to comply with the State's longer 2050 target. In addition, the commenter states because the City's GGRP does not address the reductions required to meet the SB 32 reduction targets, the Project may not do enough to reduce the City's GHG emissions, and therefore, the Draft EIR cannot claim the Project has a less than significant impact.

The Recirculated Draft EIR includes a reanalysis of Section 4.5, *Greenhouse Gas Emissions*, which includes a Post-2030 Analysis (see the analysis under Impact GHG-1). In summary, the Project's design features advance the goals of SB 32 by reducing VMT, increasing the use of electric vehicles, improving energy efficiency (through the use of Energy Star appliances, cool roofs, rooftop solar panels), and reducing water usage (through water efficient toilets, shower heads, and faucets). The Project would be consistent with the 2017 Scoping Plan Update; however, additional measures to achieve the 2030 targets and beyond are outside of the City's or the Project's control. Therefore, any evaluation of post-2030 Project emissions would be speculative. Similarly, the Project's emissions level in 2050 cannot be reliably quantified; however, statewide efforts are underway to facilitate the State's achievement of the 2050 goals and it is reasonable to expect the Project's GHG emissions level to decline as the regulatory initiatives identified by CARB in the 2013 Scoping Plan

Update and 2017 Scoping Plan are implemented, and other technological innovations occur. Stated differently, the Project's total emissions at build-out represents the maximum emissions inventory for the Project as California's emissions sources are being regulated (and foreseeably expected to continue to be regulated in the future) in furtherance of the State's environmental policy objectives. As such, given the reasonably anticipated decline in Project emissions once fully constructed and operational, the Project would be consistent with Executive Order S-3-05 horizon-year (2050) goal. The Project's consistency with SCAG's RTP/SCS demonstrates that the Project would be consistent with post-2020 GHG reduction goals. For these reasons, the Project's post-2030 emissions trajectory is expected to follow a declining trend, consistent with the 2030 and 2050 targets.

Refer to Response O-4.16 regarding the GGRP progress report (see Appendix N, *GGRP Mitigation Measure Quantification Analysis*).

### **Response O-4.18**

The commenter states the Project and City actions are inconsistent with numerous goals and policies discussed in the following documents: City of Burbank's GGRP; Burbank 2035 General Plan; CARB 2017 Scoping Plan; and SCAG's 2012 and 2016 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) and Program EIRs. The commenter provides their consistency analysis with the applicable measures, policies and strategies from each of these plans. The commenter also lists mitigation measures or project design features from the EIRs of certain projects located in other jurisdictions.

The Project's consistency with the City's GGRP and General Plan, SCAG's RTP/SCS, and the 2017 Scoping Plan is analyzed in Section 4.5 of the Recirculated Draft EIR. As shown therein, the Project would be consistent with the applicable goals, policies, and objectives of these plans. Therefore, the Project's impacts were found to be less than significant.

Refer to Response O-4.16 regarding the GGRP. The City's actions with respect to the GGRP has no bearing on the Project's consistency with other applicable GHG reduction plans. It should be noted that SCAG's 2016 RTP/SCS supersedes the 2012 RTP/SCS. Moreover, the project-specific mitigation measures listed in the 2016 RTP/SCS are only potentially appropriate where a project has significant project-specific impacts. As the Project's impacts with respect to GHG emissions would be less than significant, no additional mitigation measures are warranted.

### **Response O-4.19**

The commenter states the Draft EIR fails to demonstrate the "additionality" concept whereby GHG emissions reductions otherwise required by law or regulation are appropriately considered part of the baseline, and pursuant to CEQA Guideline 15064.4(b)(1), a new project's emissions should be compared against the existing baseline and a project should not take credit for emissions reductions that would have occurred regardless of the project. The commenter suggests that the state is not on track to meet GHG reduction targets. The commenter also states the Project may require more GHG-reducing measures to offset the lost GHG reductions anticipated under the GGRP and additional reduction measures should be required for the Project to attempt to reduce GHG levels.

The commenter mischaracterizes the California Supreme Court's decision in *Center for Biological Diversity v. Department of Fish & Wildlife* (2015 ) 62 Cal.4th 204, (also known as the Newhall Ranch case) in which the Court reviewed the methodology used to analyze GHG emissions in an EIR prepared for a project that proposed 20,885 dwelling units with 58,000 residents on 12,000 acres of undeveloped land in a rural area of the County of Los Angeles. The EIR used a departure from

“business as usual” (BAU) approach to determine whether the project would impede the state’s compliance with statutory emissions reduction mandate established by the AB 32 Climate Change Scoping Plan. The Court did not invalidate the BAU approach but did hold that “the Scoping Plan nowhere related that statewide level of reduction effort to the percentage of reduction that would or should be required from individual projects and nothing DFW or Newhall have cited in the administrative record indicates the required percentage reduction from business as usual is the same for an individual project as for the entire state population and economy.”<sup>13</sup> The California Supreme Court suggested regulatory consistency as one pathway to compliance, by stating that a lead agency might assess consistency with AB 32’s goal in whole or in part by looking to compliance with regulatory programs designed to reduce GHG emissions from particular activities, including statewide programs and local climate action plans or GHG emissions reduction plans. This approach is consistent with CEQA Guidelines Section 15064, which provides that a determination that an impact is not cumulatively considerable may rest on compliance with previously adopted plans or regulations, including plans or regulations for the reduction of GHG emissions.

Regarding the State’s progress on reducing GHG emissions, CARB recently found:

In 2017, emissions from statewide emitting activities were 424 million metric tons of CO<sub>2</sub> equivalent (MMTCO<sub>2</sub>e), which is 5 MMTCO<sub>2</sub>e lower than 2016 levels. 2017 emissions have decreased by 14 percent since peak levels in 2004 and are 7 MMTCO<sub>2</sub>e below the 1990 emissions level and the State’s 2020 GHG limit. Per capita GHG emissions in California have dropped from a 2001 peak of 14.1 tonnes per person to 10.7 tonnes per person in 2017, a 24 percent decrease. Overall trends in the inventory also demonstrate that the carbon intensity of California’s economy (the amount of carbon pollution per million dollars of gross domestic product (GDP)) is declining. From 2000 to 2017, the carbon intensity of California’s economy has decreased by 41 percent from 2001 peak emissions while simultaneously increasing GDP by 52 percent. In 2017, GDP grew 3.6 percent while the emissions per GDP declined by 4.5 percent compared to 2016.<sup>14</sup>

Regarding additional mitigation measures, none are warranted as the Project’s impacts with respect to GHG emissions would be less than significant.

## **Response O-4.20**

The commenter states the Draft EIR failed to quantify the Project’s GHG emissions.

The Recirculated Draft EIR includes a reanalysis of Section 4.5, *Greenhouse Gas Emissions*, which includes a quantitative analysis of the GHG emissions associated with construction and operation of the Project. As stated in the analysis, Section 15064.4 of the CEQA guidelines recommends quantification of a Project’s GHG emissions. However, the quantification is being done for informational purposes only, and Project GHG emissions are not evaluated against any numeric threshold, because compliance with applicable plans, policies, regulations and requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of GHG emissions renders a project’s potential impacts less than significant.

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<sup>13</sup> *Center for Biological Diversity v. California Department of Fish and Wildlife* (62 Cal.4th 204, 230)

<sup>14</sup> 2019 Edition, *California Greenhouse Gas Emission Inventory: 2000 – 2017*



### Response O-4.21

The commenter states the SCAQMD released its *Interim Thresholds* that proposed use of a 1,400 MTCO<sub>2</sub>e per year threshold for commercial developments, a 3,000 MTCO<sub>2</sub>e per year threshold for mixed use developments, a 3,500 MTCO<sub>2</sub>e per year threshold for residential developments, and 10,000 MTCO<sub>2</sub>e per year threshold for industrial developments. The commenter states the most appropriate screening threshold to apply to the Project is the 3,000 MTCO<sub>2</sub>e per year threshold for mixed use developments and provided a quantitative analysis using the CalEEMod output files found in Appendix D of the Draft EIR. Their analysis found that the Project would generate 10,610 MTCO<sub>2</sub>e per year, which would exceed the threshold and result in a significant impact. The commenter also states that according to SCAQMD, if a project exceeds the threshold, a more detailed review of the project's GHG emissions is warranted, and the project should be compared to SCAQMD's proposed 2020 and 2035 efficiency targets. Their analysis found that based on the Project's service population, the Project would exceed the 2020 and 2035 efficiency thresholds.

The Draft EIR did not use a numeric threshold, as neither the City nor SCAQMD has adopted a numeric threshold applicable to the Project. Instead, a significance determination was made based on the consistency with applicable regulatory plans and policies to reduce GHG emissions. The City as lead agency enjoys substantial discretion to choose the significance threshold in this case, including one that is based on the Project's consistency with applicable plans, policies, and ordinances intended to reduce GHG emissions. Contrary to the comment, neither the CEQA Guidelines nor applicable case law require a lead agency to utilize a 10-year old draft, unadopted threshold. Moreover, the SCAQMD working group that was tasked to develop a GHG CEQA threshold has not met since 2010. As a point of reference, the SCAQMD Governing Board did adopt an interim 10,000 MTCO<sub>2</sub>e/yr GHG significance threshold for projects where the SCAQMD is lead agency (e.g., stationary sources, rules, and plans). While this adopted threshold is not applicable to the Project, it shows that SCAQMD can and will adopt a numeric threshold that it deems appropriate.

The commenter also overstates the Project's GHG emissions. As set forth in Section 4.5, *Greenhouse Gas Emissions*, of the Draft EIR, the Project would generate a total of 9,086 MT CO<sub>2</sub>e of GHG emissions.

### Response O-4.22

The commenter states that because the City's GGRP is outdated, the GHG analysis should include the SCAQMD's *Interim Threshold* (although not officially adopted) to keep up with the evolving scientific knowledge and State regulatory schemes. The commenter also cites thresholds adopted by other air districts.

Refer to Response O-4.21. As noted, the unadopted SCAQMD threshold is now over 10 years old is was based on information even older. Therefore, it does not represent the current standard of evolving scientific data, as suggested by the commenter. As noted, the threshold selected by the City as lead agency, which assessed the Project's consistency with applicable GHG reduction plans, is consistent with the CEQA Guidelines and applicable case law, including the Supreme Court's decision in the Newhall Ranch case.

The other air districts cited in the comment have no jurisdiction over the Project or the City. It should be noted, however, that the Project's GHG impacts would be less than significant under the PCAPCD "bright line" threshold cited in the comment.

### **Response O-4.23**

The commenter states the Draft EIR failed to recognize the significant GHG impact, and therefore, did not include a Project alternative that would reduce impacts. The commenter lists measures and design features that should be included in an alternative that focuses on the reduction of GHG impacts.

CEQA Guidelines Section 15126.6 provides that an EIR shall describe a range of reasonable alternatives to the project that would avoid or substantially lessen any of the significant effects of the project. The impact analysis in Section 4.5, *Greenhouse Gas Emissions*, of the Recirculated Draft EIR found that potential GHG impacts would be less than significant. Therefore, an alternative focusing on a significant GHG impact is not necessary.

### **Response O-4.24**

The commenter states they had limited information about the project, so they reserve the right to amend their report if more information becomes available and state that any information gaps or inconsistencies are a result of unavailable or uncertain information.

This comment is noted, but these comments do not pertain to the adequacy of the Draft EIR and raises no environmental issues specific to the proposed Project. No further response is warranted.

Letter I-1

April 2, 2019

Mr. Leonard Bechet  
Community Development Department  
150 N. Third Street, P.O. Box 6459  
Burbank, CA 91510-6459

Subject: 777 North Front Street Project  
Draft EIR SCH#2018041012

Dear Mr. Bechet:

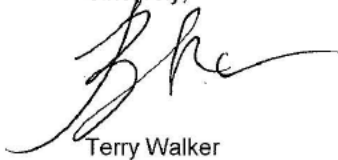
As a Burbank resident, I'm writing to support LaTerra Development's plans for 777 North Front Street because it will provide new sources of revenue for our city and provide much-needed housing for our community.

First, I appreciate the investment the company is willing to make to redevelop this site and return it to a productive use, bringing a new hotel and apartments to Downtown Burbank. The project will also provide jobs in construction and in the hotel business, and generate tax revenue for the City.

Secondly, the planned pedestrian improvements as detailed in the Draft EIR will make this location accessible to the downtown commercial district and encourage new residents and others to use Metrolink and other forms of public transit, all of which help alleviate traffic congestion.

This investment in this long dormant property is welcome news. I look forward to seeing the project developed and encourage the City to approve it.

Sincerely,



Terry Walker

I-1.1

## Letter I-1

**COMMENTER:** Terry Walker

**DATE:** April 2, 2019

### **Response I-1**

The commenter states their support for the Project. The commenter notes that the Project would include a mix of hotel and residential uses and would be encourage public transit ridership due to its location to Downtown Burbank and the Metrolink station.

The commenters support is noted. This comment raises no environmental issues specific to the proposed Project. No further response is warranted

Letter I-2

**From:** GEORGE BERG [REDACTED]  
**Sent:** Wednesday, April 10, 2019 10:15 AM  
**To:** Bechet, Leonard <LBechet@burbankca.gov>  
**Subject:** la terra select project

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I would like to express my concerns about this project. As much as I support new projects, I don't think this is a good fit. I think an office building or r&d light industrial would be a better fit. Or maybe a homeless shelter with medical and mental clinic and a larger home for btac. Or maybe save this space for the expansion of the sewage treatment plant. also I'm concerned about the pollution around this project. noise is a concern with the freeway, burbank blvd bridge and the railroad tracks. Also the stench on a warm day from the sewage treatment plant. I wonder what kind of liability Burbank may be open to.  
thank you,  
George Berg

I-2.1

I-2.2

## Letter I-2

**COMMENTER:** George Berg

**DATE:** April 10, 2019

### Response I-2.1

The commenter states concern with the Project's location and states that better uses of the site would be office buildings, R&D light industrial, a homeless shelter with mental/medical care, or an expansion of the sewage treatment plant. The commenter states concern regarding noise from the freeway, Burbank Boulevard bridge, and the railroad tracks.

The commenter's suggestions for alternative uses on the Project site are noted and have been addressed in Section 6, *Alternatives*, of the Draft EIR. In particular, Alternative 2 analyzed development of two automobile dealerships under the existing zoning. Potential impacts were found to be similar or reduced in comparison to the Project with respect to most environmental issues.

As discussed in Section 4.9, *Noise*, Impact N-4, CEQA does not require analysis of potential impacts of the environment on the Project; however, an impact analysis of the ambient noise environment on the project was provided for informational purposes and for disclosure of existing noise conditions in the vicinity of the Project site. Based on the noise exposure levels at the Project site, the Project would be exposed to exterior and interior noise levels in excess of the City's standards. Mitigation measures were incorporated into the Draft EIR to ensure that noise levels at the site are reduced to levels consistent with the City's standards. Implementation of the mitigation measures would reduce exterior noise at proposed outdoor residential uses (i.e., balconies) to 65 dBA CNEL, would reduce exterior noise at the proposed open space public plaza to 70 dBA CNEL, and would reduce interior noise in habitable rooms to an acceptable level of 45 dBA CNEL. These noise calculations included the sound wall that is a component of the Project under Noise PDF-2 (Sound Wall). As concluded, exterior and interior noise exposure levels at the Project site would be reduced to less than significant levels.

### Response I-2.2

The commenter states concern regarding odors from the wastewater treatment plant.

Air Quality PDF 3 (Air Quality Control Measures) includes a HVAC system that utilizes high-efficiency filters with Minimum Efficiency Reporting Value (MERV) 13 minimum that would minimize odors from the surrounding environment. Also, Section 4.2, *Air Quality*, discusses potential odor impacts of the proposed Project on the environment. However, while the commenters concern is noted, CEQA does not require analysis of potential impacts of the environment on the Project. This may, however, be a consideration for City decision makers and the Project applicant.



Letter I-3

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**From:** Barbara Regan [REDACTED]  
**Sent:** Wednesday, April 10, 2019 8:10 AM  
**To:** Bechet, Leonard [REDACTED]  
**Subject:** Laterra

Hi,  
Just wondering who would choose to live, or even stay the night between the I5 and the railroad tracks and the lovely view of the industrial area just beyond the tracks? Seems doomed to fail to me.

I-3.1

[Sent from Yahoo Mail on Android](#)

## Letter I-3

**COMMENTER:** Barbara Regan

**DATE:** April 10, 2019

### **Response I-3.1**

The commenter questions who would choose to live or stay the night at the Project site and states that the Project is doomed to fail.

While the commenters concern is noted, this comment does not pertain to the adequacy of the Draft EIR and raises no specific environmental issues. No further response is warranted.

Letter I-4

From: Abe Kinney [REDACTED]  
Sent: Thursday, April 11, 2019 9:00 AM  
To: Bechet, Leonard [REDACTED]  
Subject: Front street

Please don't ruin downtown Burbank with more mixed use crap. Isn't the old IKEA enough? Go out by the airport.

I-4.1

Abe

## Letter I-4

**COMMENTER:** Abe Kinney

**DATE:** April 11, 2019

### **Response I-4**

The commenter states the project would ruin downtown Burbank by providing a mixed-use development.

While the commenters concern is noted, this comment does not present any environmental issues associated with the Project's proposed land use and does not pertain to the adequacy of the Draft EIR. No further response is warranted.

Letter I-5

From: Laura Ioanou-Price [REDACTED]  
Sent: Thursday, April 11, 2019 9:53 AM  
To: Bechet, Leonard [REDACTED]  
Cc: City Council [REDACTED]; Davis, Ron [REDACTED]  
Subject: 777 Front Street project

Hello,

Voicing my concerns for the upcoming project vote.

It there only 2 ways in and out of that area, using Front St? I've heard your arguments about how people working in Burbank, not living here currently will rent these units. What is the guarantee that renters will use public transpiration, bikes, or ride shares? Not all Studio/Hospital employees have 9-5 jobs. I do not want my husband riding his bike late at night. He also, sometimes has to take equipment with him to and from work. Is the Brewery project still on the table to share parking with Metrolink station. Traffic needs to be addressed with this project.

I-5.1

I-5.2

I-5.3

2) Super Fund site/Air Quality. What happens when people move in and discover the wonderful smells coming from BWP. I'm asking you, if you would consider living in this 777 Front St. with the freeway at your front door. I know I would not, enough said.

I-5.4

3) Hotel. Does Burbank really need a hotel in that area, due to the traffic and air quality issues. City Council just approved a hotel at Avion, ignoring same issues of traffic and air quality. Also, a few more hotel projects coming up for approval. Is it really a need or for Burbank or is about the developer and City to make \$\$\$\$.

I-5.5

In the end, I'm sure 777 Front St. will get approval, please make it responsible. Scale back on units for the traffic, NO hotel, and add affordable housing. Please consider all of Burbank residents quality of life. Not just for the sake of making money.

I-5.6

Thank you,  
Laura Ioanou  
Burbank Resident since 2009

## Letter I-5

**COMMENTER:** Laura Loanou

**DATE:** April 11, 2019

### **Response I-5.1**

The commenter states a general concern about the Project and questions whether the two points of entry/exit are from Front Street.

Front Street is the only street that provides access to the Project site. The proposed Project includes five driveways along Front Street. Primary vehicular access to the site would be from two residential driveways and one hotel driveway.

### **Response I-5.2**

The commenter questions who the future renters would be, whether they would use public transportation, and then provides a personal anecdote.

These comments do not pertain to the adequacy of the Draft EIR. In addition, while there is no guarantee that future residents would use public transit, bikes or rideshare, the Project is located within a short walk to the Metrolink station and downtown and would add bicycle lanes to Front Street. The readily available public transit options may facilitate the capture of employee vehicle traffic and commuters who are currently driving to and from town and in the future will reside at the Project site.

### **Response I-5.3**

The commenter states that traffic concerns need to be addressed with the Project.

As discussed in Section 4.12, *Transportation and Traffic*, implementation of the Project would increase vehicle trips in the Project site vicinity and would result in several significant impacts at local intersections due to degraded levels of service. While the impacts at several of the intersections would be mitigated to less than significant levels per City of Burbank thresholds of significance, a significant and unavoidable impact at the Burbank Boulevard and I-5 Southbound off-ramps/Front Street and the Victory Place and Burbank Boulevard intersections would continue to occur. As such, City decision makers would need to adopt a Statement of Overriding Considerations for the Project if they elect to approve the Project despite this unavoidably significant impact.

### **Response I-5.4**

The commenter states a concern regarding the odors of the wastewater treatment plant and whether people will choose to stay/live at the site.

See Response I-2.3 for a discussion of odors at the site.

### **Response I-5.5**

The commenter states concern regarding traffic and air quality issues.

See Response I-2.3 for a discussion of significant traffic impacts.



Section 4.2, *Air Quality*, Section 4.5, *Greenhouse Gas Emissions*, and Appendix E, *Air Quality and Greenhouse Gas Study*, of the Draft EIR were recirculated on July 1, 2019. The commenter does not provide specific concerns regarding the air quality analysis in the Draft EIR; however, all potentially significant impacts would be mitigated to a less than significant level.

### **Response I-5.6**

The commenter questions whether the Project is needed, the motives and purposes behind the Project, and suggestions about the Project description.

This comment is noted, but these comments do not pertain to the adequacy of the Draft EIR and raises no environmental issues specific to the proposed Project. No further response is warranted.

Letter I-6

From: Sheryl Meline [REDACTED]  
Sent: Thursday, April 11, 2019 11:26 AM  
To: Bechet, Leonard [REDACTED]  
Subject: Fwd: Developer LaTerra Development Plans

Hello Mr. Bechet,

Per the LA Times/Burbank Leader article I read there is a proposed mixed use development in Burbank with a 7 story hotel on the vacant lot between the 5 freeway and Front Street. This includes retail space, 1206 units for housing as well as this hotel. Is Burbank so desperate to allow these developers to take over Burbank, CA?

I-6.1

I am a life long Burbank resident and current home owner living and raising my children in this city. The traffic has quadrupled in Burbank over the last 40 years. Burbank is growing faster than this infrastructure can hold it. Now the city wants to allow a developer to add another high rise to a once quaint city and add even more housing. We don't need anymore traffic, that area they are proposing for this development is already heavily riddled with traffic, and it's next to the 5 points intersection near the Empire Center and Costco.

I-6.2

Burbank does not need anymore high rises. Burbank doesn't need anymore traffic and buildings/developments such as this.

Sincerely,

Ms. Sheryl Meline  
Burbank Resident

## Letter I-6

**COMMENTER:** Sheryl Meline

**DATE:** April 11, 2019

### **Response I-6.1**

The commenter describes the Project and provides personal details regarding their residency in the City.

This comment does not pertain to the adequacy of the Draft EIR and raise no environmental issues specific to the proposed Project. No further response is warranted.

### **Response I-6.2**

The commenter states concern about the Project, specifically about the potential increase of traffic in the Project area.

See Response I-5.3 for a discussion of significant traffic impacts and the need for the City to adopt a Statement of Overriding Considerations if they elect to approve the Project despite the unavoidably significant traffic impacts.

Letter I-7

From: Peter Blythe

Sent: Thursday, April 11, 2019 5:23 PM

To: Bechet, Leonard <LBechet@burbankca.gov>

Subject: LaTerra Project- Burbank

This sounds like a terrible idea and will just create more chaos and traffic in a city that can't handle much more.

Adding upwards of 880 units/hotel rooms sounds astronomical and would strain infrastructure beyond repair.

I don't see an upside to this proposal aside from developers profiting once again.

- I-7.1
- I-7.2
- I-7.3

## Letter I-7

**COMMENTER:** Peter Blythe

**DATE:** April 11, 2019

### **Response I-7.1**

The commenter states concerns regarding traffic.

See Response I-5.3 for a discussion of significant traffic impacts.

### **Response I-7.2**

The commenter states concerns regarding impacts of the Project on existing infrastructure.

The commenter does not specify the type of infrastructure or the specific impacts of concern. With the exception of traffic impacts, the Draft EIR does not identify any significant unavoidable impacts related to infrastructure. See Response I-5.3 for a discussion of significant traffic impacts, and as discussed Section 4.13, *Utilities and Service Systems*, potential impacts of the Project to wastewater, water supply, and solid waste facilities would be less than significant.

### **Response I-7.3**

The commenter states opposition to the Project.

The opposition is noted; however, this comment does not pertain to the adequacy of the Draft EIR. No further response is warranted.

Letter I-8

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**From:** [REDACTED]  
**Sent:** Sunday, April 14, 2019 3:43 PM  
**To:** Bechet, Leonard <LBechet@burbankca.gov>  
**Subject:** I Oppose the 7-story, 450 room Structure

We do not need more traffic, more congestion or more people nor do we need the extra burden this structure will place on our resources. We have plenty of hotels and places to stay for a longer term than what is necessary. I doubt they even fill up at any time of the year. I for one as a long-time Burbank resident oppose the building of this thing to be built between the 5 fwy and Front Streetg.

I-8.1

Sent from [REDACTED]



## Letter I-8

**COMMENTER:** No Name

**DATE:** April 14, 2019

### **Response I-8.1**

The commenter states concerns regarding traffic and states opposition to the Project.

See Response I-5.3 for a discussion of significant traffic impacts.

The commenter's opposition to the Project is noted. However, this comment does not pertain to the adequacy of the Draft EIR. No further response is warranted.

Letter I-9

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**From:** [REDACTED]  
**Sent:** Wednesday, April 17, 2019 3:46 PM  
**To:** Bechet, Leonard <LBechet@burbankca.gov>  
**Subject:** La Terra Development, bad idea...

Hello,

My name is Art, I live close to this proposed development. I'm against it. We have too much traffic in the area already. This area has constant traffic on the bridge and near Costco. Adding this many units is going to increase traffic more. It's just crazy.

I-9.1

Plus, do not forget the smell of sewer cleaning facility that is close to this proposed development. Will all this new people that are going to live at this new development want to smell this sewer smell...

I-9.2

Thank you

Art.

## Letter I-9

**COMMENTER:** Art

**DATE:** April 17, 2019

### **Response I-9.1**

The commenter states concerns regarding traffic.

See Response I-5.3 for a discussion of significant traffic impacts.

### **Response I-9.2**

The commenter states concern regarding the odors from the wastewater treatment plant.

Air Quality PDF 3 (Air Quality Control Measures) includes a HVAC system that utilizes high-efficiency filters with Minimum Efficiency Reporting Value (MERV) 13 minimum that would minimize odors from the surrounding environment. In addition, Section 4.2, *Air Quality*, discusses odor impacts of the proposed Project on the environment. While the commenter's concern is noted, CEQA does not require analysis of potential impacts of the environment on the Project. This may, however, be a consideration for City decision makers and the applicant.

Letter I-10

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

Dear Mr. Leonard Bechet,

I am a Burbank resident. I am commenting on the Draft Environmental Impact Report (“DEIR”) for the proposed mixed-use project at 777 Front Street (“Project”) because I have concerns regarding the environmental impacts of this project.

I-10.1

1. The Project’s DEIR relies on Burbank’s Greenhouse Gas Reduction Plan, which is an unenforced, unmonitored, and out-of-compliance local climate action plan. As a community, we must prioritize the health and wellbeing of our environment and this can only be done if we ensure local compliance with statewide climate action goals. Projects should not be relying on this out-of-compliance climate action plan to adequately assess anticipated greenhouse gas emissions.
2. The Project’s DEIR fails to provide any greenhouse gas emissions modeling, meaning we as a community have no real sense of this project’s anticipated emissions.
3. The Project may have significant hazardous air quality impacts. As a community, we must be wary of projects that will contribute poorer air and water quality.

I-10.2

I-10.3

I-10.4

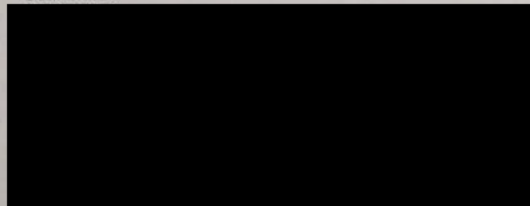
Burbank has long considered itself a city that holds itself to high standards of environmental preservation. As a member of this community, I demand that the City hold the Project’s developer to this standard as well. I ask that you recirculate the DEIR with meaningful information and analysis of the Project’s environmental impacts to ensure the future preservation of our City’s environment.

I-10.5

Sincerely,

Heather Robb, Sustainable Burbank  
Commissioner

Address:



## Letter I-10

**COMMENTER:** Heather Robb, Sustainable Burbank Commissioner

**DATE:** May 2, 2019

### **Response I-10.1**

The commenter states concerns regarding the Draft EIR.

Individual responses to the comment's concerns are provided below.

### **Response I-10.2**

The commenter states that the Draft EIR analysis relies on consistency with the City's GGRP, which is unenforced, unmonitored, and out-of-compliance.

Section 4.5, *Greenhouse Gas Emissions*, of the Draft EIR was revised to include a quantitative analysis of GHG emissions associated with construction and operation of the Project and recirculated on July 1, 2019. In addition, the City is currently conducting an audit of the GGRP and preparation of a compliance report, which found that the City is actively implementing the GGRP measures to achieve the 2020 and 2035 targets. Based on the analysis of the City's emissions data, the City has achieved 95 percent of the 2020 target and the City will continue to implement measures to achieve the 2035 goals. Since adoption of the GGRP in 2013, new legislation has been passed, so the City is also in the process of updating the GGRP to comply with the 2030 emissions targets under SB 32. Refer to Response O-4.16 and see Appendix M, *GGRP Mitigation Measure Quantification Analysis*.

### **Response I-10.3**

The commenter states that the Draft EIR fails to provide greenhouse gas emissions modeling.

Section 4.5, *Greenhouse Gas Emissions*, of the Draft EIR was revised to include a quantitative analysis of GHG emissions associated with construction and operation of the Project and recirculated on July 1, 2019. The quantitative analysis utilized CalEEMOD to model the Project's emissions.

### **Response I-10.4**

The commenter states that the Project may have significant hazardous air quality impacts.

Section 4.2, *Air Quality*, Section 4.5, *Greenhouse Gas Emissions*, and Appendix E, *Air Quality and Greenhouse Gas Study*, of the Draft EIR were recirculated on July 1, 2019. The commenter does not provide specific concerns regarding the air quality analysis in the Draft EIR; however, all potentially significant impacts would be mitigated to a less than significant level.

### **Response I-10.5**

The commenter requests recirculation of the Draft EIR with meaningful information and analysis of the Project's environmental impacts.

Section 4.2, *Air Quality*, Section 4.5, *Greenhouse Gas Emissions*, and Appendix E, *Air Quality and Greenhouse Gas Study*, of the Draft EIR were recirculated on July 1, 2019.

Letter I-11

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

Dear Mr. Leonard Bechet,

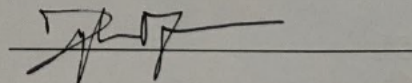
I am a Burbank resident. I am commenting on the Draft Environmental Impact Report ("DEIR") for the proposed mixed-use project at 777 Front Street ("Project") because I have concerns regarding the environmental impacts of this project.

1. The Project's DEIR relies on Burbank's Greenhouse Gas Reduction Plan, which is an unenforced, unmonitored, and out-of-compliance local climate action plan. As a community, we must prioritize the health and wellbeing of our environment and this can only be done if we ensure local compliance with statewide climate action goals. Projects should not be relying on this out-of-compliance climate action plan to adequately assess anticipated greenhouse gas emissions.
2. The Project's DEIR fails to provide any greenhouse gas emissions modeling, meaning we as a community have no real sense of this project's anticipated emissions.
3. The Project may have significant hazardous air quality impacts. As a community, we must be wary of projects that will contribute poorer air and water quality.

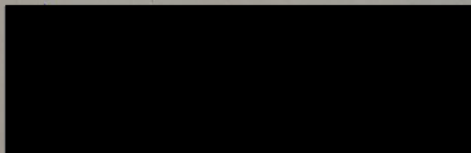
Burbank has long considered itself a city that holds itself to high standards of environmental preservation. As a member of this community, I demand that the City hold the Project's developer to this standard as well. I ask that you recirculate the DEIR with meaningful information and analysis of the Project's environmental impacts to ensure the future preservation of our City's environment.

Sincerely,

DYLAN DAWSON



Address:



I-11.1



## Letter I-11

**COMMENTER:** Dylan Dawson

**DATE:** May 2, 2019

### **Response I-11.1**

Letter I-11 is the same as Letter I-10. Please refer to Responses I-10.1 through I-10.5.

Letter I-12

----- Forwarded message -----

From: "Vicki Kirschenbaum" [REDACTED]  
Date: Fri, May 3, 2019 at 12:31 PM -0700  
Subject: comment on 777 Front Street  
To: "Bechet, Leonard" <[LBechet@burbankca.gov](mailto:LBechet@burbankca.gov)>

Dear Mr. Bechet:

With the devastating California wildfires of 2019 fresh in my mind, I have no doubt that climate change is not a prediction but a reality. Prolonged drought and rising temperatures are already having a severe impact on our state. We know the cause: the accelerating accumulation of greenhouse gases in the atmosphere due to the burning of fossil fuels.

The primary source of US greenhouse gas emissions is the generation of electricity. And what uses the most energy? Buildings. According to the US Department of Energy, US buildings account for 72% of all electricity consumed domestically. It is imperative every new project in development be constructed to use as little energy as possible. Communities must set tough standards and enforce them.

Now is the time for Burbank to create and apply such standards, beginning with 777 Front Street. The project's Draft Environmental Impact Report fails to provide any greenhouse gas modeling. The DEIR relies on Burbank's Greenhouse Gas Reduction Plan, an outdated, unmonitored plan that is not in compliance with statewide climate action goals.

As a concerned Burbank resident and a member of the Sustainable Burbank Commission, I urge you to demand that the 777 Front Street developers assess projected energy use and present these findings. I further urge you to set strict rules for energy use for this and all future projects in Burbank.

Sincerely,  
Victoria Kirschenbaum

I-12.2

## Letter I-12

**COMMENTER:** Victoria Kirschenbaum

**DATE:** May 3, 2019

### **Response I-12.1**

The commenter states concern regarding climate change and energy use. She states that the Draft EIR fails to provide greenhouse gas emissions modeling and that the City's GGRP, which is unenforced, unmonitored, and out-of-compliance with State climate action goals.

The City conducted a progress report for the GGRP which found that the measures for reducing GHG emissions are actively implemented to achieve the 2020 and 2035 targets (see Appendix N, *Mitigation Measure Quantification Analysis*). Based on the analysis of the City's emissions data, the City has achieved 95 percent of the 2020 target and the City will continue to implement measures to achieving the 2035 target. Refer to Response O-4.16. Further, the Project would meet the equivalent of LEED Gold Certified and would be constructed in a manner that would provide consistency with Title 24 Tier 1 levels. Additionally, the design and development of residential uses included in the Project would comply with CALGreen Building Standards, which include measures to reduce emissions and energy consumption. In addition, the Project would include solar panels that would go towards the City's long-term goal of providing up to 10% of a new building's modeled energy use from renewable sources.

## Letters I-13 through I-39

**COMMENTERS:** 31 members of the public

**DATE:** May 6, 2019

### **Response**

Letters I-13 through I-38 were received by the City's Community Development Department's public counter. Letter I-39 was received via email.

These letters are the same as Letter I-10. Please refer to Responses I-10.1 through I.-10.5.

Letter I-13

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

PLANNING DIVISION

2019 MAY -6 A 11: 55

Dear Mr. Leonard Bechet,

I am a Burbank resident. I am commenting on the Draft Environmental Impact Report ("DEIR") for the proposed mixed-use project at 777 Front Street ("Project") because I have concerns regarding the environmental impacts of this project.

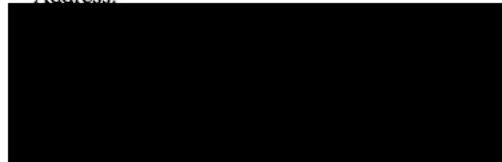
1. The Project's DEIR relies on Burbank's Greenhouse Gas Reduction Plan, which is an unenforced, unmonitored, and out-of-compliance local climate action plan. As a community, we must prioritize the health and wellbeing of our environment and this can only be done if we ensure local compliance with statewide climate action goals. Projects should not be relying on this out-of-compliance climate action plan to adequately assess anticipated greenhouse gas emissions.
2. The Project's DEIR fails to provide any greenhouse gas emissions modeling, meaning we as a community have no real sense of this project's anticipated emissions.
3. The Project may have significant hazardous air quality impacts. As a community, we must be wary of projects that will contribute poorer air and water quality.

Burbank has long considered itself a city that holds itself to high standards of environmental preservation. As a member of this community, I demand that the City hold the Project's developer to this standard as well. I ask that you recirculate the DEIR with meaningful information and analysis of the Project's environmental impacts to ensure the future preservation of our City's environment.

Sincerely,

Lauren + J.S. Niaro

Address:



Letter I-14

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

PLANNING DIVISION  
2019 MAY -6 A 11: 55


Dear Mr. Leonard Bechet,

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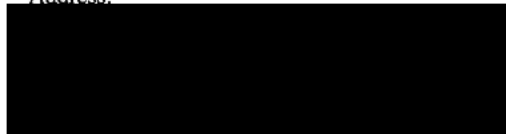
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Burbank has long considered itself a city that holds itself to high standards of environmental preservation. As a member of this community, I demand that the City hold the Project's developer to this standard as well. I ask that you recirculate the DEIR with meaningful information and analysis of the Project's environmental impacts to ensure the future preservation of our City's environment.

Sincerely,

  
\_\_\_\_\_

Address:





Letter I-15

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

PLANNING DIVISION

2019 MAY -6 A 11: 55

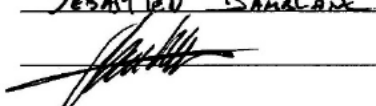
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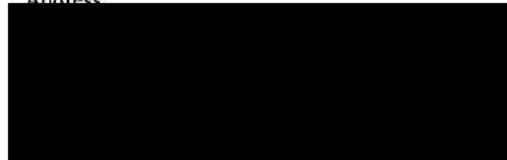
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Sincerely,

RESARTICU DANALAN  


Address:



Letter I-16

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

PLANNING DIVISION

2019 MAY -6 A 11: 55

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Sincerely,

TIM VILCA  
\_\_\_\_\_

Address:



Letter I-17

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

PLANNING DIVISION  
2019 MAY -6 A 11: 55

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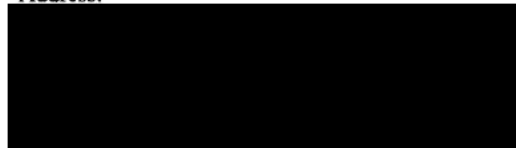
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Sincerely,

Emmi Jeon

Address:



Letter I-18

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

PLANNING DIVISION  
2019 MAY -6 A 11: 55

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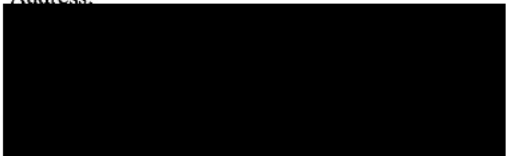
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Sincerely,

*Kaistene Klug*  
*Laurence Klug*

Address:



Letter I-19

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

PLANNING DIVISION

2019 MAY -6 A 11: 55

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Sincerely,

*Ann-Marie Osgood*  
*Ann-Marie Osgood*

Address:



Letter I-20

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

PLANNING DIVISION  
2019 MAY -6 A 11: 55


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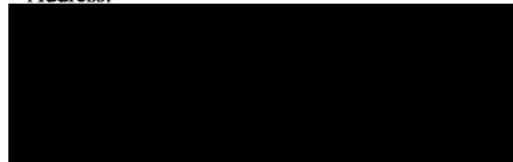
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Sincerely,

  
\_\_\_\_\_  
Chris Lehman

Address:





Letter I-21

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

PLANNING DIVISION  
2019 MAY -6 A 11: 55

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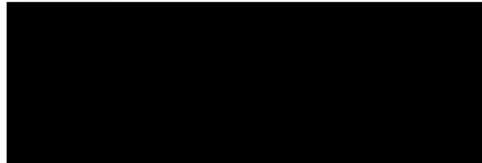
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Sincerely,

SANDRA ODOR  
Sandra Odor

Address:



Letter I-22

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

PLANNING DIVISION  
2019 MAY -6 A 11: 55

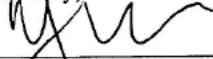
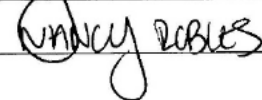
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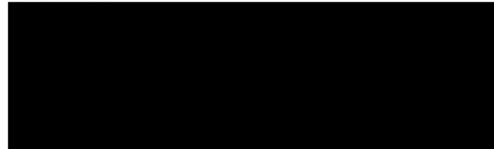
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Sincerely,

  
\_\_\_\_\_  
  
\_\_\_\_\_

Address:



Letter I-23

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

PLANNING DIVISION  
2018 MAY -6 A 11: 55

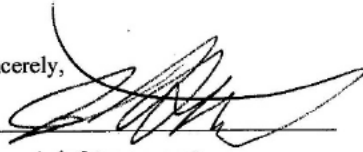
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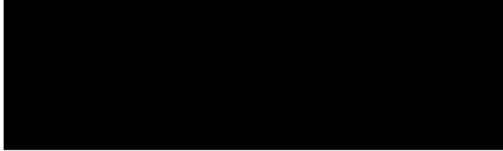
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Sincerely,

  
\_\_\_\_\_  
JEFF HARET

Address:



Letter I-24

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

PLANNING DIVISION

2019 MAY -6 A 11: 55

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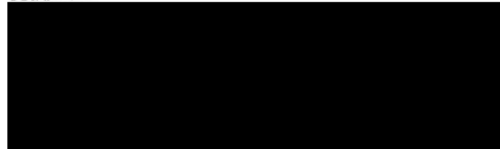
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Sincerely,

ROSEMARY FOURZANS  
Rosemary Fourzans

Address:



Letter I-25

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

PLANNING DIVISION  
2019 MAY -6 A 11: 55

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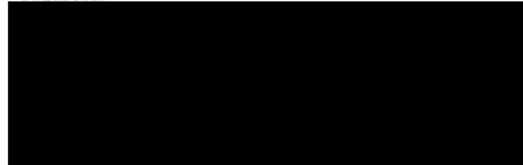
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Sincerely,

Kathryn Rodriguez

Address:





Letter I-26

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

PLANNING DIVISION  
2019 MAY -6 A 11: 54


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Sincerely,

Jill King  


Address:





Letter I-27

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

PLANNING DIVISION  
2019 MAY -6 A 11: 54

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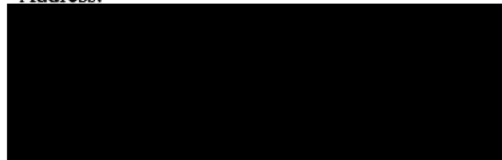
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Sincerely,

Carmelita Phillips

Address:



Letter I-28

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

PLANNING DIVISION  
2019 MAY -6 A 11: 53

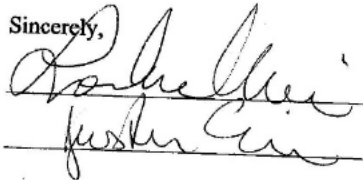
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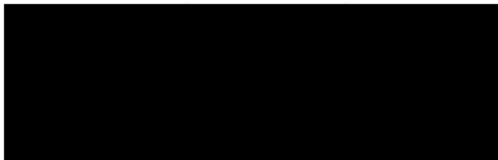
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Sincerely,



Address:



Letter I-29

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

PLANNING DIVISION  
2019 MAY -6 A 11:53

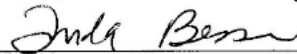
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Sincerely,





Letter I-30

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

PLANNING DIVISION

2019 MAY -6 A 11: 53

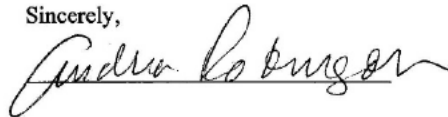
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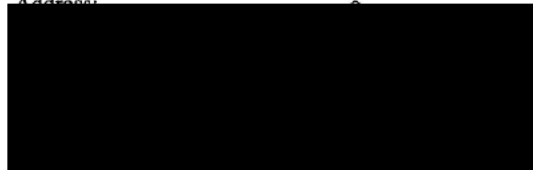
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Burbank has long considered itself a city that holds itself to high standards of environmental preservation. As a member of this community, I demand that the City hold the Project's developer to this standard as well. I ask that you recirculate the DEIR with meaningful information and analysis of the Project's environmental impacts to ensure the future preservation of our City's environment.

