# 2500 N. Hollywood Way – Dual Brand Hotel Project

## Final Environmental Impact Report

Revised November 2026

*Lead Agency:*

City of Burbank
Community Development Department
Planning Division
150 North Third Street
Burbank, CA 91502

*Prepared by:*

De Novo Planning Group
180 E. Main Street, Suite 108
Tustin, CA 92780

De Novo Planning Group

A Land Use Planning, Design, and Environmental Firm

# 2500 N. Hollywood Way – Dual Brand Hotel Project

## Final Environmental Impact Report


**LEAD AGENCY: CITY OF BURBANK**
150 North Third Street
Burbank, California 91502
Contact: Mr. Daniel Villa, Principal Planner
dvilla@burbankca.gov
(818) 238-5250

**PREPARED BY: DE NOVO PLANNING GROUP**
180 E. Main Street, Suite 108
Tustin, California 92780
Contact: Starla Barker, AICP
sbarker@denovoplanning.com
(949) 396-8193



Revised November 2026

# TABLE OF CONTENTS

Section 1.0 Introduction ..... 1-1
1.1 Purpose and Intended Uses of the EIR ..... 1-1
1.2 Environmental Review Process ..... 1-2
1.3 Organization of the Final EIR ..... 1-4

Section 2.0 Comments on Draft EIR and Responses ..... 2-1
2.1 List of Commenters ..... 2-1
2.2 Comments and Responses ..... 2-1

Section 3.0 Errata to the Draft EIR ..... 3-1

Section 4.0 Mitigation Monitoring and Reporting Program ..... 4-1

This page intentionally left blank.

# 1.0 INTRODUCTION

This Final Environmental Impact Report (Final EIR or FEIR) for the 2500 N. Hollywood Way – Dual Brand Project has been prepared in accordance with the California Environmental Quality Act (CEQA), the guidelines for implementation of the California Environmental Quality Act (State CEQA Guidelines), and the City of Burbank's policies and practices for implementing CEQA.

The City of Burbank (City) is the lead agency for the environmental review of the 2500 N. Hollywood Way – Dual Brand Hotel Project (Project) and has the principal responsibility for approving the Project. The 2500 N. Hollywood Way – Dual Brand Hotel Project (Project) site encompasses approximately 11.76 acres (APN 246-004-015) generally bounded by Thornton Avenue on the north, Hollywood Way on the west, Avon Street on the south and a commercial office campus (Media Studios), comprised primarily of office uses with various onsite support amenities, on the south and east. Implementation of the Project would involve development of a new seven-story dual brand hotel (the Hotel), consisting of approximately 262,338 square feet and a separate, detached four-story parking garage (the Garage). The Garage would consist of 208,040 square feet of valet-only parking, providing up to 766 parking spaces, with an additional 285 parking spaces at grade. The proposed Hotel and Garage would be located within the same parcel as the existing Marriott Hotel. No changes to the existing Marriott Hotel are proposed; existing uses would remain in operation during construction and upon Project completion.

Refer to Section 3.0, *Project Description,* of the Draft EIR for a more comprehensive description of the details of the proposed Project.

## 1.1 PURPOSE AND INTENDED USES OF THE EIR

### CEQA REQUIREMENTS FOR A FINAL EIR

State CEQA Guidelines Section 15132, Contents of Final Environmental Impact Report, requires that a Final EIR consist of the following:

- The Draft EIR or a revision of the draft;
- 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 concerns raised in the review and consultation process; and
- Any other information added by the lead agency.

Due to its length and in accordance with State CEQA Guidelines Section 15132(a), the text of the Draft EIR is not included within this document; however, it is incorporated by reference into this Final EIR.

An EIR must disclose the expected environmental impacts, including impacts that cannot be avoided, growth-inducing effects, impacts found not to be significant, and significant cumulative impacts, as well as identify mitigation measures and alternatives to the proposed project that could reduce or avoid its adverse environmental impacts. CEQA requires government agencies to consider and, where feasible,

minimize environmental impacts of proposed projects, and obligates them to balance a variety of public objectives, including economic, environmental, and social factors.

### PURPOSE AND USE

The City of Burbank, as the lead agency, has prepared this EIR to provide the public and responsible and trustee agencies with an objective analysis of the potential environmental impacts resulting from development of the proposed Project. The environmental review process enables interested parties to evaluate the proposed Project in terms of its environmental consequences, to examine and recommend methods to eliminate or reduce potential adverse impacts, and to consider a reasonable range of alternatives to the project. While CEQA requires that consideration be given to avoiding adverse environmental effects, the lead agency must balance adverse environmental effects against other public objectives, including the economic and social benefits of a project, in determining whether a project should be approved.

## 1.2 ENVIRONMENTAL REVIEW PROCESS

The review and certification process for the EIR has involved, or will involve, the following general procedural steps:

### NOTICE OF PREPARATION

A Notice of Preparation (NOP) (State Clearinghouse No. 2019110032) was distributed to various responsible agencies, trustee agencies, and interested parties. The NOP was distributed on November 4, 2019, with the 30-day public review period concluding on December 4, 2019. The NOP provided preliminary information regarding the anticipated range of impacts to be analyzed within the EIR. In addition, notice of a joint Community Meeting and EIR Scoping Meeting for the Project was included in the NOP.

A joint Community Meeting and EIR Scoping Meeting was held on November 20, 2019 at 6:00 p.m. in the Community Room (Room 104) on the first floor of the Community Services Building at 150 North Third Street in Burbank. The intent of the meeting was to provide interested individuals, groups, and public agencies with information regarding the proposed Project and a forum in which to orally present input directly to the Lead Agency to assist in further refining the intended scope and focus of the EIR, as described in the NOP. The NOP is provided as Appendix A, Notice of Preparation and Recirculated Notice of Preparation, and the NOP comment letters are provided as Appendix B, Notice of Preparation/Recirculated Notice of Preparation Comment Letters of the Draft EIR.

Subsequent to distribution of the 2019 NOP and initiation of the Draft EIR, modifications to the proposed Project occurred, including revisions to the site plan and proposed on- and off-site improvements. A Recirculated NOP was distributed directly to public agencies (including the State Clearinghouse Office of Planning and Research), special districts, and members of the public, who had requested such notice on March 6, 2024, with the 30-day public review period concluding on April 4, 2024.

The purpose of the Recirculated NOP was to provide an updated description of the proposed Project and formally reannounce the preparation of a Draft EIR for the proposed Project and that, as the Lead Agency, the City was soliciting input regarding the scope and content of the environmental information to be

included in the EIR. The City requested that individuals and agencies provide comment letters and/or input on the Recirculated NOP, which provided preliminary information regarding the anticipated range of impacts to be analyzed within the EIR. In addition, the notice of a joint Informational Meeting and EIR Scoping Meeting for the Project was included in the Recirculated NOP.

A joint Informational Meeting and EIR Scoping Meeting was held via webinar on March 20, 2024 at 6:00 p.m. The intent of the meeting was to provide interested individuals, groups, and public agencies information regarding the updated proposed Project and a forum in which to orally present input directly to the Lead Agency in an effort to assist in further refining the intended scope and focus of the EIR, as described in the Recirculated NOP. The Recirculated NOP is provided as Appendix A, and the Recirculated NOP comment letters are provided as Appendix B of the Draft EIR.

## NOTICE OF AVAILABILITY AND DRAFT EIR

The City published a public Notice of Availability (NOA) for the Draft EIR on December 16, 2024, inviting comment from the general public, agencies, organizations, and other interested parties. The Draft EIR was available for public review and comment from December 16, 2024, through January 29, 2025. The NOA was filed with the State Clearinghouse and the County Clerk and was published in a local newspaper pursuant to the public noticing requirements of CEQA. The Draft EIR and Appendices were made available on the City's website and at the following locations:

- City of Burbank, Community Services Building, 1st Floor, Planning Division Public Counter
- 150 North Third Street, Burbank, California 91510 (by appointment only; Principal Planner, Daniel Villa)
- Buena Vista Branch Library, 300 North Buena Vista Street, Burbank, CA 91505
- Burbank Central Library, 110 North Glenoaks Boulevard, Burbank, CA 91502
- Northwest Branch Library, 3323 West Victory Boulevard, Burbank, CA 91505

## RESPONSE TO COMMENTS/FINAL EIR

The City received nine (9) comment letters regarding the Draft EIR from public agencies, organizations, and members of the public during the 45-day review period, as identified in Table 2-1 of this Final EIR.

In accordance with CEQA Guidelines Section 15088, Evaluation of Responses to Comments, this Final EIR responds to the written comments received on the Draft EIR. This Final EIR also contains minor edits to the Draft EIR, which are included in Chapter 3.0, Errata to the Draft EIR. This document, as well as the Draft EIR as amended herein, constitute the Final EIR.

## CERTIFICATION OF THE EIR/PROJECT CONSIDERATION

The Burbank City Council will review and consider the Final EIR. If the City Council finds that the Final EIR is "adequate and complete," then it may certify it in accordance with CEQA. The rule of adequacy generally holds that an EIR can be certified if:

1) The EIR shows a good faith effort at full disclosure of environmental information; and

2) The EIR provides sufficient analysis to allow decisions to be made regarding the proposed project in contemplation of environmental considerations.

Upon review and consideration of the Final EIR, the City Council may take action to approve, revise, or reject the Project. A decision to approve the proposed Project, for which this EIR identifies significant environmental effects, must be accompanied by written findings in accordance with State CEQA Guidelines Sections 15091, Findings and 15093, Statement of Overriding Considerations.

A Mitigation Monitoring and Reporting Program, as described below, would also be adopted in accordance with Public Resources Code Section 21081.6(a) and CEQA Guidelines Section 15097, Mitigation Monitoring or Reporting, for mitigation measures that have been incorporated into or imposed upon the proposed Project to reduce or avoid significant effects on the environment. This Mitigation Monitoring and Reporting Program has been designed to ensure that these measures are carried out during Project implementation, in a manner that is consistent with the EIR.

## 1.3 ORGANIZATION OF THE FINAL EIR

This Final EIR has been prepared consistent with Section 15132 of the State CEQA Guidelines, which identifies the content requirements for Final EIRs. This Final EIR is organized in the following manner:

### SECTION 1.0 – INTRODUCTION

Section 1.0 briefly describes the purpose of the environmental evaluation, identifies the lead agency, summarizes the process associated with preparation and certification of an EIR, and identifies the content requirements and organization of the Final EIR.

### SECTION 2.0 – COMMENTS ON DRAFT EIR AND RESPONSES

Section 2.0 provides a list of commenters, copies of written comments made on the Draft EIR (coded for reference), and responses to those written comments.

### SECTION 3.0 – ERRATA TO THE DRAFT EIR

Chapter 3.0 consists of minor revisions or errata to the Draft EIR.

### SECTION 4.0 – MITIGATION MONITORING AND REPORTING PROGRAM

Chapter 4.0 consists of a Mitigation Monitoring and Reporting Program (MMRP). The MMRP is presented in a tabular format that presents the impacts, mitigation measures, responsibility, timing, and verification of monitoring.

# 2.0 COMMENTS ON DRAFT EIR AND RESPONSES

In accordance with State CEQA Guidelines Section 15088, the City of Burbank (City), as the lead agency, has evaluated the comments received on the 2500 N. Hollywood Way – Dual Brand Hotel Project Draft Environmental Impact Report (Draft EIR) (State Clearinghouse No. 2019110032).

## 2.1 LIST OF COMMENTERS

Table 2-1, *List of Commenters*, lists the comments on the Draft EIR that were submitted to the City during the 45-day public review period. The assigned comment letter, letter author, affiliation, if presented in the comment letter or if representing a public agency, and letter date are also listed.

**Table 2-1**
**List of Commenters**

| Response Letter | Individual or Signatory | Affiliation | Date |
|---|---|---|---|
| 1 | Richard Drury | Lozeau Drury LLP<br>On behalf of Supporters Alliance for Environmental Responsibility (SAFER) | 1/15/2025 |
| 2 | Jeremy Herwitt | Mitchell M. Tsai Law Firm<br>On behalf of Western States Regional Council of Carpenters (WSRCC) | 1/13/2025 |
| 3 | Kevin Finkel | Los Angeles County Airport Land Use Commission | 1/29/2025 |
| 4 | Joshua Christensen | WSRCC | 1/27/2025 |
| 5 | Robert Bisno | Law Offices of Robert H. Bisno<br>On behalf of Hollywood Way SHG, LLC | 1/20/2025 |
| 6 | Jordan Sisson | Law Office of Jordan R. Sisson<br>On behalf of UNITE HERE Local 11 | 1/29/2025 |
| 7 | Jamie Keyser | Burbank Chamber of Commerce | 1/27/2025 |
| 8 | Anthony Higgins | California Department of Transportation (Caltrans), District 7 | 1/27/2025 |
| 9 | Sheila Sannadan | Adams Broadwell Joseph & Cardozo<br>On behalf of Coalition for Responsible Equitable Economic Development Los Angeles (CREED LA) | 1/17/2025 |

## 2.2 COMMENTS AND RESPONSES

### REQUIREMENTS FOR RESPONDING TO COMMENTS ON A DRAFT EIR

CEQA Guidelines Section 15088 requires that lead agencies evaluate comments on the environmental issues received from persons who reviewed the Draft EIR and respond to comments raising significant environmental issues received during the noticed comment period. The written response must address the significant environmental issues raised and be detailed, especially when specific comments or

suggestions (e.g., additional mitigation measures) are not accepted. In addition, the written response must be a good faith and reasoned analysis. The level of detail contained in the response may correspond to the level of detail provided in the comment; a general response may be appropriate. Lead agencies only need to respond to significant environmental issues associated with the project and do not need to provide all the information requested by the commenter as long as a good faith effort at full disclosure is made in the EIR (CEQA Guidelines Section 15204(a)).

CEQA Guidelines Section 15204, Focus of Review, recommends that commenters provide detailed comments that focus on the sufficiency of the Draft EIR in identifying and analyzing the possible environmental impacts of the project and ways to avoid or mitigate the significant effects of the project and that commenters provide evidence supporting their comments. Pursuant to CEQA Guidelines Section 15064, an effect shall not be considered significant in the absence of substantial evidence.

CEQA Guidelines Section 15088 also recommends that revisions to the Draft EIR be noted as a revision in the Draft EIR or as a separate section of the Final EIR.

## RESPONSES TO COMMENT LETTERS

Written comments on the Draft EIR are reproduced on the following pages, along with responses to those comments. To assist in referencing comments and responses, the following coding system is used:

- Each comment letter is numbered (i.e., Letter 1), each comment within each letter is numbered (i.e., 1-1, 1-2, etc.), and each response is numbered correspondingly (i.e., 1-1, 1-2, etc.).

COMMENT LETTER 1

LOZEAU DRURY LLP

T 510.836.4200
F 510.836.4205

1939 Harrison Street, Ste. 150
Oakland, CA 94612

www.lozeaudrury.com
richard@lozeaudrury.com

*Via Email*

January 15, 2025

Daniel Villa, Principal Planner
Planning Division
Community Development Department
City of Burbank
150 North Third Street
Burbank, CA 91502
dvilla@burbankca.gov

**Re: Comment on Draft Environmental Impact Report, 2500 N. Hollywood Way – Dual Brand Hotel Project**

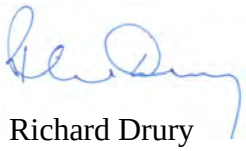
Dear Mr. Villa: 1-1

This comment is submitted on behalf of Supporters Alliance for Environmental Responsibility ("SAFER") regarding the Draft Environmental Impact Report ("DEIR") prepared for the 2500 N. Hollywood Way – Dual Brand Hotel Project, which proposes development of a new seven-story dual brand hotel consisting of approximately 262,338 square feet and a separate, detached four-story parking garage on a portion of the 11.76-acre site generally bounded by Thornton Avenue, Hollywood Way, and Avon Street in the City of Burbank, California ("Project").

SAFER is concerned that the DEIR fails as an informational document and fails to impose all feasible mitigation measures to reduce the Project's impacts. SAFER requests 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. 1-2

SAFER reserves the right to supplement these comments during the administrative process. *Galante Vineyards v. Monterey Peninsula Water Management Dist.*, 60 Cal. App. 4th 1109, 1121 (1997).

Sincerely,



Richard Drury
Lozeau Drury LLP

**Responses to Comment Letter 1**

Richard Drury
Lozeau Drury LLP
January 15, 2025

Response 1-1

This introductory paragraph identifies the commenter as representing SAFER and summarizes the proposed Project. The comment does not contain any information requiring changes to the Draft EIR. No further response is warranted.

Response 1-2

This comment makes a vague and unsubstantiated statement that the Draft EIR fails as an informational document and that a revised Draft EIR should be recirculated. There are no reasons provided to support the commenter's assertion. The commenter further indicates that they are reserving their right to supplement their comments during the administrative process. The comment does not contain any information requiring changes to the Draft EIR. No further response is warranted.

COMMENT LETTER 2

P: (626) 314-3821
F: (626) 389-5414
E: info@mitchtsailaw.com

**Mitchell M. Tsai**
Law Firm

139 South Hudson Avenue
Suite 200
Pasadena, California 91101

**VIA E-MAIL**

January 13, 2025

Daniel Villa
Principal Planner
City of Burbank
150 North Third Street
Burbank, CA 91502
Em: DVilla@burbankca.gov

RE: City of Burbank's Marriott Hotel Expansion Project (Project No. 16-0003953; SCH#: 2019110032); 1/13/25 PC Hearing, Agenda item 2

Dear Daniel Villa:

2-1

On behalf of the Western States Regional Council of Carpenters ("**Western Carpenters**" or "**WSRCC**"), my Office is submitting these comments for the City of Burbank's January 13, 2025, Planning Commission Meeting addressing the Marriott Hotel Expansion Project located at 2500 North Hollywood Way ("**Project**").

WSRCC would like to express its support for this Project. After further reviewing this Project, WSRCC believes that the Project will benefit the environment and the local economy by practicing protocols that will protect worker health and safety and will incorporate adequate environmental mitigation.

Should the City have any questions or concerns, the City should feel free to contact my office.

Sincerely,

Jeremy Herwitt
Attorneys for Western States Regional Council of Carpenters

**Response to Comment Letter 2**

Jeremy Herwitt
Mitchell Tsai LLP
Attorneys for Western States Regional Council of Carpenters
January 13, 2025

Response 2-1

The introductory paragraph identifies the commenter as representing the WSRCC and summarizes the proposed Project. This comment further goes on to express support for the proposed Project. The comment does not contain any information requiring changes to the Draft EIR. No further response is warranted.

LOS ANGELES COUNTY AIRPORT LAND USE COMMISSION

DAVID W. LOUIE
Chair

ELVIN W. MOON
Vice Chair

YOLANDA DUARTE-WHITE
Commissioner

PAM O'CONNOR
Commissioner

MICHAEL R. HASTINGS
Commissioner

January 29, 2025

Daniel Villa, Principal Planner
Community Development Department
Planning Division
150 North Third Street
Burbank, California 91510

**SUBJECT: NOTICE OF AVAILABILITY OF A DRAFT ENVIRONMENTAL IMPACT REPORT ("EIR") FOR 2500 N. HOLLYWOOD WAY – DUAL BRAND HOTEL PROJECT**

Thank you for the opportunity to comment on the Notice of Availability of a Draft EIR for 2500 N. Hollywood Way – Dual Brand Hotel Project ("Proposed Project"). Staff of the Los Angeles County Airport Land Use Commission ("ALUC") have reviewed the environmental document and have the following comments. 3-1

The Proposed Project is located on a parcel that is partially within the Burbank Airport Influence Area ("AIA"). According to the environmental document and associated plans, no new construction will occur within the AIA. Typically, no review would be required in cases where no construction will occur within an AIA. However, the Proposed Project also includes zone change. As such, the Proposed Project is subject to ALUC review.

In accordance with the California Public Utilities Code, Section 21676(b), prior to the amendment of a general plan or specific plan, or the adoption or approval of a zoning ordinance or building regulation, within a planning boundary established by the airport land use commission, the local agency shall first refer the proposed action to the ALUC for a consistency determination.

ALUC review shall occur after a jurisdiction has taken preliminary action, such as through the Planning Commission's initial approval, but before the City Council considers the project for final approval. All project information should be filed with the Los Angeles County Department of Regional Planning. 3-2

The types of potential airport impacts that the ALUC considers are: 1) Exposure to aircraft noise; 2) Land use safety – the risks, both to people on the ground and the occupants of aircraft, associated with aircraft accidents near airports; 3) Protection of airport airspace from hazards to flight; and 4) General concerns, especially annoyance, related to aircraft overflights.

A pre-consultation with ALUC staff is recommended before the formal submission of project materials, which can be arranged by sending an email to 3-3

aluc@planning.lacounty.gov.

3-3 cont'd

For additional information on project submittal materials, please visit our webpage at: http://planning.lacounty.gov/aluc.

3-4

If you have any questions regarding this matter, please contact Bryan S. Moller at (213) 893-7411 or via email at bmoller@planning.lacounty.gov.

Sincerely,

DEPARTMENT OF REGIONAL PLANNING
Amy J. Bodek, AICP
Director of Regional Planning

Kevin Finkel, Supervising Regional Planner
Operations and Major Projects Section / ALUC Staff

**Responses to Comment Letter 3**

Kevin Finkel, Supervising Regional Planner
Los Angeles County Airport Land Use Commission
January 29, 2025

Response 3-1

This comment is introductory in nature and describes that the Los Angeles County Airport Land Use Commission (ALUC) has reviewed the Draft EIR for the proposed Project, identifying that it is located partially within the Burbank Influence Area (AIA). As indicated by the ALUC, typically, their review would not be required since no construction would occur within the AIA; however, because there is a proposed zone change, the proposed Project would subject to ALUC review, in accordance with California Public Utilities Code Section 21676(b). The comment does not contain any information requiring changes to the Draft EIR. No further response is warranted.

Response 3-2

This comment describes the ALUC review process discussed under Impact LU-1 on page 5.8-19 of the Draft EIR, and the types of potential impacts that the ALUC considers, including exposure to aircraft noise (discussed under Impact NOI-3 of the Draft EIR) and land use safety and hazards (discussed under Impact HAZ-3 of the Draft EIR). The comment does not contain any information requiring changes to the Draft EIR. No further response is warranted.