Sincerely,



Address:



Letter I-31

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

PLANNING DIVISION  
2019 MAY -6 A 11: 53

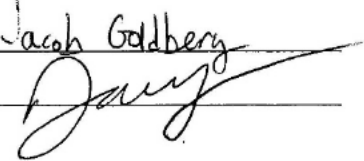
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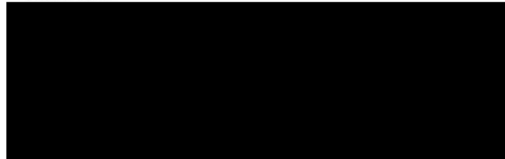
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Sincerely,

  
\_\_\_\_\_  
\_\_\_\_\_

Address:





Letter I-32

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

PLANNING DIVISION  
2019 MAY -6 A 11: 53

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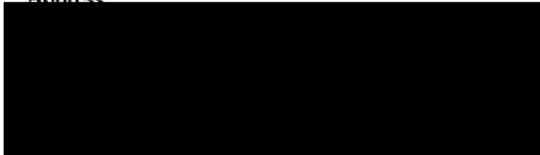
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Sincerely,

Chandra Collins Chanda Colls  
Brian Collins. Ria Col

Address:





Letter I-33

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

PLANNING DIVISION  
2019 MAY -6 A 11: 53

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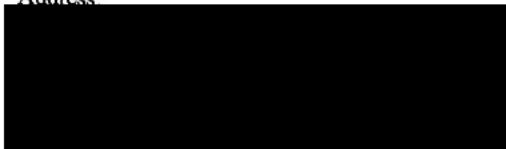
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Sincerely,



Address:



Letter I-34

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

PLANNING DIVISION  
2019 MAY -6 A 11: 52

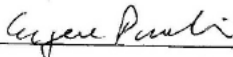
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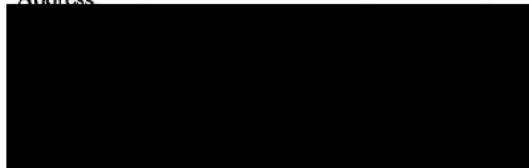
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Sincerely,

  
\_\_\_\_\_  
Eugene Paulini

Address:



Letter I-35

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

PLANNING DIVISION  
2019 MAY -6 A 11: 52

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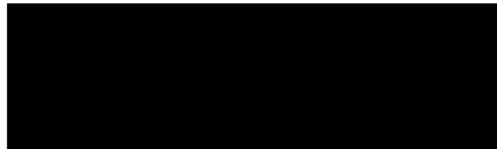
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Sincerely,

EMILY WEISBERG  
*Emily Weisberg*

Address:



Letter I-36

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

PLANNING DIVISION

2019 MAY -6 A 11: 52

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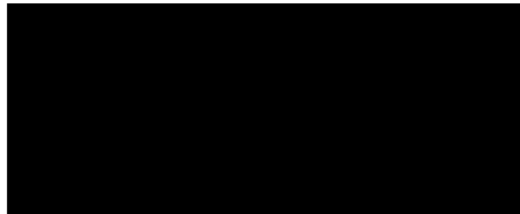
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Sincerely,

*Leonard Bechet*  
\_\_\_\_\_

Address:



Letter I-37

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

PLANNING DIVISION  
2019 MAY -6 A 11: 52<sup>AM</sup>

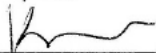
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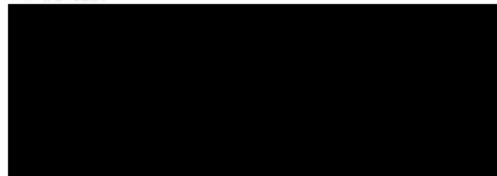
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Sincerely,

  
\_\_\_\_\_  
KAREN HERRERA

Address:





Letter I-38

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

PLANNING DIVISION

2019 MAY -6 A 11: 52

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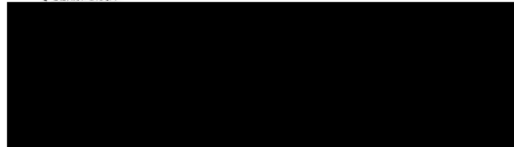
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Sincerely,

*Burbank Democratic Club*  
*Jerma Goodman, President*

Address:





Letter I-39

lbechet@burbankca.gov

Leonard Bechet, Senior Planner  
City of Burbank  
Community Development Department  
275 E. Olive Avenue  
Burbank, CA 91502

By 5pm  
May 6<sup>th</sup>

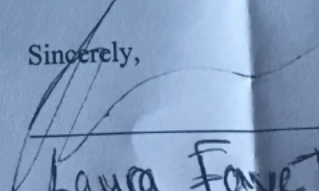
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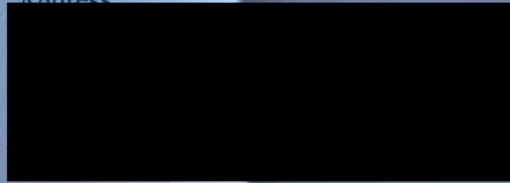
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Sincerely,

  
\_\_\_\_\_  
Laura Faye Tenenbaum

Address:



## Planning Commission

### Public Comment Meeting April 22, 2019

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#### Comment P-1

**COMMENTER:** Apraham Atteukenian, Planning Board Member

Board Member Atteukenian recommended that Front Street, which borders the Project site to the west, provide two lanes of travel in each direction, or at the least, for the northbound side of Front Street. He stated concerns regarding increased traffic to and from the adjacent Metro station upon buildout of the Project.

As discussed in Section 4.12, *Transportation and Traffic*, of the EIR, Front Street is classified as a Downtown Collector that runs north/south in the study area, east of I-5. Front Street has one through lane in each direction, and no parking is permitted on either side of the street. Restriping of Front Street is not feasible due to the width of the street to mitigate traffic impacts of the Proposed Project; however, the Project would include widening Front Street to include a turn lane and a bike lane. Based on the analysis and recommendations provided in the Traffic Impact Analysis for the Project (see Appendix J of the EIR), implementation of the Project would increase vehicle trips in the Project site vicinity and would result in several significant impacts at local intersections due to degraded levels of service. While the impacts at most of the potentially impacted intersections would be mitigated to a less than significant level per City of Burbank thresholds of significance, a significant and unavoidable impact would occur at the Burbank Boulevard and I-5 Southbound off-ramps/Front Street and the Victory Place and Burbank Boulevard intersections. As such, City decision makers would need to adopt a Statement of Overriding Considerations for the Project if they elect to approve the Project despite this unavoidably significant impact.

#### Comment P-2

**COMMENTER:** Grayce Liu, Planning Board Member

Board Member Liu encouraged those who are or will be commenting on the proposed Project to review the alternatives provided in the Draft EIR. She noted that the Planning Board will consider any support from commenters on Project alternatives.

This comment does not raise any specific issues with regards to the adequacy of the Draft EIR.

#### Comment P-3

**COMMENTER:** Christopher Rizzotti, Planning Board (Chair)

Board Member Rizzotti asked what impacts the proposed Project will have on schools serving the project.

As discussed in Section 4.11, *Public Services*, under the subheading *Schools*, the Project site is located in the Burbank Unified School District (BUSD) and would be served by Emerson Elementary School with a capacity of 600 students, John Muir Middle School with a capacity of 1,500 students, and Burbank High School with a capacity of 2,650 students. BUSD consists of eleven elementary

schools, three middle schools and three high schools totaling a combined student capacity of 15,184. Burbank Community Day School and Burbank First Academy are also in close proximity to the Project site (under two miles).

Implementation of the Project would add an estimated 1,680 residents and some of those residents may have children. Based on student generation rates for the Burbank Unified School District, the Project could generate approximately 140 students, including 59 elementary school students (grades K-5), 31 middle school students (grade 6-8), and 50 high school students (grades 9-12).

To offset a project's potential impact on schools, Government Code 65995 (b) establishes the base amount of allowable developer fees a school district can collect from development projects located within its boundaries. The fees obtained by BUSD are used to maintain the desired school capacity and the maintenance and/or development of new school facilities. The Project would be subject to these State-mandated school impact fees. Pursuant to Section 65995 (3)(h) of the California Government Code (Senate Bill 50, chaptered August 27, 1998), the payment of statutory fees "is deemed to be full and complete mitigation of the impacts of any legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization." Therefore, impacts would be less than significant.

In addition, Board Member Rizzotti asked what the impacts of this Project would be in combination with future residential projects with respect to schools.

The Draft EIR includes a cumulative analysis of impacts on schools based on development of the project in conjunction with pending projects within the project site vicinity. The planned and pending projects in the vicinity of the Project site, listed in Table 3-1 of the EIR, include 22 projects consisting of retail, restaurant, residential, office, industrial, hotel, school airport and transportation related land uses. Projects in the vicinity of the Project site include First Street Village Mixed-Use Project (Related Project No. 6), Premier at First Street Mixed-Use Project (Related Project No. 7), Burbank Town Center Redevelopment Project (Related Project No. 10), Olive Station Mixed-Use Project (Related Project No. 14) and Burbank Common Project (Related Project No. 15).

Development of the Project and these related projects would incrementally increase the demand for school facilities. However, development of the proposed Project would not result in the need for new physical police-related facilities and compliance with Government Code 65995 (b) would address impacts related to the need for new or expanded school facilities. All new development projects in the City of Burbank would be subject to compliance with BFD fire inspections and development standards as well as subject to the general regulations from the California Fire Code and California Building Code. Developers of new residential and commercial/industrial building space would also be subject to Government Code 65995 (b) and pay the applicable Project development impact fees to offset their potential impacts on City public services associated with the Project's implementation. Therefore, cumulative impacts to public schools would be less than significant.

## Comment S-1

**COMMENTER:** David Kersh

### **Response S-1**

The commenter noted that he is the Executive Director of the Carpenters Contractors Cooperation Committee. The commenter stated support for the Project.

The commenter's support is noted for the record. This comment does not pertain to the adequacy of the analysis in the Draft EIR. No further response is warranted.

## Comment S-2

**COMMENTER:** Ross Freeman

### **Response S-2**

The commenter noted that he is the Vice President of Ocean Park Mechanical and stated support for the Project.

The commenter's support is noted for the record. This comment does not pertain to the adequacy of the analysis in the Draft EIR. No further response is warranted.

## Comment S-3

**COMMENTER:** Nathan Ruegger

### **Response S-3**

The commenter noted he is a resident of Burbank and stated support for the Project. Specifically, the commenter stated appreciation for the Project's connection to public transit options and that Project would provide employment opportunities to residents, thereby reducing commute times. The commenter also encouraged the City to incorporate the most affordable housing units feasible into the Project.

The commenter's support is noted for the record. This comment does not pertain to the adequacy of the analysis in the Draft EIR. No further response is warranted.

## Comment S-4

**COMMENTER:** Elan Ruskin

### **Response S-4**

The commenter stated concern about rising housing prices in the City. The commenter stated support of the construction of residential units proposed by the Project as well as the hotel component. The commenter noted that future documentation of the Project should clearly identify the transit plaza feature of the Project.

The commenter's support is noted for the record. This comment does not pertain to the adequacy of the analysis in the Draft EIR. No further response is warranted.

## Comment S-5

**COMMENTER:** Kate Spear

### Response S-5.1

The commenter stated that she represents the Unite Here Local 11, Hospitality Worker's Labor Union. The commenter questioned the adequacy of the Draft EIR's air quality and greenhouse gas emissions (GHG) analysis. The commenter stated that the GHG analysis in the Draft EIR relies solely on consistency with the City's GGRP/Climate Action Plan; however, she noted that the GGRP is based on outdated data and goals and that since the CAP's adoption the City has not released routine annual reports to monitor its implementation and effectiveness. The commenter notes that without providing GHG modeling based analysis, the Draft EIR fails as an adequate informational document to identify the Project's AQ and GHG impacts on the environment. The commenter recommended recirculation of the Draft EIR to provide adequate analysis of AQ and GHG impacts.

Section 4.2, *Air Quality*, and Section 4.5, *Greenhouse Gas Emissions*, have been recirculated for public review. See also Response to Comments O-4.16 and O-4.20.

### Response S-5.2

The commenter encouraged the Lead Agency to include the maximum amount of affordable housing units feasible in the Project. The commenter cited that the City of Burbank failed in 2018 to meet affordable housing goals as established by the California Department of Housing and Community Development's Housing Element Annual Progress Report. The commenter urged the City to include more affordable housing units into both the proposed Project and projects citywide.

The commenter's support for affordable housing is noted for the record. This comment does not pertain to the adequacy of the analysis in the Draft EIR. No further response is warranted.

## Comment S-6

**COMMENTER:** Jonathan Adamczewski

### Response S-6

The commenter stated support for the Project because it would provide economic advantages to the city and would reduce commute times by providing local employment opportunities.

The commenter's support is noted for the record. This comment does not pertain to the adequacy of the analysis in the Draft EIR. No further response is warranted.

## Comment S-7

**COMMENTER:** Mary Cutone

### **Response S-7**

The commenter stated that she is the President and CEO of the Burbank Community YMCA, as well as a resident of Burbank, and noted her support for the Project since it would improve bicycle circulation and pedestrian walkability. The commenter also noted her support of the public plaza feature of the Project, which would provide improved access to Magnolia Boulevard and the Metro Station.

The commenter's support is noted for the record. This comment does not pertain to the adequacy of the analysis in the Draft EIR. No further response is warranted.

## Comment S-8

**COMMENTER:** Susan Sebastian

### **Response S-8**

The commenter stated that she was speaking on behalf of the Boys and Girls of Burbank and stated support for the Project. The commenter noted that Project would provide a variety of housing options and access to mass transit and would be a valuable asset to the community by providing tax revenue, employment opportunities and affordable housing options.

The commenter's support is noted for the record. This comment does not pertain to the adequacy of the analysis in the Draft EIR. No further response is warranted.

## Comment S-9

**COMMENTER:** Tom Flavian

### **Response S-9**

The commenter stated that he is the CEO of the Burbank Chamber of Commerce and noted the Chamber of Commerce's support the Project because the Project would provide affordable housing units and would generate revenue for the General Fund. The commenter also noted that the Draft EIR identifies a significant unavoidable impact with respect to traffic at two of the studied intersections. The commenter also stated support for the open space and transit plaza features of the Project, as well as the Project's connectivity to Downtown.

The commenter's support is noted for the record. This comment does not pertain to the adequacy of the analysis in the Draft EIR. See Section 4.12, Transportation and Traffic, of the Draft EIR for the discussion of the traffic impact associated with the proposed Project.



## Comment S-10

**COMMENTER:** Ernesto Pantoga

### **Response S-10**

The commenter noted that he is the Manager of Laborers Local 300. The commenter stated support for the Project since it would create local employment jobs and opportunities during construction.

The commenter's support is noted for the record. This comment does not pertain to the adequacy of the analysis in the Draft EIR. No further response is warranted.

## Comment S-11

**COMMENTER:** John Hoffman

The commenter noted that he is a local resident and union member and stated support the Project. The commenter noted that the Project would create housing and be a benefit to the community.

The commenter's support is noted for the record. This comment does not pertain to the adequacy of the analysis in the Draft EIR. No further response is warranted.

## Comment S-12

**COMMENTER:** Josh Raper

The commenter stated that he is a local union carpenter and supports the Project because it would provide local employment during construction. The commenter also stated support for the housing and hotel components of the project as well as the Project's connectivity to public transit options.

The commenter's support is noted for the record. This comment does not pertain to the adequacy of the analysis in the Draft EIR. No further response is warranted.

## Comment S-13

**COMMENTER:** Maria Coronado

### **Response S-13**

The commenter stated that she is a union member and local resident. The commenter stated her support for the Project because it would provide local employment opportunities during construction. The commenter also stated support for the mixed use hotel and residential components of the Project as well as its connectivity to transit options.

The commenter's support is noted for the record. This comment does not pertain to the adequacy of the analysis in the Draft EIR. No further response is warranted.

## Comment S-14

**COMMENTER:** Steve Gerdes

### **Response S-14**

The commenter stated that he is a member of the S.M.A.R.T Local 105 Sheet Metal Workers Union and that he supports the Project. The commenter noted that construction of the Project would provide needed job opportunities for local union workers.

The commenter's support is noted for the record. This comment does not pertain to the adequacy of the analysis in the Draft EIR. No further response is warranted.

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### 3 Responses to Comments on the Recirculated Draft EIR

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This section includes comments received during the circulation of the Recirculated Draft Environmental Impact Report prepared for the 777 North Front Street Project (Project).

The Draft EIR was recirculated for a 45-day public review period that began on July 1, 2019 and ended on August 14, 2019. The City of Burbank received five comment letters on the Recirculated Draft EIR. The commenters and the page number on which each commenter’s letter appear are listed below. Responses to oral comments received during the Planning Board meeting held on July 22, 2019 are provided under the Speaker (S) section as identified below. Refer to Section 2, *Response to Comments on the Draft EIR*, of this Final EIR for the responses to the comments received on the Draft EIR.

Letter No. and Commenter		Page No.
<b>Agencies (A)</b>		
A-1	Miya Edmonson, IGR/CEQA Branch Chief, California Department of Transportation (August 12, 2019)	3-2
<b>Organizations (O)</b>		
O-1	Jordan R. Sisson, Law Clerk, on behalf of UNITE HERE Local 11 (July 9, 2019)	3-8
O-2	Richard T. Drury, Lozeau Drury LLP, on behalf of Supporters Alliance for Environmental Responsibility (August 13, 2019)	3-11
O-3	Gideon Kracov, Attorney at Law, on behalf of UNITE HERE Local 11 (August 14, 2019)	3-14
<b>Individuals (I)</b>		
I-1	Matt Gamboa (August 14, 2019)	3-78
<b>Planning Board Meeting – April 22, 2019</b>		
<b>(S) – Public Speaker</b>		
S-1	Ernesto Pantoja	3-81
S-2	Martin De La Cruz	3-82
S-3	Kate Spear on behalf of Laborers Local 300	3-83

The comment letters and responses follow. The comment letters have been numbered sequentially and each separate issue raised by the commenter, if more than one, has been assigned a number. The responses to each comment identify first the number of the comment letter, and then the number assigned to each issue (Response A-1.1, for example, indicates that the response is for the first issue raised in comment Letter A-1).

Any changes made to the text of the Draft EIR correcting information, data, or intent, other than minor typographical corrections or minor working changes, are noted in the Final EIR as changes from the Draft EIR. Where a comment results in a change to the Draft EIR text, a notation is made in the response indicating that the text is revised. Changes in text are signified by strikeouts (~~strikeouts~~) where text is removed and by underlined font (underlined font) where text is added.

**DEPARTMENT OF TRANSPORTATION**  
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*Making Conservation  
a California Way of Life.*

August 12, 2019

Leonard Bechet  
Senior Planner  
Community Development Department  
City of Burbank  
150 N. Third Street  
Burbank, CA 91502

RE: 777 N Front Street  
Recirculated Draft Impact Report (DEIR)  
SCH# 2018041012  
GTS# 07-LA-2018-02656  
Vic. LA-5/ PM 29.727

Dear Mr. Bechet:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above referenced project. The project site is located on an 8-acre, irregularly shaped parcel located along Front St in the city of Burbank. The proposed project would involve clearing and excavation of the site for development of a mixed-use project that would include 572 residential units, 1,067 sf of retail gallery space, and 317 hotel rooms with ground floor and rooftop retail/restaurant uses. The project would be developed over three separate buildings a 7-story building, an 8-story building, and a 15-story building. The project would include 1,462 parking spaces, a publicly accessible plaza and pedestrian bridge that connects the plaza to Magnolia Blvd and Downtown Burbank on city-owned land immediately south of the project site.

As Caltrans continues to strive to improve its standards and processes to provide flexibility while maintaining safety and integrity of the State's transportation system. It is our goal to implement strategies that are in keeping with our mission statement, which is to "provide a safe, sustainable, integrated, and efficient transportation system to enhance California's economy and livability." After reviewing the Recirculated Draft Environmental DEIR, Caltrans has the following comments:

- Three intersections studied within Caltrans jurisdiction are NB off ramp and Burbank Blvd. (#8), SB off ramp and Burbank Blvd. (#9), and SB on/off ramps and N Front Street (#22). The report shows that only the intersection of SB off ramp and Burbank Blvd. (intersection #9) has significant impact. The proposal of restriping N Front Street leg of this intersection did not fully mitigate the impact. According to Caltrans requirement, any improvement project would require upgrading to current standard such as providing standard shoulder which may

result in widening of N Front Street. Figure 14 does not provide standard right shoulder as required in the HDM along the length of the restriping.

- In Figure #11/12 Peak Hour Traffic Volumes and Lane Configurations – Future Condition, Intersection #9 shows four lanes for the SB off ramp (an increase from 3 existing lanes). Is there any proposal to add additional lane on the SB off ramp? Also, in the Queueing Table 13, The I-5 NB off ramp at Burbank Blvd. shows an increase from 2 lanes to 4 lanes between Existing Conditions and Future Conditions.
- The SB on ramp from EB Burbank Blvd and the SB on ramp at N Front Street has limited storage area. There is ramp meter signal at these locations to provide a safe merging and minimize the disruption on the freeway mainline traffic. With the new proposed development, the traffic may back up to local street and creating safety concern.

Due to the scope of the project and the proximity to Caltrans facilities, we encourage the lead agency to coordinate and cooperate with Caltrans in order to best identify solutions and improvements in the project area. Please contact Caltrans to explore and develop these reasonable measures and plans.

An encroachment permit will be required for any project work proposed or in the vicinity of the Caltrans Right of Way and all environmental concerns must be adequately addressed. Please note that any modifications to the State facility (I-5) will be subject to additional review by the Office of Permits prior to issuance of the permit.

Additionally, we encourage the Lead Agency to consider any reduction in vehicle speeds in order to benefit pedestrian and bicyclist safety, as there is a direct link between impact speeds and the likelihood of fatality. Methods to reduce pedestrian and bicyclist exposure to vehicles improve safety by lessening the time that the user is in the likely path of a motor vehicle. These methods include the construction of physically separated facilities such as sidewalks, raised medians, refuge islands, and off-road paths and trails, or a reduction in crossing distances through roadway narrowing.

Pedestrian and bicyclist warning signage, flashing beacons, crosswalks, and other signage and striping should be used to indicate to motorists that they should expect to see and yield to pedestrians and bicyclists. Formal information from traffic control devices should be reinforced by informal sources of information such as lane widths, landscaping, street furniture, and other road design features.

Furthermore, any transportation of heavy construction equipment and/or materials which requires use of oversized-transport vehicles of State highways will need a Caltrans transportation permit. We recommend large size truck trips be limited to off-peak commute periods.

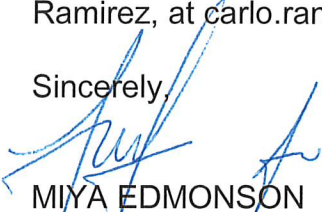


Mr. Bechet  
August 12, 2019  
Page 3

Also, storm water run-off is a sensitive issue for Los Angeles and Ventura counties. The project need to be designed to discharge clean run-off water. The completed project could incorporate green design elements that can capture storm water. Incorporating measures such as permeable pavement, landscaping, and trees to reduce urban water run-off should be considered.

We look forward to your cooperation and reviewing any proceeding documents related to this project. If you have any questions, please contact project coordinator Mr. Carlo Ramirez, at [carlo.ramirez@dot.ca.gov](mailto:carlo.ramirez@dot.ca.gov) and refer to GTS# 07-LA-2018-02656.

Sincerely,



MIYA EDMONSON  
IGR/CEQA Branch Chief  
Cc: Scott Morgan, State Clearinghouse

## Letter A-1

**COMMENTER:** Miya Edmonson, IGR/CEQA Branch Chief, California Department of Transportation

**DATE:** August 12, 2019

### Response A-1.1

The commenter states that of the three intersections studied that are within Caltrans' jurisdiction, the report shows that only the intersection of the southbound (SB) off ramp would have a significant impact and the proposed mitigation would not fully mitigate the impact. According to Caltrans requirements, any project improvement would require upgrading to current standards, such as providing a standard shoulder that may result in the widening of Front Street, which is not shown in the report.

The mitigation measure was developed to address the Project impact on a City of Burbank Street. This measure does not require additional right-of-way or violate any of the City's policy-based screening analysis. The mitigation does not completely reduce the project's impact to a less than significant level; therefore, the impact at this location would remain significant and unavoidable. The mitigation measure does not require any modification to Caltrans existing right-of-way. The mitigation can be constructed completely within the City's street and within City right-of-way, and does not affect any lanes that serve Caltrans facilities or that provide access to I-5, therefore upgrading the shoulder to standard width does not apply to this mitigation measure because it improves a local City street.

### Response A-1.2

The commenter asks if there is a proposal to add an additional lane on the SB off ramp and points out that the queueing data shows an increase from two lanes to four lanes between existing and future conditions.

The changes in the future intersection configuration for the I-5 SB and NB off ramps on Burbank Boulevard account for changes to the interchange ramps that are currently under construction as part of the Interstate 5 North HOV/Empire Avenue Interchange project. Therefore, there is no proposal to add an additional lane to the SB off ramp beyond that project.

### Response A-1.3

The commenter states that the SB ramp from Burbank Boulevard and the SB ramp at Front Street has limited storage area. There is a ramp meter signal at these locations to provide safe merging and minimize disruption on the freeway mainline traffic. There is concern that with the proposed Project, traffic may back up to local streets and create safety issues.

The following table presents the existing, background, and project traffic volumes associated with the southbound on ramps from Burbank Boulevard and Front Street.

Per the Caltrans ramp metering design manual, the maximum capacity of a ramp meter for a single lane is 900 vehicles per hour. The table below presents the maximum capacity of the on ramps along with the number of lanes. The existing and projected volumes shown in the table do not exceed the maximum capacity of the ramp meters. However, should a situation occur where queuing affects the local street, Caltrans has the ability to adjust the ramp meter flow rates to

better manage the traffic. This analysis also accounts for the new ramp configurations that are under construction as part of the Interstate 5 North HOV/Empire Interchange Project.

**Table 1 Hourly On-Ramp Volumes**

Ramp Location	Number of Lanes	Total Ramp Meter Capacity (vph) [a]	Hourly Vehicles (vph)							
			Existing (2018)		Existing plus Project		Future Base (2022)		Future plus Project	
			AM	PM	AM	PM	AM	PM	AM	PM
Front St SB On-Ramp	1	900	576	606	589	618	626	660	650	682
Burbank Blvd SB On-Ramp (WB)	1	900	304	247	304	247	[b]	[b]	[b]	[b]
Burbank Blvd SB On-Ramp (EB)	2	1,800	716	817	740	839	[b]	[b]	[b]	[b]
Burbank Blvd NB On-Ramp	3 [c]	900	[b]	[b]	[b]	[b]	316	823	329	835
Burbank Blvd SB On-Ramp	2	1,800	[b]	[b]	[b]	[b]	1117	637	1145	663

[a] Ramp capacity is 900 vehicles per hours per lane, per Caltrans Ramp Metering Design Manual

[b] The existing Burbank Boulevard ramps will be reconfigured in the future

[c] Includes an HOV lane

### Response A-1.4

The commenter encourages the City to coordinate and cooperate with Caltrans to identify solutions and improvements in the Project area.

This comment is noted. The City will coordinate with Caltrans on mitigation measures that affect Caltrans right-of-way and jurisdiction.

### Response A-1.5

The commenter states that an encroachment permit will be required for any Project work in the vicinity of a Caltrans right of way.

This comment is noted. The City and applicant will comply with Caltrans requirements regarding encroachment permits.

### Response A-1.6

The commenter encourages the City to consider any reduction in vehicle speeds to benefit pedestrian and bicyclist safety, such as construction of physically separated facilities or a reduction in crossing distances through roadway narrowing.

The City has established goals and policies through the development of the Bicycle and Pedestrian Master Plans and the General Plan Mobility Element to address safety. A number of features are planned to be implemented with the Project. These include the following:

- Raised Class IV bike lane
- Separated sidewalk
- Rectangular Rapid Flashing Beacon (RRFB)

- Continental crosswalk
- Front street lane widths will be narrowed

The City is also in the process of developing a Citywide Complete Streets Plan. This Plan is being developed to address connections to multi-modal transportation as well as bicycle and pedestrian safety. The Project's proposed right-of-way improvements are consistent with the Citywide Complete Streets Plan to provide for multi-modal transportation options that are safe for future pedestrians, bicyclists, and drivers.

### **Response A-1.7**

The commenter states that any transportation of heavy construction equipment would need a Caltrans transportation permit.

The applicant would obtain Caltrans permits as required. A construction traffic analysis was included in Section 4.12, *Transportation and Traffic*, of the Draft EIR. The construction mitigation measures require the applicant to develop a construction management plan that must be reviewed and approved by the City before any building permit is issued. The plan is designed to consider a number of items, including (but not limited to) haul routes, traffic control devices, restrictions regarding oversized vehicles, construction related parking, etc.

### **Response A-1.8**

The commenter states that the Project needs to be designed to discharge clean run-off water, which could be accomplished with permeable pavement and landscaping that would capture storm water.

As discussed in Section 4.7, *Hydrology and Water Quality*, of the Draft EIR, the Project would require implementation of Best Management Practices (BMPs) to reduce polluted runoff from the Project site by retaining and treating polluted runoff on-site. Development of the Project would be required to comply with applicable regulations, standards, and policies that would prevent violations of water quality standards and waste discharge requirements. In addition, Hydrology PDF 1 and Hydrology PDF 2 proposed by the applicant would address potential impacts associated with stormwater runoff and water quality through implementation of a Low Impact Development Plan and a Soil Management Plan. All PDFs would also be incorporated into the Development Agreement review process as Conditions of Approval.

### **Response A-1.9**

The commenter provides Caltrans contact information for any questions.

This comment does not pertain to the adequacy of the Draft EIR and raises no environmental issues specific to the proposed Project. No further response is warranted.

**From:** [Bechet, Leonard](#)  
**Sent:** Wednesday, July 10, 2019 10:31 AM  
**To:** [Susanne Huerta](#)  
**Subject:** FW: 777 North Front Street Project: Missing Appendix from Recirculated DEIR

---

**CAUTION:** This email originated from outside of Rincon Consultants. Be cautious before clicking on any links, or opening any attachments, until you are confident that the content is safe .

Hi Susanne,

Can you please send me the CalEEMod data for the revised AQ/GHG study.

Thanks,

**Leonard Bechet** | Senior Planner  
City of Burbank | Community Development Department  
150 N. Third St., Burbank, CA 91502  
(818) 238-5250 | [LBechet@burbankca.gov](mailto:LBechet@burbankca.gov)

*Effective May 21, 2018, the Planning Division Public Counter hours will be Monday through Friday from 8 AM to 12 Noon and by appointment only from 1 PM to 3 PM. To schedule an appointment with a Project Planner to review your submitted application or building plan check, please contact us by phone (818) 238-5250 or email at [planning@burbankca.gov](mailto:planning@burbankca.gov).*

---

**From:** jordan@gideonlaw.net [mailto:jordan@gideonlaw.net]  
**Sent:** Tuesday, July 09, 2019 4:27 PM  
**To:** Bechet, Leonard <[LBechet@burbankca.gov](mailto:LBechet@burbankca.gov)>  
**Cc:** gk@gideonlaw.net  
**Subject:** 777 North Front Street Project: Missing Appendix from Recirculated DEIR

Mr. Bechet:

Just summarizing my recent voicemail regarding the referenced project. The recirculated DEIR includes a revised Appendix D (Air Quality/GHG Study), which references a new "CalEEMod Output and Calculations" (see [RDEIR](#), PDF p. 117). However, these output/calculation files are not provided in the RDEIR or anywhere else on the City's website. These documents are vital in reviewing recirculated DEIR.

Please forward me these documents. Many thanks in advance for your attention to this matter.

Please also confirm receipt of this message.

-JRS

**Jordan R. Sisson**  
Law Clerk  
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## Letter O-1

**COMMENTER:** Jordan R. Sisson, Law Clerk, on behalf of UNITE HERE Local 11

**DATE:** July 9, 2019

### **Response O-1.1**

The commenter notes that the revised Appendix D associated with the Recirculated Draft EIR, which includes new “CalEEMod Output and Calculations,” is not provided as part of the recirculated document or anywhere on the City’s website. The commenter requests that Appendix D be forwarded to them.

Appendix D, and all revised contents, were forwarded to the commenter on July 10<sup>th</sup> via email. The revised Appendix D is also included in the Recirculated Draft EIR. The Appendix D was also placed on the City’s website at: <https://www.burbankca.gov/home/showdocument?id=50645>.



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*Via Email and U.S. Mail*

August 13, 2019

Leonard Bechet, Senior Planner  
Community Development Dept.  
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Community Development Dept.  
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Zizette Mullins, City Clerk  
Office of the City Clerk  
City of Burbank  
275 East Olive Avenue  
P.O. Box 6459  
Burbank, CA 91510  
[zmullins@burbankca.gov](mailto:zmullins@burbankca.gov)

Re: Comment on Recirculated Draft Environmental Impact Report, 777 North  
Front Street (State Clearinghouse #2018041012)

Dear Mr. Bechet, Mr. Prescott, and Ms. Mullins:

I am writing on behalf of Supporters Alliance For Environmental Responsibility (“SAFER”) regarding the Recirculated Draft Environmental Impact Report (“RDEIR”) prepared for the Project known as 777 North Front Street (State Clearinghouse #2018041012), including all actions related or referring to the proposed clearing and excavation of a project site and construction of three multistory buildings including one 279,162 square-foot, seven-story residential building containing 252 units, one 346,644 square-foot, eight-story residential building containing 321 units, 1,206 parking spaces split between the two residential buildings, and one 212,250 square-foot, seven story hotel building containing 307 hotel rooms and 327 parking spaces located at 777 North Front Street in the City of Burbank, California (“Project”).

After reviewing the RDEIR, we conclude that the RDEIR fails as an informational document and fails to impose all feasible mitigation measures to reduce the Project’s


August 13, 2019

SAFER Comment on Recirculated Draft Environmental Impact Report, 777 North Front Street (State Clearinghouse #2018041012)

Page 2 of 2

impacts. SAFER request that the Community Development Department address these shortcomings in a revised draft environmental impact report (“RDEIR”) and recirculate the RDEIR prior to considering approvals for the Project. We reserve the right to supplement these comments during review of the Final EIR for the Project and at public hearings concerning the Project. *Galante Vineyards v. Monterey Peninsula Water Management Dist.*, 60 Cal. App. 4th 1109, 1121 (1997).

Sincerely,



Richard T. Drury  
Lozeau Drury LLP  
Attorneys for SAFER

## Letter O-2

**COMMENTER:** Richard T. Drury, Lozeau Drury LLP, on behalf of Supporters Alliance for Environmental Responsibility

**DATE:** August 13, 2019

### **Response O-2.1**

Letter O-2 for the Recirculated Draft EIR is the same as Letter O-2 in Section 2, *Responses to Comments on the Draft EIR*, of the Final EIR.

Please refer to Response O-2.1 in Section 2 of the Final EIR.

**GIDEON KRACOV**

Attorney at Law

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August 14, 2019

**VIA EMAIL:**

Leonard Bechet  
Community Development Department  
City of Burbank  
150 N. Third Street PO Box 6459  
Burbank, CA 91510-6459  
[lbechet@burbankca.gov](mailto:lbechet@burbankca.gov)

**Re: Comments on the 777 North Front Street Project (Project No. 170001265);  
Recirculated Draft EIR (SCH # 2018041012);**

Dear Mr. Bechet:

On behalf of UNITE HERE Local 11 ("Local 11") and residents Cristian Castillo and Benito Soto (collectively "Commentors"), this Office respectfully provides the City of Burbank ("City") the following comments, including expert air quality and greenhouse gas ("GHG") comments attached hereto as Exhibit A, regarding the Recirculated Draft Environmental Impact Report ("RDEIR") for the referenced mixed-use development ("Project").

In short, while we are pleased that the City recirculated the DEIR in response to our original comment letter dated May 6, 2019, the RDEIR fails to fully address Commentors' concerns regarding the Project's compliance with the California Environmental Quality Act ("CEQA"). For example, in our May 6<sup>th</sup> letter, Commentors raised concerns regarding the lack of sufficient affordable units proposed in either the Project or alternatives, potential land use impacts resulting from said lack of affordable units, and the need for a CEQA-compliant Statement of Overriding Considerations—none of which is addressed in the RDEIR. Also in the May 6<sup>th</sup> letter, Commentors included expert comments regarding the DEIR's inadequate air quality and GHG analysis. While the RDEIR included new modeling and analysis, experts have found similar flaws in the new modeling/analysis, as fully explained in the attached expert letter. Given the RDEIR fails to address these issues, Commentors renew their comments in the original May 6<sup>th</sup> letter, as well as the supplemental comments submitted herewith.

Commentors respectfully appreciate the opportunity to provide these comments. Local 11 works to make Burbank a place of opportunity for all – a place where its members can work and afford to live. Local 11, therefore, is a stakeholder in this Project, and its members including hundreds who live or work in the City join together to fight for improved land use and housing policies. 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.



Again, like the DEIR, the RDEIR is fundamentally flawed because the RDEIR fails to properly analyze the Project's land use, air quality, and GHG impacts; consider a reasonable range of alternatives, 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 and previously submitted comments, the City should reject the Project. The City has clear legal authority to disapprove the Project and demand more for its residents. Commentors respectfully request that the City recirculate a DEIR that address the issues discussed herein and the enclosed expert comment letter.

Commentors reserve 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, Project hearings 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](mailto:gk@gideonlaw.net) (cc: [jordan@gideonlaw.net](mailto:jordan@gideonlaw.net)).

Sincerely,



---

Gideon Kracov  
Attorney for Commentors

**ATTM:**

Exhibit A: Expert Comment of SWAPE dated August 14, 2019



**EXHIBIT A**



Technical Consultation, Data Analysis and  
Litigation Support for the Environment

2656 29<sup>th</sup> Street, Suite 201  
Santa Monica, CA 90405

Matt Hagemann, P.G, C.Hg.  
(949) 887-9013  
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August 14, 2019

Leonard Bechet  
Community Development Department  
City of Burbank  
150 N. Third Street PO Box 6459  
Burbank, CA 91510-6459  
[lbechet@burbankca.gov](mailto:lbechet@burbankca.gov)

**Subject:           Comments on the 777 North Front Street Project (Recirculated Draft EIR SCH #  
2018041012)**

---

Dear Mr. Bechet,

We have reviewed the July 2019 Recirculated Draft Environmental Impact Report (“RDEIR”) for the 777 North Front Street Project (“Project”) located in the City of Burbank (“City”). The RDEIR contains revised Air Quality and Greenhouse Gas environmental impact sections which partially address comments we made in a May 6, 2019 comment letter on the March 2019 Draft Environmental Impact Report (“DEIR”). Our May 6, 2019 comment letter specifically discussed the DEIR’s use of unsubstantiated CalEEMod input parameters, failure to account for overlapping construction and operational emissions, inadequate evaluation of the Project’s health risk impacts, and failure to adequately assess the Project’s greenhouse gas (“GHG”) impacts. After our review, we find that the RDEIR remains insufficient in addressing the Project’s air quality and GHG impacts. A revised RDEIR must be prepared that adequately evaluates and mitigates these potentially significant impacts. Until an updated analysis is prepared, the Project should not be approved.

The remainder of this comment letter identifies specific issues with the RDEIR.<sup>1</sup>

## **Air Quality**

### **Diesel Particulate Matter Health Risk to Existing Receptors Inadequately Evaluated**

In our May 6 letter, we found that the DEIR failed to adequately evaluate the health risk impacts resulting from Project activities. The DEIR conducted a Health Risk Assessment (“HRA”) in order to determine the health risk posed to new, on-site receptors, but failed to evaluate the health risk posed to

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<sup>1</sup> Please note that pages cited herein are either to the page’s stated pagination (referenced herein as “p. ##”) or the page’s location in the referenced PDF document (referenced herein as “pp. ##”).

***existing, nearby*** sensitive receptors as a result of Project construction and operation. Review of the RDEIR demonstrates that the RDEIR again failed to prepare any evaluation of the health risk posed to existing, nearby sensitive receptors by Project activities, yet continues to claim that the Project's health risk impact will be less than significant (RDEIR, p. 4.2-21). As discussed below, we find the RDEIR's evaluation of health risk to be inadequate and maintain that the health risk impact significance conclusions made within the DEIR and RDEIR are incorrect and unsubstantiated. As a result, the Project should not be approved until a revised RDEIR is prepared to include a proper assessment of health risks posed to nearby sensitive receptors from Project construction and operation.

Regarding the Project's construction-related health risk, the RDEIR states,

"Given the short-term construction schedule of approximately 61 months, approximately five years, the Project would not result in a long-term (i.e., 70-year) source of TAC emissions. Moreover, a comparison of onsite construction emissions to SCAQMD-recommended local significance thresholds (LSTs) is the appropriate method for evaluating localized air quality impacts from construction, as was completed under Impact AQ-2... Because there is such a short-term exposure period (61 out of 840 months), existing sensitive receptors would be over 750 feet from construction activities, and the Project's construction emissions do not exceed SCAQMD-recommended LSTs, impacts associated with construction-related TAC emissions would be less than significant" (RDEIR, p. 4.2-20 – 4.2-21).

Regarding the Project's operational health risk, the RDEIR states,

"Because the Project is a mixed-use residential and retail development, Project operation would not generate toxic air contaminants, nor would the Project substantially increase diesel particulates in the area because it would not attract substantial diesel traffic to the Project site, like an industrial warehouse or rest area would" (RDEIR, p. 4.2-21).

These justifications and subsequent significance conclusions, however, are entirely incorrect for several reasons.