Response 3-3

This comment recommends pre-consultation with ALUC staff prior to formal submission of Project information, including the contact information to arrange consultation. The comment does not contain any information requiring changes to the Draft EIR. No further response is warranted.

Response 3-4

This comment includes additional contact information and a conclusion to the letter, with direct contact details for ALUC staff. The comment does not contain any information requiring changes to the Draft EIR. No further response is warranted.

COMMENT LETTER 4

# CARPENTERS LOCAL UNION NO. 661

AFFILIATED WITH WESTERN STATES REGIONAL COUNCIL OF CARPENTERS

**Joshua Christensen**
*Vice President*

**Josh Raper**
*President*

**Joe Fuchs**
*Financial Secretary*

January 27, 2025

To: Daniel Villa, Principal Planner
Community Development Department
Planning Division
150 North Third Street
Burbank, CA 91510

From: Western States Regional Council of Carpenters

Subject: 2500 N. Hollywood Way – Dual Brand Hotel Project

4-1

Dear Mr. Villa:
The Western States Regional Council of Carpenters strongly supports the proposed dual-brand hotel and accompanying parking structure at 2500 North Hollywood Way.
We are excited to see this important project move forward as it will not only bolster Burbank's local economy by bringing in more tourism dollars, but it will also supply good, local, skilled workforce jobs.
In Burbank, we are proud to partner with John Burroughs High School to run a Carpenters training program that provides pathways to good job opportunities for Burbank's youth, and we look forward to this project getting approved as soon as possible so we can present it as an opportunity to new graduates and do our part to keep local jobs local.
We look forward to your consideration and recommendation of approval once the City completes its environmental review process, and we look forward to seeing this exciting hotel getting built and strengthening the City of Burbank.
Thank you for your time and consideration.
Sincerely,

Joshua Christensen
Team Lead
Western State Regional Council of Carpenters
JChristensen@wscarpenters.org

**Response to Comment Letter 4**

Joshua Christensen, Team Lead
Western States Regional Council of Carpenters
January 27, 2025

Response 4-1

This comment expresses general support for the proposed Project. The comment does not contain any information requiring changes to the Draft EIR. No further response is warranted.

COMMENT LETTER 5

**Law Offices of Robert H. Bisno**
**14820 Mulholland Dr.**
**Los Angeles, CA 90077**
**Tel:( 310) 488-0110 Fax:(310) 277-3787**
**Email: rhbisno@gmail.com**

**January 20, 2025**

**Mr. Daniel Villa,**
**Senior Planner, Planning Department**
**City of Burbank**
**275 East Olive Avenue**
**Burbank, CA 91502**
**Sent by US Mail and Email: *dvilla@burbankca.gov***

**RE: 2500 N. HOLLYWOOD WAY–DUAL BRAND HOTEL PROJECT**
**PUBLIC REVIEW DRAFT ENVIRONMENTAL IMPACT REPORT [“DEIR”]**

Dear Mr. Villa;

This office represents Hollywood Way SHG, LLC, the owner of 2550 N. Hollywood Way, Burbank, CA 91505, the adjacent property (“Office Parcel” or Office Building”) and as such provides the following comments to the “Dual Brand Hotel Project” DEIR. As you are aware the [Proposed} Project described in the DEIR, makes material and detrimental changes to the parking rights of the Office Parcel and negatively impacts several other rights of the Office Parcel, all protected by a Reciprocal Easement Agreement (“REA”) between 2500 Hollywood Way and the Office Parcel and the current zoning. 5-1

This letter provides comments and details where additional studies must be made and where additional information must be provided.

Nothing herein limits the rights of the Office Parcel to assert their rights under the REA and/or California law.

## OVERVIEW

The following is not intended to be a comprehensive list of failures or shortcomings of the DEIR, only those which were identified in the short period of time available to review the DEIR. Consultants for each specialty were not able to review the DEIR also due to time constraints.

The Office Parcel believes the DEIR is deficient for the following (and likely more) reasons.

1. The DEIR fails to study the limitations of the REA, which, unless amended with the consent of the owners of the Office Parcel, prohibits any portion of the additional building and/or uses as proposed for 2500 N. Hollywood Way. 5-2
2. More specifically, the DEIR fails to study the detrimental impact to the parking of the Office Building. 5-3
3. The DEIR fails to study relocating the two *[proposed]* Hotels and Parking Structure to the East of the Convention Center, distant from Thornton Ave. This is a failure of Section 1.5 Summary of Project Alternatives, Alternatives Considered But Rejected "Alternative Site" Alternative. Relocating the 2 [proposed] Hotels and Parking Structure must be studied as a Project Alternative and legally sufficient reasons must be provided if the alternative of relocating the two [proposed] Hotels and Parking Structure to the East of the Convention Center, distant from the Office Parcel is not approved by the City and the Applicant. 5-4
4. The Parking Study by Walker Consultants is deficient as it fails to study the parking requirements of tenants employing medical uses of the Office Parcel, which medical uses absolutely require significantly more parking than is currently used on the Office Parcel. This is current work in process by the Office Parcel which was not consulted by Walker Consultant. The Parking Study is further deficient as it fails to take into account that the occupancy of the Office Building located on the Office Parcel, like offices nationwide, is significantly lower than the historic occupancy of the Office Parcel. The combination of an increase in the number of tenants having medical uses (which require significantly more parking spaces than other office tenants) as is the current focus 5-5 5-6

and practice of the Office Parcel in and of itself creates substantially more demand than addressed in the Parking Study. The process of leasing to additional and various medical uses is currently being practiced by the Office Building. When the addition of tenants having medical uses, therefore requiring more parking, is combined with the tenancy of the Office Parcel increasing to historical levels, neither of which is studied by the Parking Study, the deficiencies of the Parking Study is further revealed. The Parking Study is further deficient as it has internal inconsistencies and fails to accurately reflect existing conditions where 2500 N. Hollywood Way currently complains of not enough parking with the current hotel buildings. The parking Study is further deficient as it fails to study the massive parking requirements and related pollution and other negative impacts when 2500 N. Hollywood Way hosts its large conventions. 5-6 cont'd 5-7 5-8

5. The DEIR fails to study the reduction of view corridors from the Office Building. This must be studied. 5-9
6. The DEIR fails to study the negative economic impacts that are caused by the Project including the loss of value to the Office Building as the negative impacts are coupled with other negative impacts. 5-10
7. The DEIR Section 8 fails to study PD 89-1 and the REA fully enforceable agreements joining 2550 Hollywood Way with the Office Building. 5-11
8. Because the DEIR fails to study that which is required the DEIR study of Cumulative Effects fails. 5-12
9. The Parking Study is more of a document not clear on deficiencies of parking for the {proposed] Project than an actual study that clearly defines how the proposed parking differs from the parking required under City Parking Requirements. The Parking Study must be revised to inform the public and the decisionmakers of the absolutely huge underparked situation the proposed Project will create when compared to the City's parking Requirements. 5-13
10. Even under SB 743 (Public Resources Code Section 21099(d, if the reduction in parking or changes in traffic patterns due to a project create other significant environmental impacts, these must be studied in the DEIR.

5-14

## ANALYSIS

1. **The DEIR fails to study the limitations of the REA, which, unless amended with the consent of the owners of the Office Parcel, prohibits any portion of the additional building and/or uses as proposed for 2500 N. Hollywood Way.**

The DEIR concedes in Section 2.1 *"Purpose of the EIR, The purpose of this Environmental Impact Report (EIR) is to review the existing conditions, analyze potential environmental impacts, and identify feasible mitigation measures to avoid or lessen the Project's potentially significant effects. This EIR addresses the Project's environmental effects, in accordance with CEQA Guidelines Section 15161. As referenced in the CEQA Guidelines Section 15121(a), as an information document, the EIR will:*

- *Inform decision-makers and the public generally of the significant environmental effects of a project;*
- *Identify possible ways to minimize the significant effects of a project; and*
- *Describe reasonable alternatives to a project."*

Having acknowledged the requirement of an EIR the DEIR fails to consider the absolute wall provided by the REA unless consensually amended by the Office Parcel.

Clover Valley Foundation v. City of Rocklin (2011) 197 Cal.App.4th 200,219,

*"Without accurate and complete information pertaining to* ***the setting of the project and surrounding uses,*** *it cannot be found that the [EIR] adequately investigated and discussed the environmental impacts of the development project.' (Ibid.)" (Cadiz Land Co. v. Rail Cycle (2000) 83 Cal.App.4th 74, 87, 99 Cal.Rptr.2d 378 (Cadiz Land Co.).)"*

See also, § 26:15. Contents of the environmental impact report—General requirements Miller and Starr California Real Estate 4th • 8 Cal. Real Est. § 26:15 (4th ed.)

5-15

The DEIR fails to study the current zoning, PD 89-1, also shown in the REA.

5-16

The reciprocal parking rights of the Office Parcel are referenced but not at all studied in the DEIR.

DEIR Section 3.1 last paragraph, "*proposed Project. A reciprocal parking and access agreement exists between the owners of the Project site and 2550 N. Hollywood Way...*"

5-16 cont'd

1. Regulations: • 14 CCR § 15125(d) specifies that an EIR must discuss any inconsistencies between the proposed project and applicable general plans, specific plans, and regional plans**, including zoning ordinances**.

5-17

2. **More specifically, The DEIR fails to study the detrimental impact to the parking of the Office Building.**

   The DEIR 3-13, "The Garage, SE Lot, and Parking Plans" contains no mention of the easement rights in favor of the Office Parcel.

   Studying the detrimental effects on the Office Building is a requirement of an EIR, Taxpayers for Accountable School Bond Spending v. San Diego Unified School Dist. (2013) 215 Cal.App.4th 1013, 1050,1054,

"***Contrary to District's assertion, CEQA does not provide that a project's direct impact on parking cannot constitute a significant impact on the physical environment.*** *In support of its assertion, District cites language from San Franciscans Upholding the Downtown Plan v. City and County of San Francisco (2002) 102 Cal.App.4th 656, 125 Cal.Rptr.2d 745 (SFUDP ), which states:*

*"[T]here is no statutory or case authority requiring an EIR to identify specific measures to provide additional parking spaces in order to meet an anticipated shortfall in parking availability. The social inconvenience of having to hunt for scarce parking spaces is not an environmental impact; the secondary effect of scarce parking on traffic and air quality is. Under CEQA, a project's social impacts need not be treated as significant impacts on the environment. An EIR need only address the secondary physical impacts that could be triggered by a social impact. (Guidelines, § 15131, subd. (a).)*

*"Thus, the EIR correctly concluded that '[p]arking shortfalls relative to demand are not considered significant environmental impacts in the urban context of San Francisco. Parking deficits are an inconvenience to drivers, but not a significant physical impact on the environment.' (Italics added.) The EIR then*

*fulfilled its CEQA-mandated purpose by identifying ways in which the secondary environmental impacts resulting from the projected parking deficits could be mitigated, in keeping with the specific environmental strictures imposed by the City's own transit-first policy." (SFUDP, at p. 697, 125 Cal.Rptr.2d 745.)*

**1051 District argues that under SFUDP the parking shortage created by the Project is merely a "social inconvenience," and cannot constitute a significant physical impact on the environment. However, as Taxpayers argues, that language from SFUDP is likely dicta because the court alternatively concluded there was substantial evidence to support the EIR's conclusion that proposed measures to mitigate the parking shortage were adequate. (Id. at pp. 696–698 & fn. 24, 125 Cal.Rptr.2d 745.) Furthermore,* ***SFUDP's language applied only to the special circumstances in that case in which there was a strong public policy, reflected in a city ordinance, against providing private off-street parking to encourage the use of public transit****.24 ( **479 SFUDP,supra, 102 Cal.App.4th at pp. 696–698 & fn. 24, 125 Cal.Rptr.2d 745.)* ***In any event, we disagree with the broad statement made in SFUDP that a parking shortage is merely a social inconvenience and can never constitute a primary physical impact on the environment****. As Taxpayers notes, cars and other vehicles are physical objects that occupy space when driven and when parked. Therefore, whenever vehicles are driven or parked, they naturally must have some impact on the physical environment. The fact that a vehicle's impact may be only temporary (e.g., only so long as the vehicle remains parked) does not preclude it from having a physical impact on the environment around it.* ***Therefore, as a general rule, we believe CEQA considers a project's impact on parking of vehicles to be a physical impact that could constitute a significant effect on the environment.***

5-17 cont'd

*Although the Guidelines apparently do not specifically list parking as one of the potential impacts that must be addressed in an initial study or EIR,* ***the Guidelines do not set forth an exclusive list of all potential impacts that must be addressed.25 Rather, they provide a sample list of those impacts of projects that are most common and should be addressed by lead agencies.*** *(See, e.g., Guidelines, append. G.) The Guidelines expressly advise: "Substantial evidence of potential impacts that are not listed on this form*

5-18

*must also be *1052 considered." (Guidelines, append. G.) Furthermore, the Guidelines include a section on transportation and traffic, which issues presumably include parking issues even though parking is not expressly listed. (Guidelines, append. G, § XVI.) We reject SFUDP's language, quoted above, and are unpersuaded by its reasoning. Therefore, we decline to apply it in the circumstances of this case.*

5-18 cont'd

*Furthermore, **regardless of whether parking is considered a primary or secondary impact of a project, a project's impact on parking generally should be studied for any potential impact on the environment. "CEQA requires a governmental agency [to] prepare an environmental impact report (EIR) whenever it considers approval of a proposed project that 'may have a significant effect on the environment.'** ( [Pub. Resources Code,] § 21100, italics added.)" (Quail Botanical Gardens Foundation, Inc. v. City of Encinitas, supra, 29 Cal.App.4th at p. 1601, 35 Cal.Rptr.2d 470.) CEQA does not limit consideration of a project's effects on the environment to only those that are "direct" or "primary." The Guidelines define "[s]ignificant effect on the environment" as "a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment**. ***A social or economic change related to a physical change may be considered in determining whether the physical change is significant."** (Guidelines, § 15382, italics added.) If a project causes a direct or indirect adverse change in a physical condition in an area, any social impact on humans related to that physical change may be considered by a lead agency in determining whether the physical change is "significant" under CEQA. (Guidelines, §§ 15360 [significant effects may be either direct or indirect], 15064, subd. (e) **["If the physical change causes adverse economic or social effects on people, those adverse effects may be used as a factor in determining whether the physical change is significant."]**; see also Pub. Resources Code, § 21065 [defining a "project" as an activity that may cause "either a direct physical change in the *1053 environment, or a reasonably foreseeable indirect physical change in the environment"].) The Guidelines define the*

5-19

5-20

*"environment" as "the physical conditions which exist within the area which will be affected by a proposed project … [and] includes both natural and man-made conditions." (Guidelines, § 15360; see Pub. Resources Code, § 21060.5.)*

*Vehicles, whether driven or parked, in effect constitute man-made conditions and therefore may constitute physical conditions in an area that may be affected by a proposed project, thereby requiring a lead agency to study whether a project's impact on parking may cause a significant effect on parking and thus the environment. Furthermore, to the extent the lack of parking affects humans, that factor may be considered in determining whether the project's effect on parking is significant under CEQA. (Cf. Guidelines, § 15064, subd. (e) [overcrowding of a public facility that causes an adverse effect on people may be regarded as a significant effect].)*

*Based on our review of the record in this case, District did not properly study the question of whether the Project may have a significant effect on parking in the area. Initially, it did not properly establish a baseline attendance number to which it could compare the expected attendance on completion of the Project, which comparison would ultimately allow it to consider the nature and scope of the Project's adverse change on parking in the area.* ***The record includes extensive evidence (e.g., letters and photographs) from residents in the area showing the Project may have an adverse effect on parking. The personal observations and opinions of local residents on the issue of parking in the area may constitute substantial evidence that a project may have a significant impact on parking and thus the environment****. (Cf. Mejia,supra, 130 Cal.App.4th at p. 339, 29 Cal.Rptr.3d 788; **481 Architectural Heritage,supra, 122 Cal.App.4th at pp. 1117–1118, 19 Cal.Rptr.3d 469; Arviv Enterprises, Inc. v. South Valley Area Planning Com. (2002) 101 Cal.App.4th 1333, 1347, 125 Cal.Rptr.2d 140.)*

5-20 cont'd

3. **The DEIR fails to study relocating the two Hotels to the East of the Convention Center. This is a failure of Section 1.5 Summary of Project Alternatives, Alternatives Considered But Rejected "Alternative Site" Alternative.**

5-21

The Office Building owner advised the owner of 2500 N. Hollywood Way that they would like to have the 2 Hotels moved East of the Convention Center. This location, or any other location for the buildings and parking structures was not studied in the DEIR. Exhibit A, included herewith provides where the Hotel buildings and parking structure should be located, or at a minimum, studied.

Relocating the 2 [proposed] Hotels and Parking Structure, as set forth above, would result in a far superior Project as it would mitigate many of the concerns and objections of the Office Parcel. I attach hereto a site plan taken from the DEIR where I have outlined the area the Office Parcel believes must be studied and approved. I believe the area I have outlined has approximately the same land area as is the currently proposed Project.

5-21 cont'd

4. **The Parking Study by Walker Consultants is deficient as it fails to study the parking requirements of medical uses of the Office Parcel, which medical uses require significantly more parking than is currently used on the Office Parcel. The Parking Study is further deficient as it fails to take into account that the occupancy of the Office Parcel, like offices nationwide, is lower than the historic occupancy of the Office Parcel. The Parking Study is further deficient as it has internal inconsistencies and fails to accurately reflect existing conditions where 2500 N. Hollywood Way currently complains of not enough parking with the current hotel buildings. The parking Study is further deficient as it fails to study the massive parking requirements and related pollution and other negative impacts when 2500 N. Hollywood Way hosts its large conventions.**

5-22

The Parking Study evades any mention of the growing medical uses within the Office Building and turns a blind eye to the fact that the occupancy of the Office Building is at historic lows, mirroring office occupancy across the country.

The combination of an increase in the number of tenants having medical uses (which require significantly more parking spaces than other office tenants) as is the current focus and practice of the Office Parcel in and of itself creates substantially more demand than addressed in the Parking Study.

When the addition of tenants having medical uses, therefore requiring more parking, is combined with the tenancy of the Office Parcel increasing to historical levels, neither of which is studied by the Parking Study, the deficiencies of the Parking Study is further revealed. The process of leasing to additional and various medical uses is currently being practiced by the Office Building. Apparently no effort was made to contact representatives of the Office Building to get any of this information. I invite Walker Consultants to meet with my client for further information on this, should Walker Consultants wish such a meeting. Please see above in the Overview Section for further information. 5-22 cont'd

Furthermore, the Parking Study makes a reader search for a needle in a haystack to see the extraordinary deficiency of parking spaces for the proposed project compared to the current parking requirements of the City of Burbank. This amounts to a whitewash. 5-23

The Parking Study fails to study the widening of Marriott Drive as to its impact on the Office Building's parking and traffic circulation 5-24

From DEIR Section 1.2 paragraph 4 therein

*"Between the Hotel and the convention center, Marriott Drive would be widened to maintain existing access to the Office Parcel parking lot, as well as optimizing the drive aisles in front of the convention center for loading and unloading guests and to facilitate more efficient parking management during events."*

According to the Walker Parking report the new 420 room Hotel is required to have 494 parking spaces. Also, according to the same report, the existing hotel with 488 rooms was using 745 parking spaces (without Office Building's 105 shared spaces) under the current condition but always complaining about its insufficiencies. Even if you accept the existing condition as satisfactory, which is an incorrect assumption, should not be used and if used will be challenged as intentionally misleading, with a new Hotels they should have a minimum of 745 + 494 = 1,239 parking spaces available at all times or if using recommended supply of 85% (per page 40 of report), 1,053 parking spaces should be available for both old and new Hotel uses, without access to the shared parking spaces. Furthermore, the Hotel Study must study the 5-25

peak parking requirements of the [proposed] Project, cumulative with the current hotels, when the huge conventions hosted by 2500 Hollywood Way (slated to increase in scope and number) occur. Parking at these time will require substantial valet or otherwise transportation to offsite locations, triggering a gaggle of negative environmental impacts. 5-25 cont'd

An EIR must study the reduction of view corridors of neighboring properties by providing a detailed description of the existing physical conditions, assessing the project's impact on scenic vistas, and including visual depictions and discussions of anticipated impacts. The EIR must also respond to public comments and include feasible mitigation measures to address significant visual impacts (Clover Valley Foundation v. City of Rocklin (2011)197 Cal.App.4th 200) 5-26

An EIR must focus on the secondary effects of parking issues, such as traffic congestion and air quality, rather than the parking shortage itself (Covina Residents for Responsible Development v. City of Covina, 21 Cal.App.5th (2018) 712. The DEIR fails to do this. 5-27

**5. The DEIR fails to study the reduction of view corridors from the Office Building. This must be studied** 5-28

See Save Our Capitol! v. Department of General Services (2023) 87 Cal.App.5th 655; Hilltop Group, Inc. v. County of San Diego (2024) 99 Cal.App.5th 890 (2024); Clover Valley Foundation v. City of Rocklin (2011) 197 Cal.App.4th 200.

**6. The DEIR fails to study the negative economic impacts that are caused by the Project including the loss of value to the Office Building as the negative impacts are coupled with other negative impacts.** 5-29

Under the California Environmental Quality Act (CEQA), an EIR must include a detailed analysis of the significant environmental effects of a proposed project, including the potential negative impacts on neighboring properties. This requirement is supported by several legal principles and case law.

The scope and detail of an EIR's discussion of a project's environmental setting must allow the reader to assess and analyze the project's potential impacts (League to Save Lake Tahoe Mountain etc. v. County of Placer (2022) 75 Cal.App.5th 63. This includes the impacts on neighboring properties. 5-29 cont'd

Public and Decision-Maker Information: An EIR must provide sufficient detail to enable those who did not participate in its preparation to understand and consider meaningfully the issues raised by the proposed project (Sierra Club v. County of Fresno, 6 Cal.5th (2018) 502. 5-30

This ensures that both the public and decision-makers are fully informed about the potential negative impacts on neighbors.

Mitigation Measures: An EIR must include a meaningful discussion of feasible mitigation measures to reduce the project's adverse environmental effects (Natural Resources Defense Council, Inc. v. City of Los Angeles, 98 Cal.App.5th (2023) 1176. This includes measures that address the negative impacts on neighboring properties. 5-31

Comparative Environmental Effects: The EIR must discuss the comparative environmental effects of a range of reasonable alternatives to the proposed project, including a "no project" alternative, and the cumulative impact of the project's various environmental effects (Natural Resources Defense Council, Inc. v. City of Los Angeles, 98 Cal.App.5th (2023) 1176. This analysis should consider the negative impacts on neighboring properties. 5-32

Significant Effects and Mitigation: Public agencies should not approve projects if there are feasible alternatives or mitigation measures available that would substantially lessen the significant environmental effects of such projects (West's Ann.Cal.Pub.Res.Code § 21002). This includes considering the negative impacts on neighboring properties and identifying ways to mitigate those impacts. 5-33

Purpose of EIR: The purpose of an EIR is to provide detailed information about the effect a proposed project is likely to have on the environment, list ways to minimize significant effects, and indicate alternatives to the project (Banning Ranch Conservancy v. City of Newport Beach (2017) 2 Cal.5th 918. 5-34

South of Market Community Action Network v. City and County of San Francisco, 33 Cal.App.5th (2019) 321. This comprehensive analysis includes the negative impacts on neighboring properties. 5-34 cont'd

Based on the above, an EIR must study and address the negative costs of projects to neighbors, ensuring that all significant environmental effects, including those on neighboring properties, are adequately analyzed and mitigated where feasible.

**7. The DEIR Section 8 fails to study PD 89-1 and the REA fully enforceable agreements joining 2550 Hollywood Way with the Office Building** 5-35

The DEIR Section 8, LAND USE AND PLANNING, goes radio silent in failing to recognize PD 89-1 and the REA. Therefore the list of Mitigations is also insufficient. This omission causes the DEIR in and of itself, to be insufficient. The expiration of the Development Agreement has no effect on the Zoning of the Property, which was created by contract and specifically requires all parties to the contract agree to any change. The violation of the REA will result in significant legal exposure to the City of Burbank. PD 89-1 and the REA must be analyzed in light of the proposed Project.

**8. Because the DEIR fails to study that which is required the DEIR study of Cumulative Effects fails** 5-36

If any portion of the DEIR is insufficient the DEIR fails to correctly study the cumulative effects

4.0 BASIS OF CUMULATIVE ANALYSIS CEQA Guidelines Section 15355 defines cumulative impacts as follows: “Cumulative impacts” refers to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.

**9. The Parking Study is more of a document concealing deficiencies of parking for the {proposed] Project than an actual study that clearly defines how the proposed parking differs from the parking required under City Parking Requirements. The Parking Study must be** 5-37

5-37
cont'd

**revised to inform the public and the decisionmakers of the absolutely huge underparked condition the proposed Project will create when compared to the City's parking requirements**.

The Parking Study does not describe how many parking spaces are being removed due the proposed Project and is unclear on how many will be added and where.

The City of Burbank has well defined the minimum number of parking spaces for various uses, including hotel, restaurant and convention, by example and not by limitation. These requirements have been established based on significant study including public input, many of these requirements are set forth in "*ARTICLE 14. GENERAL OFF-STREET PARKING STANDARDS*

*DIVISION 2. PARKING REQUIREMENTS 10-1-1408: SPACES REQUIRED:*

*The following off-street parking* ***spaces shall be provided:"*** (emphasis added).

The word "shall" is not discretionary, however the Parking Study contains no information or analysis showing the specific number of parking spaces which are required under the City General Off-Street Parking Standards, as written, and the number of parking spaces provided by the Project. This comparison should be in narrative and tabular form.

The information and analysis necessary in the Parking Study must address not just the Project but the entire 2500 Hollywood Way property in and of itself and 2500 Hollywood Way in combination with 2550 Hollywood Way, as the City has required these two properties be joined together for parking purposes. The Parking Study must clearly define the bases for obliterating and ignoring the parking requirements under the City General Off-Street Parking Standards simply to accommodate the owner of 2500 Hollywood Way and why this substantial reduction pf the number of parking spaces is not adopted in other parts of the City. Anything less is a whitewash.

5-38

**10. Even under SB 743 (Public Resources Code Section 21099(d, if the reduction in parking or changes in traffic patterns due to a project create other significant environmental impacts, these must be studied in the DEIR.**

While under SB 743 (Public Resources Code Section 21099(d)), parking impacts are generally not considered significant environmental impacts in urban contexts, and thus, an EIR is not required to address parking reductions themselves unless they result in secondary environmental impacts (Covina Residents for Responsible Development v. City of Covina, 21 Cal.App.5th (2018) 712, if the reduction in parking or changes in traffic patterns due to a project creates other significant environmental impacts, these must be studied in the EIR.

For example, in Save Our Access-San Gabriel Mountains v. Watershed Conservation Authority, the court found that while parking shortfalls themselves were not significant environmental impacts, the EIR needed to address any secondary environmental impacts resulting from the parking deficits (Save Our Access–San Gabriel Mountains v. Watershed Conservation Authority (2021) 68 Cal.App.5th 8. Similarly, in Covina Residents for Responsible Development v. City of Covina, the court emphasized that while parking impacts are exempt from environmental review under Section 21099(d)(1), any secondary physical impacts triggered by parking deficits must be addressed (Covina Residents for Responsible Development v. City of Covina (2018) 21 Cal.App.5th 712.

Clearly the standard below was met by secondary impacts of the altering of parking, vehicular and pedestrian traffic, in violation of PD 89-1 and the REA and otherwise.

*"significant effect on the environment"* means a substantial, or potentially substantial, adverse change in environment, and means effect on environment of persons in general and not particular persons such as resident of condominium located adjacent to proposed condominium. Markley v. City Council of City of Los Angeles (App. 2 Dist. 1982) 182 Cal.Rptr. 659, 131 Cal.App.3d 656.

5-38 cont'd

Nothing in SB743, or any other California law, eliminates or reduces the requirement the above matters and all other necessary matters, be studied and the results of these studies disclosed.

Covina Residents for Responsible Development v. City of Covina (2018) 21 Cal.App.5th 712,725,

*Section 21099 was enacted as part of Senate Bill No. 743 (2013–2014 Reg. Sess.) to further the Legislature's strategy of encouraging transit-oriented, infill development consistent with the goal of reducing greenhouse gases announced in the "Sustainable Communities and Climate Protection Act of 2008" (see Stats. 2008, ch. 728, § 1, p. 5065; Stats. 2009, ch. 354, § 5). Section 21099 was enacted as part of Senate Bill No. 743 (2013–2014 Reg. Sess.) to further the Legislature's strategy of encouraging transit-oriented, infill development consistent with the goal of reducing greenhouse gases announced in the "Sustainable Communities and Climate Protection Act of 2008" (see Stats. 2008, ch. 728, § 1, p. 5065; Stats. 2009, ch. 354, § 5), also known as Senate Bill No. 375. Senate Bill No. 375 (2007–2008 Reg. Sess.). in turn, was enacted to implement the California Global Warming Solutions Act of 2006 (Health & Saf. Code, § 38500 et seq.; seeStats. 2006, ch. 488, § 1, p. 3419),9 and "is one in a series of executive, legislative and administrative measures enacted to reduce greenhouse gas emissions and their adverse effects on our climate." (Bay Area Citizens v. Association of Bay Area Governments (2016) 248 Cal.App.4th 966, 975, 204 Cal.Rptr.3d 224; see also Cleveland National Forest Foundation v. San Diego Assn. of Governments (2017) 3 Cal.5th 497, 506, 220 Cal.Rptr.3d 294, 397 P.3d 989 [discussing Senate Bill 375; "[t]he Legislature ... found the state could not meet its emission reduction goals without improved land use and transportation policy"]; id. at p. 522, 220 Cal.Rptr.3d 294, 397 P.3d 989* ***["When it comes to climate change, the state's long-term environmental goals are clear. Senate Bill 375 and other statutes have codified into California law the scientific consensus that the state must reduce greenhouse gas emissions over the next few decades."****].)10* (emphasis added).

Furthermore, there is nothing in the DEIR to address how the Project advances the above emphasized goal.

## CONCLUSION

5-39

The Project, as proposed, cannot be approved. The California Environmental Quality Act (CEQA) contains a "*substantive mandate*" requiring public agencies to refrain from approving projects with significant environmental effects if there are feasible alternatives or mitigation measures that can substantially lessen or avoid those effects. City of Hesperia v. Lake Arrowhead Community Services Dist. (App. 4 Dist. 2019) 250 Cal.Rptr.3d 82.

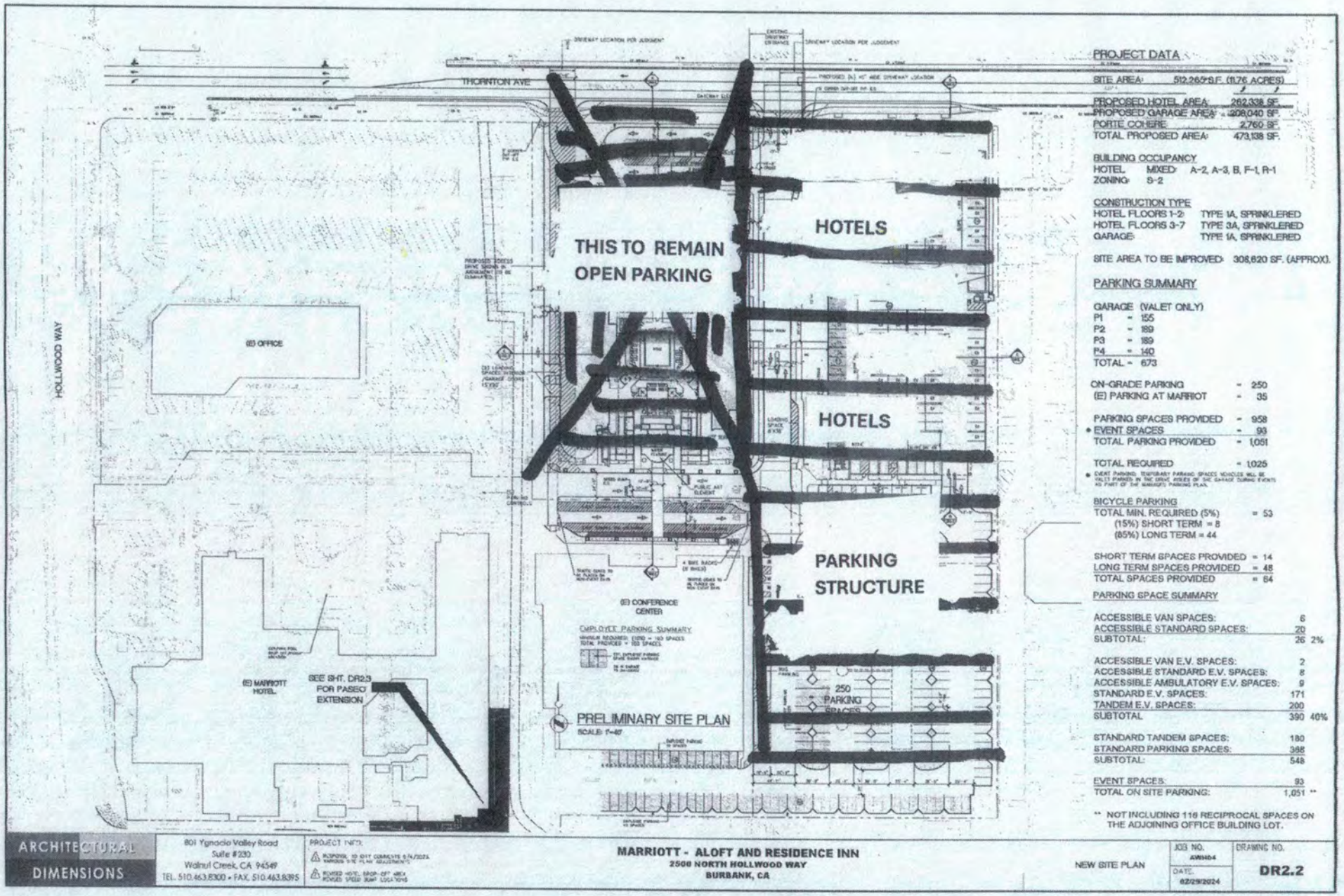
One mistake, even a small one, will result in an EIR being rejected. East Oakland Stadium Alliance v. City of Oakland (2023) 89 Cal.App.5th 1226. That is the instant case, multiplied by orders of magnitude.

Respectfully Submitted.

The Law Offices of Robert H. Bisno

*By: S/ Electronically. Robert H. Bisno*
Robert H. Bisno, Esq.

# EXHIBIT A


THORNTON AVE
HOLLYWOOD WAY
(E) OFFICE
THIS TO REMAIN
OPEN PARKING
HOTELS
HOTELS
PARKING
STRUCTURE
(E) CONFERENCE
CENTER
EMPLOYEE PARKING SUMMARY
(E) MARRIOTT
HOTEL
SEE SHT. DR2.3
FOR PASEO
EXTENSION
250
PARKING
SPACES
PRELIMINARY SITE PLAN
SCALE: 1"=40'
PROJECT DATA
SITE AREA: 512,265 S.F. (11.76 ACRES)
PROPOSED HOTEL AREA: 262,338 SF.
PROPOSED GARAGE AREA: 208,040 SF.
PORTE COHERE 2,760 SF.
TOTAL PROPOSED AREA: 473,138 SF.
BUILDING OCCUPANCY
HOTEL MIXED: A-2, A-3, B, F-1, R-1
ZONING: S-2
CONSTRUCTION TYPE
HOTEL FLOORS 1-2: TYPE 1A, SPRINKLERED
HOTEL FLOORS 3-7 TYPE 3A, SPRINKLERED
GARAGE: TYPE 1A, SPRINKLERED
SITE AREA TO BE IMPROVED: 308,620 SF. (APPROX).
PARKING SUMMARY
GARAGE (VALET ONLY)
P1 = 155
P2 = 189
P3 = 189
P4 = 140
TOTAL = 673
ON-GRADE PARKING = 250
(E) PARKING AT MARRIOT = 35
PARKING SPACES PROVIDED = 958
* EVENT SPACES = 93
TOTAL PARKING PROVIDED = 1,051
TOTAL REQUIRED = 1,025
* EVENT PARKING: TEMPORARY PARKING SPACES VEHICLES WILL BE VALET PARKED IN THE DRIVE AISLES OF THE GARAGE DURING EVENTS AS PART OF THE MARRIOTT PARKING PLAN.
BICYCLE PARKING
TOTAL MIN. REQUIRED (5%) = 53
(15%) SHORT TERM = 8
(85%) LONG TERM = 44
SHORT TERM SPACES PROVIDED = 14
LONG TERM SPACES PROVIDED = 48
TOTAL SPACES PROVIDED = 64
PARKING SPACE SUMMARY
ACCESSIBLE VAN SPACES: 6
ACCESSIBLE STANDARD SPACES: 20
SUBTOTAL: 26 2%
ACCESSIBLE VAN E.V. SPACES: 2
ACCESSIBLE STANDARD E.V. SPACES: 8
ACCESSIBLE AMBULATORY E.V. SPACES: 9
STANDARD E.V. SPACES: 171
TANDEM E.V. SPACES: 200
SUBTOTAL 390 40%
STANDARD TANDEM SPACES: 180
STANDARD PARKING SPACES: 368
SUBTOTAL: 548
EVENT SPACES: 93
TOTAL ON SITE PARKING: 1,051 **
** NOT INCLUDING 116 RECIPROCAL SPACES ON THE ADJOINING OFFICE BUILDING LOT.
ARCHITECTURAL DIMENSIONS
801 Ygnacio Valley Road
Suite #230
Walnut Creek, CA 94549
TEL. 510.463.8300 • FAX. 510.463.8395
PROJECT INFO:
MARRIOTT - ALOFT AND RESIDENCE INN
2500 NORTH HOLLWOOD WAY
BURBANK, CA
NEW SITE PLAN
JOB NO. AWH04
DATE: 02/29/2024
DRAWING NO. DR2.2

5-40
cont'd

**Response to Comment Letter 5**

Robert H. Bisno, Esq.
The Law Offices of Robert H. Bisno
January 20, 2025

Response 5-1

This introductory comment identifies the commenter as representing Hollywood Way SHG, LLC (the owner of 2550 N. Hollywood Way) and asserts that the Project would result in material and detrimental changes to the parking rights of the 2550 N. Hollywood Way Office Parcel, which are protected by a Reciprocal Easement Agreement (REA). The comment references further comments and details provided in the comment letter (addressed in subsequent responses) and that additional studies and information are required. The comment is introductory in nature and does not contain any information requiring changes to the Draft EIR. No further response is warranted.

*Comments 5-2 through 5-13 are an overview of the more detailed comments/assertions provided in Comments 5-14 through 5-38 of the comment letter. Several of the comments pertain to or expand upon the same topic area and issue (e.g., parking, cumulative impacts, zoning, etc.) provided in another comment. Therefore, where comments refer to or address the same topical area, the responses are grouped together to provide a comprehensive response to the comments relative to that topical area. The numbered comments applicable to the response are identified.*

Responses 5-2, 5-14

The comment asserts that the Draft EIR fails to study the limitations of the REA, which the commenter believes prohibits the proposed uses at 2500 N. Hollywood Way.

Draft EIR Section 3.0, *Project Description*, explains the existence of the REA, which includes, but is not limited to, an easement to each of the respective property owners allowing vehicular and pedestrian access across the driveways and within the parking areas located on both the office and hotel parcels. Furthermore, the project description provides that the proposed Project's parking requirements do not rely on the parcel at 2550 N. Hollywood Way.

It is not the role of the City to analyze and interpret the provisions of a private agreement to which the City is not a party, and CEQA does not require a lead agency to do so as part of its environmental review.

In *Olen Properties Corp. v. City of Newport Beach*, 93 Cal. App. 5th 270, 310 Cal. Rptr. 3d 442 (2023), the California Fourth District Court of Appeal rejected an argument that an agency was required to consider a private agreement in its CEQA documents. The *Olen* case involved the addition of a residential housing development on a parking lot which served the commercial tenants of a commercial property owned by the Plaintiff. The Plaintiff argued that the Addendum to the EIR was insufficient because "it failed to consider the [pre-existing] CC&Rs, which plaintiff contends barred this construction." (*Id.* at 276.) The Plaintiff claimed that the CC&Rs "would protect existing buildings owners from 'disharmony through … conflicting internal circulation [and] parking shortages,'" among other concerns. (*Id.* at 281-2.) In rejecting these arguments, the Court reasoned that "the CC&Rs themselves … are covenants between private

parties conveying certain private property rights" and, thus, need not be considered in the EIR. (*Id.* at 282.)

The agreement between the Applicant and adjacent property owner (SHG, LLC), as with the CC&Rs in *Olen*, is a private, voluntary agreement between private parties that can be enforced through litigation between those parties. The private agreement is not a CEQA environmental issue and is not enforced by the City. The comment does not contain any information requiring changes to the Draft EIR.

Responses 5-3, 5-17, 5-18, 5-19, 5-20, 5-27, 5-38

The comments indicate that the Draft EIR fails to study the "detrimental impact" to the parking of the Office Building and contends that parking should be addressed and that SB 743 requires study of parking where "reduction in parking or changes in traffic patterns due to a project create other significant environmental impacts."

There is no evidence or information to demonstrate the Project would result in a "detrimental impact" on parking. As described in Draft EIR Section 3.0, *Project Description*, the proposed Garage would include 766 valet-only parking spaces, with an additional 285 parking spaces on grade, for a total of 1,051 parking spaces on the Project site, as compared with the current 763 parking spaces located on the Project site. No improvements or changes to the 2550 N. Hollywood Way property (owned by SHG LLC) are proposed as part of the Project; the existing 380 parking spaces on the SHG property would not be altered as part of the Project. Pursuant to the Parking Study (April 13, 2021) for the Project, the City requires that a minimum of 1,021 parking spaces be provided for the Project and the existing Marriott Hotel and convention center. The required parking would be provided on the Project site with a surplus of 30 parking spaces.

Furthermore, the comments are solely concerned with the alleged impact on the parking at the office building. The question under CEQA is "'whether a project will affect the environment of persons *in general*, not whether a project will affect *particular persons.*'" (*Id.*)(citing *Eureka Citizens for Responsible Government v. City of Eureka*, 147 Cal. App. 4th 357, 376, 54 Cal. Rptr. 3d 485 (2007), as modified (Feb. 1, 2007), italics added.) There is no evidence of any impact to the office building property given that the Project's required parking will be accommodated on the Project site. If the office building property were impacted, that would not be considered an impact for CEQA purposes.

It is acknowledged that the CEQA Guidelines do not list parking as a potential impact that must be studied in an EIR. However, the list of potential impacts is not exclusive. An EIR must consider "substantial evidence of potential impacts" even if not listed. Case law has clarified that parking "could constitute a significant effect on the environment" where it has a "physical impact on the environment around it." (*Taxpayers for Accountable School Bond Spending v. San Diego Unified School Dist.*, 215 Cal. App. 4th 1013, 1051 (2013).)

As discussed in Draft EIR Section 8.0, *Effects Found Not to be Significant*, pursuant to SB 743 (Public Resources Code (PRC) Section 21099(d)), "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." As discussed in the Draft EIR, the proposed Project satisfies these requirements, and, thus, the alleged inadequate parking does not support a finding of a

significant secondary impact on the environment. (Draft EIR, 8-1; *Covina Residents for Responsible Dev. v. City of Covina*, 21 Cal. App. 5th 712, 726, 230 Cal. Rptr. 3d 550 (2018).)

Under SB 743, secondary environmental impacts of parking, including "air quality, noise, safety, or any other impact associated with transportation" must be included, but parking impacts are exempt from CEQA review for qualifying projects. (PRC Section 21099(b)(3).) Therefore, the alleged parking impacts of the proposed Project need not be studied absent a secondary environmental impact.

SB 743 aligns with the view of the First District Court of Appeal in *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco*. The Court found that the analysis of parking impacts in an EIR was adequate in the context of an urban development: "[T]he EIR correctly concluded that '[p]arking shortfalls relative to demand are not considered significant environmental impacts in [an] urban context.'" (*San Franciscans Upholding the Downtown Plan v. City & County of San Francisco*, 102 Cal. App. 4th 656, 697, 125 Cal. Rptr. 2d 745 (2002).) While "'parking deficits are an inconvenience to drivers," they are "not a significant *physical* impact *on the environment*.'" (*Id.*, original italics.)