First, the RDEIR relies upon a Localized Significance Threshold ("LST") analysis, which found that mitigated Project emissions would not exceed the South Coast Air Quality Management District's ("SCAQMD") LSTs (RDEIR, p. 4.2-15). However, the use of the LST method and the subsequent significance determination are incorrect. While the LST method assesses the impact of pollutants at a local level, it only evaluates impacts from criteria air pollutants. As a result, health impacts from exposure to toxic air contaminants ("TACs"), such as diesel particulate matter ("DPM"), were not analyzed, thus leaving a gap within the RDEIR's analysis. According to SCAQMD's Final Localized Significance Threshold Methodology document, the LST analysis is only applicable to NO<sub>x</sub>, CO, PM<sub>10</sub>, and PM<sub>2.5</sub> emissions, which are collectively referred to as criteria air pollutants.<sup>2</sup> Because the LST method can

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<sup>2</sup> SCAQMD (Rev. Jul. 2008) Final Localized Significance Threshold Methodology, p. 1-2, <http://www.aqmd.gov/docs/default-source/ceqa/handbook/localized-significance-thresholds/final-lst-methodology-document.pdf>.

only be applied to criteria air pollutants, this method cannot be used to determine whether emissions from DPM, a known human carcinogen, will result in a significant health risk impact to nearby sensitive receptors. By failing to prepare an HRA for existing receptors in addition to the LST analysis, the RDEIR fails to provide a comprehensive analysis of the sensitive receptor impacts that may occur as a result of exposure to substantial air pollutant emissions. Furthermore, the SCAQMD provides a specific numerical threshold of 10 in one million for determining a project's health risk impact, which supports the requirement of a construction and operational HRA in addition to the LST analysis.<sup>3</sup> Therefore, in order to determine the proposed Project's health-related impact, the RDEIR should have conducted an assessment that compares the Project's construction and operational health risk to the SCAQMD's specific numerical threshold of 10 in one million.

The suggestion that the RDEIR should have prepared an HRA for existing receptors that evaluates the Project's construction-related emissions in addition to the LST analysis is further supported by additional SCAQMD guidance. The SCAQMD's June 5, 2015 *Risk Assessment Procedures for Rules 1401, 1401.1, and 212*, recommends that health risk impacts from short-term projects, such as Project construction, also be assessed. The guidance document states,

“Since these short-term calculations are only meant for projects with limits on the operating duration, these 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 (i.e. for a 5-year project, the maximum emissions during the 5-year period would be assessed on the more sensitive population, from the third trimester to age 5, after which the project's emissions would drop to 0 for the remaining 25 years to get the 30-year equivalent cancer risk estimate).”<sup>4</sup>

As you can see in the excerpt above, an HRA is required by the SCAQMD to determine whether Project construction would expose sensitive receptors to substantial air pollutants. As such, the RDEIR should have prepared an HRA for construction.

Second, as stated in our May 6<sup>th</sup> letter, simply because the RDEIR claims that the proposed Project's operation will not generate TACs does not mean that an HRA for the proposed Project is not needed. According to the SCAQMD, the lead air pollution control agency for the proposed Project, preparation of an HRA is not restricted to specific land uses that may involve use of carcinogenic or non-carcinogenic TACs. Instead, the SCAQMD recommends performing an HRA for any project that is expected to generate mobile emissions from diesel-powered equipment and trucks. According to SCAQMD's Mobile Source Toxics Analysis page on the SCAQMD's website (emphasis added):

“In August 2002, the SCAQMD's Mobile Source Committee approved the ‘Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Emissions.’ This document

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<sup>3</sup> SCAQMD (Rev. Apr. 2019) South Coast AQMD Air Quality Significance Thresholds, <http://www.aqmd.gov/docs/default-source/ceqa/handbook/scaqmd-air-quality-significance-thresholds.pdf?sfvrsn=2>.

<sup>4</sup> SCAQMD (Sept. 2017) Risk Assessment Procedures for Rules 1401, 1401.1, and 212, p. XII-1 – XII-2, <http://www.aqmd.gov/docs/default-source/permitting/rule-1401-risk-assessment/riskassessproc-v8-1.pdf?sfvrsn=12>.

provided guidance for analyzing cancer risks from diesel particulate matter from mobile sources at facilities such as truck stops and warehouse distribution centers. Subsequently, SCAQMD staff revised the aforementioned document to expand the analysis to provide technical guidance for analyzing cancer risks from potential diesel particulate emissions impacts from truck idling and movement (such as, but not limited to, truck stops, warehouse and distribution centers, or transit centers), ship hotelling at ports, and train idling. This revised guidance document titled, 'Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis' was presented to and approved by the SCAQMD's Mobile Source Committee at its March 28, 2003 committee meeting. **It is suggested that projects with diesel powered mobile sources use the following guidance document to quantify potential cancer risks from the diesel particulate emission.**<sup>5</sup>

As the excerpt above demonstrates, the SCAQMD explicitly states that if the proposed Project generates or attracts vehicular trips, a mobile source health risk assessment must be prepared. The SCAQMD does not state that the preparation of an HRA should be restricted to specific land uses. Rather, the SCAQMD simply states that "it is suggested that projects with diesel powered mobile sources" use the SCAQMD's Health Risk Assessment Guidance "to quantify potential cancer risks from the diesel particulate emission."<sup>6</sup> Given that Project construction is expected to occur over a 5-year period, it is reasonable to assume that a significant amount of diesel particulate matter ("DPM"), a known human carcinogen, will be emitted from the exhaust stacks of equipment required for Project construction (RDEIR, p. 4.2-20).<sup>7</sup> Similarly, according to the DEIR, operational activities will include approximately 5,261 daily vehicle trips (DEIR, p. 4.12-24 [Tbl. 4.12-5]), 45 percent of which will be light/medium/heavy/other-duty trucks (*id.* at p. 5-5 [Tbl. 5-3]), and will thus generate large amounts of diesel exhaust over the duration of Project operation. As such, we maintain that the RDEIR should have conducted a construction and operational health risk assessment for nearby, existing receptors, as long-term exposure to DPM and other TACs may result in a significant health risk impact and therefore, should be properly assessed.

Third, as stated in our May 6<sup>th</sup> letter, the omission of a quantified HRA for existing receptors is inconsistent with the most recent guidance published by the Office of Environmental Health Hazard Assessment ("OEHHA"), the organization responsible for providing recommendations and guidance on how to conduct health risk assessments in California. In February of 2015, OEHHA released its most recent *Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments*, which was formally adopted in March of 2015.<sup>8</sup> This guidance document describes the types of projects that warrant the preparation of a health risk assessment. Construction of the Project will produce emissions

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<sup>5</sup> SCAQMD (2019) Mobile Source Toxics Analysis, <http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook/mobile-source-toxics-analysis>.

<sup>6</sup> *Ibid.*

<sup>7</sup> The DEIR's Air Quality section states that construction will take place over 30 months (DEIR, p. 4.2-8), however elsewhere in the DEIR, it is noted that construction will occur over a five-year period (*id.*, at ES-4). However, since construction is expected to occur from September 2019 to September 2025, construction will actually take place over a six-year period (*id.* at ES-4).

<sup>8</sup> OEHHA (Feb. 2015) Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments, <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>.

of DPM through the exhaust stacks of construction equipment over a construction period of approximately five years (RDEIR, p. 4.2-20). The OEHHA document recommends that all short-term projects lasting at least two months be evaluated for cancer risks to nearby sensitive receptors.<sup>9</sup> Therefore, per OEHHA guidelines, health risk impacts from Project construction should have been evaluated by the RDEIR. Once construction is complete, Project operation will generate truck trips, which will generate additional exhaust emissions, thus continuing to expose nearby sensitive receptors to DPM emissions. The OEHHA document recommends that exposure from projects lasting more than 6 months should be evaluated for the duration of the project, and recommends that an exposure duration of 30 years be used to estimate individual cancer risk for the Maximally Exposed Individual Resident (“MEIR”).<sup>10</sup> Although the RDEIR does not provide the expected lifetime of the project, we can reasonably assume that the Project will operate for at least 30 years if not more. Therefore, we maintain that per SCAQMD and OEHHA guidelines, health risk impacts from Project construction and operation should have been evaluated by the RDEIR. These recommendations reflect the most recent health risk assessment policy, and as such, an assessment of health risks to nearby sensitive receptors from construction and operation should be included in a revised DEIR for the Project.

In our May 6<sup>th</sup> letter, we prepared a simple screening-level HRA to demonstrate the potential risk posed by Project construction and operation to nearby sensitive receptors. The results of our assessment provided substantial evidence that the Project’s construction and operational DPM emissions would result in a potentially significant health risk impact that was not previously identified or addressed by the DEIR. Because the RDEIR includes updated CalEEMod air modeling, we prepared a simple screening-level HRA using the RDEIR’s updated emissions estimates. The results of our updated assessment, as described below, demonstrate that construction and operational DPM emissions may still result in potentially significant health risk impacts that were not previously identified or evaluated by either the DEIR or the RDEIR.

In order to conduct our screening-level risk assessment, we relied upon AERSCREEN, which is a screening-level air quality dispersion model.<sup>11</sup> The model replaced SCREEN3, and AERSCREEN is included in the OEHHA<sup>12</sup> and the California Air Pollution Control Officers Associated (“CAPCOA”)<sup>13</sup> guidance as the appropriate air dispersion model for Level 2 Health Risk Screening Assessments (“HRSA”). A Level 2 HRSA utilizes a limited amount of site-specific information to generate maximum reasonable downwind concentrations of air contaminants to which nearby sensitive receptors may be exposed. If an unacceptable air quality hazard is determined to be possible using AERSCREEN, it is suggested that more refined modeling be conducted to analyze the link between air pollutant emissions and health risk.

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<sup>9</sup> *Ibid.*, at p. 8-18.

<sup>10</sup> *Ibid.*, at p. 8-6 and p. 8-15.

<sup>11</sup> United States Environmental Protection Agency (“USEPA”) (Apr. 2011) AERSCREEN Released as the EPA Recommended Screening Model, [http://www.epa.gov/ttn/scram/guidance/clarification/20110411\\_AERSCREEN\\_Release\\_Memo.pdf](http://www.epa.gov/ttn/scram/guidance/clarification/20110411_AERSCREEN_Release_Memo.pdf).

<sup>12</sup> *Supra* fn. 8.

<sup>13</sup> CAPCOA (Jul. 2009) Health Risk Assessments for Proposed Land Use Projects, [http://www.capcoa.org/wp-content/uploads/2012/03/CAPCOA\\_HRA\\_LU\\_Guidelines\\_8-6-09.pdf](http://www.capcoa.org/wp-content/uploads/2012/03/CAPCOA_HRA_LU_Guidelines_8-6-09.pdf).



We prepared a preliminary health risk screening assessment of the Project’s construction and operational impacts to sensitive receptors using the annual PM<sub>10</sub> exhaust emission estimates from the RDEIR’s CalEEMod air model. The RDEIR states that the nearest sensitive receptors are multi-family residences located approximately 750 feet, or approximately 228 meters, east of the Project site (RDEIR, p. 4.2-5). Consistent with recommendations set forth by OEHHA, we used a residential exposure duration of 30 years, starting from the third trimester of pregnancy. We also assumed that construction and operation of the Project would occur sequentially, with no gaps between each Project phase. The RDEIR’s calculated annual emissions indicate that construction activities will generate approximately 296 pounds of DPM over a 2,217-day construction period. The AERSCREEN model relies on a continuous average emissions rate to simulate maximum downwind concentrations from point, area, and volume emissions sources. To account for the variability in construction equipment usage over many phases of Project construction, we calculated an average DPM emission rate for construction by the following equation.

$$Emission\ Rate\ \left(\frac{grams}{second}\right) = \frac{296\ lbs}{2,217\ days} \times \frac{453.6\ grams}{lb} \times \frac{1\ day}{24\ hours} \times \frac{1\ hour}{3,600\ seconds} \approx 0.000701\ g/s$$

Using this equation, we estimated a construction emission rate of 0.000701 grams per second (“g/s”). Subtracting the 2,217-day construction duration from the total residential exposure duration of 30 years, we assumed that after Project construction, the MEIR would be exposed to the Project’s operational DPM emissions for an additional 23.93 years approximately. The RDEIR’s calculated annual emissions indicate that operational activities will generate approximately 253 pounds of DPM per year. Applying the same equation used to estimate the construction DPM emission rate, we estimated the following emission rate for Project operation.

$$Emission\ Rate\ \left(\frac{grams}{second}\right) = \frac{253\ lbs}{365\ days} \times \frac{453.6\ grams}{lb} \times \frac{1\ day}{24\ hours} \times \frac{1\ hour}{3,600\ seconds} \approx 0.003639\ g/s$$

Using this equation, we estimated an operational emission rate of 0.003639 g/s. Construction and operational activity was simulated as an 8.08-acre rectangular area source in AERSCREEN, with dimensions of 574 meters by 57 meters. A release height of three meters was selected to represent the height of exhaust stacks on construction equipment and other heavy-duty vehicles, and an initial vertical dimension of one and a half meters was used to simulate instantaneous plume dispersion upon release. An urban meteorological setting was selected with model-default inputs for wind speed and direction distribution.

The AERSCREEN model generates maximum reasonable estimates of single-hour DPM concentrations from the Project site. EPA guidance suggests that in screening procedures, the annualized average concentration of an air pollutant be estimated by multiplying the single-hour concentration by 10%.<sup>14</sup> As previously stated, there are residences located approximately 228 meters from the Project site. The single-hour concentration estimated by AERSCREEN for Project construction is approximately 0.7681 µg/m<sup>3</sup> DPM at approximately 225 meters downwind. Multiplying this single-hour concentration by 10%,

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<sup>14</sup> *Supra* fn. 11; see also *supra* fn. 8, p. 4-36.

we get an annualized average concentration of 0.07681  $\mu\text{g}/\text{m}^3$  for construction. For Project operation, the single-hour concentration in AERSCREEN is approximately 3.984  $\mu\text{g}/\text{m}^3$  DPM at approximately 225 meters downwind. Again, multiplying this single-hour concentration by 10%, we get an annualized average concentration of 0.3984  $\mu\text{g}/\text{m}^3$  for operation.

Consistent with the screening-level assessment we conducted in our May 6<sup>th</sup> letter, we calculated the excess cancer risk to the residential receptor located closest to the Project site during construction using applicable health risk assessment methodologies prescribed by OEHHA and the SCAQMD. Consistent with the construction schedule proposed by the RDEIR, the annualized average concentration for construction was used for the first trimester of life (0.25 years), the infantile stage of life (0-2 years), and the first 3.82 years of the child stage of life (2-16 years). The annualized average concentration for operation was used for the remainder of the 30-year exposure period, which makes up the rest of the child stage of life and the entirety of the adult stage of life (16-30 years). Consistent with OEHHA guidance, we used Age Sensitivity Factors (ASFs) to account for the heightened susceptibility of young children to the carcinogenic toxicity of air pollution.<sup>15</sup> According to the updated guidance, quantified cancer risk should be multiplied by a factor of ten during the first two years of life (infant) and should be multiplied by a factor of three during the child stage of life (2-16 years). Furthermore, in accordance with guidance set forth by OEHHA, we used 95<sup>th</sup> percentile breathing rates for infants.<sup>16</sup> Finally, according to SCAQMD guidance, we used a Fraction of Time At Home (“FAH”) Value of 1 for the third trimester, infant, and child receptors, and 0.73 for the adult receptors.<sup>17</sup> We used a cancer potency factor of 1.1 (mg/kg-day)<sup>-1</sup> and an averaging time of 25,550 days. The results of our calculations are shown below.

<b>The Maximum Exposed Individual at an Existing Residential Receptor (MEIR)</b>					
<b>Activity</b>	<b>Duration (years)</b>	<b>Concentration (<math>\mu\text{g}/\text{m}^3</math>)</b>	<b>Breathing Rate (L/kg-day)</b>	<b>ASF</b>	<b>Cancer Risk</b>
Construction	0.25	0.07681	361	10	1.0E-06
<b><i>3rd Trimester Duration</i></b>	<b><i>0.25</i></b>			<b><i>3rd Trimester Exposure</i></b>	<b><i>1.0E-06</i></b>
Construction	2.00	0.07681	1090	10	2.5E-05
<b><i>Infant Exposure Duration</i></b>	<b><i>2.00</i></b>			<b><i>Infant Exposure</i></b>	<b><i>2.5E-05</i></b>
Construction	3.82	0.07681	572	3	7.6E-06
Operation	10.18	0.3984	572	3	1.0E-04
<b><i>Child Exposure Duration</i></b>	<b><i>14.00</i></b>			<b><i>Child Exposure</i></b>	<b><i>1.1E-04</i></b>
Operation	14.00	0.3984	261	1	1.6E-05
<b><i>Adult Exposure Duration</i></b>	<b><i>14.00</i></b>			<b><i>Adult Exposure</i></b>	<b><i>1.6E-05</i></b>
<b>Lifetime Exposure Duration</b>	<b>30.00</b>			<b>Lifetime Exposure</b>	<b>1.5E-04</b>

<sup>15</sup> *Supra* fn. 8.

<sup>16</sup> SCAQMD (Jun. 2015) Supplemental Guidelines for Preparing Risk Assessments for the Air Toxics ‘Hot Spots’ Information and Assessment Act, p. 19, <http://www.aqmd.gov/docs/default-source/planning/risk-assessment/ab2588-risk-assessment-guidelines.pdf?sfvrsn=6>.

<sup>17</sup> *Supra* fn. 4, p. 7.

As demonstrated above, the excess cancer risk to adults, children, infants, and 3<sup>rd</sup> trimester gestations at a sensitive receptor located approximately 225 meters away, over the course of Project construction and operation, are approximately 16, 110, 25, and 1 in one million, respectively. Furthermore, the excess cancer risk over the course of a residential lifetime (30 years) is approximately 150 in one million. Consistent with OEHHA guidance, exposure was assumed to begin in the 3<sup>rd</sup> trimester stage of pregnancy to provide the most conservative estimates of air quality hazards. The infant, child, adult, and lifetime cancer risks all exceed the SCAQMD's threshold of 10 in one million. The screening-level risk assessment presented in our May 6<sup>th</sup> letter also determined that the infant, child, and lifetime cancer risks all exceed the SCAQMD threshold of 10 in one million. Thus, both the screening-level HRA conducted in our May 6<sup>th</sup> letter and that conducted above demonstrate that Project activities may result in a potentially significant impact that was not previously addressed or identified by the DEIR or RDEIR.

An agency must include an analysis of health risks that connects the Project's air emissions with the health risk posed by those emissions. Our updated analysis represents a screening-level HRA, which is known to be more conservative, and tends to err on the side of health protection.<sup>18</sup> The purpose of the screening-level HRA shown above is to demonstrate this link between the proposed Project's emissions and the potential health risk posed to nearby sensitive receptors. Our screening-level HRA demonstrates that based on the RDEIR's updated air model, construction and operation of the Project could result in a potentially significant health risk impact. Furthermore, this HRA does not account for the increased emissions resulting from overlapping construction and operational activities proposed by the Project. As a result, the health risk impacts resulting from Project activities and phasing are likely greater than stated here. Therefore, the RDEIR should make a reasonable effort to connect the Project's air quality emissions and the potential health risks posed to nearby receptors. The RDEIR may achieve this by conducting a more refined health risk assessment that examines the air quality impacts generated by Project construction and operation using site-specific meteorology. As stated in our May 6 letter, we maintain that an updated RDEIR should be prepared to adequately evaluate the Project's health risk impact and should include additional mitigation measures to reduce these impacts to a less-than-significant level.

## **Greenhouse Gas**

### **Failure to Adequately Evaluate the Project's Greenhouse Gas Impacts**

In our May 6<sup>th</sup> letter, we found that the DEIR incorrectly relied upon the City's outdated and unenforced Greenhouse Gas Reduction Plan ("GGRP") to determine Project significance. Thus, we determined that the DEIR failed to demonstrate consistency with long-term statewide greenhouse gas ("GHG") reduction goals, as well as failed to quantify the Project's GHG emissions. In our May 6<sup>th</sup> letter, we conducted an updated GHG analysis which demonstrated that the Project's estimated GHG emissions significantly exceed the applicable SCAQMD bright-line and efficiency thresholds. Thus, our updated analysis provided substantial evidence that the Project's GHG emissions would result in a potentially significant impact. Review of the documentation reveals that the RDEIR continues to claim that the Project's GHG

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<sup>18</sup> *Supra* fn. 8, p. 1-5.

impact will be less than significant, yet fails to provide an adequate analysis of the Project's GHG emissions (RDEIR, p. 4.5-16). The RDEIR states,

“[T]he proposed Project would not conflict with any applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs and would be consistent with the objectives and emission targets of the City's GGRP and General Plan, SCAG's SCS, and the 2017 Scoping Plan, as well as other applicable plans and policies. Therefore, impacts would be less than significant and mitigation is not required” (RDEIR, p. 4.5-34).

However, the above claim is entirely incorrect because:

- (1) Compliance with the GGRP cannot be relied upon to determine Project significance;
- (2) The California Air Resources Board (“CARB”) 2017 Scoping Plan and the Southern California Association of Governments (“SCAG”) Regional Transportation Plan/Sustainable Community Strategies (“RTP/SCS”) cannot be relied upon to determine Project significance;
- (3) The RDEIR fails to adequately demonstrate Project compliance with the GGRP, 2017 Scoping Plan, and SCAG RTP/SCS;
- (4) The RDEIR conducts an incorrect and unsubstantiated analysis of the Project's GHG emissions;
- (5) The Project's estimated GHG emissions exceed applicable bright-line and efficiency thresholds, thus resulting in a significant impact that was not previously identified or addressed by the DEIR or RDEIR;
- (6) The RDEIR's failure to apply the SCAQMD's bright-line and efficiency thresholds to Project emissions is inconsistent with evolving scientific knowledge and regulatory schemes.

### *1) Incorrect Reliance on Greenhouse Gas Reduction Plan*

As discussed in our May 6<sup>th</sup> letter, the City's GGRP fails to qualify as a Climate Action Plan (“CAP”) for CEQA streamlined review, and thus cannot be relied upon to determine Project significance. To date, the City has failed to monitor, track, or update the GGRP since its approval in 2013. Therefore, we maintain that the GGRP is not applicable to the Project and cannot be relied upon to determine significance.

When adopting the GGRP, the City committed to monitoring the plan to ensure its effectiveness at achieving the now outdated goal of a 15 percent reduction in GHG emissions from 2010 levels.<sup>19</sup> To this end, the GGRP includes numerous “action steps” and “performance metrics” allowing the public to track the overall progress of the plan; rely on “updates” to the GGRP in accordance with emerging technology and legislation and updated community-wide emissions inventories conducted every 3-5 years; and even hire a sustainability coordinator to oversee and monitor implementation of the plan, and report to City decision-makers on an annual basis.<sup>20</sup> For example, the GGRP explicitly states (emphasis added):

**“As 2020 approaches, the City will reevaluate its emissions projections and reduction targets and goals to incorporate progress toward long-term GHG reductions, and will repeat this process**

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<sup>19</sup> City of Burbank (Feb. 2013) Greenhouse Gas Reduction Plan, p. 2-2, 3-6, 4-2, 5-1, <https://www.burbankca.gov/home/showdocument?id=23440>.

<sup>20</sup> *Ibid.*, p. 2-2, 4-3, 4-12, 4-32, 5-1, 5-3, 4-31 – 4-32, 5-2 (particularly Chapter 4 of the GGRP).

as 2035 approaches as well ... Communitywide GHG emission *inventories will provide the best indication of GGRP effectiveness. It will be important to reconcile actual growth in the City versus the growth projected when the GGRP was developed.* Conducting these inventories periodically will enable direct comparison to the 2010 baseline inventory and will demonstrate the GGRP's ability to achieve the adopted reduction target. The *Community Development Department will prepare communitywide inventories every three to five years following adoption* of the GGRP to assess progress toward the GHG emissions reduction target ... The proposed Sustainability Coordinator (or Community Development Department staff) *will report progress on the GGRP action items to decision-makers on an annual basis* ... The progress report will include a cursory *assessment of progress and implementation of individual GGRP measures*, including how new development projects have incorporated relevant measures. The progress report will *identify measure gaps and recommend corrections on a more regular basis*, through the addition of new GGRP measures ... *To remain relevant, the City must be prepared to adapt and transform the GGRP over time* ... It is also possible that future inventories will indicate that the community is not achieving its adopted target. As part of the evaluations identified above, the *City will assess the implications of new scientific findings and technology, explore new opportunities for GHG reduction, respond to changes in climate policy, and incorporate these changes in future updates to the GGRP to ensure an effective and efficient program.*<sup>21</sup>

As stated in our May 6<sup>th</sup> letter, the City fails to provide any update on the implementation of the various action items or progress toward meeting the City's 2020 performance metrics—***less than one year away***. According to the City's Community Development Department (emphasis added), as of March 2018, the City has "***not started***" a new GGRP, an update to the communitywide GHG inventory, a carbon offset fee program, to prepare a sustainability element, or to secure a sustainability coordinator.<sup>22</sup> We maintain that the GGRP is outdated given its: (1) failure to adapt to significant changes in State legislation, (2) failure to include an updated GHG inventory, and (3) reliance on overestimated population growth.<sup>23</sup> The GGRP and other local climate action plans require strict monitoring and corrective action when reality does not meet City expectations. Unfortunately, the City has failed to adequately monitor or update the GGRP, which can no longer be relied upon for CEQA's streamlined review. This violates CEQA.<sup>24</sup> As a result, it is entirely incorrect for the RDEIR to rely upon compliance

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<sup>21</sup> *Ibid.*, p. 3-5, 5-2.

<sup>22</sup> City of Burbank Community Development Department (3/27/18) Draft City of Burbank General Plan: Annual Implementation Progress Report 2013 to 2017, pp. 51, 61, [http://burbank.granicus.com/MetaViewer.php?view\\_id=6&event\\_id=4535&meta\\_id=336052](http://burbank.granicus.com/MetaViewer.php?view_id=6&event_id=4535&meta_id=336052).

<sup>23</sup> See SWAPE's May 6<sup>th</sup>, 2019 comment letter on the DEIR.

<sup>24</sup> See CEQA Guidelines § 15183.5(b)(1)(E) (requiring CAPs to have mechanism to monitor plan progress and require amendment if plan is not achieving GHG reductions); see also *Center for Biological Diversity v. Cal. Dept. of Fish and Wildlife* (2015) 62 Cal.4th 204, 227, 229 ("*Newhall Ranch*") (EIR inadequate where "analytical gap left by the EIR's failure to establish, through substantial evidence and reasoned explanation, a quantitative equivalence between the Scoping Plan's statewide comparison and the EIR's own project-level comparison deprived the EIR of its sufficiency as an informative document ... A significance analysis based on compliance with such statewide regulations, however, only goes to impacts within the area governed by the regulations." [internal quotes omitted]); *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 504 ("*Cleveland II*") ("CEQA requires public agencies ... to ensure that such analysis stay in step with evolving scientific

with the City's GGRP to determine Project significance.

## 2) Failure to Demonstrate Additionality

The RDEIR's reliance on the outdated GGRP, the CARB 2017 Scoping Plan, and SCAG's RTP/SCS is inadequate, as projects must incorporate emissions reductions measures beyond those that comprise basic requirements. Just because "a project is designed to meet high building efficiency and conservation standards ... does not establish that its [GHG] emissions from transportation activities lack significant impacts." *Newhall Ranch*, 62 Cal.4<sup>th</sup> at 229 (citing Natural Resources Agency).<sup>25</sup> This concept is known as "additionality" whereby GHG emission reductions otherwise required by law or regulation are appropriately considered part of the baseline and, pursuant to CEQA Guideline § 15064.4(b)(1), a new project's emissions should be compared against that existing baseline.<sup>26</sup> Hence, a "project should not subsidize or take credit for emissions reductions which would have occurred regardless of the project."<sup>27</sup> In short, as observed by the Court, newer developments must be more GHG-efficient. See *Newhall Ranch*, 62 Cal.4<sup>th</sup> at 226.

Furthermore, CARB asserts that SCAG's RTP/SCS is not enough, and recently found that California "***is not on track***" to meet GHG reductions expected under SB 375 (i.e., Sustainable Communities Strategy).<sup>28</sup> As warned by CARB (emphasis added), "with emissions from the transportation sector continuing to rise despite increases in fuel efficiency and decreases in the carbon content of fuel, ***California will not achieve the necessary [GHG] emissions reductions to meet mandates for 2030*** and beyond ...."<sup>29</sup> This is further supported by two recent climate change reports where scientists described (emphasis added)

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knowledge and state regulatory schemes."); *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 17 Cal.App.5th 413 ("*Cleveland III*") (on remand, Fourth District of Appeals held EIR did not adequately consider GHG mitigation measures that could both substantially lessen GHG impacts and feasibly be implemented, there were not enough alternatives in the EIR, such as a VMT reducing alternative, and deferred analysis of mitigation measures without performance standards); *Golden Door Properties, LLC v. County of San Diego* (2018) 27 Cal.App.5th 892 (held GHG threshold was inadequate because, *inter alia*, it was not supported by substantial evidence that adequately explaining how its service population number was an appropriate GHG metric to use for all projects in the area). These cases are instructive here, because the GGRP reduction targets and efficiency goals are based on now outdated GHG reduction goals and does not cover SB 32 goals. The RDEIR fails to provide the analytical gap showing the Project's compliance with GGRP, which we contest herein, is sufficient to reach the 2020 targets or the newer 2030 goals under SB 32 discussed below.

<sup>25</sup> See California Natural Resources Agency (Dec. 2009) Final Statement of Reasons for Regulatory Action: Amendments to State CEQA Guidelines Addressing Analysis and Mitigation of GHG Emissions Pursuant to SB-97, p. 23 (while a Platinum LEED® rating may be relevant to emissions from a building's energy use, "that performance standard may not reveal sufficient information to evaluate transportation-related emissions associated with that proposed project"), [http://resources.ca.gov/ceqa/docs/Final\\_Statement\\_of\\_Reasons.pdf](http://resources.ca.gov/ceqa/docs/Final_Statement_of_Reasons.pdf).

<sup>26</sup> *Ibid.*, p. 89; see also CAPCOA (Aug. 2010) Quantifying Greenhouse Gas Mitigation Measures, p. 32, A3 ("... in practice is that if there is a rule that requires, for example, increased energy efficiency in a new building, the project proponent cannot count that increased efficiency as a mitigation or credit unless the project goes beyond what the rule requires; and in that case, only the efficiency that is in excess of what is required can be counted."), <http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf>.

<sup>27</sup> *Ibid.*, CAPCOA, p. 433.

<sup>28</sup> CARB (Nov. 2018) 2018 Progress Report, p. 4-7 (emphasis added), [https://ww2.arb.ca.gov/sites/default/files/2018-11/Final2018Report\\_SB150\\_112618\\_02\\_Report.pdf](https://ww2.arb.ca.gov/sites/default/files/2018-11/Final2018Report_SB150_112618_02_Report.pdf).

<sup>29</sup> *Ibid.*



the quicken rate of carbon dioxide emissions as a “speeding freight train” with an unexpected surge in people buying more cars and driving them farther than in the past — “more than offsetting any gains from the spread of electric vehicles.”<sup>30</sup> Therefore, the Project may require more GHG-reducing measures to offset the lost GHG reductions anticipated under the outdated, unmonitored GGRP, such as the net-zero approach utilized in the wake of the Supreme Court’s *Newhall Ranch* decision. *See Newhall Ranch*, 62 Cal.4<sup>th</sup> at 226 (“a greater degree of reduction may be needed from new land use projects ....”); *see also Californians for Alternatives to Toxics v. Department of Food and Agriculture* (2005) 136 Ca1.App.4<sup>th</sup> 1, 17 (“[c]ompliance with the law is not enough to support a finding of no significant impact under the CEQA.”). Additional reduction efforts may be required for the Project, including those new, feasible mitigation measures found in CAPCOA’s *Quantifying Greenhouse Gas Mitigation Measures*, which attempt to reduce GHG levels.

*3) Failure to Demonstrate Compliance with GGRP, 2017 Scoping Plan, and RTP/SCS*

The RDEIR attempts to determine Project significance through a perfunctory review of select goals, policies, and mandatory/voluntary measures found in the outdated GGRP, the 2017 Scoping Plan, and the RTP/SCS (RDEIR, p. 4.5-16 – 4.5-34). Notwithstanding various mitigation measures and project design features (“PDF”) that directly or indirectly reduce GHG emissions, Project and City efforts are inconsistent with numerous goals and policies discussed in the City’s GGRP and Burbank 2035 General Plan (i.e., Air Quality and Climate Change Element), the 2017 Scoping Plan, and the RTP/SCS, including but not limited to those listed below:

Measure	Project/City Inconsistency
<b>Burbank 2035 Greenhouse Gas Reduction Plan<sup>31</sup></b>	
<b>Mandatory Measures</b>	
<p><b>Measure E-1.1: Energy Efficiency in New Construction</b> (GGRP, p. 4-5 – 4-6): The City will require new commercial projects to be constructed to Title 24 Tier 1 levels (e.g., exceed current efficiency standards by 15%) beginning in January 2015. This measure requires various performance metrics, including:</p> <ul style="list-style-type: none"> <li>• 2020: 2.1 million square feet of new non-residential construction exceeds baseline energy code by 15%</li> <li>• 2035: 8.4 million square feet of new non-residential construction exceeds baseline energy code by 15%</li> </ul>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet said performance metrics and whether this Project must exceed the 15 % efficiency level (e.g., Title 24 Tier 2 Level) to offset lost energy savings from other projects. Additionally, the RDEIR’s Project Description states the Project will provide minimum “Tier 1 or LEED Gold Certification” (p. 2-19). While Gold Certification may nevertheless achieve Tier 1 efficiencies, it should be made clear that Tier 1 efficiencies must be achieved—just like</p>

<sup>30</sup> New York Times (12/5/18) Greenhouse Gas Emissions Accelerate Like a ‘Speeding Freight Train’ in 2018 (emphasis added), <https://www.nytimes.com/2018/12/05/climate/greenhouse-gas-emissions-2018.html>; *see also* Global Carbon Project (Dec. 2018) Global Carbon Budget 2018, <https://www.earth-syst-sci-data.net/10/2141/2018/essd-10-2141-2018.pdf>; R.B. Jackson, et al. (Dec. 2015) Global Energy Growth Is Outpacing Decarbonization, <http://iopscience.iop.org/article/10.1088/1748-9326/aaf303/pdf>.

<sup>31</sup> *Supra* fn. 19.

	<p>other projects reviewed by the City.<sup>32</sup> This was raised in our May 6<sup>th</sup> letter; however, the RDEIR failed to make any corresponding updates.</p>
<p><b>Measure E-1.2: Energy Efficiency Retrofits</b> (GGRP, p. 4-6 – 4-8): The City will adopt an ordinance requiring point-of-sale energy performance ratings to be conducted by a Home Energy Rating System (“HERS”)-certified contractor for all residential buildings (i.e., single-family and multi-family). The City will also adopt a mandatory energy audit ordinance for all residential and commercial properties sold within the City. This measure requires various actions by the City, such as (1) adopt an ordinance requiring HERS-certified energy performance ratings for all residential buildings sold within the City, (2) adopt an ordinance requiring point-of-sale energy audits for all residential and commercial buildings sold within the City, and (3) develop a comprehensive energy efficiency upgrade outreach program. The measure also provides various performance metrics, including:</p> <ul style="list-style-type: none"> <li>• 2020: <ul style="list-style-type: none"> <li>○ 15% of existing single-family units install an advanced retrofit package;</li> <li>○ 15% of existing multi-family units install an advanced retrofit package</li> <li>○ 10% of existing commercial floor area installs medium retrofit package</li> <li>○ 5% of existing commercial floor area installs advanced retrofit package</li> </ul> </li> <li>• 2035: <ul style="list-style-type: none"> <li>○ 30% of existing single-family units install an advanced retrofit package</li> <li>○ 30% of existing multi-family units install an advanced retrofit package</li> <li>○ 40% of existing commercial floor area installs medium retrofit package</li> <li>○ 20% of existing commercial floor area installs advanced retrofit package</li> </ul> </li> </ul>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet said performance metrics. In such an event, more may be required from this Project to off-set the lost expected GHG reductions from this measure. This was raised in our May 6<sup>th</sup> letter; however, the RDEIR omits any mention of this measure and fails to make any corresponding updates (RDEIR, p. 4.5-16).</p>
<p><b>Measure E-1.7: Building Shade Trees</b> (GGRP, p. 4-12 – 4-13): Burbank Water &amp; Power (“BWP”) will continue to administer the Made in the Shade</p>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet said</p>

<sup>32</sup> See e.g., First Street Village Project (Aug. 2016) Final MND, pp. 56, [http://burbank.granicus.com/MetaViewer.php?view\\_id=6&clip\\_id=7907&meta\\_id=323500](http://burbank.granicus.com/MetaViewer.php?view_id=6&clip_id=7907&meta_id=323500).

<p>Program. The City will update its Street Tree Plan and Urban Forestry program, with a focus on identifying streets that currently lack street trees, parking lots that could accommodate additional shade trees, and locations for new tree plantings in City parks and open space. This measure requires various City action, including: (1) Amend the Zoning Ordinance to require installation of two on-site shade trees for each new single-family residential unit, (2) Continue the BWP Made in the Shade Program, and (3) Update the Street Tree Plan and Urban Forestry program. The measure also provides various performance metrics, including:</p> <ul style="list-style-type: none"> <li>• 2020: Plant 5,250 shade trees</li> <li>• 2035: Plant 12,775 shade trees</li> </ul>	<p>performance metrics. In such an event, more may be required from this Project to off-set the lost expected GHG reductions from this measure (e.g., require more shade trees at the Project site). This was raised in our May 6<sup>th</sup> letter; however, the RDEIR failed to include any corresponding updates.</p>
<p><b>Measure E-2.1: Renewable Energy Requirements</b> (GGRP, p. 4-13 – 4-14): The City will require new single-family residential homes to include a 1.8 kWh solar photovoltaic system, and will require new multi-family and commercial construction to provide 10% of the building’s modeled energy use from renewable sources (e.g., solar PV, geothermal heat pumps). The City will require installation of solar water heaters in all new residential construction, to the fullest extent possible. The City will also require pre-wiring and pre-plumbing on new construction for residential solar PV and solar water heaters to provide for easier and less costly future installation. This measure requires various City action, including: (1) adopt an ordinance requiring new single-family residential construction to include 1.8 kWh solar PV systems, and new multi-family residential and commercial construction to meet 10% of its expected energy needs from on-site renewable sources, (2) adopt an ordinance requiring solar water heaters to be installed in all new residential construction, and (3) update the building code to require pre-wiring and pre-plumbing for solar PV and solar hot water systems in all new construction. The measure also provides various performance metrics, including:</p> <ul style="list-style-type: none"> <li>• 2020: <ul style="list-style-type: none"> <li>○ 925 single-family residential units install a 1.8 kWh solar PV system</li> </ul> </li> </ul>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet said performance metrics. In such an event, more may be required from this Project to off-set the lost expected GHG reductions from this measure. Additionally, the RDEIR merely states that the Project would include “roof-top solar panels” with no reference to how much solar PV will be installed or whether it will provide a minimum 10 percent of the Project’s energy needs (RDEIR, p. 4.5-12). If the City is not on track to meet its renewable energy goals, this may Project may require more than 10 percent (e.g., 20, 50, or even nearly 100 percent of its energy needs). Furthermore, incorporation of solar panels into new residential construction is required under the updated Title 24 regulations, which under the GGRP amounts to a statewide reduction measure already accounted for and separate from local action by the City necessary to fill in the emissions gap (GGRP, p. 1-5, 3-6 – 4-1, 4-4, A-9 – A-14). This was raised in our May 6<sup>th</sup> letter; however, the RDEIR failed to include any corresponding updates.</p>

<ul style="list-style-type: none"> <li>○ New multi-family residential units and commercial buildings install 2.0 MW combined of solar PV</li> <li>○ 925 single-family residential units install a solar hot water system</li> <li>○ 1,150 multi-family residential units install a solar hot water system</li> <li>● 2035: <ul style="list-style-type: none"> <li>○ 2,150 single-family residential units install a 1.8 kWh solar PV system</li> <li>○ New multi-family residential units and commercial buildings install 3.0 MW combined of solar PV</li> <li>○ 2,150 single-family residential units install a solar hot water system</li> <li>○ 2,650 multi-family residential units install a solar hot water system</li> </ul> </li> </ul>	
<p><b>Measure T-2.1: Transportation Management Organization (“TMO”) Expansion</b> (GGRP, p. 4-22 – 4-23): The City will work with the TMO to expand the geographic reach of its programs and the extent of services it currently provides. TMO expansion to existing businesses will include an aggressive outreach campaign to advertise the full range of services provided through the TMO. To that end, the City will work with the TMO to update the TMO webpage so that that interested employers can research current programs, incentives, membership opportunities, and requirements. The TMO will work with partners to expand its ridesharing program through the adoption of current technologies that make participation easier for members. The TMO will develop and/or upgrade its ride-matching systems to use current technologies (e.g., cell phone-enabled ride-match applications), and develop a ride-match social networking website and online electronic payment options. The City will evaluate its guaranteed ride home policy to ensure it applies to small businesses. The City will also evaluate its existing carpool parking preference requirements, and study the impacts of lowering the thresholds to apply to more businesses. This measure requires various City action, including: (1) update the TMO website to provide program information to current and potential members, (2) develop a TMO business outreach strategy to</p>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet said performance metrics. In such an event, more may be required from this Project to off-set the lost expected GHG reductions from this measure. Additionally, the RDEIR merely states that the Project will participate in the TMO and include bicycles (RDEIR, p. 4.5-17). No discussion is given to the extent the Project and future tenants will have access to carpool and ridesharing programs, ride-matching systems and social networks, guaranteed ride home program, or to what extent parking preferences will be provided for carpools. As such, this amounts to an illusory PDF. This was raised in our May 6<sup>th</sup> letter; however, the RDEIR failed to include any corresponding updates.</p>

<p>increase membership and active participation in TMO programs, (3) expand geographic boundary of TMO into Golden State and Empire areas by 2020 and citywide by 2035, (4) require all new businesses with 25 employees or more within the TMO boundary to join the TMO and fulfill required reporting procedures, (5) expand the carpool/rideshare program through adoption of current technologies, (6) evaluate the City's guaranteed ride home policy to ensure its applicability to small businesses, and (7) evaluate the City's carpool parking preference requirements. The measure also provides various performance metrics, including:</p> <ul style="list-style-type: none"> <li>• 2020: 46% of total employees working within Burbank participate in a voluntary TDM program that offers rideshare promotion, telecommuting/alternative schedules, and parking cash-out options</li> <li>• 2035: 52% of total employees working within Burbank participate in a voluntary TDM program that offers rideshare promotion, telecommuting/alternative schedules, and parking cash-out options</li> </ul>	
<p><b>Measure SW-1.1: Food Scrap and Compostable Paper Diversion Ordinance</b> (GGRP, p. 4-27 – 4-28): The City will adopt a food scraps and compostable paper diversion ordinance, requiring all food waste and compostable paper to be diverted from the waste stream to composting facilities. The program will allow the collection of all food products: fruits, vegetables, breads, cereals, dairy, meat, and fish (including bones); coffee grounds, filters, and tea bags; and food-soiled paper: paper towels, plates, napkins, and pizza boxes. The City will develop an outreach campaign to inform solid waste customers about the change to the yard waste collection program, identify what can and cannot be included in the yard waste bins, and provide helpful tips to minimize pest and odor problems. The City will also perform spot checks on multi-family and commercial properties to ensure compliance with the ordinance. This measure requires various City action, including: (1)</p>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet said performance metrics. According to an August 2016 MND prepared for a project located in the City, the City had yet to adopt a food scrap and compostable paper diversion ordinance.<sup>33</sup> Nor does the City's Community Development Department's General Plan Annual Implementation Progress Report 2013-2017 mention any diversion ordinance.<sup>34</sup> The RDEIR merely states that the Project "would be required to comply with all applicable City ordinances, including those specific to diverting food scraps and compostable paper" yet fails to address how it would achieve this (p. 4.5-17). Given that the ordinance has not been timely adopted since the GGRP was adopted in 2013, the associated GHG reductions are entirely illusory and more may be required from this Project. Additionally, reduction of GHG emissions from food scrap and organic</p>

<sup>33</sup> *Ibid.*, pp. 56.