The comment letter points to a subsequent case, *Taxpayers for Accountable School Bond Spending v. San Diego Unified School District*, to support its contention that the study of parking impacts is required in the EIR. The *Taxpayers* case involved changes to a school stadium in a suburban area that would allow for evening games. (*Taxpayers*, 215 Cal. App. 4th, at 1021-1023.) The District "received extensive oral, written and physical evidence (e.g., photographs)…regarding the environmental effects of the Project, including its anticipated impact on traffic and parking in the area." (*Id.* at 1046.) Concerns included that inadequate parking would result in illegal parking "'on the narrow streets, [so] residents do not have the space required to maneuver their vehicles from the street to their driveways/garages.'" (*Id.* at 1047.) The Court noted that the project would cause traffic congestion, which it considered as a secondary impact, in the narrow streets surrounding the school. (*Id.* at 1053.)

In resolving the apparent conflict between *San Franciscans* and *Taxpayers*, the Court in *Covina Residents for Responsible Development v. City of* Covina stated that whether parking has a "physical impact on the environment" is a context-dependent question. (*Covina Residents*, 21 Cal. App. 5th at 727.)

Here, as with the project in *San Franciscans,* the proposed Project site is in an urban area and in close proximity to various transit options, including two Metrolink stations, a planned High-Speed Rail station, and the Hollywood Burbank Airport. The proposed Project is subject to various state, regional, and local transportation regulations, including SB 743, the Southern California Association of Governments' (SCAG) Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS), the Burbank2035 Mobility Element, the City's Complete Streets Plan, and the Burbank Municipal Code.

Further, unlike the "extensive oral, written, and physical evidence" received in *Taxpayers*, the City has been presented with no evidence of purported environmental impacts resulting from inadequate parking. These unsubstantiated claims do not constitute substantial evidence. (CEQA Guidelines, Section 15384 ["Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence"].)

The City has determined that the Parking Study provides substantial evidence that 1,021 parking spaces, in combination with a Parking Management Plan, is sufficient for the Project to meet corresponding demand and avoid any secondary environmental impacts. Specifically, the Parking Study recommended 1,021 parking spaces as the "number of required parking spaces to accommodate for the new hotel and existing uses at the Project Site – during observed peak parking demand (this assumes a special event at the existing Convention Center in the evening, when hotel parking demand is high.)" (Parking Study, p. 6.) Therefore, contrary to the assertions in the comment letter, the Project would not result in inadequate parking. Further, the claims of secondary environmental impacts included in the letter are unsubstantiated and do not warrant further response.

Responses 5-4, 5-21

The comments reference the Draft EIR Project Alternatives and identifies the commenters preference for consideration of an alternative site layout (included as an exhibit to the comment letter) wherein the Hotel and Garage are sited to the east of the existing convention center to provide a farther distance from the Office building owned by SHG LLC when compared to the currently proposed location within the Project site. The commenter also incorrectly asserts that the alternative site layout "must be studied as a Project Alternative and legally sufficient reasons must be provided it the alternative of relocating…is not approved by the City and the Applicant."

CEQA Guidelines Section 15126.6 (a) states that "An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project…An EIR need not consider every conceivable alternative to a project." Further CEQA Guidelines Section 15126 (b) states "Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (PRC Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project…" Therefore, locations that would not "avoid or substantially lessen" the Project's significant effects would not be included in the EIR.

As documented in the Draft EIR, the proposed Project would result in significant and unavoidable impacts related to greenhouse gas (GHG) emissions, noise specific to construction, and utilities specific to noise associated with the construction of onsite and offsite infrastructure improvements. The comments do not provide any evidence or information on how the suggested alternative site layout would "avoid or substantially lessen" the Project's significant effects related to these topic areas. In fact, siting the Hotel and Garage east of the convention center, as identified by the commenter, would not mitigate or avoid the significant effects of the Project on the environment as identified in the Draft EIR. Development of the proposed Project in the alternative site layout would not lessen the Project's significant and unavoidable impact associated with GHG emissions. As stated in the Draft EIR, depending upon the location and ambient noise conditions, it is possible that the significant and unavoidable impacts relative to construction noise, including noise associated with the offsite sewer and electrical improvements, may be reduced, or eliminated. However, given that the alternative site layout is in the same location as the proposed Project site, the impacts to sensitive receptors associated with construction noise would remain

the same as noise conditions would be substantially similar and the same offsite infrastructure improvements would be required.

Furthermore, the proposed Project could not be relocated directly east of the convention center, as the commenter suggests, because the proposed Hotel would not fit in that space, which is too narrow to accommodate the proposed footprint. Refer to the figure included at the end of the responses to this comment letter. The site is also not deep enough to accommodate the proposed Hotel and Garage to be situated end-to-end north to south from Thornton Avenue to the parcel's south property line. Moving the Hotel away from Thornton Avenue would have the potential to adversely impact traffic circulation within the site as the valet would not be right at the driveway, forcing all drop-offs to venture farther into the site, in addition to circulation issues caused by locating the Hotel drop-off farther from the street than the Garage. Therefore, the proposed location of the Hotel and Garage is the only option with enough space to accommodate the proposed Hotel footprint and avoid circulation issues within the site.

Additionally, CEQA "'does not require that an agency consider specific alternatives that are proposed by members of the public or other outside agencies.'" (City of Maywood v. Los Angeles Unified School Dist., 208 Cal. App. 4th 362, 420, 145 Cal. Rptr. 3d 567 (2012), as modified (Aug. 14, 2012); Save Our Access-San Gabriel Mountains v. Watershed Conservation Authority, 68 Cal. App. 5th 8, 32, 282 Cal. Rptr. 862 (2021)) (finding that an agency was not required under CEQA to consider project alternative suggested by a local businessowner whose business would benefit from suggested project alternatives.)

Responses 5-5, 5-6, 5-7, 5-13, 5-22, 5-23, 5-24, 5-37

The comments are related to the Parking Study prepared by Walker Consultants, which the commenter indicates is deficient for failing to consider the low occupancy rates of office buildings nationwide and not considering parking requirements of tenants employing medical uses and "current work in process by the Office Parcel." Additionally, the comment asserts deficiencies and internal inconsistencies in the Parking Study. The comment also states the Parking Study fails to study the widening of Marriott Drive and its perceived impact on the Office Building's parking and circulation and references Draft EIR Section 1.0, *Executive Summary*.

The comments' relevance to the Draft EIR and perceived deficiencies are unsubstantiated. The commenter provides no explanation or substantiation for inconsistencies or what conditions they assert are inaccurately reflected in the study. There is no requirement for the CEQA document to consider whether an unrelated property can provide parking on its own site for future potential uses.

As previously indicated, the proposed Project's parking requirements would not rely on the parcel at 2550 N. Hollywood Way. The Project proposes no changes to the parking available on the Office Parcel, and existing parking spaces on the Office Parcel would not be altered as part of the Project. The parking required for the Project site's existing uses and the proposed Hotel would be provided on the Project site with a surplus of 30 parking spaces.

The Parking Study considers existing conditions at the site, and the City has determined that the Parking Study utilizes an effective methodology and provides an accurate reflection of the parking impacts of the Project. The Parking Study found that based on the Project's characteristics, a total of 1,021 parking spaces

would sufficiently serve the Project and existing Marriott Hotel, when provided in combination with a Parking Management Plan (PMP).

Draft EIR Section 5.11, *Transportation*, provides an evaluation of the proposed driveways and their potential to cause an environmental impact. As described in Section 5.11, between the Hotel and the convention center, Marriott Drive would be widened to maintain existing access to the Office Parcel parking lot, as well as optimizing the drive aisles in front of the convention center for loading and unloading guests and to facilitate more efficient parking management during events. Project driveways would be designed to conform with design standards per the Burbank Municipal Code. Furthermore, the proposed widening of Marriott Drive would occur within the Project site and would not modify or alter the Office Parcel's existing parking and circulation. The Draft EIR properly concluded that impacts would be less than significant.

Responses 5-8, 5-25

The comments are related to the Parking Study, which the commenter states is deficient for failing to study the parking requirements and related pollution and other negative impacts from the Project hosting large conventions.

As discussed in Draft EIR Section 3.0, *Project Description*, existing onsite uses experience an occasional increase in parking demand resulting from larger events that occur approximately four times per year. For these events, sufficient parking capacity is provided through the implementation of PMPs and/or the securing of offsite parking during the days of each event. The Parking Study concluded that such events may cause "spikes in demand", but "sizing the system for such spikes will result in large areas of asphalt or structure sitting empty for hundreds of days a year."

According to Burbank Municipal Code (BMC) Section 10-1-1408, the addition of the Hotel to the Project site should result in a total parking space requirement of 1,183 spaces (763 existing spaces for the Marriott Hotel and 420 new spaces for 420 new guestrooms requiring one space per guestroom). However, according to BMC Section 10-1-1415, "[S]hared parking may be counted towards code required off-street parking upon compliance with this section." The primary requirement to be eligible for such a shared parking arrangement is "[D]etailed parking studies prepared by a licensed traffic engineer to justify shared parking."

The Parking Study found that based on the Project's characteristics, a total of 1,021 parking spaces would sufficiently serve the Project and existing Marriott Hotel, when provided in combination with a PMP. Under BMC Section 10-1-1415, a total of 1,021 parking spaces has been determined to be acceptable for the proposed Project, when provided in combination with a PMP.

The comments asserts the Parking Study does not address "related pollution and other negative impacts when 2500 N. Hollywood Way hosts its large conventions." As documented in the Draft EIR, approximately four times per year, the Marriott Hotel hosts large events on the property. During these events, sufficient parking capacity would be provided through implementation of a PMP and/or the securing of offsite parking during the days of each event. These events occur under existing conditions, and their occurrence are not proposed to be modified or altered as a result of the Project.

Responses 5-9, 5-26, 5-28

The comments indicate the Draft EIR fails to study the reduction of view corridors from the Office Building; however, the comment does not identify the view corridor the comment is referencing.

Under CEQA, aesthetic issues, including public and private views, may constitute a substantial environmental impact requiring study in the EIR "depending on the nature of the area affected." (*Mira Mar Mobile Community v. City of Oceanside*, 119 Cal.App.4th 477, 492-493, 14 Cal. Rptr. 3d 308)(2004), as modified (July 13, 2004).) However, the CEQA Guidelines afford discretion to the lead agency in determining whether an impact is "significant" based, at least in part, on the setting. (CEQA Guidelines Section 15064(b)(1); *Id.* at Section 15064(d); *Mira Mar*, 119 Cal.App.4th at 493.) The City found no such impact for this Project.

In *Mira Mar Mobile Community*, the Court upheld the city's certification of an EIR where it found that the supplemental EIR had adequately analyzed a proposed condominium development's impact on ocean views from the adjacent property. (*Id.* at 485.) The court considered that landowners generally have no right of access to air, light, or views under California law. (*Id.* at 492)(citing *Wolford v. Thomas*, 190 Cal.App.3d 347, 358, 235 Cal.Rptr. 422 (1987).) In finding that the impact on private views was not substantial, the court also considered that the city's policy only protected public views. Thus, the Court concluded that the city "did not abuse its discretion by concluding that the project would have no significant effects on aesthetics, including views." (*Mira Mar*, 119 Cal.App.4th at 494.)

As in *Mira Mar*, where the city's policy identified protected public vantage points, the Burbank 2035 Open Space and Conservation Element identifies and protects certain areas, which have a Scenic Vista Orientation. As described in Draft EIR Section 8.0, *Effects Found Not To Be Significant,* the Project site and the adjacent office building are not located within an area identified as having a Scenic Vista Orientation by the Burbank2035 Open Space and Conservation Element. The Project site and surrounding area are predominantly flat and developed with the Marriott Hotel, commercial, office, and airport uses. Publicly accessible long-range views toward the Verdugo Mountains are available from Thornton Avenue in the Project area and would remain with development of the Project. There are no scenic vistas from public parks or plazas.

Additionally, as stated in the Draft EIR, pursuant to SB 743 (PRC Section 21099(d)), "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." As discussed in the Draft EIR, the proposed Project satisfies these requirements, and, thus, "the Project's aesthetic impacts would not be considered a significant impact on the environment."

Responses 5-10, 5-29, 5-30, 5-31, 5-32, 5-33, 5-34

The comments state the Draft EIR fails to study the negative economic impacts of the Project on the Office Building.

Under CEQA, the City is not required to study the economic impacts to the adjacent property that are not connected to an environmental effect. CEQA Guidelines Section 15131(a) states "Economic or social effects of a project shall not be treated as significant effects on the environment." Rather, the EIR focuses

on "…physical changes caused in turn by the economic or social changes." An agency is not required under CEQA to "discuss economic effects lacking the requisite connection to a physical change in the environment, for an economic effect in itself is not a significant effect on the environment." (*County of Butte v. Department of Water Resources*, 90 Cal. App. 5th 147, 306 Cal. Rptr. 3d 860 (2023), as modified on denial of reh'g (May 1, 2023), review denied (June 28, 2023).) The environment is statutorily defined as "the physical conditions that exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, or objects of historic or aesthetic significance." (PRC Section 21060.5.)

The comment letter does not provide evidence of "physical changes" caused by the anticipated (and undefined) "negative economic impacts" to the adjacent property. Rather, the comment letter vaguely alleges that "negative economic impacts…are coupled with other negative impacts." CEQA Guidelines Section 15384 states "Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence." Speculation that the Project will cause negative economic impacts does not constitute substantial evidence under CEQA.

The proposed Project is expected to have positive economic impacts in the Burbank community. As described in Draft EIR Section 3.0, *Project Description*, two of the Project's objectives are to "enhance the continued economic revitalization and urbanization of the Hollywood Burbank Airport area" and to "contribute to the economic health and well-being of Burbank through the development of a Project that would generate new construction and long-term jobs and provide additional long-term revenue for the City through visitor operations, enhanced property values, new visitor spending, and transit occupancy tax." The Project would increase the City's employment base. Further, the proposed Project would provide economic growth due to the long-term revenue from visitor operations, spending, and transient occupancy tax.

Furthermore, the Project has received letters of support from the Burbank Chamber of Commerce, which emphasizes the increase in tax revenue, employment opportunities, area revitalization, and overall positive economic benefits that the Project is expected to create.

Responses 5-11, 5-15, 5-16, 5-35

The comments indicate that the Draft EIR fails to consider current zoning and the REA and that the reciprocal parking rates of the Office Parcel are referenced but not studied in the Draft EIR.

Refer to Responses 5-2 and 5-14 relative to the REA and Response 5-3 relative to parking. As described in Draft EIR Section 3.0, *Project Description*, the City's Zone Map (last amended by Ordinance No. 3802, effective 2019) identifies the zoning for the Project site as PD 89-1, Planned Development. As further discussed, the Project Applicant is requesting a Planned Development to rezone the Project site into a property and Project-specific zoning designation. The allowable permitted/conditionally permitted uses and the development standards applicable to the property would be outlined in the Planned Development. Since PD 89-1 would not govern the Project, if approved, further analysis of this zone is not required in the Draft EIR.

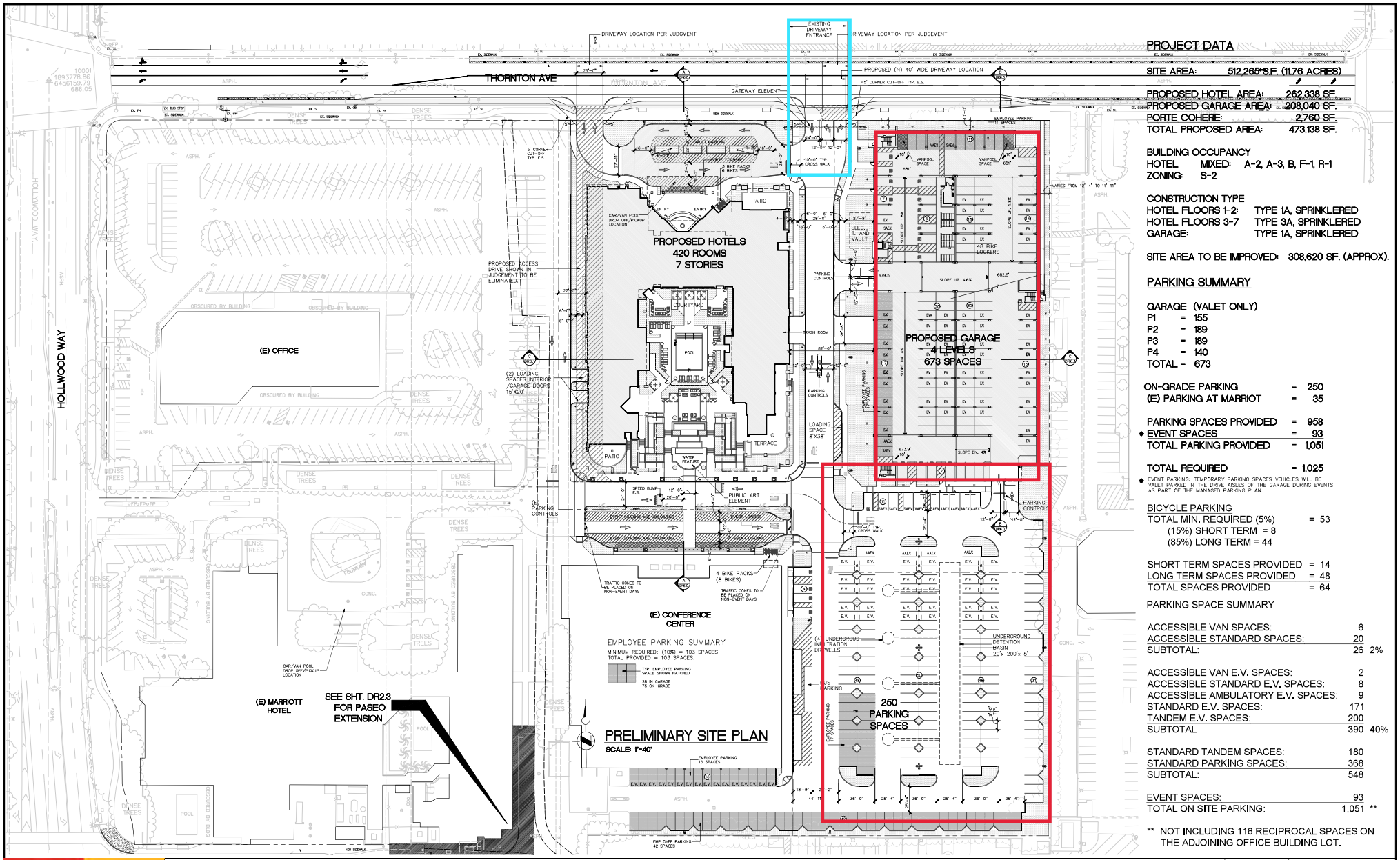
Responses 5-12, 5-36

The comments make a vague and unsubstantiated statement that the Draft EIR fails to evaluate cumulative effects because the Draft EIR fails to study what is required.

The Draft EIR includes a discussion of cumulative impacts consistent with CEQA Guidelines Section 15355. Draft EIR Section 4.0, *Basis of Cumulative Analysis*, describes the methodology and approach to the cumulative analysis provided in the Draft EIR. The analysis considered both a list of past, present, and probable future projects and a summary of projections, as described in detail in Draft EIR Section 4.0. The cumulative impacts analysis of each environmental topic area is discussed in the respective Draft EIR sections (Draft EIR Sections 5.1 through 5.13 under Subsection 5 (e.g., Subsections 5.1.5, 5.2.5, 5.3.5, etc.)). As documented in Draft EIR Section 4.0, the geographic areas, and hence the related projects, considered for the cumulative impact analyses vary according to environmental issue area and were determined based upon the Project's scope and the anticipated area in which the Project could contribute to an incremental increase in cumulatively considerable impacts. The City reiterates that the comment letter provides no substantial evidence of an impact required but not studied in the Draft EIR and concludes that the analysis of cumulative impacts in the Draft EIR is sufficient and in compliance with the requirements of CEQA.

Response 5-39

This comment is the conclusion to the comment letter, stating that the Project cannot be approved as the City should refrain from approving projects with significant environmental effects if there are feasible alternatives or mitigation measures that can lessen or avoid those effects. The City, as the CEQA Lead Agency, will take into account all mitigation measures and feasible alternatives, considering all the information provided in the EIR, and will make its independent determination regarding Project approval. Furthermore, the City will make findings and prepare a Statement of Overriding Considerations, should it find that the benefits of the Project outweigh the significant and unavoidable environmental impacts identified in the EIR. The comment further goes on to state that even one small mistake will result in an EIR being rejected. This is not accurate as the EIR is an informational and disclosure document prepared in good faith. CEQA Guidelines Section 15003(i) states "CEQA does not require technical perfection in an EIR, but rather adequacy, completeness, and a good-faith effort at full disclosure." Small mistakes can be corrected in the Final EIR or by the City as conditions of approval, as appropriate. The comment does not include any information requiring changes to the Draft EIR. No further response is warranted.




## PROJECT DATA

| | |
|---|---|
| SITE AREA: | 512,265 S.F. (11.76 ACRES) |
| PROPOSED HOTEL AREA: | 262,338 SF. |
| PROPOSED GARAGE AREA: | 208,040 SF. |
| PORTE COHERE: | 2,760 SF. |
| TOTAL PROPOSED AREA: | 473,138 SF. |

**BUILDING OCCUPANCY**

HOTEL MIXED: A-2, A-3, B, F-1, R-1
ZONING: S-2

**CONSTRUCTION TYPE**

| | |
|---|---|
| HOTEL FLOORS 1-2: | TYPE 1A, SPRINKLERED |
| HOTEL FLOORS 3-7 | TYPE 3A, SPRINKLERED |
| GARAGE: | TYPE 1A, SPRINKLERED |

SITE AREA TO BE IMPROVED: 308,620 SF. (APPROX).