<sup>34</sup> *Supra* fn. 22.

<p>adopt a food scrap and compostable paper diversion ordinance, and (2) revise yard waste collection program to allow co-mingling of yard waste, food scraps, and compostable paper. The measure also provides various performance metrics, including:</p> <ul style="list-style-type: none"> <li>• 100% of residential units divert 75% of food scraps and compostable paper</li> <li>• 100% of commercial businesses divert 90% of food scraps and compostable paper</li> </ul>	<p>waste is required under SB 1383, which codifies CARB’s Short-Lived Climate Pollutant (“SLCP”) Reduction strategy to meet the statewide goal of 40 percent below 1990 levels by 2030 (per SB 32), with CalRecycle (in coordination with CARB) proposing SLCP regulation slated for adoption later this year.<sup>35, 36</sup> Not only does the RDEIR fail to describe how the Project will comply with SB 1383 and proposed SLCP regulations, but it also fails to recognize that this amounts to a statewide reduction measure which is already accounted for and separate from local action by the City necessary to fill in the emissions gap (GGRP, p. 1-5, 3-6 – 4-1, 4-4, A-9 – A-14). This was raised in our May 6<sup>th</sup> letter; however, the RDEIR failed to include any corresponding updates.</p>
<p><b>Measure SW-1.2: Yard Waste Diversion Ordinance</b> (GGRP, p. 4-28 – 4-29): The City will adopt an ordinance banning the disposal of yard waste in trash bins. Multi-family residential and non-residential properties that are not currently served by the City’s solid waste collection program would need to contract with a yard-waste collection service provider. This measure requires the City to adopt a yard waste diversion ordinance banning the disposal of yard waste in trash bins or dumpsters and provides the following performance metrics:</p> <ul style="list-style-type: none"> <li>• 100% of residential units divert yard waste from landfills</li> <li>• 100% of commercial businesses divert yard waste from landfills</li> </ul>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet said performance metrics. The RDEIR merely states that “the Project would be required to comply with all applicable City ordinances, including those specific to diverting yard waste” (p. 4.5-17). Absent timely adoption and enforcement of the ordinance, the associated GHG reductions are illusory and more may be required from this Project. This was raised in our May 6<sup>th</sup> letter; however, the RDEIR failed to make any corresponding updates.</p>
<p><b>Measure SW-1.3: Lumber Diversion Ordinance</b> (GGRP, p. 4-29): The City will amend its existing ordinance to explicitly require the diversion of 75% of waste from construction and demolition debris generated by new construction and renovations, including scrap lumber. This measure requires the City to modify Construction and Debris Diversion</p>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet said performance metrics. According to the RDEIR, construction projects are required to recycle only 65 percent of construction debris (p. 4.5-17).<sup>37</sup> Unlike other projects reviewed by the City,<sup>38</sup> the</p>

<sup>35</sup> CalRecycle (Apr. 2019) Short-Lived Climate Pollutants (SLCP): Organic Waste Methane Emissions Reductions, <https://www.calrecycle.ca.gov/climate/slcp>.

<sup>36</sup> CalRecycle (Jul. 2019) Short-Lived Climate Pollutants (SLCP): Organic Waste Methane Emissions Reductions, <https://www.calrecycle.ca.gov/Laws/Rulemaking/SLCP/>.

<sup>37</sup> See also City of Burbank (2019) Construction & Demolition Debris Diversion Ordinance, <https://www.burbankca.gov/departments/community-development/building/building-codes/c-d>.

<sup>38</sup> *Supra* fn. 32, pp. 56.



<p>Ordinance to include requirements for 75% diversion and provides the following performance metric:</p> <ul style="list-style-type: none"> <li>• 2020 and 2035: 75% of all construction and demolition lumber waste is diverted from landfills</li> </ul>	<p>RDEIR fails even to commit to a 75 percent diversion of lumber waste. Absent timely adoption and enforcement of the ordinance, this measure is illusory and more may be required from this Project. This was raised in our May 6<sup>th</sup> letter; however, the RDEIR failed to include any corresponding updates.</p>
<p><b>Voluntary Measures</b></p>	
<p><b>Measure E-1.3: ENERGY STAR Appliances</b> (GGRP, p. 4-8 - 4-9): The City will encourage voluntary community participation to install ENERGY STAR appliances or other energy efficient appliance models in both new and existing residential units. This measure requires the City to develop a public outreach program to increase community participation in ENERGY STAR appliance installation and provides the following performance metrics:</p> <ul style="list-style-type: none"> <li>• 2020: 9,300 ENERGY STAR refrigerators, 7,200 ENERGY STAR clothes washers, and 8,100 ENERGY STAR dishwashers are installed</li> <li>• 2035: 20,200 ENERGY STAR refrigerators, 14,300 ENERGY STAR clothes washers, and 10,800 ENERGY STAR dishwashers are installed</li> </ul>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet said performance metrics. Notwithstanding that the Project “would include ENERGY STAR or similarly rated appliances in new residential units,” more may be required to off-set loss GHG reductions in the event the City is not reaching the said performance metrics (e.g., Project’s hotel, retail, commercial, and other uses requiring ENERGY STAR appliances and other GHG reducing design features) (RDEIR, p. 4.5-17). This was raised in our May 6<sup>th</sup> letter; however, the RDEIR failed to include any corresponding updates.</p>
<p><b>Measure E-1.4: Smart Grid Integration</b> (GGRP, p. 4-9 - 4-10): The City will encourage voluntary adoption of smart grid technology in new and existing construction, promoting the use of smart appliances in homes and businesses and the use of OPower to track building energy use. The City will develop an outreach campaign highlighting the benefits of smart grid integration that can occur following a smart meter installation. The outreach campaign should describe how energy management systems work inside a building, including internet-based displays that show how much energy is being used and smart appliances that can defer discretionary electricity use to off-peak hours. BWP will continue advancing time-of-use pricing to its residential customers, with full adoption completed by 2020. BWP will also continue implementation of its thermal energy storage system demonstration program to reduce peak electricity demand by 2 MW by 2015. This measure requires various City action, including: (1) develop an outreach campaign for smart grid</p>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet said performance metrics. Nor is it known if the City and BWP are on track on advancing time-of-use pricing to its residential customers, implementing its thermal energy storage, or expanding its thermal energy storage system. The DEIR failed to address whether the proposed Project will utilize this technology, which we remarked in our May 6<sup>th</sup> letter. The RDEIR also fails to address whether the Project will incorporate smart grid technology, building energy management systems, effectively incorporate off-peak hour electricity use, or whether residents and tenants will have access to internet-based tracking. Absent timely action by the City, more may be required from this Project such as these voluntary measures to off-set lost GHG reductions anticipated under the GGRP.</p>

<p>integration, (2) expand the City’s thermal energy storage system demonstration project, (3) promote the demonstration project to familiarize local businesses with smart grid technology. The measure also provides various performance metrics, including:</p> <ul style="list-style-type: none"> <li>• 2020: <ul style="list-style-type: none"> <li>○ 5% of existing residential units and existing commercial floor area install smart grid-compatible technologies, such as smart appliances, programmable thermostats, and internet-based displays</li> <li>○ 15% of new residential units and new commercial floor area install smart grid-compatible technologies, such as smart appliances, programmable thermostats, and internet-based displays</li> </ul> </li> <li>• 2035: <ul style="list-style-type: none"> <li>○ 10% of existing residential units and existing commercial floor area install smart grid-compatible technologies, such as smart appliances, programmable thermostats, and internet-based displays</li> <li>○ 20% of new residential units and new commercial floor area install smart grid-compatible technologies, such as smart appliances, programmable thermostats, and internet-based displays</li> </ul> </li> </ul>	
<p><b>Measure E-1.5: Cool Roofs</b> (GGRP, p. 4-10 - 4-11): The City will extend its current Cool Roof Pilot Program, and will advertise BWP’s non-residential cool roof incentives to building owners when they obtain permits for re-roofing. This measure requires various City action, including: (1) secure funding to extend the City’s Cool Roof Pilot Program, and (2) provide information about BWP’s cool roof incentives to non-residential building owners. The measure also provides various performance metrics, including:</p> <ul style="list-style-type: none"> <li>• 2020: <ul style="list-style-type: none"> <li>○ Six homes per year install a cool roof through 2020</li> <li>○ 100,000 sq ft of non-residential buildings per year install cool roofs through 2020</li> </ul> </li> <li>• 2035: <ul style="list-style-type: none"> <li>○ Six homes per year install a cool roof through 2035</li> </ul> </li> </ul>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet said performance metrics. While the RDEIR states that the Project will include “cool roofs,” no other information is provided, such as the square footage or the solar reflective rating anticipated to be achieved (RDEIR, p. 2-19). Absent timely reaching of said performance metrics, more may be required from this Project to off-set lost GHG reductions anticipated under the GGRP. This was raised in our May 6<sup>th</sup> letter; however, the RDEIR failed to include any corresponding updates.</p>

<ul style="list-style-type: none"> <li>○ 100,000 sq ft of non-residential buildings per year install cool roofs through 2035</li> </ul>	
<p><b>Measure E-1.6: BWP Energy Conservation Programs</b> (GGRP, p. 4-1 - 4-12): BWP provides a variety of energy conservation programs to its residential and business customers to help meet its goal of 1% annual reductions in projected energy loads. Several of these programs are described throughout the GGRP to highlight the City’s current successes in emissions reductions. All of BWP’s current energy conservation programs are described in Energy Efficiency in California’s Public Power Sector, March 2012, an annual report summarizing publicly-owned utilities’ progress toward implementing energy efficiency and demand reduction programs. In fiscal year 2010-2011, BWP spent nearly \$3.0 million in Public Benefits Charge funds on energy efficiency programs, which resulted in net energy savings of 12,244 MWh. This measure requires various City action, including: (1) maintain funding sources for energy conservation programs, and (2) provide information to Community Development Department staff regarding progress toward annual conservation goals for incorporation into future GGRP updates. The measure also provides various performance metrics, including:</p> <ul style="list-style-type: none"> <li>● 2020: Achieve net annual energy savings of 9,900 MWh</li> <li>● 2035: Achieve net annual energy savings of 9,900 MWh</li> </ul>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet said performance metrics. While the RDEIR states that the Project would include efficient HVAC systems, cool roofs, LED lighting, rooftop solar, and high-performance glazing, the RDEIR’s Project Description requires only that the project achieves either Tier 1 or LEED Gold certification (p. 2-19, p. 4.5-18). It is undisclosed to what extent these measures will be implemented and, more importantly, what level of energy savings can be reasonably expected. Absent timely reaching said performance metrics, more may be required from this Project to off-set loss GHG reductions anticipated under the GGRP, such as LEED Platinum, net-zero or near-zero energy use via entirely renewable on-site energy, or even carbon offsets through the State’s Cap-n-Trade program. This was raised in our May 6<sup>th</sup> letter; however, the RDEIR failed to include any corresponding updates.</p>
<p><b>Measure E-2.2: Solar Photovoltaic Systems</b> (GGRP, p. 4-15): The City will actively promote the development of building-scale solar energy. The City will develop an outreach campaign to ensure BWP’s Solar Photovoltaic Power program is fully subscribed between 2013 and 2016 to meet its solar goal. The City will also reduce or remove its third-party electrical review for non-residential solar PV permits through January 1, 2017 to further encourage full participation in the program. This measure requires various City action, including: (1) develop an aggressive outreach campaign for the BWP Solar Photovoltaic Power program, and (2) reduce or remove third-party electrical review fee associated with non-</p>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet said performance metrics. For example, it is unknown whether the City has met its 2013 and 2016 solar goals, or is on track to meet its 2020 and 2035 goals of installing 3.5 and 5.0 MW of solar PV in the years 2020 and 2035, respectively. While the RDEIR states that rooftop solar will be provided, no information is provided about the size or capacity, or how much will be generated to offset the Project’s new energy demands. Furthermore, review of the RDEIR “applicant-Proposed Project Design Features” demonstrates that the installation of roof top solar is not included as a proposed PDF</p>

<p>residential solar PV installations through January 1, 2017. The measure also provides various performance metrics, including:</p> <ul style="list-style-type: none"> <li>• 2020: Install 3.5 MW of solar PV on residential and commercial buildings, in addition to requirements discussed in Measure E-2.1</li> <li>• 2035: Install 5.0 MW of solar PV on residential and commercial buildings, in addition to requirements discussed in Measure E-2.1</li> </ul>	<p>(RDEIR, p. 2-19 – 2-30). While Air Quality PDF 1 requires the Project to comply with all applicable Tier 1 provisions of the 2016 CALGreen Code, the applicable provisions do not mandate the installation of solar at a project site.<sup>39</sup> Therefore, the RDEIR cannot claim that the Project would include rooftop solar, as it is not included as a PDF and thus is not binding or enforceable in any way. Absent timely reaching the GGRP performance metrics, more may be required from this Project to off-set loss GHG reductions anticipated under the GGRP, such as providing sufficient solar PV to meet the Project’s entire energy needs or even securing carbon offsets through the State’s Cap-n-Trade program. This was raised in our May 6<sup>th</sup> letter; however, the RDEIR failed to include any corresponding updates.</p>
<p><b>Measure W-1.1: Water Conservation Programs</b> (GGRP, p. 4-25): The City will implement water conservation programs described in the Urban Water Management Plan (“UWMP”) in support of BWP’s goal to reduce water consumption by 1% annually. This measure requires the City to Implement UWMP water conservation programs and provides the performance metric of reducing water use by 110 million gallons (“MG”) annually.</p>	<p>Here, the DEIR disclosed that the Project is anticipated to require approximately 1.68 MG of water a day—more than 24 percent of the anticipated future water demand for the entire City by 2040 (DEIR, p. 4.13-24). This amounts to 613 MG a year—<b><i>more than five times the amount of water BWP and the City attempts to save annually.</i></b> This is a significant water demand given the admitted uncertainty of the State’s water supply with the Sierra snowpack expected to experience 25 to 40 percent reduction from the historic average by 2050 (DEIR, Appendix D, p. 29). Given the substantial amount of water demanded by the Project, which leads to GHG emissions, the Project must be as water efficient as possible to avoid said GHG emissions—such as exceeding Tier 1 efficiency standards and other water efficiency measures discussed below. The RDEIR simply claims that “the Project includes water efficient appliances and fixtures, drip irrigation, and drought tolerant landscaping and use of recycled water. In compliance with CalGreen, these features would reduce indoor water use by at least 20%” (RDEIR, p. 4.5-18). However, the RDEIR fails to quantify or demonstrate how these measures will result in the claimed reductions.</p>

<sup>39</sup> California Building Standards Commission (Jan. 2017) 2016 California Green Building Standards Code, p. 102, [https://www.ladbs.org/docs/default-source/publications/code-amendments/2016-calgreen\\_complete.pdf?sfvrsn=6](https://www.ladbs.org/docs/default-source/publications/code-amendments/2016-calgreen_complete.pdf?sfvrsn=6).

<p><b>Measure W-1.2: Recycled Water Use Master Plan</b> (GGRP, p. 4-26): The City will complete the recycled water system expansion outlined in the Recycled Water Use Master Plan and implement recycled water requirements for large irrigation users. This measure requires various City action, including: (1) expand the recycled water system, and (2) increase number of targeted large irrigation customers required to use recycled water. The measure also provides various performance metrics, including:</p> <ul style="list-style-type: none"> <li>• 2020: Use 1.0 billion gallons of recycled water</li> <li>• 2035: Use 1.0 billion gallons of recycled water</li> </ul>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, it is entirely unknown if the City is on track to meet said performance metrics. Additionally, given the Project’s substantial water demand (as discussed above), the Project needs to be as water efficient as possible, such as participating in the City’s recycled water system and/or installing a capture/reuse water system to serve the Project. Although the RDEIR claims the limited “use of recycled water,” it fails to demonstrate implementation of this measure or associated water demand reductions (RDEIR, p. 4.5-18).</p>
<p><b>Measure CG 1.1: Sustainability Coordinator</b> (GGRP, p. 4-31 - 4-32): The City will establish a sustainability coordinator position to oversee and monitor the implementation of the GGRP. Roles and responsibilities would include: (a) updating the communitywide emissions inventory every 3-5 years, (b) maintaining contact with BWP to ensure energy and water consumption data is readily available for future inventory updates, (c) identifying new statewide efficiency legislation or regulations that can be quantified for inclusion in future GGRP updates, and (d) promoting sustainability messaging throughout all City departments. This measure requires the City to identify funding sources to support a full-time sustainability coordinator position.</p>	<p>Here, the City has failed to effectively monitor and update the GGRP. As of March 2018, the City admittedly has “<b><i>not started</i></b>” (emphasis added) the process of securing a sustainability coordinator, updating the communitywide emissions inventory, identify new GHG related legislation or regulations, or prepare a new/updated GGRP.<sup>40</sup> As such, neither the City nor the RDEIR can rely on the GGRP for streamline review because more may be required of this Project to offset lost GHG reductions anticipated under the GGRP. This was raised in our May 6<sup>th</sup> letter; however, the RDEIR failed to include any corresponding updates.</p>
<p><b>Measure CG 1.2: Sustainability Element</b> (GGRP, p. 4-32 - 4-33): The City will prepare a Sustainability Element for adoption as an amendment to Burbank2035. The element will present policy language supported by justification from state legislation and public input, together with illustrative diagrams, photos, and maps. This measure requires the City to prepare Sustainability Element for Burbank2035 (i.e., General Plan).</p>	<p>Here, again, the City admits that as of March 2018, it has “<b><i>not started</i></b>” (emphasis added) to prepare Sustainability Element to provide comprehensive direction regarding how best to incorporate sustainability in all City policies and operations, including the carrying out of the GGRP.<sup>41</sup> This was raised in our May 6<sup>th</sup> letter; however, the RDEIR failed to include any corresponding updates.</p>

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<sup>40</sup> *Supra* fn. 22, pp. 51, 61.

<sup>41</sup> *Ibid.*, pp. 61.

**Burbank 2035 General Plan - Air Quality and Climate Change Element<sup>42</sup>**

<b>GOAL 3-Reduction of GHGs: Burbank seeks a sustainable, energy-efficient future and complies with statewide greenhouse gas reduction goals.</b>	
<b>Policy 3.1:</b> Develop and adopt a binding, enforceable reduction target and mitigation measures and actions to reduce community-wide greenhouse gas emissions within Burbank by at least 15% from current levels by 2020.	Here, the City has failed to effectively monitor and update the GGRP and, therefore, the measures cannot ensure the City will achieve a 15 percent reduction from 2010 levels by 2020. Thus, the RDEIR cannot rely on the City’s supposed reductions. This was raised in our May 6 <sup>th</sup> letter; however, the RDEIR failed to include any corresponding updates.
<b>Policy 3.2:</b> Establish a goal and strategies to reduce community-wide greenhouse gas emissions by at least 30% from current levels by 2035.	Additionally, the GGRP admits that even if the CAP were successfully being implemented, the City would achieve only a 7.6 percent reduction from 2010 levels by 2035—“short of the City’s 2035 reduction goal by 377,462 MTCO <sub>2</sub> e/yr” (GGRP, p. 4-3). Moreover, the GGRP fails to account for SB 32 newer, more aggressive targets of 40 percent below 1990 levels by 2030. This was raised in our May 6 <sup>th</sup> letter; however, the RDEIR failed to include any corresponding updates.
<b>Policy 3.4:</b> Reduce greenhouse gas emissions from new development by promoting water conservation and recycling; promoting development that is compact, mixed-use, pedestrian-friendly, and transit-oriented; promoting energy-efficient building design and site planning; and improving the jobs/housing ratio.	Here, as discussed above, the water demand of this Project is enormous and the Project as mitigated will achieve only a 4.4 percent reduction as compared to the Project’s unmitigated water demand. Additionally, the RDEIR fails to mention whether any of the residential units will be affordable housing units. This is particularly problematic given the RDEIR admits the City is experiencing significant population growth (RDEIR, p. 4.2-13). Lack of affordable housing has a disparate impact on working-class people who cannot find nearby housing opportunities and are forced to commute from far away jurisdictions (e.g., Inland Empire, Orange County, etc.) which can result in commutes exceeding two hours each way. This, in turn, results in greater vehicle miles traveled (“VMT”) and mobile-emissions and thus results in greater GHG emissions. This was raised in our May 6 <sup>th</sup> letter; however, the RDEIR failed to include any corresponding updates.

<sup>42</sup> City of Burbank (Feb. 2013) Burbank 2035 General Plan, <https://www.burbankca.gov/home/showdocument?id=23448>.



<p><b>Policy 3.5:</b> Submit an annual report on the implementation of the Greenhouse Gas Reduction Plan, in conjunction with the annual report to the City Council regarding the implementation of Burbank2035.</p>	<p>Here, the City has failed to effectively monitor and update the GGRP and, therefore, the Project cannot rely on it for streamline CEQA review (as discussed further below). This was addressed in our May 6<sup>th</sup> letter; however, the RDEIR failed to include any corresponding updates.</p>
<p><b>Policy 3.8:</b> Transition all economic sectors, new development, and existing infrastructure and development to low- or zero-carbon energy sources. Encourage implementation and provide incentives for low- or zero-carbon energy sources.</p>	<p>Here, the RDEIR lacks any meaningful information regarding how much low- or zero-carbon energy will be generated by the Project via Tier 1 or LEED Gold certification. This was raised in our May 6<sup>th</sup> letter; however, the RDEIR failed to include any corresponding updates.</p>
<p><b>GOAL 4-Climate Change: Prepare for and adapt to anticipated effects of climate change</b></p>	
<p><b>Policy 4.1:</b> Evaluate the potential effects of climate change on Burbank’s human and natural systems and prepare strategies that allow the City to respond appropriately.</p>	<p>Here, the City has failed to effectively monitor and update the GGRP, much less incorporate new strategies to be incorporated in a new or updated CAP. This was raised in our May 6<sup>th</sup> letter; however, the RDEIR failed to include any corresponding updates.</p>
<p><b>Policy 4.2:</b> Consult with state resource and emergency management agencies regarding updates to climate change science and development of adaptation priorities.</p>	<p>Here, the City has failed to effectively monitor and update the GGRP, much less incorporate or stay in step with evolving information, technology, or state legislation regarding climate change. This was raised in our May 6<sup>th</sup> letter; however, the RDEIR failed to include any corresponding updates.</p>
<p style="text-align: center;"><b>CARB 2017 Scoping Plan<sup>43</sup></b></p> <p>The California Global Warming Solutions Act of 2006 (“AB 32”) was signed into law in September 2006. The law instructs the California Air Resources Board (“CARB”) to develop and enforce regulations for the reporting and verifying of statewide GHG emissions. The heart of AB 32 is the requirement that statewide GHG emissions be reduced to 1990 levels by 2020 (Health &amp; Saf. Code § 38500 <i>et seq.</i>). However, in April 2015, Governor Edmund G. Brown Jr. issued Executive Order B-30-15 that, <i>inter alia</i>, establish a California GHG reduction target of 40 percent below 1990 levels by 2030 as a step toward the ultimate goal of reducing emissions by 80 percent below 1990 levels by 2050. In September 2016, this goal was made into law with Governor Brown’s signing of Senate Bill 32 (“SB 32”) (enacting Health &amp; Saf. Code § 38566). To this end, CARB released various guidance documents outlining how the State is to achieve the abovementioned goals, including its adoption of its 2017 Scoping Plan in November 2017 that proposes various project-specific measures including:</p>	
<p><b>Mandatory Measures - Operation</b></p>	

<sup>43</sup> CARB (Jan. 2017) 2017 Scoping Plan, Appendix B-Local Action, available at: [https://www.arb.ca.gov/cc/scopingplan/app\\_b\\_local\\_action\\_final.pdf](https://www.arb.ca.gov/cc/scopingplan/app_b_local_action_final.pdf), p. 7-9.

<p>Require on-site EV charging capabilities for parking spaces serving the project to meet jurisdiction-wide EV proliferation goals.</p>	<p>Here, the RDEIR states that “the Applicant would provide rewiring for electric vehicle charges in parking spaces” (RDEIR, p. 4.5-28). However, the RDEIR fails to indicate how many parking spaces will be rewired. Rewiring also does not indicate any actual charging capabilities, as it generally does not include the actual charging station, cords, or connectors.</p>
<p>Dedicate on-site parking for shared vehicles.</p>	<p>Here, the RDEIR fails to mention on-site parking designated for shared vehicles.</p>
<p>Require organic collection in new developments.</p>	<p>Here, the RDEIR states that “[t]he Project would be consistent with AB 341, which requires not less than 75 percent of solid waste generated be source reduced through recycling, composting or diversion. Reduction in solid waste generated by the Project would reduce overall GHG emissions” (RDEIR, p. 4.5-29). However, the RDEIR fails to indicate any enforcement or monitoring of this measure, and thus, lacks substantial proof it will occur.</p>
<p>Require low-water landscaping in new developments. Require water-efficient landscape maintenance to conserve water and reduce landscape waste.</p>	<p>Here, the RDEIR claims that the Project will include “drought tolerant landscaping that uses recycled water” (RDEIR, pp. 163, 165). However, the RDEIR fails to indicate what this will entail, or how it will be implemented. The RDEIR cites CALGreen standards, which include the “regulation of outdoor water usage,” but again fails to elaborate on how it will be enforced (id. at p. 4.2-9).</p>
<p>Achieve Zero Net Energy performance targets prior to dates required by CALGreen.</p>	<p>Here, the RDEIR fails to mention Zero Net Energy performance targets prior to dates required by CALGreen. The RDEIR does claim that “the Project would be designed to be the equivalent of the United States Green Building Council (USGBC) LEED Gold Certified and would comply with Tier 1 applicable provisions of the 2016 California Green Building Standards Code (CalGreen Code)” (RDEIR, p. 4.5-20). The RDEIR fails to indicate what this equivalence will entail and how it will be achieved.</p>
<p>Require preferential parking spaces for park and ride to incentivize carpooling, vanpooling, commuter bus, electric vehicles, and rail service use.</p>	<p>Here, the RDEIR states that “the Project applicant would be a participant in the TMO [Transportation Management Organization] and would implement applicable requirements (e.g., development of/participation in carpool and ridesharing programs, financial or other incentives to rideshare or use transit) and would fulfill the associated reporting requirements” (RDEIR, p. 46). However, the RDEIR</p>

	<p>fails to discuss the implementation of preferential parking spaces. The RDEIR also fails to describe the extent to which the Project will develop carpool and ridesharing programs or other incentives for carpooling, vanpooling, commuter bussing, electric vehicle use, or rail service use. This was raised in our May 6<sup>th</sup> letter; however, the RDEIR failed to include any corresponding updates.</p>
<p>Require a transportation management plan for specific plans which establishes a numeric target for non- single occupancy vehicles (“SOV”) travel and overall vehicles miles traveled (“VMT”).</p>	<p>Here, the RDEIR claims that the Transportation Management Organization Expansion measure of the GGRP “is aimed at the City rather than at individual developers,” but that the Project will participate nonetheless (RDEIR, pp. 164). However, the RDEIR fails to discuss or set a numeric target for non-SOV travel and overall VMT. Additionally, the Project fails to prepare a transportation management plan.</p>
<p>Develop a rideshare program targeting commuters to major employment centers.</p>	<p>Here, the RDEIR claims that “the Project applicant would be a participant in the TMO [Transportation Management Organization] and would implement applicable requirements (e.g., development of/participation in carpool and ridesharing programs, financial or other incentives to rideshare or use transit) and would fulfill the associated reporting requirements” (RDEIR, p. 46). However, the RDEIR fails to detail the implementation and extent of the proposed ridesharing programs.</p>
<p>Require the design of bus stops/shelters/express lanes in new developments to promote the usage of mass transit.</p>	<p>Here, the RDEIR states that “the elevated and protected bike lanes, enhanced sidewalks, high visibility crosswalks and upgrades to the Front Street right-of-way adjacent to the Project site are all intended to provide a safe and efficient means of travel for bicyclists, pedestrians, and drivers to and from the Metrolink Station, the Project Site, and Downtown Burbank” (RDEIR, Appendix D, p. 48). However, the RDEIR also indicates that “[t]he Project would not involve construction of transportation facilities” (RDEIR, Appendix D, p. 57). As a result, while the Project claims it will improve access to transportation facilities, it will not include or facilitate the development of bus stops/shelters/express lanes.</p>

Require gas outlets in residential backyards for use with outdoor cooking appliances such as gas barbeques if natural gas service is available.	Here, the RDEIR fails to mention gas outlets in residential spaces. The RDEIR also fails to discuss the availability of natural gas service.
Require the installation of electrical outlets on the exterior walls of both the front and back of residences to promote the use of electric landscape maintenance equipment.	Here, the RDEIR fails to discuss the installation of electrical outlets on the exterior walls of residences. The RDEIR also fails to mention any requirement regarding the use of electric landscape maintenance equipment.
Require the design of the electric boxes in new residential unit garages to promote electric vehicle usage.	Here, the RDEIR fails to mention the design of electric boxes in new residential unit garages, or their applicability to the promotion of electric vehicle usage and requirements.
Require electric vehicle charging station (conductive/inductive) and signage for non-residential developments.	Here, as previously mentioned, the RDEIR claims that the Project would provide prewiring for electric vehicle charging stations (RDEIR, p. 4.5-28). However, the RDEIR fails to indicate the extent to which this prewiring will be provided. Prewiring also does not indicate any actual charging capabilities, as it generally does not include the actual charging station, cords, or connectors. Thus, the RDEIR fails to address how electric vehicle charging stations would actually be implemented at the site. In addition, the RDEIR does not mention any sort of requirements or signage for non-residential developments.
Provide electric outlets to promote the use of electric landscape maintenance equipment to the extent feasible on parks and public/quasi-public lands.	Here, the RDEIR fails to discuss any promotion of electric landscape maintenance equipment use or the installation of electric outlets in public space.
Require the installation of energy conserving appliances such as on-demand tank-less water heaters and whole-house fans.	Here, the RDEIR discusses the use of ENERGY Star Appliances (RDEIR, p. 4.5-12). However, the RDEIR fails to discuss the extent to which they will be provided.
Require large-scale residential developments and commercial buildings to report energy use, and set specific targets for per-capita energy use.	Here, the RDEIR fails to mention energy reporting or target setting for residential developments, commercial buildings, or otherwise.
Require each residential and commercial building to utilize low flow water fixtures such as low flow toilets and faucets.	Here, the RDEIR states that the Project will include water efficient appliances to reduce indoor water use by at least 20%. However, the RDEIR fails to discuss to extent to which these fixtures would be provided and how they will achieve a minimum 20% reduction in indoor water use.

<p>Incorporate water retention in the design of parking lots and landscaping.</p>	<p>Here, the RDEIR claims that the Project will include “drought tolerant landscaping that uses recycled water” (RDEIR, pp. 164). However, the RDEIR fails to include parking lot or landscape designs aimed to achieve water retention.</p>
<p>Require the development project to propose an off-site mitigation project which should generate carbon credits equivalent to the anticipated GHG emission reductions. This would be implemented via an approved protocol for carbon credits from California Air Pollution Control Officers Association (“CAPCOA”), the California Air Resources Board, or other similar entities determined acceptable by the local air district.</p>	<p>Here, the RDEIR fails to mention an off-site mitigation project to develop carbon credits equivalent to the anticipated GHG emission reductions.</p>
<p>Require the project to purchase carbon credits from the CAPCOA GHG Reduction Exchange Program, American Carbon Registry (“ACR”), Climate Action Reserve (“CAR”) or other similar carbon credit registry determined to be acceptable by the local air district.</p>	<p>Here, the RDEIR fails to mention the purchase of carbon credits or associated carbon credit registries.</p>
<p>Encourage the applicant to consider generating or purchasing local and California-only carbon credits as the preferred mechanism to implement its offsite mitigation measure for GHG emissions and that will facilitate the State’s efforts in achieving the GHG emission reduction goal.</p>	<p>Here, the RDEIR fails to mention local and California-only carbon credits. The RDEIR also fails to mention offsite mitigation measures for GHG emissions that will facilitate the State’s efforts in achieving the GHG emission reduction goal.</p>

**SB 375 and SCAG’s RTP/SCS Strategies  
SCAG 2012-2035 and 2016-2040 RTP/SCS and PEIR**

In September 2008, SB 375 (Gov. Code § 65080(b) *et seq.*) was instituted to help achieve AB 32 goals through, *inter alia*, requiring regional agencies to prepare a Sustainable Communities Strategy (“SCS”) to be incorporated into their Regional Transportation Plan (“RTP”) that effectively links land use planning with the regional transportation system so that the region can grow smartly and sustainably, while also demonstrating how the region will meet targets set by CARB that reduce the per capita GHG emission from passenger vehicles in the region.<sup>44</sup> Pursuant to SB 375, CARB set the per capita GHG emission reduction targets for the SCAG region at 8 percent below 2005 per capita emissions levels by 2020, and 13 percent below 2005 per capita emissions levels by 2035.<sup>45</sup>

<sup>44</sup> SCAG (Apr. 2012) 2012 RTP/SCS, p. xiii (Resolution No. 12-538-2), <http://rtpscsc.scag.ca.gov/Documents/2012/final/f2012RTPSCS.pdf>.

<sup>45</sup> *Ibid.*, p. 3, 108, 151-156, 197.

In April 2012, SCAG adopted its 2012-2035 RTP/ SCS (“2012 RTP/SCS”), which proposed specific land use policies and transportation strategies for local governments to implement that will help the region achieve GHG emission reductions of 9 percent per capita in 2020 and 16 percent per capita in 2035.<sup>46</sup> In April 2016, SCAG adopted the 2016-2040 RTP/SCS (“2016 RTP/SCS”), which incorporates and builds upon the policies and strategies in the 2012 RTP/SCS,<sup>47</sup> that will help the region achieve GHG emission reductions that would reduce the region’s per capita transportation emissions by eight percent by 2020 and 18 percent by 2035.<sup>48</sup> For both the 2012 and 2016 RTP/SCS, SCAG prepared Program Environmental Impact Reports (“PEIR”) that include Mitigation Monitoring and Reporting Programs (“MMRP”) that list project-level environmental mitigation measures that directly and/or indirectly relate to a project’s GHG impacts and contribution to the region’s GHG emissions.<sup>49</sup> These environmental mitigation measures serve to help local municipalities when identifying mitigation to reduce impacts on a project-specific basis that can and should be implemented when they identify and mitigate project-specific environmental impacts.<sup>50</sup> The table below outlines applicable land use policies, transportation strategies, and project-level mitigation measures identified in the 2012 and 2016 RTP/SCS and PEIRs.

<b>Land Use Policies<sup>51</sup></b>	
<b>Affordable Housing:</b> Local municipalities should incorporate strategies such as collaborate with local jurisdictions and agencies to acquire a regional fair share housing allocation that reflects existing and future needs.	Here, the RDEIR fails to mention affordable housing or associated policies and programs, such as collaboration with local jurisdictions and agencies to acquire a regional fair share housing allocation that reflects existing and future needs.
<b>Combating Gentrification and Displacement:</b> Adding to the local housing stock rather than maintaining the current stock by changing the residential population, as well as pursuing the production of permanent affordable housing that will provide some units for affordable to lower-income households.	Here, the RDEIR fails to mention gentrification or displacement. While the Project adds to the local housing stock and residential population, the RDEIR fails to discuss permanent affordable housing or any units for affordable to lower-income households.
<b>Provide More Options for Short Trips:</b> Given 38 percent of all trips in the SCAG region are less than three miles, projects that further policies that encourage replacing motor vehicle use with Neighborhood Electric Vehicle (“NEV”) is encouraged. These land use policies shifting retail growth from large centralized retail strip malls to smaller distributed centers and the creation of these mixed-use districts by co-locating housing, employment, and a mix of retail and services that meet most daily needs of local residents with the opportunity to patronize their local area and run	Here, the RDEIR fails to discuss policies that encourage replacing motor vehicle use with NEV. While the RDEIR does claim that “the Project is a relatively high density/intensity mixed-use development that provides housing, jobs, and visitor amenities in proximity to both transit option, jobs, and services ... [and] within walking distance of downtown Burbank ...” (RDEIR, p. 4.5-20), this amounts to a general claim that the co-locating will help reduce automobile travel and increase opportunity for walking or cycling in the local area. Taken to its logical conclusion, any infill project could

<sup>46</sup> *Ibid.*, p. 107-164;

<sup>47</sup> SCAG (Apr. 2016) 2016 RTP/SCS, p. 69, 75-115, <http://scagrtpscs.net/Documents/2016/final/f2016RTPSCS.pdf>.

<sup>48</sup> *Ibid.*, p. 8, 15, 153, 166.

<sup>49</sup> *Ibid.*, p. 116-124; see also SCAG 2012 RTP/SCS, *supra* fn. 44, p. 77-86.

<sup>50</sup> SCAG 2012 RTP/SCS, *supra* fn. 44, p. 77; see also SCAG 2016 RTP/SCS, *supra* fn. 47, p. 115.

<sup>51</sup> SCAG 2012 RTP/SCS, *supra* fn. 44, Tbls. 4.3 – 4.7; see also SCAG 2016 RTP/SCS, *supra* fn. 47, p. 75-114.



<p>daily errands by walking or cycling rather than traveling by automobile.</p>	<p>be argued to generally reduce the propensity for automobile travel without consideration of the project’s impact to traffic and GHG emissions—requiring mitigation such as the incorporation of NEVs or placing affordable units near these key transit hubs (as is the case here) where working families/residents would be more likely to use public transit.</p>
<p><b>Transportation Network Strategies<sup>52</sup></b></p>	
<p><b>Transit Fare Discounts:</b> Incorporating strategies such as encourage transit fare discounts and local vendor product and service discounts for residents and employees of TOD/HQTAs, or for a jurisdiction’s local residents in general who have fare media.</p>	<p>Here, the RDEIR fails to mention transit fare discounts and/or local vendor produce and service discounts.</p>
<p><b>Transit Integration Strategies:</b> This refers to a suite of strategies designed to better integrate active transportation and transit by improving access for pedestrians, bicyclists and other people traveling under their own power around transit stations. Strategies include:</p> <ul style="list-style-type: none"> <li>• Bike share services in closely packed bike rental kiosks in heavily urbanized areas designed to replace short-distance motor vehicle trips, reduce parking demand and complement local bus services such as DASH in the City of Los Angeles;</li> <li>• Education/encouragement campaigns such as advertising, public service announcements and media kits designed to educate the public on the importance of safety.</li> </ul>	<p>The RDEIR claims that “the Project would not conflict with applicable goals of the 2016-2040 RTP/SCS,” which includes a goal to “[e]ncourage land use and growth patterns that facilitate transit and active transportation” (p. 4.5-18). However, the RDEIR fails to mention bike share services, bike rental kiosks, or education/encouragement campaigns to educate the public on the importance of safety.</p>
<p><b>Transportation Demand Management (TDM) Strategies<sup>53</sup></b></p>	
<p>Expand and encourage the implementation of TDM strategies to their fullest extent such as:</p> <ul style="list-style-type: none"> <li>• Rideshare incentives and rideshare matching</li> <li>• Parking management and parking cash-out policies</li> <li>• Preferential parking or parking subsidies for carpoolers,</li> <li>• Intelligent parking programs,</li> <li>• Promotion and expansion of Guaranteed Ride Home programs,</li> </ul>	<p>Here, the RDEIR states that “the Project applicant would be a participant in the TMO and would implement applicable requirements (e.g., development of/participation in carpool and ridesharing programs, financial or other incentives to rideshare or use transit) and would fulfill the associated reporting requirements” (RDEIR, p. 4.5-17). In addition, the RDEIR states that “the Project would not conflict with applicable goals of the 2016-2040 RTP/SCS,” which includes a goal to “[e]ncourage land use and growth patterns that</p>

<sup>52</sup> *Ibid.*

<sup>53</sup> *Ibid.*

<ul style="list-style-type: none"> <li>• Incentives for telecommuting and flexible work schedules,</li> <li>• Integrated mobility hubs and first/last mile strategies,</li> <li>• Incentives for employees who bike and walk to work,</li> <li>• Investments in active transportation infrastructure, and</li> <li>• Investments in Safe Routes to School programs and infrastructure.</li> </ul>	<p>facilitate transit and active transportation” (id. at p. 4.5-18). However, the RDEIR fails to describe the extent to which these programs and incentives will be applied to the Project, enforced, and maintained. Furthermore, the RDEIR fails to mention rideshare matching, parking management and parking cash-out policies, preferential parking or parking subsidies for carpoolers, intelligent parking programs, promotion and expansion of Guaranteed Ride Home programs, incentives for telecommuting and flexible work schedules, integrated mobility hubs and first/last mile strategies, incentives for employees who bike and walk to work, and investments in Safe Routes to School programs and infrastructure.</p>
<p><b>Clean Vehicle Technology Strategies<sup>54</sup></b></p>	
<p><b>NEVs:</b> Support sub-regional strategies to develop infrastructure and supportive land uses to accelerate fleet conversion to electric technologies, zero-emissions vehicles, and Neighborhood Electric Vehicles (“NEVs”).</p>	<p>Here, the RDEIR states that “the Applicant would provide prewiring for electric vehicle charges in parking spaces” (RDEIR, p. 4.5-28). However, as discussed above, the RDEIR fails to discuss accelerating fleet conversion to electric technologies, zero-emissions vehicles, and NEVs.</p>
<p><b>Anticipating Shared Mobility Platforms, Car-To-Car Communication, and Automated Vehicle Technologies:</b> Shared Mobility encompasses a wide range of services including Return Trip Car Sharing, Point-to-Point Car Sharing, Peer-to-Peer Car Sharing, Ridesourcing, Dynamic On-Demand Private Transit, Vanpool and Private Employer Charters.</p>	<p>Here, the RDEIR fails to address Shared Mobility Platforms, Car-to-Car Communication, and Automated Vehicle Technologies. The RDEIR also fails to mention the encompassed services, including Return Trip Car Sharing, Point-to-Point Car Sharing, Peer-to-Peer Car Sharing, Ridesourcing, Dynamic On-Demand Private Transit, Vanpool, and Private Employer Charters.</p>

The following feasible project-level GHG reduction measures outlined in SCAG’s RTP/SCS were also previously raised in our May 6<sup>th</sup> letter and not addressed in the RDEIR:

**Project-Level Environmental Mitigation Measures<sup>55</sup>**

<sup>54</sup> *Ibid.*

<sup>55</sup> SCAG 2012 RTP/SCS (Mar. 2012) Final PEIR MMRP, p. 6-2—6-14 (including mitigation measures (“MM”) AQ3, BIO/OS3, CUL2, GEO3, GHG15, HM3, LU14, NO1, POP4, PS12, TR23, W9 [stating “[l]ocal agencies *can and should comply* with the requirements of CEQA to mitigate impacts to [the environmental] as applicable and feasible ... [and] may refer to *Appendix G* of this PEIR for examples of potential mitigation to consider when appropriate in reducing environmental impacts of future projects.” (Emphasis added)]), <http://rtpscs.scag.ca.gov/Documents/peir/2012/final/Final2012PEIR.pdf>; see also *id.*, Final PEIR Appendix G (including MMs AQ1-23, GHG1-8, PS1-104, TR1-83, W1-62), [http://rtpscs.scag.ca.gov/Documents/peir/2012/final/2012fPEIR\\_AppendixG\\_ExampleMeasures.pdf](http://rtpscs.scag.ca.gov/Documents/peir/2012/final/2012fPEIR_AppendixG_ExampleMeasures.pdf); see also SCAG 2016 RTP/SCS (Mar. 2016) Final PEIR MMRP, p. 11–63 (including MMs AIR-2(b), AIR-4(b), EN-2(b), GHG-3(b), HYD-1(b), HYD-2(b), HYD-8(b), TRA-1(b), TRA-2(b), USS-4(b), USS-6(b)), [http://scagrtpscs.net/Documents/2016/peir/final/2016fPEIR\\_ExhibitB\\_MMRP.pdf](http://scagrtpscs.net/Documents/2016/peir/final/2016fPEIR_ExhibitB_MMRP.pdf).