**PARKING SUMMARY**

GARAGE (VALET ONLY)

| | |
|---|---|
| P1 | = 155 |
| P2 | = 189 |
| P3 | = 189 |
| P4 | = 140 |
| TOTAL = | 673 |

| | |
|---|---|
| ON-GRADE PARKING | = 250 |
| (E) PARKING AT MARRIOT | = 35 |
| PARKING SPACES PROVIDED | = 958 |
| • EVENT SPACES | = 93 |
| TOTAL PARKING PROVIDED | = 1,051 |
| TOTAL REQUIRED | = 1,025 |

• EVENT PARKING: TEMPORARY PARKING SPACES VEHICLES WILL BE VALET PARKED IN THE DRIVE AISLES OF THE GARAGE DURING EVENTS AS PART OF THE MANAGED PARKING PLAN.

**BICYCLE PARKING**

TOTAL MIN. REQUIRED (5%) = 53
(15%) SHORT TERM = 8
(85%) LONG TERM = 44

| | |
|---|---|
| SHORT TERM SPACES PROVIDED | = 14 |
| LONG TERM SPACES PROVIDED | = 48 |
| TOTAL SPACES PROVIDED | = 64 |

**PARKING SPACE SUMMARY**

| | | |
|---|---|---|
| ACCESSIBLE VAN SPACES: | 6 | |
| ACCESSIBLE STANDARD SPACES: | 20 | |
| SUBTOTAL: | 26 | 2% |
| ACCESSIBLE VAN E.V. SPACES: | 2 | |
| ACCESSIBLE STANDARD E.V. SPACES: | 8 | |
| ACCESSIBLE AMBULATORY E.V. SPACES: | 9 | |
| STANDARD E.V. SPACES: | 171 | |
| TANDEM E.V. SPACES: | 200 | |
| SUBTOTAL | 390 | 40% |
| STANDARD TANDEM SPACES: | 180 | |
| STANDARD PARKING SPACES: | 368 | |
| SUBTOTAL: | 548 | |
| EVENT SPACES: | 93 | |
| TOTAL ON SITE PARKING: | 1,051 | ** |

** NOT INCLUDING 116 RECIPROCAL SPACES ON THE ADJOINING OFFICE BUILDING LOT.

ARCHITECTURAL DIMENSIONS
801 Ygnacio Valley Road
Suite #230
Walnut Creek, CA 94549
TEL. 510.463.8300 • FAX. 510.463.8395

PROJECT INFO.
1 RESPONSE TO CITY COMMENTS 9/4/2023. VARIOUS SITE PLAN ADJUSTMENTS
2 REVISED HOTEL DROP-OFF AREA. REVISED SPEED BUMP LOCATIONS

**MARRIOTT - ALOFT AND RESIDENCE INN**
**2500 NORTH HOLLWOOD WAY**
**BURBANK, CA**

NEW SITE PLAN

JOB NO. AWH04
DATE. 02/29/2024
DRAWING NO. DR2.2

COMMENT LETTER 6


# LAW OFFICE OF JORDAN R. SISSON

LAND USE, ENVIRONMENTAL & MUNICIPAL LAW

3993 Orange Street, Suite 201
Riverside, CA 92501

Office: (951) 405-8127
Direct: (951) 542-2735

jordan@jrsissonlaw.com
www.jrsissonlaw.com


January 29, 2025

***VIA EMAIL:***

Daniel Villa, Principal Planner
Department of Community Development, City of Burbank
dvilla@burbankca.gov

**Re: Draft EIR Comments (SCH # 2019110032);**
**Dual Brand Hotel Project (2500 N. Hollywood Way)**

Dear Mr. Villa:

On behalf of UNITE HERE Local 11 ("Local 11"), this office respectfully provides the following comments[1] to the City of Burbank ("City") regarding the Draft Environmental Impact Report ("EIR")[2] involving the proposed seven-story, 420-room, dual-brand hotel (i.e., 203 short-term stay and 217 long-term stay guest rooms) ("Project") located on an 11.76-acre property at the above-referenced address currently developed with an existing two-tower (eight and nine stories tall), 488-room Marriott Hotel with an adjacent 46,500 square-foot Convention Center and 763 surface parking spaces ("Site"). 6-1

In furtherance of the Project, applicant AWH Partners ("Applicant") is seeking various project approvals under the Burbank Municipal Code ("BMC" or "Code"), including: (i) a Planned Development to allow Project-specific zoning on the Site ; (ii) a Development Review to construct the project ; and (iii) a new Development Agreement to establish the rights and obligations of the Applicant (collectively "Entitlements"). Additionally, for the purposes of the California Environmental Quality Act ("CEQA"),[3] the City is considering the adoption of the EIR and associated Mitigation Monitoring Reporting Program ("MMRP").

In short, we thank the City for the opportunity to provide comments on the Entitlements and EIR (collectively "Project Approvals"). Local 11 has a significant interest in the Project given the union represents more than 25,000 workers employed in hotels, restaurants, airports, sports arenas, and convention centers throughout Southern California and Phoenix, Arizona—including hundreds who live and/or work in the City.

As discussed further below, Local 11 is concerned with the Project's greenhouse gas ("GHG") impacts, which the Draft EIR primarily attributes to mobile emissions from hotel patrons. The Draft EIR seems to miscalculate its service population, which is inconsistent with the City's Greenhouse Gas Reduction Plan ("GGRP"), and fails to include many of the project-design features in the proposed MMRP. Additionally, the Draft EIR does not adequately consider inconsistencies with numerous strategies proposed by the California Air Pollution Control Officers Association 6-2

[1] Herein, page citations are either the stated pagination (i.e., "p. #") or PDF-page location (i.e., "PDF p. #")
[2] Draft EIR (Dec. 2024) https://files.ceqanet.opr.ca.gov/256853-4/attachment/gpznOgrcBEqhdVNWRhWAD35RJW6yS7jO1wV_VKFs7IXKNyLnWuUaPJ74vu-KFc4FkQo2k3HguTbjGGMF0.
[3] Including "CEQA Guidelines" codified at 14 Cal. Code. Regs. § 15000 et seq.

("CAPCOA") to reduce traffic-related mobile emissions. So too, the Draft EIR does not address how the single-hotel-use Project—located in an area already served by existing hotel uses—is inconsistent with a fundamental GHG-reduction strategy of encouraging mixed-use developments—with residential uses—for infill, transient-orient development ("TOD") locations. Furthermore, the Draft EIR fails to consider a reasonable range of alternatives, such as a hotel-residential mixed-use alternative (previously recommended by Local 11) that would serve all project objectives, is feasible for the Site, and could substantially reduce GHG impacts (notwithstanding the Draft EIR's vague concerns about uncertainty in the multifamily industry and unspecified added costs related to mitigating vapor intrusion risks). **6-2 cont'd**

For these reasons, Local 11 respectfully asks the City to stay its action on the Project Approvals until the issues discussed below are cured in a CEQA-compliant review—including a recirculated Draft EIR that (a) utilizes a proper service population analysis, (b) requires all project design features (intended to reduce impacts) as part of the MMRP, (c) considers all feasible mitigation measures and alternatives—including but not limited to a mixed-use hotel/residential alternative. **6-3**

## I. MORE GHG ANALYSIS AND MITIGATION ARE REQUIRED

The California Supreme Court demands a robust GHG analysis to assess a project's impact on climate change. Lead agencies must provide "the contours of their logical argument," leaving no "analytical gaps" in the analysis, and supporting determinations "through substantial evidence and reasoned explanation." (*Center for Biological Diversity v. Cal. Dept. of Fish and Wildlife* ("*Newhall Ranch*") (2015) 62 Cal.4th 204, 227; see also *Cleveland National Forest Foundation v. San Diego Assn. of Governments* ("*Cleveland II*") (2017) 3 Cal.5th 497, 504, 519 [analysis must be "based to the extent possible on scientific and factual data … stay[ing] in step with evolving scientific knowledge and state regulatory schemes." (Quoting CEQA Guidelines § 15064(b)].) This analysis must include good faith efforts to disclose a project's anticipated emissions and consider consistency with the State's GHG reduction requirements, such as: reduce to 1990 GHG emission levels by 2020 (i.e., AB 32); 40 percent below 1990 levels by 2030 (i.e., SB 32); and 80 percent below 1990 levels by 2050 (i.e., Executive Order S-3-05). (See CEQA Guidelines § 15064.4.) **6-4**

Here, the Draft EIR's GHG analysis appears inadequate for a variety of reasons discussed.

### A. THE SERVICE POPULATION SEEMS ARTIFICIALLY INFLATED.

The Draft EIR assumes that the Project would have a service population of 673 individuals, including 588 hotel patrons and 85 employees. (DEIR, p. 5.5-13.) This is used to establish the Project's estimated efficiency level of 6.94 metric tons of carbon dioxide equivalent per year per service population ("MTCO2e/yr/sp"), which exceeds the City's threshold of 3.12 MTCO2e/yr/sp. (DEIR, p 5.5-16.) However, the impact may be even greater due to flaws in the calculation of the Project's service population ("SP") for at least two reasons. **6-5**

/ / /

**6-5 cont'd**

First, the service population is widely understood to include only residents and employees, not hotel guests/patrons. This is evident from the City's Greenhouse Gas Reduction Plan ("GGRP"),[4] as well as other air emissions agencies and professionals.[5] That means the Project's service population would only be the 85 anticipated employees, making the Project even less efficient at roughly 54.9 MTCO2e/yr/sp (i.e., the Project's 4,671 MTCO2e/yr divided by 85 employees).

**6-6**

Second, the Draft EIR calculated 588 hotel patrons based on the existing Marriott Hotel's 1.4 persons occupancy rate per reservation (i.e., 1.4 x 420 rooms). (DEIR, p. 5.5-13.) However, this assumes 100 percent occupancy at all times, which is unreasonable given that the City's recently reported Burbank hotel occupancy rates range from roughly 40 – 85 percent during 2020 – 2023, with approximately 75 percent occupancy rate between January through September 2023.[6] Furthermore, assuming in arguendo that extended-stay lodging is akin to long-term residential uses, only 217 of the 420 rooms are for long-term stays (i.e., Residence Inn). (DEIR, p. 3-10.) Hence, even if the City wanted to include hotel patrons (which seems unsupported by the GGRP), it would have to account for a reasonable vacancy rate and only 217 extended-stay rooms of indeterminant durations (discussed further below). This would amount to a Project service population of roughly 313 (i.e., 85 employees + 228 extended-stay guests), making the Project's efficiency level of roughly 14.9 MTCO2e/yr/sp (i.e., the Project's 4,671 MTCO2e/yr divided by 313 service population).

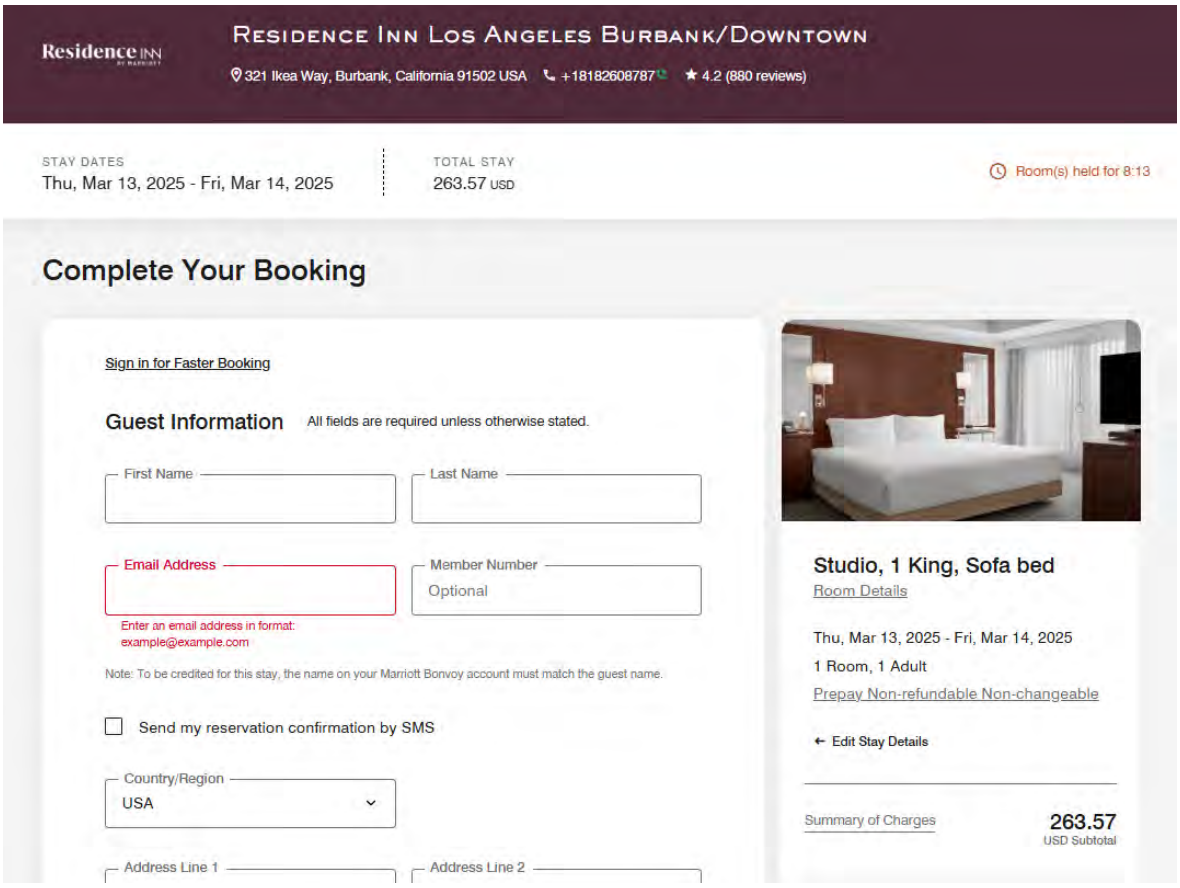
/ / /

[4] Under the GGRP, service population includes residents from residential projects and employees from non-residential projects, with hotels clearly considered "non-residential" developments. (See e.g., GGRP, Appendix G, PDF pp. 405-407, 410, 415-416, https://www.burbankca.gov/documents/173607/0/GGRP+Update+Final_w.App.pdf/5c876fb6-fed4-49e5-d7b6-dbcf058491a1?t=1666594217752.)

[5] See e.g., Association of Environmental Professionals ("AEP") (Oct. 2016) Beyond Newhall and 2020: A Field Guide to New CEQA Greenhouse, pp. 28, 30 (efficiency metric commonly used is "GHG emissions divided by the 'service population' (SP), which is the sum of people who live (residents) and work (employees) in the project site.[]"), https://califaep.org/docs/AEP-2016_Final_White_Paper.pdf; South Coast Air Quality Management District ("SCAQMD") (9/28/10) Minutes for the GHG CEQA Significance Threshold Stakeholder Working Group # 15, https://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; Sacramento Metropolitan Air Quality Management District ("SMAQMD") (Sep. 2014) Justification for GHG Emissions Thresholds of Significance, PDF p. 9, https://www.airquality.org/LandUseTransportation/Documents/GHGThresholdsJustificationSept2014.pdf; West Oakland Link (Jun. 2022), PD Fp. 2 (noting Bay Area Air Quality Management District ["BAAQMD"] threshold), https://mtc.ca.gov/sites/default/files/documents/2022-06/02_08_greenhouse_gas_emissions.pdf; BAAQMD Thresholds, https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/tools/ceqa-guidelines-may-2017-thresholds-table-pdf.pdf?rev=b7a7fe49e3a341a78e282ae3d095a2c4&sc_lang=fil-ph; Placer County Air Population Control District ("PCAPCD") (Oct. 2016) CEQA Threshold of Significance Justification Report, PDF pp. 2, 19, https://www.placer.ca.gov/DocumentCenter/View/2061/Threshold-Justification-Report-PDF.

[6] City (12/5/23) Financial Service Staff Report, Review of the General Fund's Financial Status as of September 30, 2023 pp. 3-4, https://burbank.granicus.com/MetaViewer.php?view_id=6&clip_id=10328&meta_id=421251.

Third, transient hotel guests/patrons are vastly dissimilar to residents and employees who typically live or work at locations on a semi-permanent basis. In contrast, extended stays can be as few as five days, according to information provided on Marriott websites.[7] Additionally, the Project does not seem to include any conditions that would prevent reservations for even fewer days. For example, as shown in the screenshot below, one can seemingly book a one-night stay reservation at the Residence Inn by Marriott at the Los Angeles Burbank/Downtown location (i.e., 321 Ikea Way, Burbank, California 91502).[8, 9] It seems unreasonable for the Draft EIR to equate temporary overnight accommodations for hotel guests (e.g., one night, one week, etc.) as permanent housing for residents and families. 6-7




In sum, temporary overnight sleeping accommodations (serving transient guests) are not the same as permanent housing (serving residents and families). The Draft EIR should use a service population of 85 and consider mitigation measures and alternatives that could be incorporated to increase the Project's efficiency level—such as adding a residential component.

[7] See e.g., Residence Inn by Marriott ("Take advantage of great rates for longer stays of 5+ nights."), https://residence-inn.marriott.com/offers/; Marriott Bonvoy ("Minimum stay 5+ nights. Offer varies by hotel."), https://www.marriott.com/offers/Long-Term-Stay-Savings-in-the-U-S-and-Canada-1355935.
[8] Captured on January 29, 2025 at approximately 12:50 pm PST (https://www.marriott.com/reservation/reviewguestinformation.mi#).
[9] This office also confirmed over phone that one-night stays are available at this location.

**B. PROJECT DESIGN FEATURES SHOULD BE EXPLICITLY INCLUDED IN THE MMRP.**

6-8

The Draft EIR assumed various "project design features" that would reduce the Project's GHG emissions, such as photovoltaic panels for onsite renewable energy production (11 percent of the total annual consumption), exceeding the most current Title 24 standards by 10 percent by incorporating CalGreen Tier 2 requirements, installing energy efficient lighting, installing energy-efficient appliances, low flow water fixtures, water-efficient landscaping, exceeding EV parking spaces, and all-electric landscaping equipment. (DEIR, pp. 5.15-15-5.15-16.) However, the Draft EIR does not include these project design features with the summary of mitigation measures purportedly because they are incorporated into the EIR's Project Description. (DEIR, pp. 5.5-21, 5.5-23.) This can be problematic given that the Draft EIR's project description is 51 pages (pp. 3-1 – 3-51), and does not specify some of these project design features (e.g., calling only for CALGreen Tier 1 criteria, no mention of meeting 11 percent of energy use via solar panels). (Id., pp. 3-50- 3-51.) Additionally, it is common for cities to approve projects requiring a specific condition of approval ("COA") to comply with the project's Mitigation Monitoring Reporting Program ("MMRP"), which can include project design features to ensure that applicants and future city agencies confirm measures are actually incorporated.[10] This should be done here to ensure the City's Community Development Department does not have to sift through the EIR Project Description to ensure that the Project is developed consistent with Draft EIR assumptions.

**C. MITIGATION MEASURES DO NOT CONSIDER CAPCOA STRATEGIES ADEQUATELY.**

6-9

The DEIR admits that the Project would result in significant and unavoidable GHG impacts and proposes mitigation measure GHG-1 that generally includes: (i) the future development of a Traffic Management Plan ("TMP") with voluntary and mandatory measures to reduce single occupancy vehicles; (ii) requiring the hotel to join the Burbank Transportation Management Organization ("TMO") to encourage employees to carpool and take public transit; (iii) requiring hotel shuttles to the airport to use clean-fuel vehicles, (iv) not using wood/gas-powered fireplace, and (v) requiring electric energy-efficient appliances. (DEIR, pp. 1-12 – 1-13, 5.5-24 – 5.5-25.) The Draft EIR states that this is consistent with various California Air Pollution Control Officers Association ("**CAPCOA**") strategies. (DEIR, pp. 5.5-20 – 5.5-23.) However, the Draft EIR fails to substantiate consistency and/or consider a variety of quantifiable and non-quantifiable GHG reduction measures proposed by CAPCOA,[11] such as the following strategies.

***1. DRAFT EIR IGNORES FUNDAMENTAL ASSUMPTION OF CAPCOA TOD & RESIDENTIAL STRATEGIES.***

6-10

Here, the Draft claims that the Project is consistent with CAPCOA strategy T-3 by suggesting it is Transit-Oriented Development ("TOD") in a Transit Priority Area ("TPA"). (DEIR, p. 5.5-20.) However, CAPCOA makes clear that to qualify as a TOD development with the potential of reducing GHG emissions by up to 31 percent, the development "must be a residential or office project" within

[10] See e.g., NBC Universal Evolution Plan (10/13/12) MMRP, PDF pp. 9-142 (listing numerous project design features throughout MMRP), https://clkrep.lacity.org/onlinedocs/2012/12-1657_misc_a_10-23-12.pdf; Burbank Development Agreement For the Replacement Terminal Project, PDF pp. 166-185, https://elevatebur.com/wp-content/uploads/2020/02/DevelopmentAgreement.pdf.
[11] CAPCOA (Dec. 2021) Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity, PDF pp. 45-46, 61-65, https://www.airquality.org/ClimateChange/Documents/Final%20Handbook_AB434.pdf.

a TPA.[12] Here, the Project includes neither and, thus, is inconsistent with the plain language of the T-3 strategy and could be forgoing substantial GHG reductions related to this strategy. Additionally, with no residential units (much less affordable), the Project seems inconsistent with CAPCOA strategies T-1 (Increase Residential Density) and T-4 (Integrate Affordable and Below Market Rate Housing), which may reduce GHG emissions up to 28 – 30 percent.[13] **6-10 cont'd**

***2. OTHER TRANSPORTATION-RELATED (LAND USE) STRATEGIES NOT CONSIDERED.***

The Draft EIR does not consider CAPCOA strategy T-2, which is related to increased job density compared to relevant averages.[14] Here, the Draft EIR anticipates the 262,338 square foot ("sf"), 420-room hotel Project would add 85 full-time employees according to the Applicant (DEIR, pp. 1-1, 6-4 [footnote 1]), which amounts to roughly 0.20 employees generated per hotel room (i.e., 85 employees divided by 420 rooms). This is much lower than the 0.5 jobs-per-room ratio estimated for hotels in the City of Los Angeles[15] or the roughly 0.80 jobs-per-room ratio anticipated at the La Terra mixed-use development located at 777 N. Front Street Project in Burbank (i.e., anticipated 244 employees generated for the 205,300 square foot, 307-room hotel component).[16] This seems inconsistent with CAPCOA strategy T-2. **6-11**

Additionally, the Site has a Regional Commercial land use designation intended to provide a regional employment destination. (DEIR, p. 5.8-1.) Based on the Southern California Association of Governments ("SCAG") Employment Density Study Summary (previously relied upon by the City), hotels and regional retail in Los Angeles County have an average of 51.91 and 18.86 employees per acre of floor area (respectively), and commercial developments have an average of one employee per 424 square feet of floor area.[17] Based on these averages, a 262,338-sf (approximately. 6.02 acres) development would generate around 113 to 620 jobs, which is greater than the anticipated 85 jobs anticipated by the Applicant. Again, this seems inconsistent with CAPCOA strategy T-2

Furthermore, the Site already has hotel uses and would not improve accessibility to an underserved area, which seems inconsistent with CAPCOA strategy T-31-B.[18] This is also inconsistent with CAPCOA's strategies related to mixed-use TOD development (discussed further below)[19] and again represents a forgone opportunity to substantially reduce GHG impacts. **6-12**

/ / /

[12] Ibid., PDF p. 90.
[13] Ibid., PDF pp. 84, 87, 94.
[14] Ibid., PDF p. 87; see also CAPCOA (Aug. 2010) Quantifying GHG Mitigation Measures, PDF p. 166-169 (strategy LUT-1), https://www.aqmd.gov/docs/default-source/ceqa/handbook/capcoa-quantifying-greenhouse-gas-mitigation-measures.pdf.
[15] See City of Los Angeles VMT Calculator Documentation (May 2020), p. 11, https://ladot.lacity.gov/sites/default/files/documents/vmt_calculator_documentation-2020.05.18.pdf.
[16] See 777 N. Front Street Project in Burbank (Mar. 2019) Rincon Draft EIR, PDF p. 291 (p. 4.10-6), https://www.burbankca.gov/documents/173607/1137334/Draft+Environmental+Impact+Report+%28DEIR%29+%28LaTerra%29.pdf/8dbf49b3-714d-6ecf-fb66-49ca1fd7b8a0?t=1620174311990&download=true;
[17] Ibid.; see also SCAG (Oct. 2001) Employment Density Study Summary Report, PDF pp. 19, https://www.mwcog.org/file.aspx?A=QTTlTR24POOOUIw5mPNzK8F4d8djdJe4LF9Exj6lXOU%3D.
[18] Ibid., PDF p. 66.
[19] Ibid., PDF pp. 622, 625.

### *3. COMMUTER TRIP REDUCTION PROGRAM LACKS PERFORMANCE-BASED GOALS AND PENALTIES.*

6-13

Here, the Draft EIR claims that GHG-1 would be consistent with CAPCOA strategies T-5 through T-11 and T-13. (DEIR, pp. 5.5-20 – 5.5-21.) CAPCOA's T-5 strategy is a *voluntary* commuter trip reduction ("CTR"), which incorporates strategies T-7 through T-11, and achieves up to four percent GHG reductions.[20] In contrast, CAPCOA's T-6 strategy is a *mandatory* CTR that can achieve up to 26 percent GHG reductions by including the voluntary CTR strategies plus the addition of "penalties for non-compliance" and "regular monitoring and reporting to ensure the calculated VMT reduction matches the observed VMT reduction."[21] This is the key distinguishing feature between a voluntary and mandatory CTR program. However, the Draft EIR does not mention anything about potential penalties. Nor is there a performance metric tied to the future TMP, which is contrary to CEQA's call for performance-based mitigation.[22] Again, this represents a failure to consider substantial GHG reductions.

### *4. OTHER TRANSPORTATION-RELATED (TRIP REDUCTION PROGRAMS) STRATEGIES NOT CONSIDERED.*

6-14

The Draft EIR does not address whether workers will have access to certain key end-of-trip facilities (e.g., personal lockers, showers, etc.), which seems inconsistent with CAPCOA strategy T-10. Furthermore, the Draft EIR makes references to potential carpool incentives (pp. 5.3-15, 5.5-17) but does not mention the option of exploring options for telecommuting or alternative work schedules, which seems inconsistent with CAPCOA strategies T-39 and T-42.

## D. CONSISTENCY EVALUATION FAILS TO ADDRESS INCONSISTENCY WITH MIXED-USE TOD STRATEGIES.

6-15

Here, the Project is a single-hotel-use Project without any residential uses and provides minimal employment opportunities seemingly below relevant averages. This is inconsistent with mixed-use, TOD strategies generally encouraged by CAPCOA (discussed above in sections C1 and C2), as well as the City's GGRP[23] and Southern California Association of Governments ("SCAG") 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy ("RTP/SCS").[24] This is not adequately addressed in the Draft EIR consistency analysis, which fails to adequately analyze

---

[20] Ibid., PDF p. 97.
[21] Ibid., PDF p. 100.
[22] CEQA disfavors formulation of mitigation measures to post-approval studies with no performance standards to guide the mitigation. (See e.g., CEQA Guidelines § 15126.4(a)(1)(B); *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 92-93; *Oro Fino Gold Mining Corp. v. County of El Dorado* (1990) 225 Cal.App.3d 872, 884 ["There cannot be meaningful scrutiny [of an environmental review document] when the mitigation measures are not set forth at the time of project approval."].) A lead agency may only defer the formulation of mitigation measures when it possesses "'meaningful information' reasonably justifying an expectation of compliance." (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308 [quoting *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 77 fn. 5]; see also *Sacramento Old City Association v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011, 1028-29 [mitigation measures may be deferred only "for kinds of impacts for which mitigation is known to be feasible"].)
[23] GGRP, PDF pp. 407, 410, https://www.burbankca.gov/documents/173607/0/GGRP+Update+Final_w.App.pdf/5c876fb6-fed4-49e5-d7b6-dbcf058491a1?t=1666594217752.
[24] SCAG, 2020 RTP/SCS, pp. 129, 138, 168, 176, https://scag.ca.gov/sites/main/files/file-attachments/0903fconnectsocal-plan_0.pdf?1606001176.

whether the single-hotel-use Project sufficiently supports job/resident growth at this TPA infill Site or adequately considers the Project's impact on the City's jobs-housing balance. (DEIR, Tbl. 5.5-5-6.) For example, Burbank is known to be jobs-rich and underserved by housing opportunities, whereby more workers commute from outside of the City.[25] Here, the Project would add more jobs without any housing and, thus, likely exacerbate the City's jobs-housing imbalance. This analysis is lacking in the Draft EIR.

**6-15 cont'd**

## II. THE EIR SHOULD HAVE INCLUDED A REASONABLE RANGE OF ALTERNATIVES INCLUDING A HOTEL/RESIDENTIAL MIXED-USE ALTERNATIVE.

**6-16**

Under CEQA, the core of an EIR is requiring a lead agency to select a reasonable range of alternatives for evaluation guided by a clearly written statement of objectives. (See *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 e.g., *California Native Plant Soc'y v. City of Santa Cruz (*2009) 177 Cal.App.4th 957, 991; *Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477, 488-489.) The discussion must "focus on alternatives capable of eliminating any significant adverse environmental effects or reducing them to a level of insignificance, even if these alternatives would impede to some degree the attainment of the project objectives, or would be costlier." (*Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859, 873; see also CEQA Guidelines § 15126.6(a); *Cleveland III*, 17 Cal.App.5th at 436 [EIR discussion deficient where no alternative was considered that significantly reduced total vehicle miles traveled and where the alternatives labeled 'transit emphasis' was a "misnomer" given they only advanced certain rapid bus projects, left rail/trolley projects largely unchanged, and provided no increased transit projects/services]).)

[25] See 777 N. Front Street Project in Burbank (Mar. 2019) Rincon Draft EIR, PDF p. 287 (p. 4.10-2), https://www.burbankca.gov/documents/173607/1137334/Draft+Environmental+Impact+Report+%28DEIR%29+%28LaTerra%29.pdf/8dbf49b3-714d-6ecf-fb66-49ca1fd7b8a0?t=1620174311990&download=true; see also Housing Element (Sep. 2022), PDF pp. 14, 26, 88 (noting the City's nearly 3:1 jobs-to-housing *imbalance* "exacerbated in recent years by rapid employment growth and limited new housing production."), https://www.burbankhousingelement.com/wp-content/uploads/2022/10/Adopted-Burbank-Housing-Element_clean.pdf.

Here, the Draft EIR did not fully consider a mixed-use housing/hotel project alternative, as previously recommended by Local 11. (DEIR, Appendix B, PDF pp. 56-57.) Instead, the Draft EIR fully analyzed only a no-project alternative and a reduced-intensity alternative (i.e., 315 guest rooms and 661 parking spaces with 61 employees). (DEIR, pp. 1-27 – 1-28.) The Draft EIR did reject from any further analysis a "Residential Mixed-Use" ("RMU") alternative that included ground-floor retail and 192 dwelling units. (DEIR, p. 1-26.) However, the justification for rejecting this alternative seems unsubstantiated and/or unjustified (especially if the alternative included a hotel component), as further explained below.

**6-16 cont'd**

**A. RESIDENTIAL-HOTEL ALTERNATIVE COULD SERVE ALL PROJECT OBJECTIVES.**

**6-17**

According to the Draft EIR, the RMU alternative "would not provide for a hotel catering to the business and leisure traveler in proximity to the Hollywood Burbank Airport; provide for a Marriott-branded urban hotel that complements the airport, existing and planned transit stations, and the convention center to attract and enhance customer travel visiting Burbank; provide additional meeting/entertainment/dining spaces; or provide for transit occupancy tax." (DEIR, pp. 1-26, 7-5.) However, as shown below, an RMU alternative with a hotel component could serve all seven of the project objectives, including five objectives that are fundamentally related to adding additional hotel uses at the Site (DEIR, pp. 1-2 – 1-3, 3-8 – 3-9):

1. Project Objective: "Enhance the continued economic revitalization and urbanization of the Hollywood Burbank Airport area with premium lifestyle and extended stay *hotel brands catering to the modern business and leisure traveler*." (DEIR, p. 7-2 [emphasis added].) Here, an RMU alternative with a residential and hotel component could attain and achieve the basic objective of catering to *business and leisure travelers.*

2. Project Objective: "Construct and operate a Marriott-branded, business- and leisure-oriented urban hotel reflecting the character of Burbank and integrated into the overall site design of the existing onsite *hotel* facilities, *immediately adjacent* to and complementing the *airport, existing and planned transit stations, and the convention center* to attract and enhance customer travel for those visiting Burbank." (DEIR, p. 7-2 [emphasis added].) Here, an RMU alternative with a residential and hotel component could attain and achieve the basic objective of adding hotel uses adjacent to the airport, planned transit stations, and convention center.

3. Project Objective: "Construct and operate additional *conference/ meeting/ entertainment/ dining space*, fitness facilities for hotel guests and other patrons, and a ground-floor central open courtyard with pool and deck space amenity area to provide additional outdoor space." (DEIR, p. 7-2 [emphasis added].) Here, an RMU alternative with a residential and hotel component could attain and achieve the basic objective of adding facilities for hotel guests and patrons (e.g., conference/meeting/entertainment/dining space).

4. Project Objective: "Contribute to the economic health and well-being of Burbank through the development of a Project that would generate new construction and *long-term jobs* and provide additional long-term revenue for the City through visitor operations, *enhanced property values*, new visitor spending, and *transient occupancy tax*." (DEIR, p. 7-2 [emphasis added].) Here, an RMU alternative with a residential and hotel component could attain and achieve the basic objective of generating long-term jobs and providing additional long-term revenue via enhanced property values and transient occupancy tax.

**6-17 cont'd**

5. Project Objective: "Redevelop a portion of the surface parking lot area that is underutilized into a more economically productive use that complements the existing development on the property and is consistent with the City's ongoing *re-envisioning efforts within the Golden State Specific Plan"* ["GSSP"]. (DEIR, p. 7-2 [emphasis added].) Here, an RMU alternative with a residential and hotel component could attain and achieve the basic objective of redeveloping an underutilized Site consistent with the re-envisioning efforts within the GSSP given the City's Housing Element identifies the Golden State Specific Plan ("**GSSP**") area for over 2,600 new housing units.[26]

6. Project Objective: "Support environmentally conscious alternative modes of travel by constructing two *new hotels within a half mile of two existing Metrolink stations*, a planned high speed rail station, and the Hollywood Burbank Airport, and by *promoting ride-sharing* services and *transportation demand management* ["TDM"] strategies in efforts to reduce local vehicle trips into and out of the City." (DEIR, p. 7-2 [emphasis added].) Here, an RMU alternative with a residential and hotel component could attain and achieve the basic objective of adding hotel uses near the existing Metrolink stations. Additionally, there is no reason why such an alternative could not include ride-sharing services and TDM strategies. Moreover, a residential component could be more capable of reducing vehicle trips since TDM strategies are more effective at lowering regular commuter trips.[27] Here, the vast majority of the Project's vehicle trips would be made by hotel patrons (i.e., non-residents or employees).

7. Project Objective: "Support and enhance *statewide decarbonization* efforts through the development of an all-electric Project free from fossil-fuel reliance; onsite generation and use of power through solar panels and battery storage; reducing vehicle emissions through an efficient guest drop-off and pick-up porte cochere design and by operating a *valet-only parking garage* for more efficient parking of guest's vehicles; and encouraging the replacement of gas-fueled cars with electric vehicles by providing *hundreds of EV charging stations* and EV ready plug-ins." (DEIR, p. 7-2 [emphasis added.) Here, an RMU alternative with a residential and hotel component could incorporate EV parking and solar to attain and achieve the basic objective of statewide decarbonization efforts. Additionally, by adding residents to the Site, such an alternative could be more effective at reducing GHG emissions from mobile emissions by bringing more residents to the Site, which is highly served by public transit.

In sum, a residential/hotel mixed-use alternative could serve the Project's fundamental objectives.

/ / /

[26] See Housing Element (2021-2029), PDF p. 60 (p. 1-50), https://www.burbankhousingelement.com/wp-content/uploads/2022/10/Adopted-Burbank-Housing-Element_clean.pdf.
[27] See e.g., Office of Planning Research (Apr. 2018) VMT Technical Report, p. 26 (home and workplace will often be the main drivers of VMT), https://lci.ca.gov/docs/20180416-743_Technical_Advisory_4.16.18.pdf.

**B. A RESIDENTIAL-HOTEL ALTERNATIVE APPEARS FEASIBLE FOR THE SITE REGARDLESS OF WHETHER THE APPLICANT IS A HOTEL DEVELOPER.**

The Draft EIR rejected the RMU alternative in part because "the Applicant is a hotel developer and operator and is not a residential developer." (DEIR, pp. 1-26, 7-5.) However, the developer's experience should not be determinative in light of the Site's ability to accommodate housing and hotel uses. The Draft EIR states the Site's zoning (i.e., PD Zone) allows for unique development opportunities, including the combination of residential and other uses. (DEIR, p. 3-7.) Additionally, the Site is outside of the Burbank Airport noise contours (suggesting noise compatibility)[28] and is designated Regional Commercial under the City's General Plan that allows high-density, mixed-use housing. (See e.g., Land Use Element,[29] p. 3-15 [Goal 11 and Policy 11.5].) Furthermore, the Draft EIR fails to consider that the combination of hotel and residential uses within a development site is not uncommon for Burbank or other areas near convention centers like downtown Los Angeles ("DTLA").[30] In sum, the Draft EIR fails to provide substantial evidence that a residential/hotel mixed-use alternative is infeasible for the Site. 6-18

**C. VAGUE CONCERNS ABOUT THE UNCERTAINTY IN MULTIFAMILY RESIDENTIAL INDUSTRY ARE NOT SUBSTANTIAL EVIDENCE.**

The Draft EIR also rejects the RMU alternative because "uncertainty in the lending industry for multifamily market, rising labor and construction costs, and the decrease in rents for multifamily create a high level of uncertainty even for the most seasoned multifamily developer, let alone the uncertainty that it would bring to a hotel developer seeking to make a housing project pencil out at the Project site." (DEIR, pp. 1-26, 7-5.) However, this is a generic argument not supported by specific facts, such as a pro forma showing only a hotel project pencils out. Additionally, the Draft EIR fails to consider most developments are subject to uncertainty, including generic concerns about rising labor/construction costs. Furthermore, this argument ignores the fact that numerous multifamily projects are still being proposed, entitled, and built in the City and other nearby jurisdictions,[31] including large mixed-use projects in the City (e.g., Fry's mixed-use development on 2311 N. Hollywood and LaTerra on 777 N. Front Street), as well as other residential projects. (DEIR, pp. 4-3 – 4-5 [related projects 1, 5, 7, 9, 10, 11, 15, 18].) Furthermore, the Draft EIR ignores the demand for residential units generated by nearby uses, such as surrounding office and studio spaces (e.g., MSG Sphere Studios, Media Studios Campus). (Id.,

[28] See Hollywood Burbank Airport Noise Monitoring, https://www.hollywoodburbankairport.com/noise/noise-monitoring/; Current Noise Contour, https://www.hollywoodburbankairport.com/wp-content/uploads/2022/05/Current-Noise-Contour.pdf; 2nd Quarter 2021 65 dB CNEL Contour Map, https://www.hollywoodburbankairport.com/wp-content/uploads/2021/09/Noise-Contour-Map-2Q21.pdf.
[29] See Land Use Element, https://www.burbankca.gov/documents/173607/1541047/20130213_Chapter+3+-+Land+Use.pdf/8130d103-3e0c-ac0d-9e31-99802742bb9a?t=1637190558920.
[30] See e.g., 777 N. Front Street Project in Burbank (i.e., 573 residential units and 307-room hotel), https://www.burbankca.gov/documents/173607/1137334/Draft+Environmental+Impact+Report+%28DEIR%29+%28LaTerra%29.pdf/8dbf49b3-714d-6ecf-fb66-49ca1fd7b8a0?t=1620174311990&download=true; 1600 S. Flower Street in Los Angeles (i.e., two tower project with a 300-room hotel and 250 residential units), https://la.urbanize.city/post/mixed-use-towers-1600-s-flower-street-dtla-clear-hurdle; DTLA Wilshire Grand (i.e., 560 hotel rooms and100 residential dwelling units), https://planning.lacity.gov/eir/WilshireGrandRedevProj/DEIR/DEIR%20Sections/II.%20Project%20Description.pdf.
[31] Ibid., see also Burbank Development Projects, https://econdevburbank.com/choose-burbank/current-projects/;

[related projects 4A and 4]; see also pp. 3-1, 3-3, 3-7 – 3-8.) In sum, this vague claim of uncertainty is not substantial evidence under CEQA. (See e.g., Pub. Res. Code §§ 21080(e), 21082.2(c); CEQA Guidelines §§ 15064(f)(5), 15384.[32]) In sum, the Draft EIR fails to substantiate that the residential/hotel mixed-use alternative is infeasible due to generic uncertainty related to multifamily development. **18 cont'd**

**D. A RESIDENTIAL-HOTEL ALTERNATIVE COULD SUBSTANTIALLY REDUCE THE PROJECT'S GHG IMPACTS.** **6-19**

The Draft EIR also suggests that under the RMU alternative, it "is not anticipated that the Project's significant and unavoidable [GHG impacts] would be significantly reduced or eliminated." (DEIR, pp. 1-26, 7-5.) However, as discussed above, the Draft EIR relies on an improper service population—counter to the City's GGRP—to overestimate the Project's service population, and fails to adequately address the Project's inconsistency with fundamental strategies urged by CAPCOA and SCAG's RTP/SCS. These inconsistencies mask impacts that could be substantially minimized by incorporating residential uses into the Project, which would in turn, raise the Project's service population (e.g., 2.5 residents per dwelling unit based on the City's previously used assumptions).[33] In sum, the Draft EIR fails to substantiate that a residential/hotel mixed-use alternative would not substantially reduce the Project's significant GHG emissions.

**E. VAGUE CONCERNS ABOUT COSTLY VAPOR INTRUSION MITIGATION ARE NOT SUBSTANTIAL EVIDENCE, ESPECIALLY WHEN FEASIBLE MITIGATION CAN BE INCORPORATED.** **6-20**

The Draft EIR also states the RMU alternative was rejected because of potential vapor risks from soil-gas (i.e., PCE and TCE) "beneath the Project site that *may* present a vapor intrusion risk," meaning that "*more* extensive mitigation would be required to provide for residential development to occur." (DEIR, pp. 1-26, 7-5 [emphasis added].) This is an overgeneralized argument; it does not provide any specific facts showing that mitigation would be cost-prohibitive or otherwise make infeasible any kind of residential uses at the Site. Just because an alternative may be more *costly* does not mean it is not feasible. (*Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859, 873.) Furthermore, the Draft EIR does not address the various strategies and mitigation measures that could potentially address the risk of vapor intrusion mitigation ("VIM"), including both soil removal and other mitigation efforts (e.g., soil vapor extraction systems, vapor barriers, engineered VIM systems, minimizing residential uses closer to the ground floor, employing open air ground floor and/or ventilated parking garages, parking garage, etc.).[34] Here, the Draft EIR

---

[32] Courts should not blindly trust bare conclusions, bald assertions, and conclusory comments without the "disclosure of the 'analytic route the . . . agency traveled from evidence to action.'" (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 404 405 (quoting *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515); see also *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 568-569; *Cleveland III*, 17 Cal.App.5th at 441 [agency "obliged to disclose what it reasonably can … [or] substantial evidence showing it could not do so."].)

[33] 777 N. Front Street Draft EIR, PDF p. 132, https://www.burbankca.gov/documents/173607/1137334/Draft+Environmental+Impact+Report+%28DEIR%29+%28LaTerra%29.pdf/8dbf49b3-714d-6ecf-fb66-49ca1fd7b8a0?t=1620174311990&download=true.

[34] See e.g., San Francisco Bay Regional Water Quality Control Board (Jun. 2022) Vapor Intrusion Mitigation Guidance, PDF pp. 15-23, 55, https://www.waterboards.ca.gov/rwqcb2/water_issues/programs/sitecleanup/2022_VIM_Guidance.pdf; Department of Toxic Substances Control and State Water Resources Control Board (Feb. 2023) Supplemental

does not attempt to identify what mitigation measures would be required for a residential mixed-use hotel/residential project above what is already required under proposed mitigation measures HAZ- 1 and HAZ-2 (e.g., soil removal, VIM system, vapor barrier). (DEIR, pp. 5.3-14 – 5.3-1.) In sum, the Draft EIR fails to substantiate that the residential/hotel mixed-use alternative is infeasible due to overgeneralized concerns about added costs related to vapor intrusion. **6-20 cont'd**

## III. CONCLUSION

**6-21**

In conclusion, Local 11 thanks the City for the opportunity to provide these comments but remains concerned with the Project's GHG impacts and lack of additional mitigation and reasonable alternatives—including a seemingly feasible residential/hotel mixed-use alternative that could achieve all of the basic objectives of the Project. Local 11 respectfully asks the City to stay its action on the Project Approvals until the issues discussed above are cured in a CEQA-compliant review.