*The following project-level measures are recommended as part of SCAG's RTP/SCS to reduce project-level GHG emissions. The RDEIR should additionally consider implementation of these measures in order to feasibly reduce the Project's GHG emissions and demonstrate consistency with the corresponding plans.*

**GHG Emissions:**

- Reduction in emissions resulting from a project through implementation of project features, project design, or other measures, such as those described in Appendix F of the State CEQA Guidelines,<sup>56</sup> such as:
  - Potential measures to reduce wasteful, inefficient and unnecessary consumption of energy during construction, operation, maintenance and/or removal. The discussion should explain why certain measures were incorporated in the project and why other measures were dismissed.
  - The potential siting, orientation, and design to minimize energy consumption, including transportation energy.
  - The potential for reducing peak energy demand.
  - Alternate fuels (particularly renewable ones) or energy systems.
  - Energy conservation which could result from recycling efforts.
- Off-site measures to mitigate a project's emissions.
- Measures that consider incorporation of Best Available Control Technology (BACT) during design, construction and operation of projects to minimize GHG emissions, including but not limited to:
  - Use energy and fuel-efficient vehicles and equipment;
  - Deployment of zero- and/or near zero emission technologies;
  - Use cement blended with the maximum feasible amount of flash or other materials that reduce GHG emissions from cement production;
  - Incorporate design measures to reduce GHG emissions from solid waste management through encouraging solid waste recycling and reuse;
  - Incorporate design measures to reduce energy consumption and increase use of renewable energy;
  - Incorporate design measures to reduce water consumption;
  - Use lighter-colored pavement where feasible;
  - Recycle construction debris to maximum extent feasible;
- Adopting employer trip reduction measures to reduce employee trips such as vanpool and carpool programs, providing end-of-trip facilities, and telecommuting programs.
- Designate a percentage of parking spaces for ride-sharing vehicles or high-occupancy vehicles, and provide adequate passenger loading and unloading for those vehicles;
- Land use siting and design measures that reduce GHG emissions, including:
  - Measures that increase vehicle efficiency, encourage use of zero and low emissions vehicles, or reduce the carbon content of fuels, including constructing or encouraging construction of electric vehicle charging stations or neighborhood electric vehicle networks, or charging for electric bicycles; and
  - Measures to reduce GHG emissions from solid waste management through encouraging solid waste recycling and reuse.

**Hydrology & Water Quality:**

- Incorporate measures consistent in a manner that conforms to the standards set by regulatory agencies responsible for regulating water quality/supply requirements, such as:
  - Reduce exterior consumptive uses of water in public areas, and should promote reductions in private homes and businesses, by shifting to drought-tolerant native landscape plantings

<sup>56</sup> CEQA Guidelines, Appendix F-Energy Conservation, [http://resources.ca.gov/ceqa/guidelines/Appendix\\_F.html](http://resources.ca.gov/ceqa/guidelines/Appendix_F.html).

(xeriscaping), using weather-based irrigation systems, educating other public agencies about water use, and installing related water pricing incentives.

- Promote the availability of drought-resistant landscaping options and provide information on where these can be purchased. Use of reclaimed water especially in median landscaping and hillside landscaping can and should be implemented where feasible.
- Implement water conservation best practices such as low-flow toilets, water-efficient clothes washers, water system audits, and leak detection and repair.
- Ensure that projects requiring continual dewatering facilities implement monitoring systems and long-term administrative procedures to ensure proper water management that prevents degrading of surface water and minimizes, to the greatest extent possible, adverse impacts on groundwater for the life of the project. Comply with appropriate building codes and standard practices including the Uniform Building Code.
- Maximize, where practical and feasible, permeable surface area in existing urbanized areas to protect water quality, reduce flooding, allow for groundwater recharge, and preserve wildlife habitat. Minimize new impervious surfaces to the greatest extent possible, including the use of in-lieu fees and off-site mitigation.
- Avoid designs that require continual dewatering where feasible.
- Where feasible, do not site transportation facilities in groundwater recharge areas, to prevent conversion of those areas to impervious surface.
- Incorporate measures consistent in a manner that conforms to the standards set by regulatory agencies responsible for regulating and enforcing water quality and waste discharge requirements, such as:
  - Complete, and have approved, a Stormwater Pollution Prevention Plan (“SWPPP”) before initiation of construction.
  - Implement Best Management Practices to reduce the peak stormwater runoff from the project site to the maximum extent practicable.
  - Comply with the Caltrans stormwater discharge permit as applicable; and identify and implement Best Management Practices to manage site erosion, wash water runoff, and spill control.
  - Complete, and have approved, a Standard Urban Stormwater Management Plan, prior to occupancy of residential or commercial structures.
  - Ensure adequate capacity of the surrounding stormwater system to support stormwater runoff from new or rehabilitated structures or buildings.
  - Prior to construction within an area subject to Section 404 of the Clean Water Act, obtain all required permit approvals and certifications for construction within the vicinity of a watercourse (e.g., Army Corps § 404 permit, Regional Waterboard § 401 permit, Fish & Wildlife § 401 permit).
  - Where feasible, restore or expand riparian areas such that there is no net loss of impervious surface as a result of the project.
  - Install structural water quality control features, such as drainage channels, detention basins, oil and grease traps, filter systems, and vegetated buffers to prevent pollution of adjacent water resources by polluted runoff where required by applicable urban stormwater runoff discharge permits, on new facilities.
  - Provide structural stormwater runoff treatment consistent with the applicable urban stormwater runoff permit where Caltrans is the operator, the statewide permit applies.
  - Provide operational best management practices for street cleaning, litter control, and catch basin cleaning are implemented to prevent water quality degradation in compliance with applicable stormwater runoff discharge permits; and ensure treatment controls are in place as early as possible, such as during the acquisition process for rights-of-way, not just later during the facilities design and construction phase.

- Comply with applicable municipal separate storm sewer system discharge permits as well as Caltrans' stormwater discharge permit including long-term sediment control and drainage of roadway runoff.
- Incorporate as appropriate treatment and control features such as detention basins, infiltration strips, and porous paving, other features to control surface runoff and facilitate groundwater recharge into the design of new transportation projects early on in the process to ensure that adequate acreage and elevation contours are provided during the right-of-way acquisition process.
- Design projects to maintain volume of runoff, where any downstream receiving water body has not been designed and maintained to accommodate the increase in flow velocity, rate, and volume without impacting the water's beneficial uses. Pre-project flow velocities, rates, and volumes must not be exceeded. This applies not only to increases in stormwater runoff from the project site, but also to hydrologic changes induced by flood plain encroachment. Projects should not cause or contribute to conditions that degrade the physical integrity or ecological function of any downstream receiving waters.
- Provide culverts and facilities that do not increase the flow velocity, rate, or volume and/or acquiring sufficient storm drain easements that accommodate an appropriately vegetated earthen drainage channel.
- Upgrade stormwater drainage facilities to accommodate any increased runoff volumes. These upgrades may include the construction of detention basins or structures that will delay peak flows and reduce flow velocities, including expansion and restoration of wetlands and riparian buffer areas. System designs shall be completed to eliminate increases in peak flow rates from current levels.
- Encourage Low Impact Development ("LID") and incorporation of natural spaces that reduce, treat, infiltrate and manage stormwater runoff flows in all new developments, where practical and feasible.
- Incorporate measures consistent with the provisions of the Groundwater Management Act and implementing regulations, such as:
  - For projects requiring continual dewatering facilities, implement monitoring systems and long-term administrative procedures to ensure proper water management that prevents degrading of surface water and minimizes, to the greatest extent possible, adverse impacts on groundwater for the life of the project, Construction designs shall comply with appropriate building codes and standard practices including the Uniform Building Code.
  - Maximize, where practical and feasible, permeable surface area in existing urbanized areas to protect water quality, reduce flooding, allow for groundwater recharge, and preserve wildlife habitat. Minimize to the greatest extent possible, new impervious surfaces, including the use of in-lieu fees and off-site mitigation.
  - Avoid designs that require continual dewatering where feasible.
  - Avoid construction and siting on groundwater recharge areas, to prevent conversion of those areas to impervious surface.
  - Reduce hardscape to the extent feasible to facilitate groundwater recharge as appropriate.
- Incorporate mitigation measures to ensure compliance with all federal, state, and local floodplain regulations, consistent with the provisions of the National Flood Insurance Program, such as:
  - Comply with Executive Order 11988 on Floodplain Management, which requires avoidance of incompatible floodplain development, restoration and preservation of the natural and beneficial floodplain values, and maintenance of consistency with the standards and criteria of the National Flood Insurance Program.

- Ensure that all roadbeds for new highway and rail facilities be elevated at least one foot above the 100-year base flood elevation. Since alluvial fan flooding is not often identified on FEMA flood maps, the risk of alluvial fan flooding should be evaluated and projects should be sited to avoid alluvial fan flooding. Delineation of floodplains and alluvial fan boundaries should attempt to account for future hydrologic changes caused by global climate change.

**Transportation, Traffic, and Safety:**

- Institute teleconferencing, telecommute and/or flexible work hour programs to reduce unnecessary employee transportation.
- Create a ride-sharing program by designating a certain percentage of parking spaces for ride sharing vehicles, designating adequate passenger loading and unloading for ride sharing vehicles, and providing a web site or message board for coordinating rides.
- Provide a vanpool for employees.
- Provide a Transportation Demand Management (TDM) plan containing strategies to reduce on-site parking demand and single occupancy vehicle travel. The TDM shall include strategies to increase bicycle, pedestrian, transit, and carpools/vanpool use, including:
  - Inclusion of additional bicycle parking, shower, and locker facilities that exceed the requirement.
  - Direct transit sales or subsidized transit passes.
  - Guaranteed ride home program.
  - Pre-tax commuter benefits (checks).
  - On-site car-sharing program (such as City Car Share, Zip Car, etc.).
  - On-site carpooling program.
  - Distribution of information concerning alternative transportation options.
  - Parking spaces sold/leased separately.
  - Parking management strategies; including attendant/valet parking and shared parking spaces.
- Promote ride sharing programs e.g., by designating a certain percentage of parking spaces for high-occupancy vehicles, providing larger parking spaces to accommodate vans used for ride-sharing, and designating adequate passenger loading and unloading and waiting areas.
- Encourage the use of public transit systems by enhancing safety and cleanliness on vehicles and in and around stations, providing shuttle service to public transit, offering public transit incentives and providing public education and publicity about public transportation services.
- Build or fund a major transit stop within or near transit development upon consultation with applicable CTCs.
- Work with the school districts to improve pedestrian and bike access to schools and to restore or expand school bus service using lower-emitting vehicles.
- Purchase, or create incentives for purchasing, low or zero-emission vehicles.
- Provide the necessary facilities and infrastructure to encourage the use of low or zero-emission vehicles.
- Promote ride sharing programs, if determined feasible and applicable by the Lead Agency, including:
  - Designate a certain percentage of parking spaces for ride-sharing vehicles.
  - Designate adequate passenger loading, unloading, and waiting areas for ride-sharing vehicles.
  - Provide a web site or message board for coordinating shared rides.
  - Encourage private, for-profit community car-sharing, including parking spaces for car share vehicles at convenient locations accessible by public transit.
  - Hire or designate a rideshare coordinator to develop and implement ridesharing programs.
- Support voluntary, employer-based trip reduction programs, if determined feasible and applicable by the Lead Agency, including:
  - Provide assistance to regional and local ridesharing organizations.



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

**Utilities & Service Systems:**

- Integrate green building measures consistent with CALGreen (Title 24, part 11), U.S. Green Building Council’s Leadership in Energy and Environmental Design, energy Star Homes, Green Point Rated Homes, and the California Green Builder Program into project design including, but not limited to the following:
  - Reuse and minimization of construction and demolition (C&D) debris and diversion of C&D waste from landfills to recycling facilities.
  - Inclusion of a waste management plan that promotes maximum C&D diversion.
  - Development of indoor recycling program and space.
  - Discourage exporting of locally generated waste outside of the SCAG region during the construction and implementation of a project.<sup>57</sup> Encourage disposal within the county where the waste originates as much as possible. Promote green technologies for long-distance transport of waste (e.g., clean engines and clean locomotives or electric rail for waste-by-rail disposal systems) and consistency with SCAQMD and 2016 RTP/SCS policies can and should be required.
  - Develop ordinances that promote waste prevention and recycling activities such as: requiring waste prevention and recycling efforts at all large events and venues; implementing recycled content procurement programs; and developing opportunities to divert food waste away from landfills and toward food banks and composting facilities.
  - Develop alternative waste management strategies such as composting, recycling, and conversion technologies.
  - Develop and site composting, recycling, and conversion technology facilities that have minimum environmental and health impacts.
  - Require the reuse and recycle construction and demolition waste (including, but not limited to, soil, vegetation, concrete, lumber, metal, and cardboard).
  - Integrate reuse and recycling into residential industrial, institutional and commercial projects.

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<sup>57</sup> Here, approximately 32,000 cubic yards of material would be exported to Kettleman Landfill approximately 170 miles from the Project site outside of SCAG region (RDEIR, Appendix D, p. 10).

- Provide recycling opportunities for residents, the public, and tenant businesses.
- Provide education and publicity about reducing waste and available recycling services.
- Implement or expand city or county-wide recycling and composting programs for residents and businesses. This could include extending the types of recycling services offered (e.g., to include food and green waste recycling) and providing public education and publicity about recycling services.

As the above-listed measures suggest, there is a great deal of overlap between the applicable plans, which are consistent with the GHG reduction goals of the outdated GGRP. Many of these project design features and mitigation measures are featured in multiple plans and have become standard Conditions of Approval for other projects approved by the nearby City of Los Angeles.<sup>58</sup>

<sup>58</sup> See e.g., Lizard Hotel (DCP Case No. ENV-2015-2356-EIR) Draft EIR, pp. 24-30 (noting PDFs consistent with applicable GHG plan), <https://planning.lacity.org/eir/SpringStHotel/Deir/DEIR%20Sections/Spring%20St%20Hotel%20IV.E%20Greenhouse%20Gas%20Emissions.pdf>; see also Final EIR Mitigation Monitoring Reporting Program (MMRP), pp. 9 (MM TR-1), [https://planning.lacity.org/eir/SpringStHotel/FEIR/FEIR%20Sections/V.%20MMP%20\(Spring%20Street\)%20public%20review%20110917.pdf](https://planning.lacity.org/eir/SpringStHotel/FEIR/FEIR%20Sections/V.%20MMP%20(Spring%20Street)%20public%20review%20110917.pdf); Bixel Residence (DCP Case No. ENV-2015-3927) MND, pp. 67- 79 (MMs III-60, XVII-100), [http://cityplanning.lacity.org/staffrpt/mnd/Pub\\_102716/ENV-2015-3927.pdf](http://cityplanning.lacity.org/staffrpt/mnd/Pub_102716/ENV-2015-3927.pdf); Selma Wilcox Hotel (DCP Case No. ENV-2016-2602) MND, pp. 17-19, 108-117 (MMs Traffic-2), [https://planning.lacity.org/staffrpt/mnd/Pub\\_010418/ENV-2016-2602.pdf](https://planning.lacity.org/staffrpt/mnd/Pub_010418/ENV-2016-2602.pdf); 800-824 S. Western Ave. (DCP Case No. ENV-2016-3609) MND, pp. 14-32 (PDFs/MMs RCM 3-1 through 3-4, RCM 9-1 through 9-4, 16-1, RCM 18-2 through 10, 18-1 through 18-2), [https://planning.lacity.org/staffrpt/mnd/Pub\\_100517/ENV-2016-3609.pdf](https://planning.lacity.org/staffrpt/mnd/Pub_100517/ENV-2016-3609.pdf); 3100 W. 8th St. (DCP Case No. ENV-2014-4933) MND, pp. 14-15, 57-59 (PDFs/MMs AQ-1 through AQ-6, GHG 1-5), [http://cityplanning.lacity.org/staffrpt/mnd/Pub\\_090116/ENV-2014-4933-A.pdf](http://cityplanning.lacity.org/staffrpt/mnd/Pub_090116/ENV-2014-4933-A.pdf); 2789 W. Olympic Blvd. (DCP Case No. ENV-2014-3704-MND) MND, p. 2-3 (MMs III-60 through 70, XVII-60), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2014-3704.pdf>; 2800 W. Olympic Blvd. (DCP Case No. ENV-2014-1954-MND) MND, pp. 2-9 (MMs III-10, VII-10, IX-20, XV-10, XVII-10 through 100), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2014-1954.pdf>; 903 S. New Hampshire Ave. (DCP Case No. ENV-2013-582-MND) MND, pp. 2-4 (MMs III-10, VII-10, IX-20 and 30, XIII-30, XV-10), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2013-582.pdf>; 968 S. Berendo St. (DCP Case No. ENV-2013-2-MND) MND, pp. 2-8 (MMs III-10 through 60, VII-10, IX-20, XVI-10, XVII-10 through 100), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2013-2.pdf>; 2889 W. Olympic Blvd. (DCP Case No. ENV-2012-2757-MND) MND, pp. 2-3 (MMs III-60, VII-10, XVII-60 through 100), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2012-2757.pdf>; 936 S. Fedora St. (DCP Case No. ENV-2007-2441-MND) MND, pp. 2-5 (MMs III-d1, VI-b2, VIII-c2, XII-d, XVI-d and f), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2007-2441.pdf>; 712 S. Manhattan Pl. (DCP Case No. ENV-2016-105-MND), MND, pp. 2 (MMs III-60, III-70, III-90), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2016-105.pdf>; 3100 W. 8th St. (DCP Case No. ENV-2014-4933-MND), MND, pp. 3 (MM III-0), [http://cityplanning.lacity.org/staffrpt/mnd/Pub\\_090116/ENV-2014-4933.pdf](http://cityplanning.lacity.org/staffrpt/mnd/Pub_090116/ENV-2014-4933.pdf); 1047 S. Serrano Ave. (DCP Case No. ENV-2015-2216-MND), MND, pp. 3 (MM VII-10), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2015-2216.pdf>; 3076 W. Olympic Blvd. (DCP Case No. ENV-2014-3572-MND), MND, pp. 3 (MM VII-10), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2014-3572.pdf>; 1011 S. Serrano Ave. (DCP Case No. ENV-2014-3973) MND, pp. 3-4 (MM VII-10), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2014-3973.pdf>; 2800 W. Olympic Blvd. (DCP Case No. ENV-2014-1954-MND) MND, pp. 2-9 (MMs III-10, VII-10, IX-20, XV-10, XVII-10 through 90), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2014-1954.pdf>; 1038 S. Mariposa Ave. (DCP Case No. ENV-2014-0179-MND) MND, pp. 2-6 (MMs III-10, III-60, VII-10, XV-10, XVII-20 through 90), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2014-0179.pdf>; 837 S. Harvard Blvd. (DCP Case No. ENV-2014-145-MND) MND, pp. 2-7 (MMs III-10, VII-10, IX-20, XV-10, XVII-10 through 100), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2014-145.pdf>; 940 S. Western Ave. (DCP Case No. ENV-2013-3576-MND) MND, pp. 2- 7 (MMs III-10, VII-10, IX-20, XV-10, XVII-10 through 100), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2013-3576.pdf>; 3418 W. 8th St. (DCP Case No. ENV- 2013-3373-MND) MND, pp. 3-9 (MMs III-10, VII-10, XV-10 through 20, XVII-10 through 100), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2013-3373.pdf>

Furthermore, as the above tables indicate, the DEIR and RDEIR fail to provide sufficient information and analysis, or reconcile Project inconsistencies with various mandatory/voluntary measures and goals/policies under the GGRP and Burbank 2035 General Plan, CARB 2017 Scoping Plan, and SCAG’s RTP/SCS, as stated in our May 6<sup>th</sup> letter. It is clear that the City has failed to effectively monitor and update the GGRP to ensure its effectiveness to serve as a CAP, which projects can rely upon for streamlined CEQA review. Admittedly, adoption of the GGRP was the City’s “*initial*” attempt to create an organized, communitywide plan to reduce GHG emissions” (GGRP, p. 5-2, emphasis added). While the City should be applauded for this initial step, it has not met the promised follow up actions to ensure the GGRP policy is translated into “on-the-ground results” showing the City is on the right path to achieve its GHG reductions, such as:

- GGRP plan realization meetings taking place several times a year;
- Evaluate the GGRPs performance over time and be ready to alter or amend the plan if it is not achieving its reduction targets;
- Conducting GHG inventories periodically every three to five years;
- Reevaluate or replace under-performing measures;
- Provide summarized progress reports regarding the GHG reduction targets;

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[3373.pdf](#); 1020 ½ S. Fedora St. (DCP Case No. ENV-2012-2332-MND) MND, pp. 2-6 (MMs III-10, III-60, X-0, XVII-10 through 100), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2012-2332.pdf>; 975 S. Serrano Ave. (DCP Case No. ENV-2011-1142-MND) MND, pp. 2-7 (MMs III-10 through 60, VII-10, IX-20, XIII-30, XVII-10 through 100), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2011-1142.pdf>; 1011 S. Serrano Ave. (DCP Case No. ENV-2011-1025-MND) MND, pp. 2-7 (MMs 111-10 through 50, VII-10, IX-20, X-40, XV-10, XVII-10 through 90), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2011-1025.pdf>; 2914 W. 8<sup>th</sup> St. (DCP Case No. ENV-2009-1727-MND) MND, pp. 6-10 (MMs III-d1, VI-b, VIII-c2, XVI-d through f), <http://cityplanning.lacity.org/staffrpt/mnd/ENV-2009-1727.pdf>; 6100 N. Topanga Canyon Blvd. (DCP Case No. ENV-2016-3909-EIR) DEIR, pp. 43-44 (GHG PDFs D-1 through D-6 and TDM Program), [https://planning.lacity.org/eir/Promenade\\_2035/deir/files/D\\_IVD.pdf](https://planning.lacity.org/eir/Promenade_2035/deir/files/D_IVD.pdf); 3900 S. Figueroa St. (DCP Case No. ENV-2016-1892-EIR) DEIR, pp. 38 (GHG PDFs E-1 through E-4), [https://planning.lacity.org/eir/TheFigProject/deir/files/D\\_IVE.pdf](https://planning.lacity.org/eir/TheFigProject/deir/files/D_IVE.pdf); 1540 Highland Ave. (DCP Case No. ENV-2015-2026-EIR) FEIR MMRP, pp. 6-44 (PDFs/MMs AES-5, AIR-2, AIR-4 through 6, GHG-1 through 6, TRA-1 and 2, UTL-1 through 5), [https://planning.lacity.org/eir/CrossroadsHwd/FEIR/files/F\\_IV.pdf](https://planning.lacity.org/eir/CrossroadsHwd/FEIR/files/F_IV.pdf); 1240 S. Figueroa St. (DCP Case No. ENV-2016-2594-EIR) FEIR MMRP, pp. 122-134 (PDFs/MMs AQ-1 through 3, TRAF-1, WS-1), <https://planning.lacity.org/eir/FigPico/FEIR/FigPico%20Final%20EIR.pdf>; 1020 S. Figueroa St. (DCP Case No. ENV-2015-1159-EIR) FEIR MMRP, pp. 3-20 (PDFs/MMs AQ-1 through 3, TRAF-1, WS-1), <https://planning.lacity.org/eir/1020SoFigueroa/FEIR/files/4.0%20Mitigation%20Monitoring%20Program.pdf>; 1057 S. San Pedro St. (DCP Case No. ENV-2012-3003-EIR) FEIR MMRP, pp. 5-23 (PDFs/MMs B-1 through B-9, E-1 through E-2, K.1-1 and 1-2, L.1-1 through 3-2), <https://planning.lacity.org/eir/CityMarketProject/FEIR/assets/IV.MMP.pdf>; 3650 W. Martin Luther King, Jr. Blvd. (DCP Case No. ENV-2012-1962-EIR), FEIR MMRP, pp. 5-49 (PDFs/MMs B-1 through B-25, I-9, L-6 through L-13, M.2-1 through 2-13), [http://planning.lacity.org/eir/BaldwinHillsCrenshawPlaza/FEIR/FEIR/4\\_MMP.pdf](http://planning.lacity.org/eir/BaldwinHillsCrenshawPlaza/FEIR/FEIR/4_MMP.pdf); 1900 S. Broadway (DCP Case No. ENV-2014-1773-EIR) FEIR MMRP, pp. 4-22 (PDFs/MMs AQ-1 and 2, GHG-1 through 4, TR-12 and 13, UT-2 through 7), [https://planning.lacity.org/eir/TheReef/FEIR/FEIR%20Sections/V.%20MMP%20\(The%20Reef\)%20Public%20Review%20060616.pdf](https://planning.lacity.org/eir/TheReef/FEIR/FEIR%20Sections/V.%20MMP%20(The%20Reef)%20Public%20Review%20060616.pdf); 1770 N. Vine St. (DCP Case No. ENV-2011-675-EIR) FEIR MMRP, pp. 472-511 (PDFs/MMs B.1-1 through 1-9, F-8, F-10, F-19, J.4-2 and 4-3, K.1-5 through 1-9), [https://planning.lacity.org/eir/Millennium%20Hollywood%20Project/FEIR/FEIR%20Sections/FEIR%20Millennium%20Hollywood\\_compiled.pdf](https://planning.lacity.org/eir/Millennium%20Hollywood%20Project/FEIR/FEIR%20Sections/FEIR%20Millennium%20Hollywood_compiled.pdf); 911 S. Georgia St. (DCP Case No. ENV-2016-4889-EIR) DEIR Executive Summary, pp. 23-34 (PDFs/MMs AIR-1 through 6m TR-1,), [https://planning.lacity.org/eir/1001\\_Olympic/Deir/DEIR%20Sections/I.%20Executive%20Summary.pdf](https://planning.lacity.org/eir/1001_Olympic/Deir/DEIR%20Sections/I.%20Executive%20Summary.pdf) see also DEIR GHG Analysis, pp. 31-32 (PDFs GHG-1 and 2), [https://planning.lacity.org/eir/1001\\_Olympic/Deir/DEIR%20Sections/IV.F.%20GHG.pdf](https://planning.lacity.org/eir/1001_Olympic/Deir/DEIR%20Sections/IV.F.%20GHG.pdf).

- Adapt and transform the GGRP over time in the face of new information, new technology, strategies, legislation, and incorporate these changes in future updates to the GGRP to ensure an effective and efficient program (GGRP, p. 5-1 – 5-3).

The importance of this monitoring requirement cannot be overstated. An essential element of a CAP is to “[e]stablish a mechanism to monitor the plan’s progress toward achieving the level and to require amendment if the plan is not achieving specified levels[.]” CEQA Guidelines § 15183.5(b)(1)(E). This is echoed by the Governor’s Office of Planning and Research (OPR), which notes that absent ongoing monitoring and successful implementation of a CAP, paper plans and strategies “may become stale, particularly as methods used to quantify GHG emissions evolve and economic growth projections change” and plans may not “remain[] eligible for CEQA streamlining.”<sup>59</sup> Given the failure to follow through with the above-listed monitoring mechanism, ***the GGRP lacks the necessary element to qualify as a CAP, and the Project may not rely on it for streamline CEQA review.*** Again, this was addressed in our May 6<sup>th</sup> letter; however, the RDEIR failed to include the necessary, corresponding updates or provide an additional, adequate GHG analysis in the RDEIR.

Finally, in addition to the RDEIR’s failure to demonstrate compliance with the measures listed above, the RDEIR incorrectly claims Project consistency with SB 375 and the RTP/SCS. Specifically, the RDEIR states that “the Project would not conflict with applicable goals of the 2016-2040 RTP/SCS, which focus on mobility, accessibility, a strong economy, and sustainability” (RDEIR, p. 4.5-18). The RDEIR discusses each of the 2016-2040 RTP/SCS goals, then goes on to claim that the Project would be consistent with the goals that “relate directly or indirectly to GHG emissions reduction and the Project” (RDEIR, p. 4.5-19). This assessment of the Project’s compliance with the RTP/SCS is entirely incorrect and unsubstantiated, as the RTP/SCS goals are only applicable at the *plan level* to inform implementation of the RTP/SCS. Thus, the RDEIR incorrectly relies upon the plan-level goals outlined in the RTP/SCS, which are not applicable at the project level, to claim consistency with SB 375 and the RTP/SCS as a whole. In the RTP/SCS, SCAG states,

“The RTP/SCS is a long-range visioning plan that balances future mobility and housing needs with goals for the environment, the regional economy, social equity and environmental justice, and public health. Ultimately, the Plan is intended to help guide transportation and land use decisions and public investments” (2016-2040 RTP/SCS, p. 63).

The RTP/SCS goes on to assert,

“This Plan’s goals are intended to help carry out our vision for improved mobility, a strong economy and sustainability” (2016-2040 RTP/SCS, p. 65).

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<sup>59</sup> See OPR (7/31/17) General Plan Guidelines, p. 224, 231. [http://www.opr.ca.gov/docs/OPR\\_C8\\_final.pdf](http://www.opr.ca.gov/docs/OPR_C8_final.pdf); see also OPR (Dec. 2008) Draft CEQA and Climate Change Advisory Update, p. 17-18 (directing readers to Chapter 8-Climate Change of OPR’s General Plan Guidelines for guidance on CAPs), [http://opr.ca.gov/docs/20181228-Discussion\\_Draft\\_Climate\\_Change\\_Advisory.pdf](http://opr.ca.gov/docs/20181228-Discussion_Draft_Climate_Change_Advisory.pdf).

As the above excerpts demonstrate, the goals outlined in the RTP/SCS are intended to inform regional, plan-level efforts and are therefore not an applicable measure of any proposed *project's* GHG impact. Thus, the RDEIR's claim that "the Project would not conflict with applicable plans, policies, or regulations for reducing greenhouse gas emissions, including... the SCAG RTP/SCS" as a result of compliance with the RTP/SCS regional, plan-level goals, is entirely incorrect. The RDEIR cannot rely on plan-level goals to determine whether GHG emissions would be cumulatively considerable at the project level.

*4) Incorrect and Unsubstantiated Analysis of Greenhouse Gas Emissions*

In an effort to evaluate Project consistency with the GGRP and 2017 Scoping Plan, the RDEIR includes an evaluation of the Project's non-transportation GHG emissions efficiency against 2030 Project-specific efficiency criteria developed by the RDEIR. Based on this evaluation, the RDEIR concludes that non-transportation Project emissions efficiency would be approximately 2,915 metric tons of CO<sub>2</sub> equivalents per year (CO<sub>2</sub>e/year) which would not exceed the RDEIR's calculated "2030 locally-appropriate, project-specific criteria for non-transportation sources" based on GGRP emission reduction goals (see excerpt below) (RDEIR, Table 4.5-7, p. 4.5-32).

**Table 4.5-7 Combined Non-Transportation Annual Emissions MT CO<sub>2</sub>e/year**

<b>Emission Source</b>	<b>Project Emissions (MT CO<sub>2</sub>e)</b>
<b>Construction</b>	439
<b>Operational</b>	
Area	10
Energy	2,171
Solid Waste	173
Water	122
<b>Total</b>	<b>2,915</b>
Service Population	2,085
<b>Non-Transportation Emissions Per Service Person</b>	<b>1.40 MT of CO<sub>2</sub>e per service person per year</b>
<i>2030 Project-Specific Non-Transportation Efficiency Criteria</i>	<i>1.93 MT of CO<sub>2</sub>e per service person per year</i>
<b>Exceed Criteria?</b>	<b>No</b>

Source: See Appendix D for CalEEMod results. Values have been rounded.

As the above excerpt demonstrates, the RDEIR compared the Project's non-transportation amortized construction and operational emissions to a "Project-Specific Non-Transportation Efficiency Criteria" in an effort to further demonstrate that the Project is compliant with the GGRP and 2017 Scoping Plan. This conclusion is entirely incorrect and irrelevant, however, as the RDEIR cannot arbitrarily calculate a

“project-specific” criteria to evaluate Project GHG emissions. The RDEIR attempts to justify this evaluation by stating,

“The City has not adopted a numerical significance threshold for assessing impacts related to GHG emissions. Nor have the SCAQMD, OPR, CARB, CAPCOA, or any other state or regional agency adopted a numerical significance threshold for assessing GHG emissions that is applicable to the Project” (p. 4.5-10).

As discussed in subsequent sections, this is entirely incorrect as the SCAQMD does provide bright-line and efficiency GHG thresholds which projects can use to determine the significance of GHG emissions. Thus, it is entirely incorrect for the RDEIR to rely upon an arbitrary “project-specific” criteria rather than the thresholds developed by the region’s lead air district to evaluate Project GHG emissions. The RDEIR should have used the SCAQMD’s applicable GHG thresholds that have been applied across many other CEQA projects throughout SCAQMD’s jurisdiction, whether the SCAQMD is the lead agency or not.<sup>60</sup> The SCAQMD released its *Interim CEQA GHG Significance Threshold for Stationary Sources, Rules, and Plans* report (“*Interim Thresholds*”) in December 2008, that proposed a multi-tiered approach for evaluating the GHG impacts of a project, including applicable GHG thresholds.<sup>61</sup>

Furthermore, the RDEIR’s evaluation excludes all transportation-related GHG emissions without providing any justification for this methodology (RDEIR, p. 4.5-31). Review of the RDEIR’s CalEEMod output files demonstrates that the Project’s operational mobile-source GHG emissions account for approximately 71% of the Project’s total annual operational GHG emissions (RDEIR, pp. 196).<sup>62</sup> Therefore, the RDEIR’s exclusion of transportation-related GHG emissions results in a severe underestimation of the Project’s actual GHG impacts. As a result, the RDEIR’s evaluation of the Project’s non-transportation related GHG emissions fails to support the Project’s purported compliance with the GGRP and the 2017 Scoping Plan.

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<sup>60</sup> See e.g., 1209 6<sup>th</sup> Avenue Initial Study (DCP Case No. ENV-2014-1988-EIR), pp. 85-86 (applying the SCAQMD’s 3,500 MTCO<sub>2</sub>e/yr threshold for residential project; where the City of Los Angeles is lead agency), [https://planning.lacity.org/eir/nops/1209\\_6thAvenueInitialStudy/1209\\_InitialStudySigned\\_100716.pdf](https://planning.lacity.org/eir/nops/1209_6thAvenueInitialStudy/1209_InitialStudySigned_100716.pdf); 333 La Cienega Blvd. Project Initial Study (DCP Case No. ENV-2015-897-EIR), pp. 89-90 (applying the SCAQMD’s 3,000 MTCO<sub>2</sub>e/yr threshold for mixed-use project; where the City of Los Angeles is lead agency), <http://planning.lacity.org/eir/nops/333LaCienega/is.pdf>; 15116 S. Vermont Avenue Staff Report (DCP Case No. ENV-2017-1015-MND) pp. 182, 220 (containing MND applying the SCAQMD’s 10,000 MTCO<sub>2</sub>e/yr threshold for industrial project; where the City of Los Angeles is lead agency), <http://planning.lacity.org/StaffRpt/InitialRpts/CPC-2017-1014.PDF>.

<sup>61</sup> SCAQMD (9/28/10) Minutes for the GHG CEQA Significance Working Group # 15, p. 2, [http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-\(ghg\)-ceqa-significance-thresholds/year-2008-2009/ghg-meeting-15/ghg-meeting-15-minutes.pdf](http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-(ghg)-ceqa-significance-thresholds/year-2008-2009/ghg-meeting-15/ghg-meeting-15-minutes.pdf); see also SCAQMD (12/5/08) Interim CEQA GHG Significance Threshold for Stationary Sources, Rules and Plans, p. 6, [http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-\(ghg\)-ceqa-significance-thresholds/ghgboardsynopsis.pdf?sfvrsn=2](http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-(ghg)-ceqa-significance-thresholds/ghgboardsynopsis.pdf?sfvrsn=2); SCAQMD (Oct. 2008) Draft Guidance Document – Interim CEQA Greenhouse Gas (GHG) Significance Threshold, [http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-\(ghg\)-ceqa-significance-thresholds/ghgattachmente.pdf](http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-(ghg)-ceqa-significance-thresholds/ghgattachmente.pdf).

<sup>62</sup> Mobile-source GHG emissions = 6,104 MT CO<sub>2</sub>e/year; Total operational GHG emissions = 8,579 MT CO<sub>2</sub>e/year (RDEIR, pp. 196).



Due to the unreliability of the GGRP and the failure to compare the Project’s total GHG emissions—*including its mobile emissions*—to applicable thresholds, the RDEIR fails to serve as an informational document or stay in step with the CEQA Guidelines, City’s past practice, or the evolving scientific and regulatory standards on GHG analysis. This violates CEQA case law.<sup>63</sup>

*5) Updated Greenhouse Gas Analysis Demonstrates Significant Impact*

Notwithstanding the flawed GHG evaluation discussed above, applicable thresholds demonstrate that the Project would have a significant GHG impact. As previously mentioned, in December 2008, SCAQMD released its *Interim Thresholds* that proposed the use of a 1,400 MT CO<sub>2</sub>e/yr threshold for commercial developments, a 3,000 MT CO<sub>2</sub>e/yr threshold for mixed-use developments, a 3,500 MT CO<sub>2</sub>e/yr threshold for residential developments, and a 10,000 MTCO<sub>2</sub>e/yr threshold for industrial projects.<sup>64</sup> Because the proposed Project is a mixed-use development, the most appropriate screening threshold to apply to the Project would be the 3,000 MT CO<sub>2</sub>e/yr threshold recommended by the SCAQMD for mixed-use developments.

The CalEEMod output files disclose the Project’s mitigated GHG emissions, which include approximately 13,182 MT CO<sub>2</sub>e of total construction emissions (RDEIR, pp. 192 [sum of emissions from 2019 to 2025]), and approximately 8,579 MT CO<sub>2</sub>e/year of annual operational emissions (id. at pp. 196 [sum of area, energy, mobile, waste, and water-related emissions]). When these emissions are compared to the 3,000 MT CO<sub>2</sub>e/year threshold, we find that the Project’s GHG emissions vastly exceed the SCAQMD’s mixed-use threshold (see table below).

RDEIR Annual Greenhouse Gas Emissions	
Project Phase	Proposed Project (MT CO <sub>2</sub> e/year)
Construction (amortized over 30 years)	439
Area	10
Energy	2171
Mobile	6104
Waste	173
Water	122
<b>Total</b>	<b>9,019</b>
SCAQMD Significance Threshold	3,000
<i>Exceed?</i>	<i>Yes</i>

<sup>63</sup> California (2019) California Climate Change Executive Orders, [https://www.climatechange.ca.gov/state/executive\\_orders.html](https://www.climatechange.ca.gov/state/executive_orders.html).

<sup>64</sup> *Supra* fn. 61.

As demonstrated in the table above, the proposed Project would generate a total of approximately 9,019 MT CO<sub>2</sub>e/year, which significantly exceeds the 3,000 MT CO<sub>2</sub>e/year mixed-use project screening threshold.<sup>65</sup>

Furthermore, according to the SCAQMD, if a project’s emissions exceed the screening-level threshold, a more detailed review of the project’s GHG emissions is warranted.<sup>66</sup> SCAQMD proposed per capita efficiency targets to be used in these detailed reviews. SCAQMD proposed a 2020 efficiency target of 4.8 MTCO<sub>2</sub>e/yr/sp for project-level analyses and 6.6 MTCO<sub>2</sub>e/yr/sp for plan-level projects (e.g., program-level projects such as general plans). Those per capita efficiency targets are based on AB 32’s GHG reduction target and the 2020 GHG emissions inventory prepared for CARB’s 2008 Scoping Plan. SCAQMD also created a 2035 efficiency threshold by reducing the 2020 thresholds by 40 percent, resulting in an efficiency threshold for plans of 4.1 MTCO<sub>2</sub>e/yr/sp and an efficiency threshold at the project level of 3.0 MTCO<sub>2</sub>e/yr/sp.<sup>67</sup> Therefore, per SCAQMD guidance, because the Project’s GHG emissions exceed SCAQMD’s 3,000 MTCO<sub>2</sub>e/yr screening-level threshold and the RDEIR asserts that the Project will not be operational until 2026, the Project’s emissions should be compared to the proposed 2035 efficiency target of 3.0 MT CO<sub>2</sub>e/sp/yr, as the Project will be operational after 2020 and is not anticipated to be redeveloped prior to 2035 (RDEIR, pp. 50, 83, 128, 187, 242, 287).

According to CAPCOA’s CEQA & Climate Change report, service population is defined as “the sum of the number of residents and the number of jobs supported by the project.”<sup>68</sup> The RDEIR states that the proposed Project would generate approximately 1,433 new residents, 247 employees, and 405 hotel guests (RDEIR, p. 4.5-14). As a result, we estimate that the Project’s service population would be approximately 2,085 people (1,433 residents + 247 employees + 405 hotel guests). Dividing the Project’s GHG emissions by a service population value of 2,085 people, we find that the Project would emit approximately 4.3 MTCO<sub>2</sub>e/sp/yr.<sup>69</sup> When we compare the Project’s per service population GHG emissions to the SCAQMD 2035 efficiency target of 3.0 MTCO<sub>2</sub>e/sp/yr, we find that the Project would result in a significant GHG impact (see table below).

Annual Greenhouse Gas Emissions Efficiency		
Source	Project Emissions	Unit
RDEIR Annual Emissions	9,019	MT CO <sub>2</sub> e/year
Maximum Service Population	2,085	Residents, Employees, Hotel Guests
<b>Per Service Population Annual Emissions</b>	<b>4.3</b>	<b>MT CO<sub>2</sub>e/sp/year</b>
2035 SCAQMD Project Level Efficiency Threshold	3.0	MT CO <sub>2</sub> e/sp/year
<b>Exceed?</b>	<b>Yes</b>	-

<sup>65</sup> It should further be noted that this amounts to a mere 2.1 percent reduction of GHG emissions as compared to the Project’s unmitigated emissions (i.e., 9,211 MT CO<sub>2</sub>e/year). See pp. 193, pp. 195.

<sup>66</sup> SCAQMD (12/5/08), *supra* fn. 61, p. 6; see also SCAQMD (9/28/10), *supra* fn. 61, p. 2.

<sup>67</sup> *Ibid.*

<sup>68</sup> CAPCOA (Jan. 2008) CEQA & Climate Change, p. 71-72, <http://www.capcoa.org/wp-content/uploads/2012/03/CAPCOA-White-Paper.pdf>.

<sup>69</sup> Calculated: (9,019 MTCO<sub>2</sub>e/year) / (2,080 service population) = (5.18 MTCO<sub>2</sub>e/sp/yr).

As you can see in the table above, when we compare the per service population emissions estimated by the RDEIR to the SCAQMD threshold of 3.0 MTCO<sub>2</sub>e/sp/yr for 2035, we find that the Project's emissions would significantly exceed the threshold, thus resulting in a potentially significant impact. According to CEQA Guidelines § 15064.4(b), if there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding compliance with the adopted regulations or requirements, a full CEQA analysis must be prepared for the project. The RDEIR may not ignore this analysis and application of routinely used GHG thresholds by claiming discretion in deciding which thresholds it wishes to employ. As one court explained when setting aside an EIR where commenters questioned the city's use of a particular threshold, the discretion granted to lead agencies are not "unbounded" and (emphasis added):

"[T]he fact that a particular environmental effect *meets a particular threshold cannot be used as an automatic determinant that the effect is or is not significant* ... a threshold of significance *cannot be applied in a way that would foreclose the consideration of other substantial evidence tending to show the environmental effect to which the threshold relates might be significant.*" *East Sacramento Partnership for a Livable City v. City of Sacramento* (2016) 5 Cal.App.5th 281, 300, 303-304 (internal citations omitted).

Thus, the results of the above analysis provide substantial evidence that the proposed Project's GHG emissions are still cumulatively considerable notwithstanding its purported compliance with the City's GGRP, SCAG RTP/SCS, and the CARB 2017 Scoping Plan (as challenged herein). Therefore, an updated CEQA analysis must be prepared for the Project, and mitigation should be implemented where necessary, per CEQA Guidelines.

#### *6) Failure to Evaluate Cumulative Greenhouse Gas Impact Consistent with Evolving Scientific Knowledge and Regulatory Schemes*

It is commonly recognized by California air districts that a project's impact on climate change is cumulative in nature.<sup>70</sup> According to the Technical Advisory prepared by the Office of Planning and

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<sup>70</sup> See e.g., SCAQMD (Oct. 2008), *supra* fn. 59, p. 1-4 - 1-5 (citing the OPR Technical Advisor: "When assessing whether a project's effects on climate change are 'cumulatively considerable' even though its GHG contribution may be individually limited, the lead agency must consider the impact of the project when viewed in connection with the effects of past, current, and probable future projects."), [http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-\(ghg\)-ceqa-significance-thresholds/ghgattachmente.pdf](http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-(ghg)-ceqa-significance-thresholds/ghgattachmente.pdf); Bay Area Air Quality Management District ("BAAQMD") (May 2017) CEQA Air Quality Guidelines, p. 2-1 ("No single project could generate enough GHG emissions to noticeably change the global average temperature [but rather] [t]he combination of GHG emissions from past, present, and future projects contribute substantially to the phenomenon of global climate change and its associated environmental impacts."), [http://www.baagmd.gov/~media/files/planning-and-research/ceqa/ceqa\\_guidelines\\_may2017-pdf.pdf?la=en](http://www.baagmd.gov/~media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en); San Luis Obispo County Air Pollution Control District ("SLOAPCD") (Mar. 28, 2012) GHG Threshold and Supporting Evidence, p. 5 ("No single land use project could generate enough GHG emissions to noticeably change the global average temperature. Cumulative GHG emissions, however, contribute to global climate change and its significant adverse environmental impacts. Thus, the primary goal in adopting GHG significance thresholds, analytical methodologies, and mitigation measures is to ensure new land use development provides its fair share of the GHG

Research (OPR), “[t]he potential effects of a project may be individually limited but cumulatively considerable[.]” and that “[l]ead agencies should not dismiss a proposed project’s direct and/or indirect climate change impacts without careful consideration, supported by substantial evidence ... [including] analysis should be provided for any project that may significantly contribute to new GHG emissions, either individually or cumulatively, directly or indirectly.”<sup>71</sup> Furthermore, OPR rightfully acknowledge, consistent with state regulatory scheme and CEQA case law, that “thresholds cannot be used to determine automatically whether a given effect will or will not be significant; instead, thresholds of significance can be used only as a measure of whether a certain environmental effect will normally be determined to be significant or normally will be determined to be less than significant by the agency.”<sup>72</sup> Recognizing this principle, CEQA Guidelines § 15064.7(c) permits the use of thresholds developed by other public agencies.

Similarly, the California Supreme Court has made clear that CEQA demands robust GHG analysis to assess a project’s impact on climate change, and while lead agencies have discretion, that discretion must be exercised “based to the extent possible on scientific and factual data” and “stay[ing] in step with evolving scientific knowledge and state regulatory schemes.” *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (“*Cleveland II*”) (2017) 3 Cal.5th 497, 504, 515, 518 (quoting CEQA Guidelines § 15064(b)); *see also* 519 (noting to meet the State’s long-term climate goals, “regulatory clarification, together with improved methods of analysis, may well change the manner in which CEQA analysis of long-term [GHG] emission impacts is conducted.”). Hence, a GHG analysis which “understates the severity of a project’s impacts impedes meaningful public discussion and skews the decisionmaker’s perspective concerning the environmental consequences of the project, the necessity for mitigation measures, and the appropriateness of project approval.” *Id.*, on remand (“*Cleveland III*”), 17 Cal.App.5th 413, 444; *see also* *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564 (quoting *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 392).

Here, SCAQMD’s multi-tiered approach under its *Interim Thresholds*, although not officially adopted, represents the current standard of evolving scientific data and regulatory scheme notwithstanding even more aggressive efforts taken at the State level (i.e., Senate Bill 32, CARB’s 2017 Scoping Plan). Given the City’s GGRP is facially outdated and stale, and the SCAG RTP/SCS and the CARB 2017 Scoping Plan are inapplicable as CAPs with a quantified threshold, the RDEIR cannot ignore the *Interim Thresholds* simply

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reductions needed to address cumulative environmental impacts from those emissions.), <https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/Greenhouse%20Gas%20Thresholds%20and%20Supporting%20Evidence%204-2-2012.pdf>; Sacramento Metropolitan Air Quality Management District (“SMAQMD”) (May 2018) Guide to Air Quality Assessment in Sacramento County, p. 6-1-3, (“(GHG) emissions adversely affect the environment through contributing, on a cumulative basis, to global climate change ... *the District recommends that lead agencies address the impacts of climate change on a proposed project and its ability to adapt to these changes in CEQA documents* ... [thus urging] evaluating whether the GHG emissions associated with a proposed project will be responsible for making a cumulatively considerable contribution to global climate change.” [emphasis original]), <http://www.airquality.org/LandUseTransportation/Documents/Ch6GHGFinal5-2018.pdf>.

<sup>71</sup> OPR (6/19/08) Technical Advisory on CEQA and Climate Change, p. 6, <http://opr.ca.gov/docs/june08-ceqa.pdf>.

<sup>72</sup> OPR (Nov. 2017) Proposed Updates to the CEQA Guidelines, p. 7 (citing CEQA Guidelines §§ 15064 and 15064.7 and *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1108-1109), [http://opr.ca.gov/docs/20171127\\_Comprehensive\\_CEQA\\_Guidelines\\_Package\\_Nov\\_2017.pdf](http://opr.ca.gov/docs/20171127_Comprehensive_CEQA_Guidelines_Package_Nov_2017.pdf).

because SCAQMD failed to adopt these measures. To do so would not be in keeping with the evolving scientific knowledge and state regulatory schemes.

Consistent with the edicts of SB 32, other air control districts have adopted more aggressive GHG thresholds for project-level analysis that mirror SCAQMD’s *Interim Thresholds*, including but not limited to the Sacramento Metropolitan Air Quality Management District (SMAQMD), Bay Area Air Quality Management District (BAAQMD), and San Luis Obispo Air Pollution Control District (SLOAPCD) (as summarized in the table below and following page). Given the cumulative nature of GHG emissions and consistent with CEQA Guidelines § 15064.7(c), these recommended thresholds complement SCAQMD’s *Interim Thresholds* and further support the conclusion that they constitute the current standard for evaluating a project’s GHG significance.

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**Current GHG Thresholds from Other Air Districts**  
*SMAQMD (May 2018) Guide to Air Quality Assessment*<sup>73</sup>

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Land Development and Construction Projects		
Construction Phase		Operational Phase
Greenhouse Gas Emissions (GHG) Thresholds		
GHG as CO <sub>2</sub> e	1,100 metric tons/year	1,100 metric tons/year

Stationary Source Only		
Construction Phase		Operational Phase
Greenhouse Gas Emissions (GHG) Thresholds		
GHG as CO <sub>2</sub> e	1,100 metric tons/year	10,000 metric tons/year

- 1) Construction phase of all project types – 1,100 MT CO<sub>2</sub>e/yr.<sup>74</sup>
- 2) Operational phase of a land development project – 1,100 MT CO<sub>2</sub>e/yr.
- 3) Stationary source operational emissions – 10,000 MT CO<sub>2</sub>e/yr.

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<sup>73</sup> SMAQMD (May 2018), *supra* fn. 70, p. 6-10-12; see also SMAQMD Thresholds of Significance Table, <http://www.airquality.org/LandUseTransportation/Documents/CH2ThresholdsTable5-2015.pdf>.

<sup>74</sup> According to the RDEIR’s CalEEMod output files, the 777 North Front Street Project’s annual construction GHG emissions from 2020 through 2025 would all exceed SMAQMD’s construction threshold, and the annual operational emissions would exceed the SMAQMD’s operational threshold (pp. 193).



*BAAQMD (May 2017) CEQA Air Quality Guidelines*<sup>75</sup>

GHGs – Projects other than Stationary Sources	Compliance with Qualified GHG Reduction Strategy OR 1,100 MT of CO <sub>2</sub> e/yr OR 4.6 MT CO <sub>2</sub> e/SP/yr (residents+employees)
GHGs –Stationary Sources	10,000 MT/yr

While providing 10,000 MTCO<sub>2</sub>e/yr for stationary-source projects, other projects (e.g., residential, commercial, public land uses):

- 1) **CAP:** Compliance with a qualified GHG Reduction Strategy; or
- 2) **Bright Line:** Annual emissions less than 1,100 MTCO<sub>2</sub>e/yr; or
- 3) **Efficiency Level:** 4.6 MTCO<sub>2</sub>e/sp/yr (residents + employees).<sup>76</sup>

*SLOAPCD (Mar. 2012) GHG Thresholds and Supporting Evidence*<sup>77</sup>

GHG Emissions Threshold Summary	
Residential and Commercial Projects	Compliance with Qualified GHG Reduction Strategy OR Bright-Line Threshold of 1,150 MT of CO <sub>2</sub> e/yr. OR Efficiency Threshold of 4.9 MT CO <sub>2</sub> e/SP*/yr.
Industrial (Stationary Sources)	10,000 MT of CO <sub>2</sub> e/yr.

- 1) **CAP:** Consistency with qualitative reduction strategies (e.g., Climate Action Plans).
- 2) **Bright-Line Threshold:** 1,150 MTCO<sub>2</sub>e/yr after inclusion of emission-reducing features of a proposed project, those still exceeding the threshold would have to reduce their emissions below that level to be considered less than significant.
- 3) **Efficiency-Based Threshold:** 4.9 MTCO<sub>2</sub>e/sp/yr dependent on per capita basis for residential projects or the sum of jobs and residents for mixed-use projects.<sup>78</sup>

Although more demanding, the above-listed thresholds adopted by these air districts are analogous with the application of SCAQMD’s Tier 3 screening threshold for mixed-use developments (3,000 MTCO<sub>2</sub>e/yr) and SCAQMD’s Tier 4 efficiency target goals (4.8 and 3.0 MTCO<sub>2</sub>e/yr/sp for target years 2020 and 2035, respectively).<sup>79</sup> The overwhelming weight of the actions taken by the other air districts, the regulatory

<sup>75</sup> BAAQMD (May 2017), *supra* fn. 68, p. 2-2 - 2-4. Like the SCAQMD area, BAAQMD is designated as a nonattainment area for state/national ozone and particulate matter (“PM”) and thresholds would seem particularly apt for the Project. *Compare id.* at p. 2-1 with SCAQMD NAAQS/CAAQS Attainment Status (noting “extreme” and “serious” nonattainment for multiple ozone and PM standards), <http://www.aqmd.gov/docs/default-source/clean-air-plans/air-quality-management-plans/naaqs-caaqs-feb2016.pdf>.

<sup>76</sup> The 777 North Front Street Project exceeds the BAAQMD’s bright-line and efficiency thresholds.

<sup>77</sup> SLOAPCD (Mar. 28, 2012), *supra* fn. 70, p. 25-30, 42.

<sup>78</sup> The 777 North Front Street Project exceeds the SLOAPCD’s residential bright-line threshold.

<sup>79</sup> SCAQMD (12/5/08), *supra* fn. 70; *see also* SCAQMD (Oct. 2008), *supra* fn. 61; SCAQMD (9/28/10), *supra* fn. 61.



agencies with the most expertise in the area of assessing GHG emission impacts, is the most compelling rationale for why the *Interim Thresholds* apply here as the current standard set of evolving scientific knowledge and regulatory schemes. Thus, only through application of SCAQMD's Tier 3 screening threshold of 3,000 MTCO<sub>2</sub>e/yr for mixed-use projects and comparison to SCAQMD's Tier 4 efficiency target goals can the City be consistent with the improved analysis methods that are regularly practiced by other air districts, and further CEQA's demand for "'conservative analysis' to afford 'fullest possible protection of the environment.'"<sup>80</sup> Absent this, the RDEIR's GHG analysis is inconsistent with evolving scientific knowledge or regulatory standards, and its conclusion that the Project has an insignificant GHG impact is not supported by substantial evidence. An updated CEQA Analysis must be prepared to include a more robust GHG emissions analysis and mitigation to the extent necessary.

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

Sincerely,



Matt Hagemann, P.G., C.Hg.



Melanie Garcia

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<sup>80</sup> SCAQMD (June 2014) Warehouse Truck Trip Study Data Results and Usage Presentation: Inland Empire Logistics Council, p. 3, [http://www.aqmd.gov/docs/default-source/ceqa/handbook/high-cube-warehouse-trip-rate-study-for-air-quality-analysis/final-ielc\\_6-19-2014.pdf?sfvrsn=2](http://www.aqmd.gov/docs/default-source/ceqa/handbook/high-cube-warehouse-trip-rate-study-for-air-quality-analysis/final-ielc_6-19-2014.pdf?sfvrsn=2); see also *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 390 ("The foremost principle under CEQA is that the Legislature intended the act to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.") (internal citations omitted).

## Letter O-3

**COMMENTER:** Gideon Kracov, Attorney at Law, on behalf of UNITE HERE Local 11

**DATE:** August 14, 2019

### **Response O-3.1**

The commenter is submitting comments on behalf of the UNITE HERE Local 11 (Local 11) and specific residents and introduces Local 11. The commenter summarizes the main comments and states that the Recirculated Draft EIR fails to fully address the commenter's concerns regarding land use (lack of affordable housing), air quality and greenhouse gas emissions (GHG) impacts, the range of alternatives, and statement of overriding considerations. The commenter also refers to the August 14, 2019 SWAPE comment letter that is provided as Exhibit A.

Responses to the commenter's individual comments about land use (lack of affordable housing), air quality and GHG emissions impacts, the range of alternatives, and statement of overriding considerations are provided in Section 2, *Responses to Comments on the Draft EIR*, (Letter O-4) of the Final EIR. Responses to new, specific comments related to air quality and GHG emissions are provided below.

### **Response O-3.2**

The commenter concludes by stating opposition to the Project. The commenter requests receipt of all notices of CEQA actions and public hearings to be held on the Project.

The commenter has been added to the Project distribution list. Notices of all upcoming CEQA actions and public hearings will be provided.

### **Response O-3.3**

The commenter summarizes his May 6, 2019 comments on the Draft EIR and states that the Recirculated Draft EIR is insufficient in addressing the Project's air quality and GHG impacts. The remainder of the comment letter identifies specific issues with the Recirculated Draft EIR.

These comments are noted. Responses to the commenter's individual comments are provided below.

### **Response O-3.4**

The commenter states that the Recirculated Draft EIR should provide a health risk assessment (HRA) to determine the health risk posed to existing nearby sensitive receptors as a result of Project construction and operation. The commenter states that the SCAQMD's Localized Significance Thresholds are not appropriate for analyzing construction toxic air contaminants (diesel particulate matter ([DPM]) because they are designed for criteria pollutant emissions. The commenter provides information from SCAQMD's 2015 *Risk Assessment Procedures for Rules 1401, 1401.1, and 212* and suggests that the guidance document recommends evaluation of health risk impacts from short-term construction projects.

SCAQMD recommends HRAs for certain air quality evaluations; however, the circumstances of those evaluations do not apply to the proposed Project. More specifically, operators of certain stationary sources are required to prepare HRAs to demonstrate compliance with AB 2588 and SCAQMD Rule

1401 and Rule 1402, which regulate facility emissions. The SCAQMD's *Risk Assessment Procedures for Rules 1401 and 212* include guidance for short-term project HRAs (Tier 2 analysis); however, these recommendations are for emissions from sources such as portable equipment, including generators, or air pollution control equipment used for soil remediation projects, not for short-term construction activities such as those that would be undertaken in connection with the Project.

Nonetheless, Air Quality Dynamics completed an additional HRA in August 2019 on Project construction and operation that reflects the independent peer review comments from Rincon Consultants in July 2019. This HRA is included as Appendix M of the Final EIR. As detailed therein, Project construction would not result in excess cancer risk that exceeds SCAQMD's threshold of one in one hundred thousand, nor would it result in acute or chronic risk that exceeds the threshold of a hazard quotient of one (i.e., unity; the hazard quotient is equivalent to the pollutant concentration or dose divided by its toxicity value). Health impacts related to DPM emissions from Project construction would be less than significant.

### **Response O-3.5**

The commenter provides information from SCAQMD's website indicating that the *Health Risk Assessment Guidance for Analyzing Cancer Risk from Mobile Source Diesel Emissions* should be used for preparation of an HRA for any project that is expected to generate mobile emissions from diesel-powered equipment and trucks. The commenter asserts that a construction and operational HRA should be prepared because Project construction equipment would generate DPM and Project operational activities would include 5,261 daily vehicle trips, 45 percent of which would be light/medium/heavy/other-duty trucks.

SCAQMD has adopted guidance on the use of HRAs for analyzing mobile source emissions. However, this guidance refers to emissions associated with facilities, such as truck stops and distribution centers, that attract large volumes of daily heavy duty diesel truck trips, creating a long-term emission source. Therefore, the HRA guidance for mobile source emissions is not relevant for the Project's short-term construction activities or infrequent delivery truck trips to the Project site.

Lastly, an HRA evaluating operational DPM emissions is not necessary because the vast majority of mobile source DPM emissions are associated with off-site vehicle miles traveled (VMT) and do not occur on the Project site. As detailed in the August 2019 HRA prepared by Air Quality Dynamics:

"On-road mobile sources include running and start emissions. In consideration of these source categories, DPM emissions are only associated with a portion of the mobile source profile whereby the predominant source of emissions relate to off-site vehicle miles traveled to and from the project site. Although a portion of start emissions are generated on-site, they are associated with gasoline fueled vehicles not diesel vehicles. To assume that these sources generate on-site DPM emissions is inconsistent with the CalEEMod operational profile. As such, DPM exhaust emissions associated with operational sources are not associated with on-site generation and therefore, not considered in the refined health risk assessment."

Please see Response O-3.4, above, regarding the results of the August 2019 HRA with respect to Project construction.

### **Response O-3.6**

The commenter states that the Office of Environmental Health Hazard Assessment's (OEHHA) 2015 Guidance Manual, *Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk*

*Assessments*, recommends preparation of an HRA for short-term projects. The commenter suggests that based on OEHHA guidance a construction and operational HRA should be prepared for the Project.

The 2015 Guidance Manual was developed by OEHHA, in conjunction with the California Air Resources Board (CARB), for use in implementing the Air Toxics “Hot Spots” Program. The Air Toxics “Hot Spots” Program requires stationary sources (e.g., power generation facilities, refineries, and chemical plants) to report the types and quantities of certain substances routinely released into the air. The intent in developing the 2015 Guidance Manual was to provide health risk assessment procedures for use in the Air Toxics Hot Spots Program or for the permitting of new or modified stationary sources. The Project is not a “Hot Spots” Program project, but rather involves the construction and operation of a mixed-use development that includes 573 residential units, 1,067 square feet of commercial retail space, a 307-room hotel, and an associated parking garage.

The commenter states that OEHHA’s 2015 Guidance Manual recommends preparation of an HRA for short-term projects; however, the Guidance Manual is not consistent with the commenter’s statement. Instead, the guidance states:

The local air pollution control districts sometimes use the risk assessment guidelines for the Hot Spots program in permitting decisions for short-term projects such as construction or waste site remediation. Frequently, the issue of how to address cancer risks from short-term projects arises. Cancer potency factors are based on animal lifetime studies or worker studies where there is long-term exposure to the carcinogenic agent. There is considerable uncertainty in trying to evaluate the cancer risk from projects that will only last a small fraction of a lifetime. (Page 8-17)

While OEHHA provides limited guidance on how to conduct HRAs for short-term projects, it acknowledges the “considerable uncertainty” in evaluating cancer risk over short-term durations. In addition, the guidance document does not identify short-term projects or non-stationary source projects that warrant the preparation of a HRA, nor does it recommend the preparation of HRAs for short-term construction projects or non-stationary source projects, like the proposed mixed-use development.

Refer also to Response O-4.14 in Section 2, *Response to Comments on the Draft EIR*, of the Final EIR.

### **Response O-3.7**

The commenter prepared a screening-level HRA that relied on AERSCREEN (a screening-level air quality dispersion model) for the purpose of showing the link between the Project’s construction and operational DPM emissions and the potential health risks. He states his assumptions and posits that the results of their screening-level HRA demonstrate that the cancer risk posed to sensitive receptors during construction and operation of the Project could result in a potentially significant health risk impact. The commenter concludes that the Project applicant should prepare a more refined HRA that examines the air quality impacts generated by Project construction and operation using site-specific meteorology.

Please see Response O-3.4 regarding the results of the August 2019 HRA with respect to Project construction. Please see Response O-3.5 for a discussion of why an HRA analyzing Project operational emissions is not necessary. In addition, the operation-related screening level HRA prepared by the commenter is flawed. The commenter’s analysis is based on total operational emissions of DPM per year (253 pounds of DPM per year). This total operational DPM per year

includes on-site emissions associated with area, energy, and mobile emissions (start-up emissions that occur on the Project site), as well as off-site emissions associated with mobile emissions (running emissions; or emissions generated by vehicles that are outside of the Project site on roadways). Project on-site area and energy sources are responsible for 153 pounds per year of DPM, while mobile sources associated with off-site travel (running emissions) are responsible for 100 pounds per year of DPM. Only a small percentage of mobile emissions are attributable to start-up emissions on the Project site. Therefore, the commenter's operational screening level HRA is based on an estimate of operational DPM that is 40 percent greater than the DPM that would actually be generated on the Project site. Such a discrepancy results in a substantial overestimate of potential health risk from Project operations.

Lastly, the screening-level HRA considerably overestimates health risk from DPM because it applies a weighting factor that reflects early-life exposure regardless of the carcinogen's purported mechanism of action. As discussed at length in the August 2019 HRA, the USEPA's *Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens* states that early-life exposure adjustment factors are only considered when carcinogens act "through the mutagenic mode of action."<sup>1</sup> A mutagen is a physical or chemical agent that changes genetic material, such as DNA, increasing the frequency of mutations to produce carcinogenic effects. The USEPA has identified 19 compounds that elicit a mutagenic mode of action for carcinogenesis. For DPM, polycyclic aromatic hydrocarbons and their derivatives, which are known to exhibit a mutagenic mode of action, constitute less than one percent of the exhaust particulate mass. To date, the USEPA reports that whole diesel engine exhaust has not been shown to elicit a mutagenic mode of action. Therefore, it is not appropriate to apply early-life exposure factors in a screening-level or detailed HRA of a project's construction or operational DPM emissions.

Refer also to Response O-4.14 in Section 2 of the Final EIR.

### **Response O-3.8**

The commenter summarizes GHG-related comments on the Draft EIR and states that because the Recirculated Draft EIR continues to provide an inadequate analysis of the Project's GHG emissions. The commenter provides a summarized list of six reasons why he believes the analysis is flawed and the remainder of the comment letter identifies specific issues with the Draft EIR associated with each of these reasons.

These comments are noted and responses to the commenter's individual comments are provided below under Responses O-3.9 through O-3.21.

### **Response O-3.9**

The commenter states the Project relies upon consistency with the City's Greenhouse Gas Reduction Plan (GGRP) to determine Project significance. The commenter further states review of the GGRP demonstrates that the City has failed to monitor, track, or update the GGRP since its approval in 2013 and states that the GGRP is outdated because it fails to adapt to changes in State legislation, fails to update the GHG inventory, and relies on overestimated population growth. The commenter asserts that because the GHG analysis in the Recirculated Draft EIR relies on consistency with the City's GGRP, it is flawed.

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<sup>1</sup> USEPA. 2005. Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens. Accessed August 2017 at: [https://www3.epa.gov/airtoxics/childrens\\_supplement\\_final.pdf](https://www3.epa.gov/airtoxics/childrens_supplement_final.pdf)

As discussed in Response O-4.16 of Section 2, *Response to Comments on the Draft EIR*, the City conducted a progress report for the GGRP which found that the City is actively implementing the GGRP measures to achieve the 2020 and 2035 targets (the GGRP Mitigation Measure Quantification Analysis is included as Appendix N of the Final EIR). Based on the inventory of the City's emissions data, the City has achieved 95 percent of the 2020 target and the City will continue to implement measures to achieve the 2035 target. Since adoption of the GGRP in 2013, new legislation has been passed, so the City is in the process of updating the GGRP to comply with the 2030 emissions targets under SB 32.

In addition, as detailed in Section 4.5.6, *Impact Analysis*, of the Recirculated Draft EIR, per CEQA Guidelines Section 15064(h)(3), a project's incremental contribution to a cumulative impact can be found not cumulatively considerable if the project would comply with an approved plan or mitigation program that provides specific requirements that would avoid or substantially lessen the cumulative problem within the geographic area of the project. To qualify, such plans or programs must be specified in law or adopted by the public agency with jurisdiction over the affected resources through a public review process to implement, interpret, or make specific the law enforced or administered by the public agency. Examples of such programs include a "water quality control plan, air quality attainment or maintenance plan, integrated waste management plan, habitat conservation plan, natural community conservation plans [and] plans or regulations for the reduction of greenhouse gas emissions." Put another way, CEQA Guidelines Section 15064(h)(3) allows a lead agency to make a finding of less than significant for GHG emissions if a project complies with adopted programs, plans, policies and/or other regulatory strategies to reduce GHG emissions.

In the absence of any applicable adopted numeric threshold, the significance of the Project's GHG emissions is evaluated consistent with CEQA Guidelines Section 15064.4(b)(2) by considering whether the Project complies with applicable plans, policies, regulations and requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of GHG emissions. Contrary to the commenter's assertion that the Project's GHG impact is based on consistency with the GGRP, the Project's GHG impact is based on its consistency with the 2016 RTP/SCS, and also considers consistency with the GGRP and CARB's 2017 Scoping Plan. The analysis in the Recirculated Draft EIR concludes that as a land use development project, the most directly applicable adopted regulatory plan to reduce GHG emissions to the Project is the 2016 RTP/SCS, which is designed to achieve regional GHG reductions from the land use and transportation sectors as required by SB 375 and the State's long-term climate goals. This analysis also concludes that the Project is consistent with the regulations and requirements of the City's GGRP and CARB's 2017 Scoping Plan, both of which are designed to achieve the GHG reduction goals of AB 32, SB 375, and SB 32.

### **Response O-3.10**

The commenter states the Draft EIR fails to demonstrate the additional concept whereby GHG emissions reductions otherwise required by law or regulation are appropriately considered part of the baseline, and pursuant to CEQA Guideline 15064.4(b)(1), a new project's emissions should be compared against the existing baseline and a project should not take credit for emissions reductions that would have occurred regardless of the project. The commenter states the Project may require more GHG-reducing measures to offset the lost GHG reductions anticipated under the GGRP and additional reduction measures should be required for the Project to attempt to reduce GHG levels.

As indicated in subsection 2.7.7, *Green Building Features*, of Section 2, *Project Description*, and under Impact GHG-1 of Section 4.5, *Greenhouse Gas Emissions*, of the Recirculated Draft EIR, and



specifically in Tables 4.5-2 (Project Consistency with Applicable GGRP Measures), Table 4.5-3 (Project Consistency with Climate Change Scoping Plan), and Table 4.5-4 (Project Consistency with Climate Change 2017 Scoping Plan Update), the Project would incorporate emissions reductions measures beyond high building efficiency and conservation standards required by state laws. The Project would exceed Tier 1 applicable provisions of the 2019 California Green Building Standards Code (CALGreen Code)<sup>2</sup> by providing a building design that is equivalent to the United States Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) Gold Certified requirements, which would also be WELL Certified under the USGBC. The Project is oriented and designed to maximize pedestrian-oriented landscaped open space. Project materials include sustainable products and locally sourced materials that would include an energy efficient HVAC system and MERV filters, cool roofs, installation of roof top solar that would go towards the City's long-term goal of providing up to 10 percent of the building's modeled energy use from renewable sources, LED lighting, and high-performance glazing. Energy Star and water efficient appliances and fixtures, drip irrigation, and drought tolerant landscaping and use of recycled water would be included. Indoor environmental quality favors formaldehyde-free finishes, low-allergen materials, and use of products with minimum off-gassing or low volatile organic compounds.

In addition, City conducted a GGRP Mitigation Measure Quantification Analysis (progress report) for the GGRP. The progress report found that since the City has been and is actively implementing the GGRP measures to achieve the 2020 and 2035 targets. Based on the analysis of the City's emissions data, the City has achieved 95 percent of the 2020 target and the City will continue to implement measures to achieve the 2035 goals. Since adoption of the GGRP in 2013, new legislation has been passed, so the City is also in the process of updating the GGRP to comply with the 2030 emissions targets under SB 32. Refer to Response O-4.16 in Section 2 of this Final EIR and see Appendix N for the *GGRP Mitigation Measure Quantification Analysis*.

Refer also to Response O-4.19 of Section 2 of this Final EIR.

### **Response O-3.11**

The commenter states that CARB has asserted that SCAG's RTP/SCS is not on track to meet GHG emissions reductions needed to meet 2030 goals because CARB's 2018 Progress Report for SB 375 SCS implementation indicates that statewide GHG emissions from the transportation sector are not declining sufficiently to achieve the 2030 target.<sup>3</sup> Based on this contention, the commenter states that SCAG's RTP/SCS is not appropriate for determining the significance of a Project's GHG emissions impact.

Contrary to the commenter's statement, CARB does not indicate in the 2018 Progress Report that SCAG's RTP/SCS is not on track to meet GHG emissions reductions measures, nor does it indicate that SCAG's targets are insufficient to meet the State's sector-wide emission reduction goals for 2030. CARB's 2018 Progress Report for SB 375 SCS implementation that the commenter references states, "Statewide, current Metropolitan Planning Organizations (MPO) SCSs plan for a 9.6 percent reduction in per capita passenger vehicle CO<sub>2</sub> emissions by 2020 and an 18 percent reduction by 2035 compared to 2005 levels, which exceed the targets CARB set in 2010, and are less aggressive than CARB's latest target updates. This evidence shows that California is clearly not on the trajectory

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<sup>2</sup> The Project would be submitted for plan check and be constructed post January 1, 2020, so it would be reviewed under the 2019 California Building Standards and Code and the 2019 CALGreen Code Tiers 1 & 2.

<sup>3</sup> CARB (Nov. 2018) 2018 Progress Report. Available at: [https://ww2.arb.ca.gov/sites/default/files/2018-11/Final2018Report\\_SB150\\_112618\\_02\\_Report.pdf](https://ww2.arb.ca.gov/sites/default/files/2018-11/Final2018Report_SB150_112618_02_Report.pdf).

to meet SB 375 climate goals.”<sup>4</sup> The progress report indicates that *collectively* MPOs are not achieving sufficient reductions or setting sufficient targets to meet statewide climate goals; however, as detailed in Section 4.5, *Greenhouse Gas Emissions*, of the Recirculated Draft EIR, the 2016-2040 RTP/SCS shows regional per-capita GHG emissions from passenger and light duty vehicles being reduced by 21 percent relative to 2005 levels by 2040. Implementation of SCAG’s 2016 RTP/SCS is expected to fulfill and exceed the region’s obligations under SB 375. Therefore, the Project’s 40 percent reduction in passenger vehicle per capita CO<sub>2</sub> emissions relative to the 2005 SCAG regional baseline levels examined under SB 375 and consistency with the RTP/SCS indicates that it would support fulfillment and exceedance of the region’s obligations under SB 375 and would not hinder achievement of statewide GHG reduction goals.

Nonetheless, while SCAG’s 2016 RTP/SCS meets and exceeds the region’s obligations under current SB 375 targets, CARB has indicated that targets need to be more aggressive to meet statewide climate goals. As detailed in Section 4.5, *Greenhouse Gas Emissions*, of the Recirculated Draft EIR, the 2017 Scoping Plan states the following:

“Since 2014, CARB has been working with MPOs and other stakeholders to update regional SB 375 targets. At the same time, CARB has also conducted analysis for development of the Mobile Source Strategy and Scoping Plan that identifies the need for statewide per capita greenhouse gas emissions reductions on the order of 25 percent by 2035, to meet our climate goals.”

The Project’s 40 percent reduction in passenger vehicle per capita CO<sub>2</sub> emissions relative to the 2005 SCAG regional baseline levels examined under SB 375 would not only exceed the current 2016 RTP/SCS target, but would also exceed this objective of reaching a 25 percent reduction in mobile source emissions from passenger cars by 2035. Based on this evidence, the SCAG’s RTP/SCS and the 2017 Scoping Plan are appropriate for determining the significance of a Project’s GHG emissions impact and the Recirculated Draft EIR’s determination that the Project’s GHG emissions impact would be less than significant is reasonable and accurate.

Refer also to Response O-4.19 of Section 2 of this Final EIR.

### **Response O-3.12**

The commenter states the Project and City actions are inconsistent with numerous goals and policies discussed in the following documents: City of Burbank’s GGRP, Burbank 2035 General Plan, CARB 2017 Scoping Plan, and the RTP/SCS. The commenter provides their consistency analysis with specific measures from the City’s GGRP, which focuses primarily on the commenter’s contention that the City has failed to effectively monitor and update the GGRP.

Refer to Response O-3.9 regarding the applicability of the GGRP, CARB’s 2017 Scoping Plan, and 2016 RTP/SCS to the Project. Also, refer to Response O-3.13, below, regarding the Project’s consistency with the General Plan goals that specifically apply to GHG emissions. As indicated in subsection 2.7.7, *Green Building Features*, of Section 2, *Project Description*, and under Impact GHG-1 of Section 4.5, *Greenhouse Gas Emissions*, of the Recirculated Draft EIR, and specifically in Tables 4.5-2 (Project Consistency with Applicable GGRP Measures), Table 4.5-3 (Project Consistency with Climate Change Scoping Plan), and Table 4.5-4 (Project Consistency with Climate Change 2017 Scoping Plan Update), the Project would incorporate emissions reductions measures beyond high building efficiency and conservation standards required by state laws.

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<sup>4</sup> CARB (Nov. 2018) 2018 Progress Report, p. 22-23. Available at: [https://ww2.arb.ca.gov/sites/default/files/2018-11/Final2018Report\\_SB150\\_112618\\_02\\_Report.pdf](https://ww2.arb.ca.gov/sites/default/files/2018-11/Final2018Report_SB150_112618_02_Report.pdf).

The commenter states his opinion that the Project must implement measures beyond those required under State or local law to meet an asserted emissions gap from lost GHG reduction due to failure to effectively monitor and update the GGRP. As set forth in Section 4.5 of the Recirculated Draft EIR, the Project's impacts with respect to GHG emission would be less than significant. Therefore, no further measures are warranted. Moreover, the Project will in fact reduce its GHG emissions beyond those amounts required under existing State and local regulations, including achieving LEED Gold status and reducing mobile GHG emissions through the following:

- Locating the Project immediately adjacent to transit options (rail and buses) and within ¼ mile of a range of goods and services and major employment center – Downtown Burbank;
- Providing a total of 73 bicycle parking spaces for residences and the hotel (57 residential and 16 hotel);
- Providing Direct sidewalk access from street to Project building; and
- Providing safe bicycle access from the street to bicycle parking facilities and the Metrolink station.

The commenter also contends that the Recirculated Draft EIR fails to explain how the Project will comply with certain mandatory measures that will reduce the Project's GHG emissions, and therefore those measures are illusory. In fact, there is no requirement that an EIR explain in detail how a project will comply with mandatory regulations. As these measures are mandatory, it is appropriate to presume compliance.

The commenter also states that the EIR should have quantified the effect of certain GHG reduction measures. However, based on current methodologies, it is infeasible to accurately quantify the effects of many of these measures. Nor is it necessary, as the Recirculated Draft EIR does not use a quantitative significance threshold that relies on quantified reduction measures to reach a significance conclusion.

The commenter suggests that the Project is not consistent with the GGRP because it is not mandated to achieve Tier 1 energy efficiency standards under Title 24. However, the Project would be subject to mandatory Title 24 requirements in effect when the Project applicant seeks a building permit. The currently in effect 2016 Title 24 standards are 28 percent more efficient (for electricity) than residential construction built to the 2013 Title 24 standards and 5 percent more efficient (for electricity) for non-residential construction built to 2013 Title 24 standards. The 2016 Title 24 standards are also more efficient than the 2020 Projected Emissions under Business-as-Usual in CARB's 2008 Climate Action Scoping Plan. The 2019 Title 24 standards, effective January 1, 2020, are even more energy efficient.

The commenter also states that the Project's participation in the TMO is an illusory project design feature. In fact, Burbank Municipal Code Section 10-1-2534 requires implementation of traffic demand management (TDM) measures and participation in the TMO, which will implement the TDM measures. Participation in the TMO implementation of the TDM measures are also a requirement on the project per the Development Agreement and the associated Conditions of Approval.

The commenter contends that the Project would not install solar panels. As set forth in Section 2, Project Description, of the Draft EIR, the Project would include rooftop solar panels.

The comment states that the Project would use an excessive amount of water. As set forth in Section 4.5 of the Recirculated Draft EIR, the Project includes water efficient appliances and fixtures,

drip irrigation, and drought tolerant landscaping and use of recycled water. In compliance with CalGreen, these features would reduce indoor water use by at least 20 percent.

The commenter states that the Project cannot rely on the GGRP for streamlined CEQA review. Contrary to the comment, there is no streamlined CEQA review in this case. Rather, the City elected to prepare a full standalone EIR for the Project.

Refer to Response O-3.9 above regarding the applicability of the GGRP to the Project, and Response O-4.16 in Section 2 of this Final EIR regarding the GGRP progress report.

### **Response O-3.13**

The commenter provides an analysis of consistency with applicable goals and policies of the Burbank 2035 General Plan. The commenter indicates that the Project and City actions are not consistent with General Plan Goal 3, Reduction of GHGs, or Goal 4, Climate Change, because the City has failed to monitor and update the GGRP, and because the GGRP fails to demonstrate how measures would achieve the 2030 statewide target. The commenter states that the Project is inconsistent with Policy 3.4, which is aimed at promoting water conservation and compact, mixed-use development because it does not include sufficient affordable housing, resulting in greater VMT and mobile emissions of GHGs. The commenter also states the Project is inconsistent with Policy 3.8, which is aimed at transitioning to low- or zero-carbon energy sources.

Refer to Response O-3.9 above regarding the applicability of the GGRP to the Project, and Response O-4.16 of Section 2 in this Final EIR regarding the GGRP progress report.

Regarding Policy 3.4, as indicated in subsection 2.7.7, *Green Building Features*, of Section 2, *Project Description*, the Project would incorporate Energy Star rated and water efficient appliances and fixtures, drip irrigation, and drought tolerant landscaping and use of recycled water would be included, which would support the City's energy and water conservation objectives. As demonstrated in Section 4.5, *Greenhouse Gas Emissions*, the Project is a compact, mixed use development in a high-quality transit area that would improve bicycle and pedestrian facilities in the area. Therefore, the Project supports the key objectives of Policy 3.4 directly with its design and location.

Refer to Response O-4.-4 of Section 2 of this Final EIR regarding affordable housing,

Regarding Policy 3.8, as detailed in Table 4.5-2, *Project Consistency with Applicable GGRP Measures*, the Project would include renewable energy via roof-top solar panels, use of the Green Building Code, pre-wiring for additional solar panels and installation of electric vehicle charging stations, and the payment of applicable development impact and aid in construction fees to the City's public utilities. The solar panels installation would go towards the City's long-term goal of providing 10 percent of a new building's modeled energy use from renewable sources (i.e. low- or zero-carbon energy sources). Collectively, these efforts would ensure compliance with the City's long-term goals of moving toward the use of low- or zero-carbon energy sources.

The commenter states that the Recirculated DEIR lacks any meaningful information regarding how much low- or zero-carbon energy will be generated by the Project via Tier 1 or LEED Gold certification. While both Tier 1 compliance and LEED Gold certification will reduce the Project's energy consumption and associated GHG emissions, neither require projects to generate specific amounts low- or zero-carbon energy.

### **Response O-3.14**

The commenter provides a consistency analysis with applicable measures from the CARB 2017 Scoping Plan, Appendix B-Local Action, and states that these measures are “mandatory.”

Appendix B-Local Action of the 2017 Scoping Plan starts by stating, “[t]his appendix provides examples of local actions that can support the State’s climate goals,” and goes on to say “[t]his appendix should be viewed as a general reference document. It should not be interpreted as official guidance or as dictating requirements for a city or county in addressing greenhouse gases (GHGs) in its General Plan or for local project CEQA mitigation.” The list provided by the commenter is not, in fact, a list of mandatory measures, but potential measures that a City could consider applying to projects within their jurisdiction. Moreover, Appendix B states, “[n]othing in the Scoping Plan or this appendix limits the discretion conferred to lead agencies in determining the appropriate level and type of mitigation, so long as their decisions are supportable by evidence in the record as required by CEQA.” Section 4.5, *Greenhouse Gas Emissions*, of the Recirculated Draft EIR provides substantial evidence that the Project’s GHG impacts would be less than significant and would not require mitigation suggested by Appendix B. In addition, Table 4.5-3 (Project Consistency with Climate Change Scoping Plan) and Table 4.5-4 (Project Consistency with Climate Change 2017 Scoping Plan Update) provide substantial evidence that the Project is consistent with the actions and strategies of the 2017 Scoping Plan.

### **Response O-3.15**

The commenter states that the Project is inconsistent with land use policies, transportation network strategies, transportation demand management strategies, and clean vehicle technology strategies set forth in the 2012 and 2016 RTP/SCS. The commenter also states that the 2012 and 2016 RTP/SCS Program Environmental Impact Reports Mitigation Monitoring and Reporting Program (MMRP) include project-level environmental mitigation measures that serve to help local municipalities when identifying mitigation to reduce impacts on a project-specific basis that can and should be implemented when they identify and mitigate project-specific environmental impacts.

Section 4.5, *Greenhouse Gas Emissions*, provides a detailed consistency analysis of the Project and the major goals of the RTP/SCS, and provides a quantitative analysis demonstrating that the Project would result in a 40 percent reduction in passenger vehicle per capita CO<sub>2</sub> emissions relative to the 2005 SCAG regional baseline levels examined under SB 375, which is consistent with the regional targets set by SB 375 that the RTP/SCS aims to achieve. The Project need not be consistent with an exhaustive list of individual strategies described in the RTP/SCS, if it consistent with the goals of the Plan and does not impede the Plan’s progress towards attaining those goals and targets.

The MMRP for the RTP/SCS PEIR does not include project-level mitigation measures that are required of the Project. Rather, the SCAG MMRP provides a list of mitigation measures that SCAG determined a lead agency can and should consider, as applicable and feasible, where the agency has identified that a project has the potential for significant effects. The SCAG measures are not prescriptive on the Project unless the lead agency determines their applicability to the Project based on the circumstances and anticipated environmental impacts. The Recirculated Draft EIR concludes that the Project’s impacts on GHG emissions would be less than significant and mitigation is not required. Therefore, the RTP/SCS suggested mitigation measures need not be considered for the Project.