Local 11 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].) This office requests, to the extent not already on the notice list, all notices of CEQA actions 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 §§, 21092.2, 21167(f) and Gov. Code § 65092.) Please send notice by electronic and regular mail to the address identified on page of this letter.

Sincerely,

Jordan R. Sisson
Attorney for UNITE HERE Local 11

Guidance: Screening and Evaluating Vapor Intrusion, PDF pp. 60-68, https://dtsc.ca.gov/wp-content/uploads/sites/31/2023/02/VI_SupGuid_Screening-Evaluating.pdf.

**Response to Comment Letter 6**

Jordan R. Sisson
Law Office of Jordan R. Sisson
Attorney for UNITE HERE Local 11
January 29, 2025

Response 6-1

This introductory paragraph identifies the commenter as representing UNITE HERE Local 11 (Local 11) and summarizes the proposed Project, as well as identifying the approvals/entitlements being sought. The comment also identifies that Local 11 represents the interests of workers employed in hotels, restaurants, airports, sports arenas, and convention centers throughout Southern California and Phoenix, Arizona. The comment does not include any information requiring changes to the Draft EIR. No further response is warranted.

Response 6-2

The comment identifies the commenter's concern regarding the proposed Project's GHG emissions. Specifically, the comment states the concern that the proposed Project miscalculated its service population, failed to include project-design feature contained in the City's Mitigation Monitoring Reporting Program (MMRP), is inconsistent with the California Air Pollution Control Officers Association (CAPCOA) strategies, and failed to include a variety of other alternatives such as a hotel-residential mixed-use alternative. Refer to Responses 6-4 through 6-20, below.

Response 6-3

This comment requests that the City stay its action on Project approval until the issues raised in the letter are addressed and requests recirculation of the Draft EIR.

CEQA Guidelines Section 15088.5 provides the statutory basis for when recirculation of an EIR is required by the lead agency, which is when significant new information is added to the EIR prior to its certification. 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 proponent declined to implement. Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.

According to the CEQA Guidelines, "'Significant new information'" requiring recirculation includes, 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; or (4) the draft EIR was so fundamentally and basically

inadequate and conclusory in nature that meaningful public review and comment were precluded." None of these circumstances have taken place, and, as such, the Draft EIR does not require recirculation.

Response 6-4

The comment cites various cases stating that any project shall present a robust GHG analysis to determine potential impacts on climate change. Additionally, the comment states that a project's anticipated emissions should be consistent with California's GHG reduction requirements (Assembly Bill 32, Senate Bill 32, and Executive order S-3-05). The commenter then states that the proposed Project's GHG analysis was not consistent due to a variety of reasons. Refer to Responses 6-5 through 6-16, below.

Response 6-5

The comment states that the proposed Project miscalculated its service population and that the definition of "service population" as defined in the City's Greenhouse Gas Reduction Plan (GGRP) only includes residents and employees. As such, the comment asserts that the proposed Project's service population should only reflect 85 employees and should not include the Project's hotel guests/patrons.

The CEQA Guidelines do not set "a specific quantitative threshold of significance for evaluating GHG emissions associated with a proposed plan or project." (GGRP, Appendix G, p. 26; CEQA Guidelines Section 15064.4.) Rather, the "lead agencies have the discretion to establish significance thresholds for their respective jurisdictions, and in establishing those thresholds, a lead agency may appropriately look to thresholds developed by other public agencies, or suggested by other experts, as long as the threshold chosen is supported by substantial evidence." (*Id.*; CEQA Guidelines Section 15064.7(c).)

As defined in the City's GGRP, the adopted GHG emissions efficiency threshold was defined as "a threshold expressed as a *per-person* metric (e.g., per resident, per employee, or per service person). Efficiency thresholds are calculated by dividing the allowable GHG emissions inventory in a selected calendar year by the resident, employee, or service population in that year. The efficiency threshold identifies the quantity of GHG emissions that can be generated on a *per-person* basis without significantly impacting the environment." (GGRP, Appendix G, p. 26, italics added.) Based on the GGRP's GHG efficiency threshold of 3.12 $MTCO_2e$ per service population, and as determined in Draft EIR Section 5.5, *Greenhouse Gas Emissions*, the proposed Project would exceed the applicable GHG threshold and would result in significant and unavoidable impacts.

The comment letter contends that the service population used in the GHG calculation for the proposed Project is "inflated" because it includes hotel guests/patrons, rather than only hotel employees. This comment was based on the idea that hotel guests/patrons are not classified as part of the service population (resident or employee) of a project. However, service population is defined as "the residential population plus the number of jobs." (GGRP, Appendix G, p. 28.) As the Draft EIR explains, "[t]he City of Burbank includes hotel patrons occupying a hotel in the service population." According to CEQA Guidelines Section 15064(b)(1), the lead agency for a proposed project has the discretion to devise their own thresholds, which are supported by substantial evidence. It should be noted that the City includes hotel patrons in the service population as a matter of City policy. Additionally, due to the nature of the proposed Project (hotel use), the Project would accommodate short-term occupancy of hotel guests/patrons, which are the major contributors of the Project's overall GHG emissions. Short-term

occupants of the proposed Project would generate similar emissions when compared to long-term occupants. Specifically, short-term occupants of the proposed Project, similar to long-term occupants of the City, would still generate mobile (trips departing and arriving the Project site), energy (heating cooling, lighting, etc.), and water (potable water and showers) demands. Thus, the amount of GHG emissions generated would be similar regardless of the duration of the stay.

Additionally, potential hotel guests/patrons are located in the City during their stay and take vehicular trips to and from the hotel and, accordingly, are included in the Project's service population. Thus, hotel guests/patrons would still contribute to a project's operational GHG emissions despite their short-term occupancy. Excluding hotel guests/patrons from the service population without a corresponding reduction in the total project-related emissions would lead to an inaccurate GHG calculation. Specifically, the majority of the Project's GHG emissions are attributed to mobile source emissions, which are calculated using the net trips associated with the Project. (Draft EIR, Table 5.5-3; Draft EIR, Appendix C, p. 82.) Project mobile source emissions assumed 4,099 net daily trips, which accounts for and includes trips generated by hotel patrons. (Transportation Study, p. 14; *Id.* at Table 3.) Removing hotel guests/patrons from the service population, as the comment letter suggests, would also require removing hotel guests/patrons from the calculation of the Project's trips and corresponding mobile source emissions. Otherwise, the GHG calculation would include hotel guests/patrons in the numerator (emissions) but would exclude them from the denominator (service population), resulting in an imbalanced equation.

Therefore, the comment letter incorrectly re-calculates the Project's GHG emissions by dividing the total project-related emissions, including trips by hotel guests/patrons (i.e., 4,671.49 $MTCO_2e$ per year), by a service population that only accounts for employees (i.e., 85 employees). Adopting the comment letter's reasoning would require re-calculating the Project's total emissions to exclude mobile source emissions generated by hotel guests/patrons, resulting in a significantly lower emissions total.

It should also be noted that the inclusion of the hotel guests/patrons as part of the Project's service population does not reduce the Project's GHG emissions per capita below the GGRP's GHG efficiency threshold. As such, the addition of the hotel guests/patrons as part of the service population does not change the Draft EIR's conclusion of significant and unavoidable GHG emissions impact.

Response 6-6

The comment states that the number of hotel guests/patrons is artificially inflated because the Project's occupancy rate of 1.4 persons per room assumes a 100-percent capacity.

This argument is not supported by the record. The City used a more conservative guest per room ratio to generate the number of hotel guests/patrons. Specifically, the City conducted a survey of Burbank area hotels, which indicated that the average number of guests per room was 2.1. Occupancy data for the period of June 2023 to June 2024 provided by the Marriott Hotel, however, showed an average occupancy rate of 1.4 persons per reservation. (Draft EIR, 5.5-13.) It should be noted that the occupancy rate of the Marriott Hotel was lower than the other hotels surveyed. The City elected to use the lower, more conservative figure from the Marriott Hotel for purposes of calculating the number of hotel guests/patrons.

Furthermore, the calculation of hotel guests/patrons included in the service population is based on 420 rooms because the trip generation calculation is likewise based on the total number of proposed hotel rooms. (Draft EIR, Appendix K.) In other words, the number of trips expected to be generated by a 420-room hotel is not discounted based upon occupancy rates. This methodology is sanctioned by the Institute of Transportation Engineers. Accordingly, in order to maintain a balanced equation, neither the trip generation nor the hotel occupancy figures are discounted based upon expected occupancy.

It should also be noted that utilizing the City's average occupancy rate of 2.1 guests per room would not reduce the Project's GHG emissions per capita below the GGRP's GHG efficiency threshold. Thus, the difference in occupancy rate would not change the Draft EIR's conclusion of significant and unavoidable impact.

Response 6-7

The comment states that hotel guests/patrons would not equate to "residents" who live at a location for an extended period of time or on a semi-permanent basis. The comment states that even with an extended stay, hotel guests/patrons would only stay at a hotel for a temporary period of time. The comment discusses that the temporary accommodation of hotel guests would not equate to permanent/semi-permanent housing of "residents."

Refer to Response 6-5. As noted above, hotel guests/patrons are included in the service population as a matter of City policy and to ensure a balanced equation given that the total Project-related emissions include trips by hotel guests/patrons. Even with short-term accommodations, hotel guests/patrons would still generate emissions from mobile, energy, and water demands (trip emissions from arriving and departing from a site, energy-related emissions [heating, cooling, lighting, etc.], and water demand [drinking water and showers]). As such, hotel guest/patrons would still contribute to the Project's GHG emissions in a similar manner to extended stays hotel guests or long-term occupants in the City. The equation does not differentiate, nor should it, between extended stay and other hotel guests/patrons. Thus, the Draft EIR's evaluation of the proposed Project's service population accounts for all potential hotel guests, regardless of short- or long-term accommodations.

Response 6-8

The comment contends that various project design features, including photovoltaic panels for on-site renewable energy production (which accounts for 11 percent of the Project's total annual consumption); exceeding the most current Title 24 standards by 10 percent by incorporating CALGreen Tier 2 requirements, installing energy efficient lighting, installing energy efficient appliances, low flow water fixtures, water-efficient landscaping, exceeding EV parking spaces, and using all-electric landscaping equipment should be included in the Project's Mitigation Monitoring Reporting Program (MMRP).

The City is satisfied that the project design features are incorporated in the Project Description as they are elements of the Project and not mitigation measures. The CEQA Guidelines and related case law recognize that there is a distinction between project design features and mitigation measures. (CEQA Guidelines Section 15126.4(a)(1)(A); *Lotus v. Department of Transportation*, 223 Cal.App.4th 645, 658, 167 Cal.Rptr.3d 382, fn. 8 (2014)). Likewise, the CEQA Guidelines provide that "[t]he discussion of mitigation measures shall distinguish between the measures which are proposed by project proponents

to be included in the project and other measures proposed by the lead… agency… which are not included but the lead agency determines could reasonably be expected to reduce adverse impacts if required as conditions of approving the project." (CEQA Guidelines Section 15126.4(a)(1)(A).)

Further, several of the project design features referenced in the comment letter will be necessary to ensure compliance with applicable codes and policies and are enforceable as such. Specifically, landscape and irrigation plans must comply with the Municipal Water Efficient Landscape Ordinance requirements, and the Project must also comply with Title 9, Chapter 1, of the Burbank Municipal Code, the Burbank Water and Power Rules and Regulations for Utility Service, the 2022 Edition of the California Building Code, California Residential Code, California Electrical Code, California Mechanical Code, California Plumbing Code, California Green Building Standards, and Building Energy Efficiency Standards, among others. It should be noted that the project design features mentioned in the Project Description are presented as a general statement since these features are still pending until the final design of the Project.

Finally, although many of the project design features that are referenced are included in the project description, they will be memorialized as part of the Project and cited as conditions of approval.

Response 6-9

The comment presents concerns that the proposed Project's Mitigation Measure GHG-1 fails to substantiate consistency and/or consider a variety of quantifiable and non-quantifiable GHG reduction measures proposed by CAPCOA Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity (Handbook).

According to CAPCOA, the Handbook is intended for use as a "planning resource" and "should not be used to dictate public policy or provide legal advice." (CAPCOA Handbook, p. iv.) Further, "the Handbook measures…should not be automatically applied to a project without thoughtful consideration of project-specific circumstances." (*Id.* at 6.) Similarly, the SCAG 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) is intended for use as "an advisory and elective planning vision for consideration by other stakeholders and implementing agencies, and local control of land use decision-making is not intended to be constrained or limited in any way by Connect SoCal." (SCAG, 2020-2045 RTP/SCS, p. xiv.) The CAPCOA Handbook and 2020-2045 RTP/SCS provided helpful guidance to the City in its consideration and analysis of various GHG emissions reduction measures, many of which are incorporated into the Project Description or mitigation measures. (Draft EIR, Table 5.5-4.) However, the effectiveness of the suggested GHG emissions reduction measures depends on the specific project, and the CAPCOA Handbook and 2020-2045 RTP/SCS are non-binding guidance documents. The Draft EIR appropriately identified mitigation measures applicable and practical for the proposed Project.

Response 6-10

The comment states that the Draft EIR claims that the proposed Project is consistent with CAPCOA strategy T-3 since it is a Transit-Oriented Development (TOD) in a Transit Priority Area (TPA). However, the commentor contends that the Project does not classify as a TOD since CAPCOA defines a TOD as a "residential or office project." Additionally, the comment states that the Project does not provide residential units that are more affordable, which makes it inconsistent with CAPCOA strategy T-1 and T-4.

According to CAPCOA's Handbook, a TOD is any development within a ten-minute walk (0.5 miles) of a high frequency transit station (rail or bus with headways less than 15 minutes). The CAPCOA's Handbook does not require any development defined as a TOD to be either a residential or office project. Additionally, pursuant to Assembly Bill 2553, TPAs are defined as areas within 0.5 miles of a major transit stop that currently exists or is planned. CEQA defines a "major transit stop" as the intersection of two or mor major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods. According to SCAG's *Transit Priority Areas in the SCAG Region for plan year 2050,* the Project site is located within a TPA. As such, the proposed Project is a qualifying TOD located within a TPA.

As discussed above under Response 6-9 and in the Draft EIR, the proposed Project would only implement applicable and practical CAPCOA strategies. CAPCOA strategy T-1 encourages residential density, which would reduce GHG emissions by encouraging shorter and fewer trips from solo-occupancy vehicles. However, the proposed Project is a commercial development and would not introduce long-term residential dwellings. As such, CAPCOA strategy T-1 is not applicable. Additionally, CAPCOA strategy T-4 promotes the implementation of a voluntary commute reduction program with employers. CAPCOA strategy T-4 would be implemented through employer-provided services, infrastructure, and incentives for alternative modes of transportation (i.e., ridesharing, discounted transit, bicycling, or vanpool). As discussed in the Draft EIR, the proposed Project would be required to join the Burbank Transportation Management Organization which would give future employees access to the Metro Employer Pass Program to reduce public transit costs, online vanpool and ride-matching, and free commuting passes if employees bike or walk to work. The proposed Project would also include features that promote alternative modes of transportation such as end-of-trip facilities (i.e., bicycle parking, employee lockers). As such, the proposed Project would be consistent with the CAPCOA strategy T-4.

Response 6-11

The commenter contends that the Project did not consider the implementation of CAPCOA strategy T-2, which would promote job density in order to reduce VMT and corresponding GHG emissions. The comment states that the Draft EIR's assumption of approximately 85 employees, which is approximately 0.2 employees per hotel room, is lower than the City of Los Angeles' 0.5 employees per room ratio and the La Terra mixed-use development's 0.8 employees per room ratio. Additionally, the comment states that the SCAG's employment density study indicates that a 262,338-square-foot development would generate around 113 to 620 jobs. The commenter indicates that the Project is not consistent with CAPCOA strategy T-2, implying that GHG emissions could be reduced further with higher job density.

The Project's projected employee counts of 85 employees were based on consultation with the Owner and representatives from the anticipated hotel management company for the new hotel (Spire Hospitality). The Project's trip generation was based on the Institute of Transportation Engineers (ITE) hotel land use which includes the assumption of supporting facilities (restaurants, cocktail lounges, meeting and banquet rooms, recreational facilities, etc.). All projected trips associated with hotel uses (hotel patrons/guests and employees) and its supporting facilities are included in the projected trip generation. Additionally, it should be noted that the ITE trip generation modeling only considers the number of rooms of the hotel use and not the overall building square footage. Thus, the projected

employee count of 85 employees does not affect the ITE trip generation of 4,099 daily trips and the corresponding mobile source emission estimates modeled from the California Emissions Estimator Model (CalEEMod).

Response 6-12

The comment states that the proposed Project would result in a duplicate land use since a hotel use already exists on-site. The comment states that the implementation of the proposed Project would not improve accessibility to an underserved area and, thus, would be inconsistent with CAPCOA strategy T-31-B.

As discussed in Response 6-9, the CAPCOA Handbook is intended for use as a "planning resource" and "should not be used to dictate public policy or provide legal advice." (CAPCOA Handbook, p. iv.) Further, "the Handbook measures…should not be automatically applied to a project without thoughtful consideration of project-specific circumstances." (*Id.* at 6.) Nevertheless, it should also be noted that the proposed Project did not apply any GHG reduction credit related to CAPCOA strategy T-31-B.

Response 6-13

The comment asserts that the Draft EIR does not consider CAPCOA's T-6 strategy, which is a mandatory measure. Specifically, T-6 includes all of CAPCOA's recommended voluntary commuter trip reduction but would implement penalties for non-compliance and monitoring/reporting to ensure the vehicle miles traveled reduction is met. The commenter claims that the Project includes no mention of penalties and no performance metric tied with the proposed Traffic Management Plan.

As discussed in Response 6-9, the CAPCOA Handbook is intended for use as a "planning resource" and "should not be used to dictate public policy or provide legal advice." (CAPCOA Handbook, p. iv.) Further, "the Handbook measures…should not be automatically applied to a project without thoughtful consideration of project-specific circumstances." (*Id.* at 6.) As discussed in the Draft EIR, the proposed Project would comply with applicable CAPCOA's strategies, which would reduce the Project's GHG emissions, including CAPCOA's T-6 strategy. As discussed in the Draft EIR, the proposed Project would prepare a Transportation Demand Management Plan pursuant to Mitigation Measure GHG-1. The Transportation Demand Management Plan would include voluntary and mandatory trip reduction measures that would reduce overall trips generated by the Project. Certain transportation demand management strategies would be included as required conditions of approval. However, details regarding the Project's Transportation Demand Management Plan designed to reduce trips are still unknown and unquantifiable during this planning stage. Full details of the programs would be finalized and identified prior to the operation of the proposed Project.

Response 6-14

The comment states that the proposed Project did not discuss certain key end-of-trip facilities, which would be inconsistent with CAPCOA strategy T-10. Additionally, the comment states that the proposed Project does not explore the option of telecommuting or alternative work schedules.

As discussed in Draft EIR Table 5.5-5, Consistency with the City's Greenhouse Gas Reduction Plan, the proposed Project would include bicycle parking as an end-of-trip facility. Additionally, hotel personal

lockers would be provided as a default for employees to change into uniform for work. As such, the proposed Project would have facilities, which would encourage employees to bicycle to work. Additionally, the preparation of a Transportation Demand Management Plan pursuant to Mitigation Measure GHG-1 of the Draft EIR would address end-of-trip facilities utilized by hotel patrons and employees. The Transportation Demand Management Plan would be prepared and approved by the City of Burbank prior to the issuance of occupancy permits.

It should also be noted that the proposed Project would construct a hotel, which is part of the service retail industry. Specifically, the services provided by a hotel (front desk receptionist, housekeeping, chauffeur, room attendant, cooks, etc.) would include activities that would require employees to be on-site. As such, it is not practical for hotel employees to telecommute or have an alternative work schedule.

Response 6-15

The comment states that the Draft EIR does not evaluate inconsistency with Mixed-Use TOD Strategies encouraged by CAPCOA, the GGRP, and SCAG RTP/SCS.

Refer to Response to Comment 6-9. As discussed in Response 6-9, according to CAPCOA, the Handbook is intended for use as a "planning resource" and "should not be used to dictate public policy or provide legal advice." (CAPCOA Handbook, p. iv.). Similarly, the 2020-2045 RTP/SCS is intended for use as "an advisory and elective planning vision for consideration by other stakeholders and implementing agencies, and local control of land use decision-making is not intended to be constrained or limited in any way by Connect SoCal." (SCAG, 2020-2045 RTP/SCS, p. xiv.). Furthermore, as discussed in Response 6-17, below, the proposed Project is consistent with the vision statement for the GSSP, which envisions "[a] vibrant residential neighborhood, economic center, and transportation hub that facilitates the preservation of existing key industries while creating new opportunities for housing and jobs with an elevated sense of arrival from the Hollywood-Burbank Airport, Metrolink Stations, and proposed High-Speed Rail Station." (GSSP website.) The Burbank Housing Element identifies 19 "housing opportunity sites" with "the greatest potential to accommodate the RHNA [SCAG Regional Housing Needs Assessment] housing growth allocated for Burbank." (Burbank 2021-2029 Housing Element, 1-79.) The Project site is not included among the sites listed. (*Id.* at Ex. 1-5, 1-80.) Therefore, while the Housing Element and the City's ongoing GSSP re-envisioning efforts are generally supportive of residential development, other sites have been identified as better suited for residential development, and the Project would not preclude development of residential projects on these housing opportunity sites.

It should be noted that the CAPCOA Handbook, 2020-2045 RTP/SCS, and the City's GGRP encourages the development of mixed-use development. Specifically, the City's GGRP mentions specific areas within the City that recommends and allow mixed-use developments (North San Fernando Boulevard Master Plan). However, the CAPCOA Handbook, 2020-2045 RTP/SCS, and the City's GGRP do not specifically require the construction of mixed-use developments in any one area. Accordingly, the standards cited by the commenter are merely advisory and compliance is not required.