Refer also to Response O-4.18 of Section 2 of this Final EIR.

### **Response O-3.16**

The commenter restates an opinion that the Project and City actions are inconsistent with numerous goals and policies discussed in the following documents: City of Burbank's GGRP, Burbank 2035 General Plan, CARB 2017 Scoping Plan, and the RTP/SCS. The commenter reiterates that the City has failed to monitor or update the GGRP.

Please refer to Responses O-3.9 to O-3.15 above regarding the applicability of the GGRP to the Project, and Response O-4.16 of Section 2 of this Final EIR regarding the GGRP progress report.

### **Response O-3.17**

The commenter suggests that the goals outlined in the RTP/SCS are intended to inform regional, plan-level efforts and are not applicable to a propose project's GHG impact. The commenter states that the Recirculated Draft EIR cannot rely on these "plan-level goals" to determine the significance of the Project's GHG impacts.

The SCAG 2016 RTP/SCC is designed to achieve regional GHG reductions from the land use and transportation sectors as required by SB 375 and the State's long-term climate goals. Furthermore, in June 2012, CARB accepted SCAG's quantification of GHG emission reductions from the RTP/SCS and its MPO's determination that the SCS would achieve the 2020 and 2035 GHG emission reduction targets established by CARB.<sup>5</sup> Therefore, the Project's consistency with the RTP/SCS is an appropriate component of City's threshold to determine whether its GHG impacts are significant. In addition, the Recirculated Draft EIR does not rely on the Project's consistency with the goals of the RTP/SCS alone, but also provides a quantitative analysis demonstrating that the Project would support the achievement of the RTP/SCS targets by resulting in a 40 percent reduction in passenger vehicle per capita CO<sub>2</sub> emissions relative to the 2005 SCAG regional baseline levels examined under SB 375.

Please refer to Response O-3.15.

### **Response O-3.18**

The commenter disagrees with the Recirculated Draft EIR's statement that neither the City nor the SCAQMD have adopted a numerical significance threshold for assessing GHG emissions that applies to the Project. The commenter states that the Recirculated Draft EIR should have applied a threshold released in SCAQMD's "Interim CEQA GHG Significance Threshold for Stationary Sources, Rules, and Plans" report ("Interim Thresholds"), which was developed in December 2008.

The threshold recommended for use by the commenter is a recommendation, not an adopted threshold, and is over 11 years old. Based on its age, the recommended threshold does not reflect current GHG plans and policies, including the GGRP, the RTC/SCS, or the 2017 Scoping Plan. Please refer to Response O-3.9 regarding the significance threshold applied in the Recirculated Draft EIR. Refer also to Response O-4.21 of Section 2 of this Final EIR.

### **Response O-3.19**

The commenter suggests that the Recirculated Draft EIR excludes transportation-related GHG emissions.

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<sup>5</sup> CARB Executive Order G-12-089, June 4, 2012.



The Project's transportation-related GHG emissions are quantified and disclosed in Table 4.5-8 (Estimated Total Emissions of Greenhouse Gases). As detailed in Response O-3.9, the Project's GHG-related impact was determined based on consistency with applicable GHG reduction plans. The quantitative analysis included in the Recirculated Draft EIR is provided for information purposes, or to demonstrate the Project's consistency with specific GHG reduction targets of the 2017 Scoping Plan (construction, area, energy, solid waste, and water related emissions) or the RTP/SCS (transportation related emissions).

### **Response O-3.20**

The commenter provides a quantitative analysis using the CalEEMod output files found in Appendix D, which was updated for the Recirculated Draft EIR, and compares emissions to the SCAQMD recommended Interim Threshold of 3,000 MT<sub>CO<sub>2</sub>e</sub> per year and 3.0 MT<sub>CO<sub>2</sub>e</sub> per year per service population, where service population equals residents plus jobs supported by the Project. The commenter determines that the Project exceeds these significance thresholds and would result in a significant impact.

The Recirculated Draft EIR did not use a numeric threshold, as neither the City nor SCAQMD has adopted a numeric threshold applicable to the Project. Instead, a significance determination was made based on the consistency with applicable regulatory plans and policies to reduce GHG emissions. The City as lead agency enjoys substantial discretion to choose the significance threshold in this case, including one that is based on the Project's consistency with applicable plans, policies, and ordinances intended to reduce GHG emissions. Contrary to the comment, neither the CEQA Guidelines nor applicable case law require a lead agency to utilize an 11-year old draft, unadopted threshold. Moreover, the SCAQMD working group that was tasked to develop a GHG CEQA threshold has not met since 2010. As a point of reference, the SCAQMD Governing Board did adopt an interim 10,000 MT<sub>CO<sub>2</sub>e/yr</sub> GHG significance threshold for projects where the SCAQMD is lead agency (e.g., stationary sources, rules, and plans). While this adopted threshold is not applicable to the Project, it shows that SCAQMD can and will adopt a numeric threshold that it deems appropriate.

Please refer to Response O-3.9 regarding the significance threshold applied in the Recirculated Draft EIR. The Recirculated Draft EIR includes a reanalysis of Section 4.5, *Greenhouse Gas Emissions*, which includes the *Post-2030 Analysis* (see the analysis under Impact GHG-1). In summary, the Project's design features advance the goals of SB 32 by reducing VMT, increasing the use of electric vehicles, improving energy efficiency, and reducing water usage. Although the Project would not conflict with the 2017 Scoping Plan Update, additional measures to achieve the 2030 targets and beyond are outside of the City's or the Project's control. Therefore, any evaluation of post-2030 Project emissions would be speculative. Similarly, the Project's emissions level in 2050 cannot be reliably quantified; however, statewide efforts are underway to facilitate the State's achievement of the 2050 goals and it is reasonable to expect the Project's GHG emissions level to decline as the regulatory initiatives identified by CARB in the 2013 Scoping Plan Update and 2017 Scoping Plan are implemented, and other technological innovations occur. Stated differently, the Project's total emissions represent the maximum emissions inventory for the Project as California's emissions sources are being regulated (and foreseeably expected to continue to be regulated in the future) in furtherance of the State's environmental policy objectives. As such, given the reasonably anticipated decline in Project emissions once fully constructed and operational, there is no reason to believe that the Project would conflict with the Executive Order S-3-05 horizon-year (2050) goal. The Project's consistency with SCAG's RTP/SCS demonstrates that the Project would be consistent with

post-2020 GHG reduction goals. For these reasons, the Project's post-2030 emissions trajectory is expected to follow a declining trend, consistent with the 2030 and 2050 targets.

### **Response O-3.21**

The commenter states that because the City's GGRP is outdated, the GHG analysis should include the SCAQMD's *Interim Threshold* (although not officially adopted) to keep up with the evolving scientific knowledge and State regulatory schemes.

Refer to Responses O-3.18 and O-3.20.

### **Response O-3.22**

The commenter states that he had limited information about the Project so reserves the right to amend his report if more information becomes available and state that any information gaps or inconsistencies are a result of unavailable or uncertain information.

This comment is noted but does not pertain to the adequacy of the Recirculated Draft EIR and raises no environmental issues specific to the proposed Project. No further response is warranted.

**From:** [Bechet, Leonard](#)  
**Sent:** Thursday, August 15, 2019 11:47 AM  
**To:** [Susanne Huerta](#); [dale goldsmith](#); ['Hunter Weaver'](#);  
[Kimberly Paperin](#)  
**Cc:** [Ramirez, Fred](#)  
**Subject:** FW: 777 Front Street

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FYI

**Leonard Bechet** | Senior Planner  
City of Burbank | Community Development Department  
150 N. Third St., Burbank, CA 91502  
(818) 238-5250 | [LBechet@burbankca.gov](mailto:LBechet@burbankca.gov)

*Effective May 21, 2018, the Planning Division Public Counter hours will be Monday through Friday from 8 AM to 12 Noon and by appointment only from 1 PM to 3 PM. To schedule an appointment with a Project Planner to review your submitted application or building plan check, please contact us by phone (818) 238-5250 or email at [planning@burbankca.gov](mailto:planning@burbankca.gov).*

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**From:** Matt Gamboa [REDACTED]  
**Sent:** Wednesday, August 14, 2019 9:56 PM  
**To:** Bechet, Leonard [REDACTED]  
**Subject:** 777 Front Street

Hi Mr. Bechet,

I'm writing in regards to the recirculated Draft EIR for 777 Front Street. The traffic impacts are going to be of concern to most folks, and I see there are some mitigation measures in terms of street widening and lane configuration. I don't think eliminating the right turn lane onto Burbank Blvd from Front Street is a great option. But there are not great options on this street.

However, one intervention that can make a huge difference on LOS and especially VMT (I know this isn't a measure you're analyzing for this, but it's important) is a connection from Front to Magnolia, stairs/ramp/elevator, just like what is available at the Olive underpass. This improvement would make pedestrian access to Downtown Burbank easy, and would be especially useful for the hotel use and allow people to access that park.

This project doesn't even have to fund the whole thing. All the projects on First Street and the I Heart Burbank complex should contribute to increase access to the bus/train depot. But this project basically requires it, it should be part of this approval process to reduce car trips.

Thank you,

Matt Gamboa

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## Letter I-1

**COMMENTER:** Matt Gamboa

**DATE:** August 14, 2019

### Response I-1.1

The commenter notes that traffic impacts are going to be of concern to most residents and adds that, with respect to Project mitigation, eliminating the right turn lane onto Burbank Boulevard from Front Street is not a great option.

To partially mitigate the impact at I-5 southbound off-Ramp/North Front Street and Burbank Boulevard, the right turn lane will not be eliminated but instead converted into a combination right and left turn lane onto Burbank Boulevard from Front Street and is proposed as Mitigation Measure T-1 under the proposed Project. Nonetheless, as discussed in Section 4.12, *Transportation and Traffic*, of the Draft EIR, impacts to the intersection would remain significant and unavoidable under Existing plus Project and Future plus Project conditions. Therefore, because the mitigation would not reduce the impact to a level of less than significant, the impact is considered significant and unavoidable.

### Response I-1.2

The commenter suggests that a connection from Front Street to Magnolia Street (e.g., stairs, ramps, elevator) could be an option for mitigation to reduce impacts to LOS and VMT. The commenter adds that this improvement would ease pedestrian access to Downtown Burbank, would be useful for the proposed hotel, and would allow people to access the proposed park space.

The Project would include a publicly accessible, privately-maintained open space plaza with a pedestrian bridge and elevator to Magnolia Street on the southern portion of the Project site to ease accessibility and connect people to Downtown Burbank. Therefore, the commenter's suggested feature is already part of the proposed Project. Furthermore, the Project would also include a retail gallery with a pedestrian link for residents of the Project to access Burbank Boulevard at the northern portion of the Project site.

### Response I-1.3

The commenter notes that all projects on First Street and the separately proposed Burbank Town Center Renovation development should contribute to increased access to the bus/train depot. The commenter adds that this connection should be part of the approval process for the proposed project to reduce car trips.

The Project would already include a pedestrian bridge and elevator to Magnolia Street on the southern portion of the Project site and a pedestrian link to Burbank Boulevard at the northern portion of the Project site. Both Project features would increase site accessibility, contribute to a reduction in car trips, and help pedestrians get to and from the nearby bus/train depot. The comment that all projects on First Street and the proposed Burbank Town Center Renovation development should contribute to increase access to the bus/train depot does not pertain to the adequacy of the Draft EIR and raises no environmental issues specific to the proposed Project. This may, however, be a consideration for City decision makers.

## **Planning Commission Public Comment Meeting July 22, 2019**

### Comment S-1

**COMMENTER:** Ernesto Pantoja

#### **Response S-1**

The commenter stated that he is present on behalf of Laborers Local 300. The commenter noted that he understands the initial issues with the Draft EIR and trusts that the Project developer will address and mitigate any environmental issues associated with the Project. The commenter stated support for the Project and requested that the Planning Board approve the Project because it will create a lot of jobs.

The commenter's support is noted for the record. This comment does not pertain to the adequacy of the analysis in the Recirculated Draft EIR.



## Comment S-2

**COMMENTER:** Martin De La Cruz

### **Response S-2**

The commenter noted that Laborers Local 300 provided him with an employment opportunity after the military. The commenter summarized his experience in assisting other with their career growth as part of Laborers Local 300. The commenter requested that the Planning Board support the Project to continue growth in the City.

The commenter's support is noted for the record. This comment does not pertain to the adequacy of the analysis in the Recirculated Draft EIR.

## Comment S-3

**COMMENTER:** Kate Spear on behalf of Laborers Local 300

### Response S-3.1

The commenter stated that she represents the UNITE HERE Local 11, Hospitality Worker's Labor Union. The commenter noted that the Project's impacts on air quality and climate change are of critical concern for the health and well-being of workers who are disproportionately affected by environmental degradation.

These comments are noted; however, no specific comments are discussed and responses to the commenter's individual comments on the Recirculated Draft EIR are provided below.

### Response S-3.2

The commenter commended the City for recirculating Section 4.2, *Air Quality*, and Section 4.5, *Greenhouse Gas Emissions*, of the Draft EIR and for adding new discussions of construction impacts overlapping with the Project's apparition and a GHG analysis that no longer relies solely on the City's outdated Climate Action Plan (CAP). The commenter added that they appreciate the opportunity to review and comment on the new analyses and will submit full comments in writing before the close of the comment period.

This comment is noted. Detailed responses to comments submitted in writing related to the new recirculated Draft EIR analyses and subsequent air quality and GHG emissions are provided in Letter O-3, above.

### Response S-3.3

The commenter stated that the City's GGRP/Climate Action Plan is based on outdated data and goals, and since the CAP's adoption, the City has not released routine annual reports to monitor its implementation and effectiveness.

Refer also to Response O-3.9 above regarding the applicability of the GGRP to the Project, and Response O-4.16 of Section 2 of this Final EIR regarding the GGRP progress report.

### Response S-3.4

The commenter urged the City to consider all feasible mitigation measures including, but not limited to the following: LEED Gold, Title 24 Tier 2 Status, solar panels to offset energy usage, a flushed-out recycling program that includes food scraps, and an aggressive TDM program that provides transit passes for project residents and employees.

Refer to Responses O-3.10 and O-3.12.

### Response S-3.5

The commenter noted that the Project would have significant traffic impacts and added that the City would have to adopt a Statement of Overriding Considerations supported by substantial evidence that Project benefits outweigh its environmental impacts.

The comment is noted and is accurate, but does not pertain to the adequacy of the analysis in the Recirculated Draft EIR.

### **Response S-3.6**

The commenter urged the City to include more affordable housing units into both the proposed Project.

The commenter's support for affordable housing is noted for the record. This comment does not pertain to the adequacy of the analysis in the Recirculated Draft EIR.

## 4 Errata

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This Errata addresses proposed refinements and revisions to the 777 North Front Street Project (Project) evaluated in the 777 North Front Street Final Environmental Impact Report (EIR). The EIR is comprised of the Draft EIR dated March 2019, the Recirculated Draft EIR dated July 2019, and the Final EIR dated October 2019. This Errata evaluates revisions incorporated in the Final EIR. In-text deletions are noted by ~~strikeout~~ and in-text insertions by underline. Individual typographical corrections are not specifically indicated here. The revisions are organized by section and page number. As discussed below, none of the conditions in Section 15088.5 of the CEQA Guidelines would be met because of revisions would not result in a significant change or an increase in the severity of any identified impact, and subsequent recirculation of the Draft EIR is not required.

### Effect of In-Text Revisions

As demonstrated by the following discussion, the in-text revisions to the Project would not result in new significant impacts or a substantial increase in the severity of previously identified significant impacts and therefore do not warrant recirculation of the EIR.

CEQA Guidelines Section 15088.5 requires that an EIR that has been made available for public review, but not yet certified, be recirculated only if significant new information has been added to the EIR. Pursuant to CEQA Guidelines section 15088.5(c), the entire document need not be circulated if revisions are limited to specific portions of the document. The relevant portions of CEQA Guidelines section 15088.5 read as follows:

- (a) *A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term “information” can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project’s proponents have declined to implement. “Significant new information” requiring recirculation include, for example, a disclosure showing that:*
- 1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.*
  - 2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.*
  - 3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project’s proponents decline to adopt it.*
  - 4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.*

*(b) Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.*

The information contained in this Errata makes insignificant changes to the information that has already been presented in the Draft EIR and Recirculated Draft EIR. In addition, the minor refinements are not significant because the EIR is not changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the Project. As described below, the proposed revisions would not result in any new significant impacts or a substantial increase in the severity of any impact already identified in the Recirculated Draft EIR or Final EIR. Thus, none of the conditions in Section 15088.5 of the CEQA Guidelines are met and recirculation is not required.

## Project Description

The following revisions were made to update Project information in Section 2, *Project Description*, of the Recirculated Draft EIR:

### *Section 2.7 – Page 2-4*

The residential component of the Project would include construction of one 279,162 square-foot, seven-story building containing 252 units and one 346,644 square-foot, eight-story building containing 321 units for a total of 573 residential units. In addition, a total of 1,206 857 parking spaces would be provided for tenants of both residential buildings (including ~~63 tandem~~ 70 guest parking spaces).

### *Section 2.7 – Page 2-5*

The hotel component of the Project would include construction of one 212,250 square-foot, seven-story building at the southeastern end of the Project site containing 307 hotel rooms and ancillary uses and ~~327~~ 307 associated parking spaces (including ~~20-58 tandem or stacked~~ parking spaces). Associated hotel amenities may include but would not be limited to 1,800 square feet of restaurant space, café, bar, pool terrace, fitness center, meeting rooms, and lounge. The hotel's ancillary commercial uses would include accessory retail and restaurant uses on the ground floor. In addition, a 1,067-square foot retail gallery would be provided on Front Street near the intersection of Burbank Boulevard that would have 4 total parking spaces. Additional ancillary uses would include public and private recreational spaces consisting of courtyards, residential balconies, and sky terraces at both parking structure roof levels. There is an adjacent City-owned property that is approximately 1.22 acres in area and is located to the south and east of the project site. The proposed Project would include a publicly accessible privately maintained plaza open space area on the adjacent City-owned property located to the south of the project site. The plaza open space area would be approximately 27,800 square feet and contain a variety of landscaping and hardscaping and an elevator and stairway connecting the open space area with the Magnolia Boulevard overcrossing. ~~comprises four main zones: 1) the western portion of the plaza will include an open (synthetic) lawn area with informal terrace seating for multi-purpose activities; 2) a hardscape courtyard with benches and shade trees will be located in the central zone where the access stair to the Magnolia Boulevard Bridge is located; 3) at the east of the plaza, there will be a zone for fitness and general public use; and 4) along the northern perimeter (where the Project site adjoins the Interstate 5 Freeway), there will be earth mounds to provide a sound buffer and screening with clusters of tall evergreen~~

~~trees.~~ Along the north/northeast perimeter where the Project site is adjacent to the I-5 Freeway, there would be earthen mounds and a wall along the eastern edge of the open space area to provide a sound buffer and landscape screening. Furthermore, the applicant is proposing to purchase approximately 15,000 square feet of the larger City-owned property which is the triangular piece of the property that is located between the southeastern corner of the Project site, I-5, and the proposed publicly accessible open space (discussed above). The land would be used to provide the required 26-foot fire lane for emergency vehicle access and circulation around the buildings.

Section 2.7.1 – Page 2-15

**Table 2-1 Project Characteristics**

Component	Floor Area (SF)	Height	Units/Rooms
Residential <sup>1</sup>	645,806	–	–
Building 1	279,162	7-story, 80'-4"	252
Building 2	346,644	8-story, 82'-6"	321
Retail Gallery	1,067	1-story	–
Hotel <sup>2</sup>	212,350	7-story	307
<b>Total</b>	<b>859,223</b>	–	–
<b>Open Space Area</b>			
Courtyards	26,950		
Pool Deck	32,300		
Publicly Accessible Plaza	27,800		
Private Balconies	19,350		
<b>Total Area</b>	<b>106,400</b>		
<b>Parking Stalls</b>			
Type	Residential	Hotel	Retail
Standard	<del>1,121</del> <u>835</u>	<del>296</del> <u>238</u>	4
ADA Accessible	22	11	–
Tandem or Stacked	<del>63</del> <u>–</u>	<del>20</del> <u>58</u>	–
<b>Total</b>			<b><del>1,537</del> <u>1,168</u></b>
<b>Bicycle Stalls</b>			
Type	Residential	Hotel	Retail
Short-term	14	4	–
Long-term	43	12	–
<b>Total</b>			<b>73</b>

<sup>1</sup> Residential area includes 20,000 square-foot buffer to the proposal residential area as well as the residential space in both Buildings 1 and 2.

<sup>2</sup> Hotel area includes square footage of 307 hotel rooms, 1,800 sf of restaurant space, a lounge, a bar, a meeting room, and a fitness club.

sf = square feet

The total building area of the proposed project, consisting of the residential, retail, hotel, and basement space, would be ~~839,223~~ 859,223 SF. The 212,305 SF hotel would include the square footage of 307 hotel rooms, a lounge, a bar, a meeting room, a fitness club, and 1,800 SF of

ancillary restaurant space and retail areas. The courtyards and balconies associated with the residential uses would face towards the interior sides of the buildings, or Front Street, away from the freeway. As discussed above, the Project would include a publicly accessible, privately maintained 27,800 SF publicly accessible open space on the City-owned property located to the south of the Project site that would include an elevator and stairway connecting the open space area ~~pedestrian bridge that connects the plaza to the~~ Magnolia Boulevard overcrossing and downtown Burbank. Along the north/northeast perimeter where the Project site is adjacent to the I-5 Freeway, there would be earthen mounds and wall along the eastern edge of the ~~plaza~~ open space area to provide a sound buffer and landscape screening.

*Section 2.7.6 – Page 2-18 and 2-19*

The following revisions were made to update information about the remediation efforts based on comments provided by the Los Angeles Regional Water Quality Control Board (LARWQCB) and the revisions to the Second Revised Response Plan (SRRP):

**Shallow Soil** – To remediate metals and VOCs in shallow soil at concentrations exceeding cleanup goals, Geosyntec proposes excavation and offsite disposal. The proposed development will require excavations to varying depths across the Project site, which are expected to generate approximately 32,000 ~~31,852~~ cubic yards of metal impacted soil.

### **Shallow Soil Vapor Impacts**

As noted above, Geosyntec proposes excavation of shallow soil, to a minimum depth of 10 feet bgs and profiled for offsite disposal or reuse onsite, for remediation of VOCs and metals in shallow soil. As noted in Section 4.0 of the SCMP (Plan Objectives), due to the fact that shallow soils throughout designated Areas A, B, and C of the Project site are going to be excavated and graded at various depth intervals (SCMP Figure 2), proper management, stockpiling, profiling, transportation, and disposal of the potential wastes generated during excavation activities will be required. For Area A, shallow soil will be excavated to a minimum depth of 10 feet below existing grade in accordance with LARWQCB requirements (RWQCB, April 22, 2019). In accordance with SJ4 Burbank’s development plan, clean fill suitable for a residential setting will be placed and compacted into Area A to create a graded pad elevation of approximately 4.6 feet below existing grade. In addition, confirmatory soil sampling from the shallow zone (Areas A, B and C) excavated areas will also be required to meet the residential RSLs and be protective of groundwater.

Engineering controls are proposed to prevent the potential for VOC migration into indoor air from any residual VOCs in soil gas in the deeper soil zone, which as noted below will be the addressed via active remediation by way of soil vapor extraction technology. Remediation goals are not applicable to this mitigation measure. Proposed engineering controls are described in the Project Design Features section below. Engineering controls will be designed to prevent migration of contaminants of concern at concentrations exceeding indoor air screening levels for residential or commercial property uses set forth by the US EPA.

### **Deep Soils and Soil Vapor**

COPCs in deep soil, from the base of final grade to approximately 90 feet bgs, as well as in soil vapor, will be remediated to the extent feasible and practicable via SVE. Because offsite sources of groundwater contamination may continue to impact deep soil and soil vapor, numerical cleanup goals may not be achievable and it may be necessary for goals to be performance-



based, whereby low and sustainable asymptotic influent concentrations that are protective of groundwater will serve as evidence that VOCs have been removed to the extent feasible and practicable.

## **Project Description and Hazards and Hazardous Materials**

The following revisions were made to update Project information in Section 2, *Project Description*, of the Recirculated Draft EIR and in Section 4.6, *Hazards and Hazardous Materials*, of the Draft EIR:

*Section 2.7.6 – Page 2-24 through 2-28, Section 4.6 – Page 4.6-16 through 4.6-20*

The following revisions were made to update information about the remediation efforts based on comments provided by the LARWQCB and the revisions to the SRRP and SCMP:

### **Hazards PDF 1 – Shallow Soil Remediation**

To remediate elevated metals and VOCs, shallow soil will be excavated to a minimum depth of 10 feet bgs and profiled for offsite disposal or reuse onsite and properly disposed offsite. The SCMP developed by Leighton (2019) will be implemented to address known and previously unidentified shallow soils impacted by the COPCs referenced in the RP.

The proposed redevelopment will include excavations for one or two-level podium style parking. ~~Excavations will extend up to varying depths across the Project site.~~ Three excavation areas have been designated in the SCMP; “Area A” will extend to a minimum depth of approximately 10 feet bgs, “Area B” will extend to approximately 21 feet bgs, and “Area C” will extend to approximately 28 feet bgs. Excavated soil will be segregated into separate stockpiles based on evidence of environmental impacts and will be profiled for either offsite disposal or reuse onsite. Leighton has estimated that approximately ~~32,000~~ 31,852 cubic yards of metal-impacted soil located beneath existing pavement/building slabs in the northwestern central portion of the Project site will require excavation and offsite disposal at a permitted landfill as a California hazardous waste. Excavation of any contaminant-impacted soils in these areas will further reduce threats to groundwater and potential risk to human health. Notably, Cr(VI) contamination in soil identified at specific locations in the HHRA will be removed during excavation activities.

US EPA Residential RSLs have been approved by the LARWQCB for use as cleanup goals for COPCs onsite, with the exception of arsenic. The cleanup goal for arsenic in soil will be 12 mg/kg, established by the DTSC in *Determination of a Southern California Regional Background Arsenic Concentration in Soil* (2008). If concentrations of COPCs exceed US EPA RSLs and/or hazardous waste criteria, the remedial excavation may be extended.

The profiling of metal-impacted excavated soil will determine whether the soil requires disposal as a non-hazardous waste or a California hazardous waste. Soil excavated from areas of known impacts will be stockpiled and profiled in accordance with the requirements of the selected disposal facility. Leighton indicated that chlorinated VOCs (primarily PCE and TCE) present in shallow soils in this area are considered relatively low and would not prevent soil disposal as a non-hazardous waste.

Prior to the start of excavation, SJ4 will obtain a permit from SCAQMD under Rule 1166. Monitoring using a photoionization detector (PID) or organic vapor analyzer (OVA) will occur every 15 minutes and results recorded during all earth-moving activities. If VOCs are detected at

concentrations greater than 50 parts per million by volume (ppmv), soil will be sprayed with water or vapor suppressant and stockpiles shall be covered with plastic sheeting. If PID readings exceed 1,000 ppmv the excavation must stop, the affected area must be sprayed, and the SCAQMD must be immediately notified. Excavated soil containing VOCs at concentrations greater than 1,000 ppmv must be immediately placed in an AQMD-approved sealed container or direct-loaded into trucks. The requirements of the Rule 1166 permit will be adhered to for the duration of the excavation activities.

Under SCAQMD Rule 1466 PM<sub>10</sub> monitoring will be implemented during all earth moving activities to minimize fugitive dust emissions potentially containing toxic air contaminants. Monitoring will consist of taking continuous direct-reading measurements of particulate matter less than 10 micrometers in diameter. Monitoring equipment will be placed on the upwind and downwind sides of the Project site and will be set to record particulate readings every 10 minutes. If the PM<sub>10</sub> concentration averaged over two hours exceeds 25 micrograms per cubic meter, the SJ4 contractor shall cease earth-moving activities, apply dust suppressant, or implement other dust control measures until the PM10 concentration is equal to or less than 25 micrograms per cubic meter averaged over 30 minutes.

Observations will be conducted to identify any previously unknown contamination. Soil will be visually monitored during concrete removal and excavation activities by Leighton for the presence of staining and for elevated VOCs using a PID. Soil samples will be collected if evidence of potential contamination is observed. Excavated soil will be profiled for waste disposal.

Confirmation samples will be collected from the sidewalls and floors of the excavations. The sampling frequency will depend on the size of the excavation. In general, samples will be collected from the mid-point of each of the walls and floor, or every 25 linear feet of exposed sidewall at 5-foot depth increments. The floors of each excavation will be sampled at a rate of approximately one sample per 625 square feet. Samples will be analyzed for COPCs and results will be compared to US EPA Residential RSLs. If additional excavation is required beyond the base of the grading plan to achieve the RSLs, the excavated areas will be backfilled with imported clean soil.

~~Excavation and characterization of identified and previously unidentified potentially contaminated soil will be conducted under the direction of LARWQCB. If previously unidentified contamination is encountered with a volume greater than a 55-gallon drum, the LARWQCB project manager will be contacted and consulted for proper delineation and removal. A summary report will be prepared following the completion of excavation activities.~~

If any historical underground features are encountered, including clarifiers, underground storage tanks (USTs), and associated piping, they will be removed under permit and oversight of the appropriate regulatory agency.

If stained soil is observed in the locations of the former transformers soil samples will be collected and analyzed for PCBs. If PCBs are detected, proper management and disposal of the PCB-affected soil will be performed. If any oil-stained concrete remains, the concrete will be resampled for the presence of PCBs and if necessary, segregated, profiled, and properly disposed.

Impacts associated with shallow contaminated soil and associated air quality or fugitive dust emissions during excavation, grading, stockpiling or transport of soils will be reduced to less than significant if the SCMP is adhered to and excavation, characterization, and disposal of contaminated soil are conducted under the oversight of the LARWQCB and in accordance with

applicable local, State, and Federal regulations, including SCAQMD Rules 402, 403, 1166 and 1466. Furthermore, implementation of these measures is anticipated to mitigate the potential for exposure to offsite commercial or residential receptors, including during transport of excavated soil to disposal facilities.

#### *Hazards PDF 2 – Shallow Soil Vapor*

Engineering controls will be installed beneath the building foundations to prevent the migration of VOCs in shallow soil vapor into the proposed buildings. Engineering controls proposed in Geosyntec's Response Plan include the following:

Vapor Barrier and Venting System – Vapor barriers and venting systems will be installed as engineering controls beneath foundations of at-grade parking structures located beneath residences and beneath and around below-grade structures. The locations of the vapor barrier systems are illustrated on Drawings 2 through 4 of the RP. The vapor barrier systems beneath foundations will consist of, from top to bottom, a concrete slab underlain by a minimum 30-mil vapor barrier, followed by a cushion geotextile and/or 2 inches of sand to prevent puncture, followed by a vapor collection layer consisting of a minimum of 4-inch aggregate or geocomposite. Perforated venting pipes will be installed within the aggregate, or a strip composite venting layer will be placed immediately above the subgrade.

Horizontal pipes will be spaced generally every 50 to 60 feet in either a gravel-filled trench (the vapor collection layer) or immediately above the subgrade as strip composite. The horizontal pipes will be connected to solid vertical solid vent pipes which will extend through the below-grade structure building to a minimum of 10 feet above grade and a minimum of 10 feet from any air inlet or operable door or window. A monitoring point will be installed within each vent riser.

As a contingency measure, strip composite will be installed for ventilation at the separation of the shallow soil and deep soil layer as part of the remediation of Area A. According to the RP, the ventilation layer should limit the ability of VOCs in soil vapor from deeper soils to migrate into this shallow soil layer. The contingency measure will operate in conjunction with the deeper SVE systems and have the ability to actively or passively maintain a depressurized zone below the shallow soil layer and overlying improvements.

The system will initially operate passively, and wind-driven turbines will be added to select vent risers to enhance venting. The venting system shall be equipped with blowers, and could therefore become an active system, if the indoor air or sub-slab VOC concentrations increase and additional engineering controls are deemed necessary or required by the LARWQCB.

The walls of below-grade structures will have a minimum 30-mil vapor barrier resistant to COPCs between the concrete walls and the subgrade soil. Cushion geotextiles and/or 2-inches of sand will be placed between the vapor barrier and surrounding soil to prevent puncture.

At-grade occupied, enclosed structures may consist of lobbies, elevators, or commercial space. Engineering controls for at-grade occupied, enclosed structures will include aerated floors such as Cupolex®. The aerated floor system will consist of, from top to bottom, a concrete slab, aerated forms, and prepared subgrade. The void space beneath the structures will be connected to vent pipes. Vent pipes will ventilate a minimum of 10 feet above grade and a minimum of 10 feet from any air inlet and/or operable door or window. A minimum of 2 ventilation pipes will be provided per enclosed continuous structure. A monitoring point will be installed within each vent riser.

At-grade, open parking garages will be constructed with a podium-style design incorporating natural ventilation meeting the requirements of 24 CCR Chapter 4 Section 406.5.2. The exterior side of the structure will have uniformly distributed openings on two or more sides that will not be less than 20 percent of the total perimeter wall area of the ground-level tier. The total length of the openings will not be less than 40 percent of the ground-level tier. Interior walls will have uniformly-spaced openings which will be a minimum 20 percent open, however size of openings may be modified if HVAC controls are implemented in the structure to provide enhanced ventilation.

#### *Operation, Maintenance, and Monitoring*

An Operation, Maintenance, and Monitoring (OMM) plan will be developed and submitted to the LARWQCB concurrently with the final Design Report detailing elements of the remedial design. The OMM plan will detail the methods for monitoring the vapor barrier and venting system and will provide monitoring frequencies and maintenance procedures for the system components. Furthermore, the OMM plan will include details of post construction indoor air monitoring for COPCs addressed in the RP in a manner that will comply with LARWQCB requirements and applicable State laws and guidance for the evaluation and mitigation of subsurface vapor intrusion to indoor air.

#### **CONTINGENCY MEASURE**

A contingency measure for shallow soil vapor is included in the Second Revised RP that will ensure the protection of human health by addressing elevated shallow soil vapor concentrations, should any remain following the implementation of active remediation measures, including shallow soil excavation and operating of the SVE system. The contingency plan should provide for additional remedial and/or mitigation measures to be implemented if VOCs concentrations in indoor air samples exceed RSLs for commercial and residential scenarios, as evidenced by an indoor air assessment.

Further details regarding the vapor barrier and venting system details are provided in Section 7 of the RP prepared by Geosyntec. The engineering controls will be recorded as part of an administrative deed restriction for the Project site. The deed restriction will be provided to the LARWQCB when finalized.

According to the DTSC's *Vapor Intrusion Mitigation Advisory*, 2011, subslab venting is one of the most commonly accepted mitigation techniques and has a successful track record of performance. Utilization of a subslab liner aids in venting the sub-slab soil gas via collecting pipes rather than upward into the building and provides protection in the event that the blower fails on a depressurization system. The advisory further states that the risk from vapor intrusion may be greatly reduced through the use of podium-style buildings. Impacts associated with residual VOCs in shallow soil vapor will be reduced to less than significant provided that the following is implemented:

- The Response Plan is approved by and implemented under the direction of the LARWQCB.
- A vapor barrier and venting system, along with aerated flooring beneath certain at-grade occupied areas are implemented in accordance with the RP.
- Shallow soil vapor is mitigated to levels that are protective of human health and groundwater
- The OMM plan is followed, including post-construction indoor air monitoring.

- The contingency measure is followed to address any potential future rebound of shallow soil vapor to levels exceeding applicable health-based standards during post-remedial vapor monitoring, in order to ensure the protection of health for all future occupants.

## Hazards and Hazardous Materials

The following revisions were made to update Project information in Section 4.6, *Hazards and Hazardous Materials*, of the Draft EIR:

### Section 4.6 – Page 4.6-21 and 4.6-22

The following revisions were made to update information about the remediation efforts based on comments provided by the LARWQCB and the revisions to the SRRP and SCMP:

#### HAZ-1a Soil and Soil Vapor

The applicant shall incorporate all requirements in the design of the Project as set forth by the LARWQCB for issuance of building permits, which include the following measures:

1. The boundary of the vapor barrier and sub-slab ventilation shall extend beneath the entire building footprint.
2. VOCs in shallow soil vapor shall be mitigated to levels that are protective of human health for the proposed residential and commercial uses, as required by the LARWQCB. Following the LARWQCB’s detailed review of the Second Revised Plan, subsequent in-person technical discussions of LARWQCB requirements with Geosyntec and Leighton on June 25 and July 10, 2019, Geosyntec submitted a detailed technical memorandum on July 20, 2019.<sup>1</sup> Notably, the July 20, 2019 memorandum, entitled “Technical Summary of Groundwater Protection Evaluation and Vapor Diffusion Analysis,” addressed site-specific vapor diffusion per the LARWQCB’s request, and modeled the attenuative capacity of the site-specific mitigation features. Mitigation measures for the Project, as detailed in the SRRP, include a vapor barrier system and concrete foundation slab. The results of Geosyntec’s analysis indicate that the predicted indoor air concentrations of VOCs (PCE and TCE) are protective of health, including future residents, even accounting for very conservative assumptions in Geosyntec’s analysis. LARWQCB’s concurrence with this analysis, and the target soil vapor cleanup goals as set forth in the SRRP, are reflected in its “appropriate care” letter of July 22, 2019. Therein, the LARWQCB determined that proper implementation and completion of the proposed remedial measures “will constitute ‘appropriate care’ for the purposes of California Health and Safety Code (HSC) Section 25395.67(a) [California Land Reuse & Revitalization Act (“CLRR”)].” This also reflects the LARWQCB’s express acknowledgment that remediation goals for shallow soil vapor have been clearly and adequately defined in the SRRP.
3. The proposed SVE network shall include vapor extraction wells screened within the shallow soil profile as a contingency measure to address any future rebound of shallow soil vapor to levels exceeding the target cleanup goals during post-remedial vapor monitoring, as required by the LARWQCB.

<sup>1</sup> [https://geotracker.waterboards.ca.gov/regulators/deliverable\\_documents/1519723057/Geosyntec%20-%20Second%20Revised%20RP\\_Technical%20Summary%20Calculations\\_2019-7-20.pdf](https://geotracker.waterboards.ca.gov/regulators/deliverable_documents/1519723057/Geosyntec%20-%20Second%20Revised%20RP_Technical%20Summary%20Calculations_2019-7-20.pdf))

4. Mass removal of VOCs in deep soil shall continue until influent concentrations from the proposed SVE treatment reach low and sustainable asymptotic levels that are protective of groundwater.

## **Water Supply**

In November 2018, Burbank Water and Power (BWP) provided review comments for the Water Supply Assessment (WSA) and Section 4.13, *Utilities and Service Systems*, of the Draft EIR prepared for the Project. The following text clarifications and analysis revisions were incorporated into the WSA (Appendix K of the Draft EIR) and associated portions of Section 4.13 of the Draft EIR, based on BWP's review comments.

### *Water Supply Assessment – Page 5*

The following revisions were made on Page 5 of the WSA to clarify the proposed source for on-site recycled and potable water:

Domestic water service for the Project would be provided by BWP, a local water supplier that provides water to customers within the City of Burbank. Figure 3 shows BWP's service area. Additionally, the United Water Services treatment facility is approximately 150 feet southwest of the Project site. Recycled water would be provided by the existing 16-inch recycled water main in Front Street. A 12-inch potable water main (approximately 2,000 linear feet) would be installed in Front Street to accommodate the potable water services and fire hydrants for the Project.

### *Water Supply Assessment – Pages 5 and 6*

BWP noted that the upcoming state urban efficiency standard of 55 gallons per capacity per day (GPCD) would be appropriate to use to calculate indoor water demand associated with the Project's residential and hotel uses whereas the previous analysis used water demand factors developed by the City of Los Angeles for all Project uses. Water demand calculations in the WSA have been revised to incorporate the updated efficiency standard, per the comments provided by BWP, as follows:

The water demand calculations in this WSA use the upcoming urban efficiency standard of 55 gallons per capita per day (GPCD) for indoor use to calculate residential and hotel water demand. To calculate hotel water demand, this analysis conservatively assumed an average occupancy rate of two persons per room. Water demand for the remaining account types was calculated using sewage generation factors developed by the City of Los Angeles (City of Los Angeles 2006). Each customer account type (development type) has its own associated sewage generation factor by unit that was used to calculate projected sewage generation volumes for each type of new development. It is assumed that water used by the Project is approximately 120 percent of the wastewater generated by the Project. This is a commonly used approach to estimate water supply demands for the purposes of a WSA. Table 1 shows the Project's total water demand by customer account type.

Table 1 of the WSA, which shows the Project's total water demand by customer type, was also revised to quantitatively incorporate the updated efficiency standard.

**Table 1 Projected Total Potable Water Demand by Customer Account Type**

<u>Account Type</u>	<u>Size</u>	<u>Water Demand Factor</u>	<u>Projected Water Demand (AFY)</u>
<u>Residential<sup>1</sup></u>	<u>1,433 residents</u>	<u>55 GPCD</u>	<u>88.3</u>
<u>Hotel Rooms<sup>1</sup></u>	<u>307 units<sup>2</sup></u>	<u>55 GPCD</u>	<u>37.8</u>
<u>Retail Space</u>	<u>1,067 sq. ft</u>	<u>96 gpd/1,000 sq. ft</u>	<u>0.1</u>
<u>Bar/Lounge</u>	<u>507 sq. ft</u>	<u>600 gpd/1,000 sq. ft</u>	<u>0.3</u>
<u>Meeting Room</u>	<u>4,637 sq. ft</u>	<u>180 gpd/1,000 sq. ft</u>	<u>0.9</u>
<u>Fitness Club</u>	<u>3,433 sq. ft</u>	<u>960 gpd/1,000 sq. ft</u>	<u>3.7</u>
<b><u>Total Potable Water Demand</u></b>			<b><u>131.2</u></b>

GPCD = gallons per capita per day; gpd = gallons per day; AFY = acre-feet per year; sq. ft = square feet

<sup>1</sup> New statewide urban efficiency standards for indoor use, which will be adopted no later than June 2022, establish an indoor use water standard of 55 GPCD. This rate has been applied as a maximum use scenario.

<sup>2</sup> These calculations conservatively assumed an average occupancy of two persons per hotel room.

Note: City of Los Angeles wastewater generation factors were used to calculate retail, bar/lounge, meeting room, and fitness club water demand rates (City of Los Angeles 2006). It can be assumed that water demand is approximately 120 percent of wastewater generation.

**Table 1—Estimated Potable Water Demand**

<u>Account Type</u>	<u>Size</u>	<u>Water Demand Factor<sup>1</sup></u>	<u>Projected Water Demand (gpd)</u>	<u>Projected Water Demand (AFY)</u>
Studio (0 BD/1 BA)	114 units	96 gpd/unit	10,944	12.26
1-Bedroom (1 BD/1 BA)	245 units	144 gpd/unit	35,280	39.52
2-Bedroom (2 BD/2 BA)	180 units	192 gpd/unit	34,560	38.71
3-Bedroom (3 BD/2 BA)	34 units	240 gpd/unit	8,160	9.14
Hotel Rooms	307 units	156 gpd/unit	47,892	53.65
Retail Space	1,067 sq. ft	96 gpd/1,000 sq. ft	102	0.11
Bar <sup>2</sup>	5072,423 sq. ft	600 gpd/1,000 sq. ft	304	0.34
Meeting Room	4,637 sq. ft	180 gpd/1,000 sq. ft	835	0.94
Fitness Club	3,433 sq. ft	960 gpd/1,000 sq. ft	3,295	3.69
Landscaping	13,058 sq. ft	See equation in table notes <sup>3</sup>	117,890	130.4
<b><u>Total Water Demand</u></b>			<b><u>258,897</u></b>	<b><u>290.4</u></b>

gpd = gallons per day; AFY = acre-feet per year; BD = bedroom; BA = bathroom; sq. ft = square feet

<sup>1</sup> It is assumed that water used by the site is approximately 120 percent of the wastewater generated by the site. This is a commonly used approach to estimate water supply demands for the purposes of a WSA. Source for water demand factors used in calculations: City of Los Angeles 2006.

<sup>2</sup> For calculation purposes, it was assumed that Bar/Lounge usage was equivalent to "Bar: Cocktail Public Table Area."

<sup>3</sup> Landscaping water was calculated using City of Burbank's Water Budget Form, which relies on the following equation:  $Estimated\ Total\ Water\ Use = (32.05) \left( \frac{Plant\ Factor \times Hydrozone\ Area}{0.71} \right)$ . It was assumed that the site would require a "low" Plant Factor, or 0.2, since the project design includes water saving features such as drip irrigation systems and drought tolerant landscaping.



Because water demand factors for residential and hotel uses from the City of Los Angeles yielded larger water demand calculations when compared to the use of 55 GPCD, the previous analysis is considered a more conservative estimate of total water demand than the revised analysis. Therefore, compared to the analysis presented in the Draft EIR, these revisions do not result in an increase in the severity of any identified impact. The revised methodology used to calculate water demand accounts for statewide urban efficiency standards and, therefore, reflects a more accurate total estimated water demand.

Based on the revised calculation approach and quantitative results, the following in-text changes and clarifications were made on Page 6 of the WSA following Table 1.

The indoor components of the Project would demand an estimated ~~131.2~~131.2159.6 AFY of water. This can be considered a conservative estimate, since the Project design includes water saving features such as water-efficient appliances and fixtures. In addition, the Project includes outdoor landscaping that would require an estimated 130.4 AFY of recycled water.<sup>1</sup> Recycled water is available and would be used throughout the Project site for landscape irrigation. ~~Therefore, the total estimated water demand for the proposed Project is approximately 290 AFY.~~

#### *Water Supply Assessment – Page 11*

Based on the revised calculations between Pages 5 and 6 of the WSA, the following revision was also made on Page 11 for consistency.

This WSA assesses the sufficiency of available water supplies to meet the Project's estimated requirements. Water resources in the Project area are described in Section 5, *Water Supplies*. Water supply reliability is discussed in Section 7, *Water Supply Reliability*. As discussed in Section 3, ~~the proposed Project is forecast to generate water demand by approximately 290 AFY.~~ the indoor components of the Project would demand an estimated 131.2 AFY of water. This can be considered a conservative estimate, since the Project design includes water saving features such as water-efficient appliances and fixtures. In addition, the Project includes outdoor landscaping that would require an estimated 130.4 AFY of recycled water. Construction would begin in August 2019 and end in June 2024. The Project's operational potable water demand accounts for approximately ~~0.71~~one percent of the total potable water supplies available to the City of Burbank in 2025 and approximately ~~0.75~~1.1 percent of the supplies available in 2040. The Project's operational recycled water demand accounts for approximately 2.5 percent of the total recycled water supplies available to the City of Burbank in 2025 and 2040.

#### *Water Supply Assessment – Page 20*

The discussion on page 20 of the WSA has been revised to separate potable water demand from recycled water demand in comparison to the water supply reported in the BWP's 2015 Urban Water Management Plan.

The Project design includes water saving features, including water efficient appliances and fixtures, drip irrigation systems, and drought tolerant landscaping. Both potable and recycled water ~~would~~may be used during implementation of the Project. As discussed in Section 3, the indoor components of the Project would demand an estimated 131.2 AFY of water. This can be considered a conservative estimate, since the Project design includes water saving features such as water-efficient appliances and fixtures. In addition, the Project includes outdoor landscaping

~~that would require an estimated 130.4 AFY of recycled water. the proposed Project is forecast to generate water demand by approximately 290 AFY. Construction would begin in August 2019 and end in June 2024. The Project's operational potable water demand accounts for approximately 0.71 percent of the total potable water supplies available to the City of Burbank in 2025 and approximately 0.75 percent of the supplies available in 2040. The Project's operational recycled water demand accounts for approximately 2.5 percent of the total recycled water supplies available to the City of Burbank in 2025 and 2040. The proposed Project's operational water demand accounts for approximately one percent of the total water supplies available to the City of Burbank in 2025 and approximately 1.1 percent of the supplies available in 2040.~~

#### *Section 4.13 Utilities and Service Systems – Pages 4.13-10 and 4.13-11*

The methodology for wastewater and water demand calculations described between pages 4.13-10 and 4.13-11 of Section 4.13 has been revised to be consistent with the updated WSA, as follows.

~~Project-generated wastewater generation and water demand (e.g., water demand, wastewater, and solid waste generation) were calculated using municipal or state utility rates or standards per development unit (e.g., water use per dwelling unit), whereas solid waste generation rates were obtained from CalEEMod (see Appendix D).~~

~~Project-generated wastewater and water demand was calculated using The wastewater and water demand calculations in the WSA use sewage generation factors developed by the City of Los Angeles for all uses other than the proposed residential and hotel uses (City of Los Angeles 2006). Each customer account type (development type) has its own associated sewage generation factor by unit, which were used to calculate projected sewage generation volumes for each type of new development. It is assumed that the amount of water required for the proposed Project is equivalent to approximately 120 percent of the amount of wastewater generated by land uses included under the proposed Project. This is a commonly used approach to estimate water supply demands for the purposes of a WSA. The WSA is presented in Appendix K of this Draft EIR.~~

~~Wastewater and water demand calculations for the proposed residential and hotel uses use the upcoming state urban efficiency standard of 55 gallons per capita per day (GPCD) for indoor water supply. To calculated hotel water demand, this analysis conservatively assumes an average occupancy rate of two persons per room. It is also assumed that wastewater generated by both residential and hotel uses is equivalent to approximately 80 percent, or 44 GPCD, of the water supply demand of 55 GPCD.~~

~~The project's air and greenhouse gas emissions were calculated using the California Emissions Estimator Model (CalEEMod), version 2016.3.2. CalEEMod uses project-specific information, including the project's land uses, square footages for different uses (e.g., residential, hotel, parking, etc.), and location, to estimate a project's construction and operational emissions from new development. CalEEMod also estimates water demand by land use. According to the CalEEMod model, the proposed project would demand approximately 185 AFY of indoor and outdoor water.~~

~~However, since CalEEMod is designed primarily to quantify air and greenhouse gas emissions, the land-use categories are more appropriately classified for those calculations. For example, all residential development associated with the proposed project is categorized in CalEEMod as "Apartments Mid Rise." The methodology used to calculate water demand in this WSA accounts~~

for more specific water account types, and therefore reflects a more accurate total estimated water demand.

Solid waste generation rates were obtained from CalEEMod (see Appendix K). The Project’s water demand and wastewater generation were then compared to existing and projected infrastructure capacities or supplies to determine whether there would be sufficient capacity or supplies to meet associated Project demands.

*Section 4.13 Utilities and Service Systems – Pages 4.13-12 and 4.13-13*

The impact statement and analysis for Impact U-1 was revised to be consistent with the updated methodology and calculation results for wastewater generated by the Project.

**Impact U-1 THE PROPOSED PROJECT WOULD GENERATE 93,849~~118,748~~ GPD OF WASTEWATER, WHICH WOULD REPRESENT 3% OF THE BWRP’S AVAILABLE CAPACITY OF 3.5 MGD. THEREFORE, THE BWRP WOULD BE ABLE TO ADEQUATELY TREAT PROJECT-GENERATED SEWAGE AND THE TREATMENT REQUIREMENTS OF THE RWQCB WOULD NOT BE EXCEEDED. IMPACTS WOULD BE LESS THAN SIGNIFICANT.**

As indicated in the Table 4.13-4, total wastewater generation for the Project is estimated at 93,849~~118,748~~ gpd (104,133 AFY). The BWRP has a design capacity of 12.5 mgd and currently treats approximately 9.0 mgd. (BWP 2016, City of Burbank 2013, City of Burbank 2018) The projected wastewater generated by the Project represents approximately three percent of the plant’s available capacity of 3.5 mgd. Therefore, the BWRP has sufficient available treatment capacity to serve the Project. The BWRP would be able to adequately treat project-generated sewage in addition to currently generated sewage, and the treatment requirements of the RWQCB would not be exceeded.

**Table 4.13-4 Estimated Wastewater Generation**

<u>Account Type</u>	<u>Size</u>	<u>Wastewater Generation Factor</u>	<u>Projected Wastewater Generation</u>
<u>Residential<sup>1</sup></u>	<u>1,433 residents</u>	<u>44 GPCD</u>	<u>63,052 gpd</u>
<u>Hotel Rooms<sup>1</sup></u>	<u>307 units<sup>2</sup></u>	<u>44 GPCD</u>	<u>27,016 gpd</u>
<u>Retail Space</u>	<u>1,067 sq. ft</u>	<u>80 gpd/1,000 sq. ft<sup>3</sup></u>	<u>85 gpd</u>
<u>Bar<sup>4</sup></u>	<u>507 sq. ft</u>	<u>500 gpd/1,000 sq. ft<sup>3</sup></u>	<u>254 gpd</u>
<u>Meeting Room</u>	<u>4,637 sq. ft</u>	<u>150 gpd/1,000 sq. ft<sup>3</sup></u>	<u>696 gpd</u>
<u>Fitness Club</u>	<u>3,433 sq. ft</u>	<u>800 gpd/1,000 sq. ft<sup>3</sup></u>	<u>2,746 gpd</u>
<b><u>Total Wastewater Generation</u></b>			<b><u>93,849 gpd</u></b>

GPCD = gallons per capita per day; gpd = gallons per day; AFY = acre-feet per year; BD = bedroom; BA = bathroom; sq. ft = square feet

<sup>1</sup>New statewide urban efficiency standards for indoor use, which will be adopted no later than June 2022, establish an indoor use water standard of 55 GPCD. Eighty (80) percent, or 44 GPCD, of this rate has been applied for wastewater generation estimates for residential and hotel uses associated with the Project.

<sup>2</sup>These calculations conservatively assumed an average occupancy of two persons per hotel room.

<sup>3</sup>Source for water demand factors used in calculations: City of Los Angeles 2006

<sup>4</sup>For calculation purposes, it was assumed that Bar usage was equivalent to “Bar: Cocktail Public Table Area.”

**Table 4.13-2 Estimated Wastewater Generation**

Account Type	Size	Wastewater Generation Factor <sup>3</sup>	Projected Wastewater Generation (gpd)
Studio (0 BD/1 BA)	114 units	-80 gpd/unit	9,120
1-Bedroom (1 BD/1 BA)	245 units	-120 gpd/unit	29,400
2-Bedroom (2 BD/2 BA)	180 units	-160 gpd/unit	28,800
3-Bedroom (3 BD/2 BA)	34 units	-200 gpd/unit	6,800
Hotel Rooms	307 units	-130 gpd/unit	39,910
Retail Space	1,067 sq. ft	80 gpd/1,000 sq. ft	-85
Bar <sup>2</sup>	507 sq. ft	-500 gpd/1,000 sq. ft	-254
Meeting Room	4,637 sq. ft	-150 gpd/1,000 sq. ft	-696
Fitness Club	3,433 sq. ft	-800 gpd/1,000 sq. ft	-2,746
<b>Total Wastewater Generation</b>			<b>118,748</b>

gpd = gallons per day; AFY = acre feet per year; BD = bedroom; BA = bathroom; sq. ft = square feet

<sup>1</sup> Source for water demand factors used in calculations: City of Los Angeles 2006

<sup>2</sup> For calculation purposes, it was assumed that Bar usage was equivalent to "Bar: Cocktail Public Table Area."

The City conducted a sewer capacity analysis (SCA) for the Project (see Appendix L), that concluded the Project development would not require additional improvements to the existing sewer infrastructure serving the Project site. The SCA notes that per the approved Interstate 5 widening project plan that is not a part of the Project, the eight-inch sewer north of the Project site will be removed, and a portion of the 30-inch sewer north of the Project site will be relocated. These sewer reaches are marked as "A" and "B" respectively in the sewer capacity map provided in Figure 4.13-3.

The Project would connect to the City's sanitary sewer system contingent that 1) sewer facility chargers (SFCs) are paid prior to issuance of a Building Permit; and 2) the Project would not generate wastewater exceeding a peak wastewater discharge of 270 gallons per minute (gpm), which is the current calculated peak discharge rate based on the development plans submitted to the City. Based on meeting these two conditions, connection to the City's sanitary sewer system may occur along reach "C", as shown in Figure 4.13-3 that is from maintenance hole (MH) 09-245 to MH 09-246 to MH 09-247 to MH 09-248 to MH 09-249. Based on the Project's projected wastewater generation of ~~93,849~~**118,748** gpd, the average wastewater discharge would be approximately ~~658~~**2** gpm, which is well below the peak wastewater discharge threshold of 270 gallons per minute. Therefore, this segment of the sewer system has sufficient capacity to accommodate Project flows and impacts to wastewater systems would be less than significant.

Section 4.13 Utilities and Service Systems – Page 4.13-14

The impact statement for Impact U-2 was also revised in Section 4.13 for consistency with the previously discussed re-calculations and in-text clarifications incorporated into the WSA. The same revisions to the WSA (shown above) apply to the analysis under Impact U-2.

**Impact U-2** THE PROPOSED PROJECT WOULD DEMAND 131.2290 ACRE-FEET PER YEAR (AFY) OF POTABLE WATER, WHICH WOULD REPRESENT 0.714% OF ~~METROPOLITAN'S PROJECTED WATER SUPPLY AND DEMAND FOR BURBANK~~ THE TOTAL POTABLE WATER SUPPLIES AVAILABLE TO THE CITY OF BURBANK IN 2040. THE PROJECT INCLUDES OUTDOOR LANDSCAPING THAT WOULD REQUIRE AN ESTIMATED 130.4 AFY OF RECYCLED WATER, WHICH WOULD REPRESENT 2.5% OF THE TOTAL RECYCLED WATER SUPPLIES AVAILABLE TO THE CITY OF BURBANK IN 2040. ~~BASED ON THE WATER DEMAND PROJECTIONS, WATER SUPPLIES ARE SUFFICIENT TO MEET THE PROJECTED WATER DEMAND OF THE PROPOSED PROJECT. IMPACTS WOULD BE LESS THAN SIGNIFICANT.~~

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## Conclusion

Based on the information presented above, the revised water demand calculations would not result in any new significant impacts or a substantial increase in severity of an impact already identified in the Draft EIR or Recirculated Draft EIR or disclose a feasible alternative or mitigation measure the Applicant has declined to adopt. Thus, none of the conditions in Section 15088.5 of the CEQA Guidelines are met and subsequent recirculation of the Draft EIR is not required.

## **5 Mitigation Monitoring and Reporting Program**

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CEQA requires adoption of a reporting or monitoring program for the conditions of project approval that are necessary to mitigate or avoid significant effects on the environment (Public Resources Code 21081.6). This mitigation monitoring and reporting program is intended to track and ensure compliance with adopted mitigation measures during the project implementation phase. For each mitigation measure recommended in the Final Environmental Impact Report (Final EIR), specifications are made herein that identify the action required, the monitoring that must occur, and the agency or department responsible for oversight.

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Compliance Verification		
					Initial	Date	Comments
<b>Air Quality</b>							
<b>AQ-2 High Efficiency Truck Engines</b>							
All haul trucks used during construction shall have engine model years between 2010 and 2018 to ensure that all truck engines have higher average total fuel efficiency.	Field verification of trucks for compliance.	Continuous throughout project construction.	Continuous throughout project construction.	City of Burbank Community Development Department			
<b>AQ-3 NO<sub>x</sub> Reduction from Combined Operational and Construction Emissions</b>							
All off-road diesel-powered construction equipment shall meet or exceed the CARB <sup>1</sup> and U.S. EPA Tier 4 off-road emissions standards for equipment rated at 50 horsepower or greater during construction activities that overlap with building occupancy. Contractors shall demonstrate the ability to supply compliant equipment for review and approval by the City prior to the commencement of any construction activities and issuance of building occupancy permits. A copy of each unit's certified tier specification and CARB or SCAQMD <sup>1</sup> operating permit (if applicable) shall be available upon request at the time of mobilization of each applicable unit of equipment. If use of Tier 4 construction equipment is not feasible, the contractor shall provide evidence that Tier 4 construction equipment is not feasible and shall provide a report to the City for review and approval, demonstrating that other technologies/strategies would reduce emissions from overlapping construction and operational phases to below SCAQMD's operational thresholds. 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 Project, and/or limiting	Field verify the off-road equipment on site; correlate with review of contractor provided certified tier specification and CARB or SCAQMD operating permit.	Within 4 days of off-road equipment delivery to the project site, and in conjunction with delivery of additional equipment.	Every 6 weeks, during earthwork.	City of Burbank Community Development Department			
	If Tier 4 equipment is not available, review proof of contractor documentation, and related report demonstrating how project construction will comply with SCQAMD thresholds.	Same as above.	Same as above.	Same as above.	Same as above.		

<sup>1</sup> CARB – California Air Resources Board, EPA – Environmental Protection Agency, SCAQMD – South Coast Air Quality Management District



Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Compliance Verification		
					Initial	Date	Comments
<p>the number of individual construction project phases occurring simultaneously, if applicable. If it cannot be demonstrated that emissions during construction activities that overlap with building occupancy would not exceed SCAQMD's operational thresholds, then building occupancy shall be delayed until all construction activities are complete.</p>							
<b>Cultural Resources</b>							
<b>CUL-1a Unanticipated Discovery of Archaeological Resources</b>							
<p>Prior to start of ground-disturbing activities, a qualified archaeologist (who meets the Secretary of the Interior's Professional Qualifications Standards) shall be retained by the Project applicant to conduct cultural resources sensitivity training for all construction personnel. Construction personnel shall be informed of the types of archaeological resources that may be encountered, the proper procedures to be enacted in the event of an inadvertent discovery of archaeological resources or human remains, and safety precautions to be taken when working with archaeological monitors. The Project applicant shall ensure that construction personnel are made available for and attend the training and retain documentation demonstrating attendance.</p> <p>In the event of the unanticipated discovery of archaeological materials, the Project applicant shall immediately cease all work activities in the area (within approximately 100 feet) of the discovery until it can be evaluated by a qualified archaeologist. Construction shall not resume until the qualified archaeologist has conferred with the City on the significance of the resource. If it is determined that the discovered archaeological resource constitutes a historical resource or unique archaeological resource pursuant to CEQA, avoidance and preservation in place shall be the preferred manner of mitigation. Preservation in place</p>	<p>Verification that a qualified archaeologist (who meets the Secretary of the Interior's Professional Qualifications Standards) has been retained.</p>	<p>Prior to issuance of grading permits and during grading and ground disturbing activities.</p>	<p>Continuous throughout grading and ground disturbing activities.</p>	<p>City of Burbank Community Development Department</p>			
	<p>Review documentation demonstrating attendance of sensitivity training.</p>	<p>At the commencement of ground-disturbing activities. Thereafter, every 8 weeks unless there are no new construction personnel.</p>	<p>Same as above.</p>	<p>Same as above.</p>			
	<p>If applicable, review and approval of Treatment Plan.</p>	<p>Upon submittal of plan.</p>	<p>Until Treatment Plan is approved.</p>	<p>Same as above.</p>			
	<p>Consult with Native American representatives.</p>	<p>Upon notification re discovery of archaeological materials</p>	<p>Until consultation is complete.</p>	<p>Same as above.</p>			

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Compliance Verification		
					Initial	Date	Comments
<p>maintains the important relationship between artifacts and their archaeological context and also serves to avoid conflict with traditional and religious values of groups who may ascribe meaning to the resource. Preservation in place may be accomplished by, but is not limited to, avoidance, incorporating the resource into open space, capping, or deeding the site into a permanent conservation easement. In the event that preservation in place is determined to be infeasible and data recovery through excavation is the only feasible mitigation available, an Archaeological Resources Treatment Plan shall be prepared and implemented by the qualified archaeologist in consultation with the City that provides for the adequate recovery of the scientifically consequential information contained in the archaeological resource. The City shall consult with appropriate Native American representatives in determining treatment for prehistoric or Native American resources to ensure cultural values ascribed to the resource, beyond that which is scientifically important, are considered.</p>							
<b>CUL-1b Unanticipated Discovery of Paleontological Resources</b>							
<p>A qualified paleontologist, defined as a paleontologist who meets the standards of the Society for Vertebrate Paleontology (SVP<sup>2</sup>), shall be retained by the Project applicant to carry out all mitigation measures related to paleontological resources.</p> <p>Prior to the start of construction, the Project applicant shall cause the qualified paleontologist, or his or her designee to conduct training for construction personnel regarding the appearance of fossils and the procedures for notifying paleontological staff should fossils be discovered by construction staff. The Project applicant</p>	<p>Verification that a qualified paleontologist (who meets the standards of the Society for Vertebrate Paleontology) has been retained.</p>	<p>Prior to issuance of grading permits and during grading and ground disturbing activities.</p>	<p>Once, prior to grading and ground disturbing activities.</p>	<p>City of Burbank Community Development Department</p>			
	<p>Review documentation demonstrating attendance of training.</p>	<p>At the commencement of ground-disturbing activities. Thereafter, every 8 weeks unless</p>	<p>Same as above.</p>	<p>Same as above.</p>			

<sup>1</sup> Society for Vertebrate Paleontology. 2010. Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources. Society of Vertebrate Paleontology, Impact Mitigation Guideline Revision Committee. Available online at [http://vertpaleo.org/Membership/Member-Ethics/SVP\\_Impact\\_Mitigation\\_Guidelines.aspx](http://vertpaleo.org/Membership/Member-Ethics/SVP_Impact_Mitigation_Guidelines.aspx). Accessed September 29, 2017.

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Compliance Verification		
					Initial	Date	Comments
<p>shall ensure that construction personnel are made available for and attend the training and retain documentation demonstrating attendance. This training may be conducted concurrently with the cultural resources sensitivity training required under Mitigation Measure CUL-1a or CUL-1b.</p> <p>Ground disturbing construction activities (including grading, trenching, foundation work, and other excavations) in previously undisturbed sediments that exceed 10 feet in depth shall be monitored on a full-time basis during initial ground disturbance. Monitoring shall be conducted by a qualified paleontological monitor, who is defined as an individual who has experience with collection and salvage of paleontological resources and meets the minimum standards of the SVP (2010). The duration and timing of the monitoring shall be determined by the qualified paleontologist and the location and extent of proposed ground disturbance. If the qualified paleontologist determines that fulltime monitoring is no longer warranted, based on the specific geologic conditions at the surface or at depth, the qualified paleontologist may recommend that monitoring be reduced to periodic spot-checking or cease entirely. Monitoring shall not be required in artificial fill or for activities that do not reach 10 feet in depth.</p> <p>In the event of a fossil discovery by the paleontological monitor or construction personnel, all work in the immediate vicinity of the find shall cease. The qualified paleontologist shall evaluate the find before restarting construction activity in the area. If it is determined that the fossil(s) is (are) scientifically significant, the qualified paleontologist shall complete the following conditions to mitigate impacts to significant fossil resources:</p> <p>1) Salvage of Fossils. The qualified paleontologist (or paleontological monitor) shall recover significant fossils following standard field procedures for collecting paleontological resources, as described by the SVP (2010). Typically, fossils can be safely salvaged quickly</p>	<p>Field verification of construction conditions and presence of monitor; consultation with monitor.</p>	<p>there are no new construction personnel.</p> <p>At the commencement of ground-disturbing activities. Thereafter, as determined by the qualified paleontologist</p>	<p>Continuous during grading and ground disturbing activities.</p>	<p>Same as above.</p>			

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Compliance Verification		
					Initial	Date	Comments
<p>by a single paleontologist and not disrupt construction activity. In some cases, larger fossils (such as complete skeletons or large mammal fossils) require more extensive excavation and longer salvage periods. In this case the paleontologist shall have the authority to temporarily direct, divert or halt construction activity to ensure that the fossil(s) can be removed in a safe and timely manner. 2) Preparation and Curation of Recovered Fossils. Once salvaged, significant fossils shall be identified to the lowest possible taxonomic level, prepared to a curation-ready condition, and curated in a scientific institution with a permanent paleontological collection (such as the University of California Museum of Paleontology), along with all pertinent field notes, photos, data, and maps. Fossils of undetermined significance at the time of collection may also warrant curation at the discretion of the qualified paleontologist.</p>							
<b>CUL-1c Unanticipated Discovery of Human Remains</b>							
<p>If human remains are encountered, the Project applicant shall halt work in the vicinity (within 100 feet) of the discovery and contact the Los Angeles County Coroner in accordance with PRC Section 5097.98 and Health and Safety Code Section 7050.5. If the County Coroner determines that the remains are Native American, the NAHC will be notified in accordance with Health and Safety Code Section 7050.5, subdivision (c), and PRC Section 5097.98 (as amended by AB 2641). The NAHC will designate a Most Likely Descendent (MLD) for the remains per PRC Section 5097.98. Until the landowner has conferred with the MLD, the contractor shall ensure that the immediate vicinity where the discovery occurred is not disturbed by further activity, is adequately protected according to generally accepted cultural or archaeological standards or practices, and that further activities take into account the possibility of multiple burials.</p>	<p>Reporting by Project applicant; verification that appropriate procedures are followed if human remains are identified during demolition, grading, and/or construction.</p>	<p>As needed during grading and ground disturbing activities.</p>	<p>As needed during grading and ground disturbing activities.</p>	<p>City of Burbank Community Development Department</p>			

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Compliance Verification		
					Initial	Date	Comments
<b>CUL-1d Unanticipated Discovery of Tribal Cultural Resources</b>							
In the event that cultural resources of Native American origin are identified during construction, the City shall consult with a qualified archaeologist (who meets the Secretary of the Interior’s Professional Qualifications Standards) and begin or continue Native American consultation procedures. If the City, in consultation with local Native Americans, determines that the resource is a Tribal Cultural Resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with state guidelines and in consultation with Native American groups. The mitigation plan may include, but would not be limited to avoidance, capping in place, excavation and removal of the resource, interpretive displays, sensitive area signage, or other mutually agreed upon measure.	Consult with Native American representatives, as necessary.	Upon notification regarding discovery of cultural resources.	Until consultation is complete.	City of Burbank Community Development Department			
	If applicable, review and approval of mitigation plan.	Upon submittal of plan.	Until Treatment Plan is approved.	Same as above.			
<b>Hazards and Hazardous Materials</b>							
<b>HAZ-1a Soil and Soil Vapor</b>							
The applicant shall incorporate all requirements in the design of the Project as set forth by the Los Angeles Regional Water Quality Control Board (LARWQCB) for issuance of building permits, which include the following measures:  1. The boundary of the vapor barrier and sub-slab ventilation shall extend beneath the entire building footprint.  2. VOC in shallow soil vapor shall be mitigated to levels that are protective of human health for the proposed residential and commercial uses, as required by the LARWQCB. Following the LARWQCB’s detailed review of the Second Revised Plan, subsequent in-person technical discussions of LARWQCB requirements with Geosyntec and Leighton on June 25 and July 10, 2019, Geosyntec submitted a detailed technical memorandum on	Review of final building plans to confirm requirements are incorporated.	Prior to issuance to building permits.	Once upon submittal of final building plans and until project plans are in conformance.	City of Burbank Building Division			

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Compliance Verification		
					Initial	Date	Comments
<p>July 20, 2019. Notably, the July 20, 2019 memorandum, entitled “Technical Summary of Groundwater Protection Evaluation and Vapor Diffusion Analysis,” addressed site-specific vapor diffusion per the LARWQCB’s request, and modeled the attenuative capacity of the site-specific mitigation features. Mitigation measures for the Project, as detailed in the SRRP, include a vapor barrier system and concrete foundation slab. The results of Geosyntec’s analysis indicate that the predicted indoor air concentrations of VOCs (PCE and TCE) are protective of health, including future residents, even accounting for very conservative assumptions in Geosyntec’s analysis. LARWQCB’s concurrence with this analysis, and the target soil vapor cleanup goals as set forth in the SRRP, are reflected in its “appropriate care” letter of July 22, 2019. Therein, the LARWQCB determined that proper implementation and completion of the proposed remedial measures “will constitute ‘appropriate care’ for the purposes of California Health and Safety Code (HSC) Section 25395.67(a) [California Land Reuse &amp; Revitalization Act (“CLRRRA”).” This also reflects the LARWQCB’s express acknowledgment that remediation goals for shallow soil vapor have been clearly and adequately defined in the SRRP.</p> <p>3. The proposed SVE network shall include vapor extraction wells screened within the shallow soil profile as a contingency measure to address any future rebound of shallow soil vapor to levels exceeding the target cleanup goals during post-remedial vapor monitoring, as required by the LARWQCB.</p> <p>4. Mass removal of VOCs in deep soil shall continue until influent concentrations from the proposed SVE treatment reach low and sustainable</p>							

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Compliance Verification		
					Initial	Date	Comments
<p>asymptotic levels that are protective of groundwater.</p> <p>The vapor barrier membrane shall be a material that is designed to be resistant to the specific COPCs. Engineering controls for at-grade occupied, enclosed structures will consist of aerated floors such as Cupolux®. The aerated floor system will consist of, from top to bottom, a concrete slab, aerated forms, and prepared subgrade as set forth in the RP, which will further mitigate the potential for vapor intrusion.</p>							
<b>Haz-1b Operation Maintenance and Monitoring</b>							
<p>The applicant shall conduct operation, maintenance, and monitoring of the vapor barrier and sub-slab ventilation system, which will include the following measures:</p>							
<p>1. As required by the LARWQCB, proposed engineering controls shall be revised to include implementation of soil vapor monitoring networks to address shallow soil vapor impacts across the entire site where vapor intrusion risks may be present.</p>	<p>1. Review of final building plans to confirm requirements are incorporated. Field verification of compliance.</p>	<p>1. Prior to issuance of building permits.</p>	<p>1. Once upon submittal of final building plans; until project plans are in conformance.</p>	<p>City of Burbank Building Division</p>			
<p>2. Following the completion of construction and before the buildings are occupied indoor air monitoring will be conducted. The monitoring should be limited to the COPCs and results should be compared to the DTSC-SL for PCE and EPA RSLs for TCE, or the applicable health risk-based screening levels in effect at the time of the indoor air assessment.</p>	<p>2. Review monitoring reports for conformance with screening levels.</p>	<p>2. Prior to issuance of occupancy permit(s).</p>	<p>2. Once upon submittal of monitoring report and results indicate conformance.</p>	<p>Same as above.</p>			
<p>3. An OMM plan shall be developed for the vapor barrier system and approved by the LARWQCB. The plan shall include indoor air monitoring that would be conducted on a routine basis.</p>	<p>3. Verify documentation of LARWQCB approval of OMM plan. Verify ongoing monitoring.</p>	<p>3. Upon submittal of approval documentation. Following operation.</p>	<p>3. Every 6 months for 2 years. Once a year thereafter unless it is demonstrated through</p>	<p>Same as above.</p>			



Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Compliance Verification		
					Initial	Date	Comments
			documentation that monitoring is no longer needed.				
<b>HAZ-1c Asbestos</b>							
Prior to demolition of any onsite structure, an asbestos survey shall be conducted, and all identified ACMs shall be removed from site structures in accordance with applicable regulations. In the event that any suspected ACMs are discovered during construction activities, the materials shall be sampled and analyzed for asbestos content prior to any disturbance. Prior to the issuance of the demolition permit, the applicant shall provide a letter from a qualified asbestos abatement consultant that no ACMs are present in any onsite structures. If additional ACMs are found to be present, a qualified asbestos abatement consultant shall abate ACMs in compliance with the South Coast Air Quality Management District’s Rule 1403 as well as all other State and federal rules and regulations.	Verify documentation from a qualified asbestos abatement consultant that no ACMs are present in any onsite structures. If ACMs are present, review and approval of abatement plan, and closure report.	Prior to issuance of demolition permits.	Once, prior to project demolition.	City of Burbank Building Division			
<b>Noise</b>							
<b>N-4a Cooling and Ventilation</b>							
<ul style="list-style-type: none"> <li>A cooling and ventilation system with an outdoor condensing unit and an interior ceiling-installed or wall-mounted fan coil unit shall be incorporated into the Project to allow tenants the option of climate control without opening windows.</li> <li>Sound barriers at least six feet high shall be placed around the outdoor condensing unit on the rooftop terrace.</li> </ul>	Review of final building plans to confirm requirements are incorporated.	Prior to issuance to building permits.	Once upon submittal of final building plans; until project plans are in conformance.	City of Burbank Building Division			
	Field verification requirements are incorporated.	Prior to issuance of occupancy permits.	Once, until project is in conformance.	Same as above.			

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Compliance Verification		
					Initial	Date	Comments
<b>N-4b Walls, Windows, and Balcony Doors</b>							
The following building materials shall be incorporated into the Project: <ul style="list-style-type: none"> <li>▪ Walls: 6-inch wood stud wall with two layers of 5/8" gypsum wallboard (GWB) in the interior, 1/2" plywood and 5/8" GWB on exterior and 6-inch glass fiber insulation in the cavity</li> <li>▪ Windows and Sliding Glass Doors: 1/4"-glass – 1/2" airspaces – 1/4" glass (STC 35); windows and sliding glass doors shall be mounted in low air infiltration rated frames.</li> <li>▪ Exterior Door: solid core door with 1/2" glass insert with perimeter weather stripping and threshold seals.</li> </ul>	Review of final building plans to confirm requirements are incorporated.	Prior to issuance to building permits.	Once upon submittal of final building plans; until project plans are in conformance.	City of Burbank Building Division			
	Field verification requirements are incorporated.	Prior to issuance of occupancy permits.	Once, until project is in conformance.	Same as above.			
<b>N-4c Outside Air Vents</b>							
The following design features shall be incorporated into the Project's exterior air vents: <ul style="list-style-type: none"> <li>▪ Ducted outside air path from rooftop or façade, to provide outside air to residential units without creating a direct entry path for ambient sound</li> <li>▪ Minimum of 7 feet of ducting with 1-inch thick duct liner</li> <li>▪ Minimum of 1 elbow between outside inlet and interior vent</li> <li>▪ All roof and attic vents shall be boxed or provided with baffling.</li> </ul>	Review of final building plans to confirm requirements are incorporated.	Prior to issuance to building permits.	Once upon submittal of final building plans; until project plans are in conformance.	City of Burbank Building Division			
	Field verification requirements are incorporated.	Prior to issuance of occupancy permits.	Once, until project is in conformance.	Same as above.			

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Compliance Verification		
					Initial	Date	Comments
<b>N-4d Deck Level Plexiglass Barriers</b>							
<ul style="list-style-type: none"> <li>The three outdoor decks that face the I-5 to the north shall include plexiglass noise barriers to deflect freeway noise. Specifically, the two lower decks shall include 8’ plexiglass barriers and the upper deck shall include a 6’ plexiglass barrier to maintain outdoor air flow and views while minimizing freeway noise. Figure 4.9-2 shows a rendering of the proposed plexiglass barrier on the outdoor deck.</li> </ul>	Review of final building plans to confirm requirements are incorporated.	Prior to issuance to building permits.	Upon submittal of final building plans; until project plans are in conformance.	City of Burbank Building Division			
	Field verification requirements are incorporated.	Prior to issuance of occupancy permits.	Until project is in conformance.	Same as above.			
<b>N-4e Acoustic-designed Public Plaza</b>							
<ul style="list-style-type: none"> <li>Acoustical shaping shall be incorporated into the design of the public plaza to deflect or absorb freeway noise thereby creating an artificially quiet community area directly adjacent to the I-5. The plaza shall be set at a lower elevation from the I-5, reducing the amount of sound that initially reaches the plaza in conjunction with Noise PDF 2. Figure 4.9-3 shows an example of an acoustic-designed open space area.</li> </ul>	Review of final building plans to confirm requirements are incorporated.	Prior to issuance to building permits.	Upon submittal of final building plans; until project plans are in conformance.	City of Burbank Building Division			
	Field verification requirements are incorporated.	Prior to issuance of occupancy permits.	Until project is in conformance.	Same as above.			
<b>Public Services</b>							
<b>PS-1 Fair Share Fees</b>							
The Project applicant would pay the project’s fair share of the cost of additional fire protection equipment and fire station needs required for the Project, by contributing to the City’s Development Impact Fee Program (DIF) and by paying fees associated with building permit issuance and the negotiated development agreement, which collectively are intended to provide for offset of facility impacts. All associated fees shall be paid before the issuance of a building permit to construct the Project.	Verify payment of applicable fees by Project applicant	Prior to issuance of building permits.	Once.	City of Burbank Community Development Department			

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Compliance Verification		
					Initial	Date	Comments
<b>Traffic and Transportation</b>							
<b>T-1a I-5 Southbound Off-Ramp/N Front Street and Burbank Boulevard</b>							
Restripe I-5 Southbound Off-Ramp/N Front Street and Burbank Boulevard at the northbound approach. Convert the existing right-turn lane on northbound Front Street to a left/right-turn lane to provide one left turn lane and one shared left-right lane.	Review of final building plans to confirm requirements are incorporated.	Prior to issuance to building permits.	Once, upon submittal of final building plans; until project plans are in conformance.	City of Burbank Public Works Department			
	Field verification requirements are incorporated.	Prior to issuance of occupancy permits.	Once, or until project is in conformance.	Same as above.			
<b>T-1b Victory Boulevard and Olive Avenue and Victory Boulevard and Magnolia Avenue</b>							
Optimize Burbank’s Citywide Signal Control System (CSCS) along the Victory Boulevard corridor between Burbank Boulevard and Alameda Avenue before the Project opening date. The City’s traffic signal control hardware shall be programmed to upgrade eight traffic signals in the corridor to adaptive control, and additional traffic loops and traffic monitoring hardware shall be installed.	Review of final building plans to confirm requirements are incorporated.	Prior to issuance to building permits.	Once, upon submittal of final building plans; until project plans are in conformance.	City of Burbank Public Works Department			
	Field verification requirements are incorporated.	Prior to issuance of occupancy permits.	Once, or until project is in conformance.	Same as above.			
<b>T-5a Bicycle and Pedestrian Access</b>							
A Class IV cycle track shall be installed on the eastern side of Front Street along with an 11-foot pedestrian path of travel from the Project site to the Downtown Burbank Metrolink Station’s northernmost driveway. The Project shall install ADA curb ramps, crosswalks, and RRFBs at the northernmost driveway of the Downtown Burbank Metrolink Station in order to provide access to the station for pedestrians and bicyclists.	Review of final building plans to confirm requirements are incorporated.	Prior to issuance to building permits.	Once, upon submittal of final building plans; until project plans are in conformance.	City of Burbank Public Works Department			
	Field verification requirements are incorporated.	Prior to issuance of occupancy permits.	Once, or until project is in conformance.	Same as above.			

City of Burbank  
**777 North Front Street Project**

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Compliance Verification		
					Initial	Date	Comments
<b>T-5b ADA Access</b>							
A pedestrian crosswalk shall be installed at Front Street at the northernmost driveway of the Downtown Burbank Metrolink Station directly south of the Magnolia Boulevard overcrossing. The crosswalk shall include appropriate signage and a rectangular rapid flashing beacon (RRFB). The widened sidewalk along the eastern edge of Front Street shall be extended south of the Project site to the Downtown Burbank Metrolink Station.	Review of final building plans to confirm requirements are incorporated.	Prior to issuance to building permits.	Once, upon submittal of final building plans; until project plans are in conformance.	City of Burbank Public Works Department			
	Field verification requirements are incorporated.	Prior to issuance of occupancy permits.	Once, or until project is in conformance.	Same as above.			
<b>T-6 Construction Management Plan</b>							
Prior to issuance of any grading and/or demolition permits, whichever occurs first, a Construction Management Plan (CMP) shall be submitted for review and approval by the City Traffic Engineer and Building Official. The requirement for a Construction Management Plan shall be incorporated into the Project specifications and subject to verification by the City Traffic Engineer and Building Official prior to final plan approval. The Construction Management Plan shall, at a minimum, address the following: <ul style="list-style-type: none"> <li>▪ Traffic control for any street closure, detour, or other disruption to traffic circulation.</li> <li>▪ Identify the routes that construction vehicles shall utilize for the delivery of construction materials (i.e., lumber, tiles, piping, windows, etc.), to access the site, traffic controls and detours, and proposed construction phasing plan for the Project.</li> <li>▪ Require the Project Applicant to keep all haul routes clean and free of debris, including but not limited to gravel and dirt as a result of its operations. The Project Applicant shall clean adjacent streets, as directed by the City Traffic Engineer (or representative of the City Traffic Engineer), of any material which may have been spilled, tracked, or</li> </ul>	Review and approval of a Construction Management Plan (CMP).	Prior to issuance to building permits.	Once, until the CMP is approved.	City of Burbank Public Works Department			
	Field verification of implementation of traffic controls.	During construction.	At start of construction and every two weeks during construction if in compliance. Weekly if deficiencies are identified.	Same as above.			

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Compliance Verification		
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<p>blown onto adjacent streets or areas.</p> <ul style="list-style-type: none"> <li>▪ Hauling or transport of oversize loads shall be allowed between the hours of 9:00 a.m. and 3:00 p.m. only, Monday through Friday, unless approved otherwise by the City Traffic Engineer. No hauling or transport shall be allowed during nighttime hours, weekends, or Federal holidays.</li> <li>▪ Use of local streets shall be prohibited unless otherwise provided for in the CMP.</li> <li>▪ Haul trucks entering or exiting public streets shall at all times yield to public traffic.</li> <li>▪ If hauling operations cause any damage to existing pavement, streets, curbs, and/or gutters along the haul route, the Project Applicant shall be fully responsible for repairs. The repairs shall be completed to the satisfaction of the City Traffic Engineer.</li> <li>▪ All construction-related parking and staging of vehicles shall be kept out of the adjacent public roadways and shall occur on-site or at a nearby site approved by the City Traffic Engineer as part of the CMP.</li> <li>▪ The Construction Management Plan shall meet standards established in the current California Manual on Uniform Traffic Control Device as well as City of Burbank requirements.</li> </ul>							

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Compliance Verification		
					Initial	Date	Comments
<b>Utilities and Service Systems</b>							
<b>U-3 Recycling Facilities, Measures, and Guidelines</b>							
As part of their lease or sales agreement, all Project tenants and owners (both residential and commercial) shall be required to recycle all qualifying items in accordance with the Burbank Recycling Center’s guidelines, including their handbook titled “Materials Accepted in Your Recycling Bin or at the Recycling Center.” The Project Applicant shall provide enclosed areas for recycling receptacles for the proposed development. The Project Applicant shall also provide recycling receptacles for the proposed development, and copies of the Burbank Recycling Center handbook to all Project tenants and owners (both residential and commercial).	Review of final building plans to confirm requirements are incorporated.	Prior to issuance to building permits.	Once, upon submittal of final building plans; until project plans are in conformance.	City of Burbank Community Development Department			
	Field verification requirements are incorporated.	Prior to issuance of occupancy permits.	Once, or until project is in conformance.	Same as above.			