Response 6-16

The comment contends the Draft EIR fails to include a range of reasonable alternatives and suggests a hotel/residential mixed-use alternative (H/RMU).

The identification and analysis of alternatives to the Project in the Draft EIR (Section 7.0) is consistent with the CEQA Guidelines, which require "a range of reasonable alternatives to the project." (CEQA Guidelines Section 15126.6(a).) The selected alternatives must "feasibly attain most of the basic objectives of the project" and "avoid or substantially lessen any of the significant effects of the project." (*Id.*) "An EIR need not consider every conceivable alternative to a project" and a lead agency is "not require[d]…[to] consider specific alternatives that are proposed by members of the public or other outside agencies." (*Id.; City of Maywood v. Los Angeles Unified School Dist*, 208 Cal.App.4th 362, 420, 145 Cal.Rptr.3d 567 (2012), *California Native Plant Society v. City of Santa Cruz,* 177 Cal.App.4th 957, 999, 99 Cal.Rptr.3d 572 ["potentially feasible alternatives 'are suggestions which may or may not be adopted by the decisionmakers.'"])

Neither CEQA nor any case law has established a "categorical legal imperative as to the scope of alternatives to be analyzed in the EIR." (*Citizens of Goleta Valley v. Bd. of Supervisors,* 52 Cal.3d 553, 566, 801 P.2d 1161 (1990); *Citizens for Open Government v. City of Lodi*, 205 Cal.App.4th 296, 313, 140 Cal.Rptr.3d 459 (2012).) Rather, the EIR must consider a "reasonable range of potentially feasible alternatives that will foster informed decisionmaking and public participation." (*Id.*) Consideration of only the proposed project and a no-project alternative in the EIR can be sufficient. (*Save Our Access-San Gabriel Mountains v. Watershed Conservation Authority*, 68 Cal.App.5th 8, 30, 2 Cal.Rptr.3d 862 (2021).) "Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are: (i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts." (CEQA Guidelines Section 15126.6(c).)

The Draft EIR sufficiently analyzes a reasonable range of alternatives to the proposed Project. Draft EIR Section 7.2 identifies six project alternatives: (1) a "no project" alternative; (2) a "reduced intensity" alternative; (3) an "alternative site" alternative; (4) an "office" alternative; (5) a "residential mixed-use" alternative; and (6) a "reduced parking" alternative. The Draft EIR concludes that the "alternative site" alternative, "office" alternative, "residential mixed-use" alternative, and "reduced parking" alternative did not accomplish most of the basic objectives of the Project and are infeasible and explains why each alternative was rejected.

The Draft EIR is not required to study an H/RMU alternative because the alternative would not serve the majority of the Project's objectives, is not feasible for the site, and would not substantially reduce the Project's impacts on GHG emissions or other environmental impacts.

While a lead agency "may not give a project's purpose an artificially narrow definition, a lead agency may structure its EIR alternative analysis around a reasonable definition of underlying purpose and need not study alternatives that cannot achieve that basic goal." (*In re Bay-Delta etc.*, 43 Cal. 4th 1143, 1166, 184 P.3d 709 (2008).) For example, in *Goleta*, the court found that the lead agency need not consider inland locations in the alternatives analysis where the basic objective of the Project is for an oceanfront resort hotel. (*Goleta,* 52 Cal.3d at 561; *see also San Francisco Bay Conservation etc. Com.* 10 Cal.App.4th 908, 924–925, 13 Cal.Rptr.2d 117 (1992), reh'g denied and opinion modified (Nov. 30, 1992).)

Response 6-17

The comment asserts that H/RMU Alternative would serve all the Project objectives.

The Project is a hotel development project proposed by a hotel developer on a site with an existing hotel. The Project objectives align with the applicant's vision for a dual brand hotel, which would provide numerous benefits to the Burbank community. The H/RMU alternative would not serve most of the Project's objectives to the same extent as the proposed Project. Each objective is reviewed below. However, it is noted that pursuant to CEQA Guidelines Section 15126.6(b), "the discussion of alternatives shall focus on alternatives to the project…which are capable of avoiding or substantially lessening any significant effects of the project…" The assessment of whether an alternative can meet the Project objectives cannot be considered without also considering whether the alternative can reduce significant effects of the project. As demonstrated in Response 6-19, an H/RMU alternative would not avoid or substantially lessen any of the significant effects of the project.

*Project Objective: "Enhance the continued economic revitalization and urbanization of the Hollywood Burbank Airport area with premium lifestyle and extended stay hotel brands catering to the modern business and leisure traveler."*

The comment alleges that an H/RMU alternative "could attain and achieve the basic objective of catering to business and leisure travelers." The H/RMU alternative would not meet this objective to the same extent as the proposed Project. Reducing the hotel component would limit the objective by reducing the number of travelers that could be accommodated.

*Project Objective: "Construct and operate a Marriott-branded, business- and leisure-oriented urban hotel reflecting the character of Burbank and integrated into the overall site design of the existing onsite hotel facilities, immediately adjacent to and complementing the airport, existing and planned transit stations, and the convention center to attract and enhance customer travel for those visiting Burbank."*

The comment alleges that an H/RMU alternative "could attain and achieve the basic objective of adding hotel uses adjacent to the airport, planned transit stations, and convention center." As discussed above, the objective would not meet this objective to the same extent as the proposed Project.

*Project Objective: "Construct and operate additional conference/meeting/entertainment/dining space, fitness facilities for hotel guests and other patrons, and a ground-floor central open courtyard with pool and deck space amenity area to provide additional outdoor space."*

The comment alleges that an H/RMU alternative "could attain and achieve the basic objective of adding facilities for hotel guests and patrons (e.g., conference/meeting/entertainment/dining space." However, as stated above, the objective would not be met to the same extent as the proposed Project.

*Project Objective: "Contribute to the economic health and well-being of Burbank through the development of a Project that would generate new construction and long-term jobs and provide additional long-term revenue for the City through visitor operations, enhanced property values, new visitor spending, and transient occupancy tax."*

The comment alleges that an H/RMU alternative "could attain and achieve the basic objective of generating long-term jobs and providing additional long-term revenue via enhanced property values and transient occupancy tax." The Project is expected to lead to temporary construction employment and long-term hotel employment. Reducing the hotel component would result in reduced long-term

employment for the Project. Further, as the Draft EIR states, "a smaller hotel would not contribute to the economic health and well-being of Burbank through the generation of long-term jobs and additional long-term revenue for the City through visitor operations, enhanced property values, new visitor spending, and transient occupancy tax to the extent of the proposed Project."

*Project Objective: "Redevelop a portion of the surface parking lot area that is underutilized into a more economically productive use that complements the existing development on the property and is consistent with the City's ongoing re-envisioning efforts within the Golden State Specific Plan."*

The comment alleges that an H/RMU alternative "could attain and achieve the basic objective of redeveloping an underutilized site consistent with the re-envisioning efforts within the Golden State Specific Plan (GSSP) given the City's Housing Element identifies the Golden State Specific Plan area for over 2,600 new housing units." The proposed Project is consistent with the vision statement for the GSSP, which envisions "[a] vibrant residential neighborhood, economic center, and transportation hub that facilitates the preservation of existing key industries while creating new opportunities for housing and jobs with an elevated sense of arrival from the Hollywood-Burbank Airport, Metrolink Stations, and proposed High-Speed Rail Station." (GSSP website.) The Burbank Housing Element identifies 19 "housing opportunity sites" with "the greatest potential to accommodate the RHNA [SCAG Regional Housing Needs Assessment] housing growth allocated for Burbank." (Burbank 2021-2029 Housing Element, 1-79.) The Project site is not included among the sites listed. (*Id.* at Ex. 1-5, 1-80.) Therefore, while the Housing Element and the City's ongoing GSSP re-envisioning efforts are generally supportive of residential development, other sites have been identified as better suited for residential development, and the Project would not preclude development of residential projects on these housing opportunity sites.

*Project Objective: "Support environmentally conscious alternative modes of travel by constructing two new hotels within a half mile of two existing Metrolink stations, a planned high speed rail station, and the Hollywood Burbank Airport, and by promoting ride-sharing services and transportation demand management strategies in efforts to reduce local vehicle trips into and out of the City."*

The comment alleges, "Here, an RMU alternative with a residential and hotel component could attain and achieve the basic objective of adding hotel guests near the existing Metrolink stations. Additionally, there is no reason why such an alternative could not include ride-sharing services and TDM strategies. Moreover, a residential component could be more capable of reducing vehicle trips since TDM strategies are more effective at lowering regular commuter trips. Here, the vast majority of the Project's vehicle trips would be made by hotel patrons (i.e., non-residents or employees)." The Project objective would not be met to the same extent as a benefit to the proposed Project is that its proximity to the Hollywood Burbank Airport allows hotel patrons traveling in and out of the City to travel less of a distance.

*Project Objective: "Support and enhance statewide decarbonization efforts through the development of an all-electric Project free from fossil-fuel reliance; on-site generation and use of power through solar panels and battery storage; reducing vehicle emissions through an efficient guest drop-off and pick-up porte cochere design and by operating a valet-only parking garage for more efficient parking of guest's vehicles; and encouraging the replacement of gas-fueled cars with electric vehicles by providing hundreds of EV charging stations and EV ready plug-ins."*

The comment alleges that "an RMU alternative with a residential and hotel component could incorporate EV parking and solar to attain and achieve the basic objective of statewide decarbonization efforts. Additionally, by adding residents to the site, such an alternative could be more effective at reducing GHG emissions from mobile emissions by bringing more residents to the site, which is highly served by public transit." The Project is designed to reduce GHG emissions by maintaining an efficient guest drop-off and pick-up porte cochere design and operating a valet-only parking garage for parking guest vehicles. Additionally, the Project would include various sustainability features that would further reduce GHG emissions such as the installation of on-site photovoltaic panels that exceed Title 24 requirements, participation in the Burbank Transportation Management Organization, installation of features that promote alternative modes of transportation (i.e., bicycle parking, employee lockers, ridesharing, vanpool, etc.), installing high efficiency lighting, and requiring energy efficient appliances.

Response 6-18

The comment asserts an H/RMU alternative is feasible and that the Draft EIR fails to provide substantial evidence that an H/RMU alternative is infeasible for the site.

An EIR need only consider a "reasonable range" of alternatives that are "potentially feasible." (CEQA Guidelines Section 15126.6(a).) The term "feasible" is statutorily defined as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." (PRC Section 21061.1.) The CEQA Guidelines also add "legal" factors to that list. (CEQA Guidelines Section 15364.) A project alternative need not be "extensively considered" if it "cannot be feasibly accomplished." (*Goleta*, 52 Cal.3d 553, at 574.) As stated in the CEQA Guidelines "Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries…and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site." (CEQA Guidelines Section 15126.6(f)(1).) A project alternative is economically infeasible if "the additional costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project." (*Citizens of Goleta Valley v. Bd. of Supervisors*, 197 Cal.App.3d 1167, 1181, 243 Cal.Rptr. 339 (1988); s*ee, e.g., Cherry Valley Pass Acres & Neighbors v. City of Beaumont*, 190 Cal. App. 4th 316, 350-356, 118 Cal. Rptr. 3d 182 (2010)(finding that alternatives that would maintain part of the site as agricultural uses were economically infeasible where financial analysis demonstrated that agricultural use of the site would not be economically viable.) The H/RMU alternative is economically infeasible on the proposed Project site. As the Draft EIR states, "uncertainty in the lending industry for multifamily market, rising labor and construction costs, and the decrease in rents for multifamily create a high level of uncertainty even for the most seasoned multifamily developer, let alone the uncertainty that it would bring to a hotel developer seeking to make a housing project pencil out at the Project site."

Further, the commenter does not point to any evidence about the economic viability of the proposed H/RMU alternative. For example, the commenter does not point to any evidence of a demand for residential developments at or around the Project site, which already has a hotel, convention center, and office buildings. Rather, the commenter points to other residential development projects in the area to suggest feasibility, but the proximity of other projects demonstrates that there is competition and, thus,

risk. Therefore, the suggested H/RMU alternative is economically infeasible based on substantial evidence of market uncertainty, increased costs, and other economic considerations.

Response 6-19

The comment asserts an H/RMU alternative could substantially reduce the Project's GHG impacts.

An EIR is only required to consider the "range of potential alternatives" that "could avoid or substantially lessen one or more of the significant effects." (CEQA Guidelines Section 15126.6(c).) As the Draft EIR states, the H/RMU alternative would not substantially reduce or eliminate the Project's significant impacts relative to construction noise, utilities and service systems, or GHG emissions. (Draft EIR, 7-5.)

Relative to construction noise and utilities and service systems, development of an H/RMU alternative would have a significant impact that would be the same as or similar to the proposed Project. Development of an H/RMU alternative "would not significantly reduce or eliminate the Project's significant and unavoidable impacts relative to construction noise, since construction activities and equipment would be similar and offsite sewer and electrical improvements would still be required to serve the use." (Draft EIR, 7-4.) Unlike the "Reduced Intensity" alternative, the H/RMU alternative would not reduce the number of construction days and thus the number of days that sensitive receptors would be exposed to significant noise impacts would be unchanged. (Draft EIR, 7-13.)

Relative to GHG emissions, development of an H/RMU alternative would not significantly reduce or eliminate the Project's significant and unavoidable GHG emissions impact and, to the contrary, could exacerbate the Project's total GHG emissions. The quantitative GHG emissions thresholds in GGRP Section 5., Utilizing Quantitative CEQA GHG Thresholds, are calculated per service person for mixed-use projects. (Burbank GGRP, p. 36). The City defines service population as "the number of residents plus the number of employees for a given project." (Burbank GGRP, p. 37). The H/RMU alternative would result in fewer long-term employment opportunities and, thus, reduce the number of employees included in the service population. It is not clear how many residents that the commenter envisions for the H/RMU alternative, so it is not possible to arrive at a precise calculation of the service population. However, if fewer employees and fewer or the same number of residents are included in the service population calculation, then the GHG impact could be slightly greater due to the increased $MTCO_2e$ per service population. Regardless of the precise calculation, the H/RMU alternative would exceed the 3.12 $MTCO_2e$ per service population threshold in the GGRP and, thus, would constitute a substantial impact equal to or more than the proposed Project.

Response 6-20

The comment contends that there is not substantial evidence to support the vapor intrusion concerns in the Draft EIR relative to an H/RMU alternative or that the H/RMU alternative is infeasible due to vapor intrusion.

The Draft EIR states, "Based on the results of the Phase II Subsurface Investigation, there is evidence of elevated volatile organic compounds (VOCs) in soil gas (specifically tetrachloroethylene [PCE] and trichloroethylene [TCE]) beneath the Project site that may present a vapor intrusion risk to the proposed Project. These VOCs are considered to be the result of a regional groundwater VOC plume as noted from

the Phase I findings regarding recognized environmental conditions (REC). Mitigation Measure HAZ-1 requires that an appropriate vapor intrusion mitigation system using a VOC-compatible vapor barrier be incorporated into the design of the proposed onsite structures where there may be a potential for vapor intrusion risk to occupants. The vapor barrier shall be pre-approved by the applicable regulatory oversight agency and provide for mitigation of soil vapor to levels that are protective of human health for the proposed use. Methods for monitoring the vapor barrier system to confirm that the vapor barrier system continues to be protective of human health shall also be required subject to approval by the regulatory agency with jurisdiction. Excavation and related utility operations would potentially encounter hazardous materials, based on the results of the Phase II Subsurface Investigation, which determined there are potential VOC-impacted soils on the Project site. Impacts related to releases of hazardous substances would be potentially significant during the construction phase. Implementation of Mitigation Measure HAZ-2, which requires that the Applicant prepare and submit a soils management plan to address the proper characterization and handling of potential VOC-impacted soils and other contaminants of concern (reported to be TCE, PCE, 1,4, dioxane, hexavalent chromium, and 1,2,3-trichloropropane [TCP]), that may be present prior to the issuance of a grading permit, would reduce potential significant impacts to less than significant levels. With implementation of Mitigation Measures HAZ-1 and HAZ-2, the Project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving soil and groundwater contamination. With the incorporation of mitigation, impacts would be less than significant."

Due to the site's existing conditions relative to hazards, similar to the proposed Project, an H/RMU alternative would also require implementation of mitigation measures to address the potential vapor intrusion risk to occupants and to provide proper characterization and handling of potential VOC-impacted soils and other contaminants of concern (reported to be TCE, PCE, 1,4, dioxane, hexavalent chromium, and 1,2,3-trichloropropane [TCP]). CEQA Guidelines Section 15126.6 (a) states that "An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project…An EIR need not consider every conceivable alternative to a project." The H/RMU alternative would neither meet the basic objectives of the Project, nor would it avoid or substantially lessen the significant impact associated with hazards and hazardous materials or the corresponding need for mitigation to reduce such impact to less than-significant levels. Thus, the H/RMU alternative would not be environmentally beneficial when compared to the Project.

Response 6-21

The comment is a closing statement summarizing the concerns provided in the comment letter and requests to be notified of any notices of CEQA actions and any approvals, Project CEQA determinations, or public hearings to be held on the Project. The commenter further indicates that they are reserving their right to supplement their comments at future hearings and proceedings for the Project. The comment does not contain any information requiring changes to the Draft EIR. No further response is warranted.

COMMENT LETTER 7

BURBANK
CHAMBER OF COMMERCE

January 27, 2025

Daniel Villa, Principal Planner
Community Development Department
Planning Division
150 North Third Street
Burbank, CA 91510

Subject: Proposed Project at 2500 N. Hollywood Way

Dear Daniel,

On behalf of the Burbank Chamber of Commerce and Burbank's business community at large, I am writing to express our enthusiastic support of the proposed dual-brand hotel project at 2500 N. Hollywood Way. 7-1

The Chamber is very excited to see this dual-brand hotel move forward for several reasons. This hotel will have an immensely positive impact on local tourism, keeping tourists and visitors in Burbank, especially as we head into massive tourism events like the 2028 Olympics. We want visitors flying into our brand new Hollywood Burbank Airport terminal, finding lodging in a conveniently located beautiful Burbank hotel, and enjoying all Burbank has to offer including our unique and legendary dining and entertainment options.

This hotel comes at a great time alongside the Airport project, in addition to other nearby projects, which together will continue the much needed revitalization of the Airport District.

This new hotel will also provide the City with a much-needed new stream of Transient Occupancy Tax revenue, bringing in millions of dollars to the City to fund the various critical programs and initiatives that we offer to our residents and visitors.

This project is a win, win, win. A win for our economy in strengthening our tourism industry, a win for the City in increased revenue, and a win for workers with many new jobs being created.

Thank you for your consideration.

Sincerely,

Jamie Keyser
CEO
jkeyser@burbankchamber.org

**Response to Comment Letter 7**

Jamie Keyser, CEA
Burbank Chamber of Commerce
January 27, 2025

7-1 This comment expresses general support for the proposed Project. The comment describes how the Project's proximity to the Hollywood Burbank Airport, along with other nearby projects, would revitalize the area and support tourist needs for the upcoming 2028 Olympics. The comment does not contain any information requiring changes to the Draft EIR. No further response is warranted.

**DEPARTMENT OF TRANSPORTATION**
DISTRICT 7
100 S. MAIN STREET, MS 16
LOS ANGELES, CA 90012
PHONE (213) 269-1124
FAX (213) 897-1337
TTY 711
www.dot.ca.gov

COMMENT LETTER 8

*Making Conservation a California Way of Life*

January 27, 2025

Daniel Villa, Principal Planner
Community Development Department
Planning Division
150 North Third Street
Burbank, CA 91510

RE: 2500 N. Hollywood Way-Dual Brand Hotel Project
SCH # 2019110032
Vic. PM LA-5/PM 31.41
GTS # LA-2019-04710-DEIR

Dear Daniel Villa:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above-referenced environmental document. The Project proposes a new seven-story dual brand hotel consisting of approximately 262,338 square feet with 420 hotel rooms and a separate, detached four-story parking garage on a portion of the 11.76-acre site. 8-1

The Project proposes a new Hotel approximately 500 feet from the Hollywood Burbank Airport, less than 0.5-mile of the Metrolink Ventura County Line Station at the Burbank Hollywood Airport, and within proximity to several Metro bus lines. Additionally, as discussed in Section 3.0 and below, the Project would provide for bicycle network and pedestrian improvements, providing improved connectivity within the immediate area and the larger network. Thus, the Project supports multimodal transportation, and its location would provide alternative transportation options for hotel guests and patrons to access local and regional destinations. Further, the proposed bicycle and pedestrian improvements on Thornton Avenue would provide for improved connectivity to existing transit within the area. The site's location in proximity to existing employment and commercial uses, as well as the Burbank Hollywood Airport and RITC, provides for convenient access and opportunity, which further supports sustainable mobility. 8-2

The Project would provide onsite bicycle parking. Additionally, the Project would upgrade Thornton Avenue with new protected bike lanes and narrower traffic lanes to help encourage multi-modal transportation by making it easier to travel to the Project site and within the surrounding area via bicycle.

Existing sidewalks on Hollywood Way and Thornton Avenue comply with the standard 15-foot width, while the 10-foot sidewalk on Avon Street meets the minimum requirement. The project will enhance internal pedestrian circulation and provide significant offsite improvements, including a 23-foot sidewalk with a raised buffer, a Class IV bikeway on Thornton Avenue, and ADA-compliant sidewalks on Avon Street. These enhancements promote walkability, pedestrian safety, and multi-modal accessibility, ensuring consistency with city policies. Impacts are anticipated to be less than significant. 8-3

The City's Interim Transportation Study Guidelines provide screening criteria to determine if a VMT analysis is required. Projects in a Transit Priority Area (TPA) or along a High-Quality Transit Corridor (HQTC) are presumed to have less-than-significant impacts unless substantial evidence indicates otherwise. This project, located within 0.5 miles of the Metrolink Ventura County Line Station at Burbank Hollywood Airport, meets TPA criteria and satisfies all requirements, including adequate FAR, parking compliance, and consistency with regional plans. Therefore, the project is presumed to have a less-than-significant VMT impact under CEQA Guidelines Section 15064.3(b). 8-4

The construction phase of the project will generate daily trips to and from the site. To manage traffic impacts and ensure public safety, the project must comply with the City of Burbank Department of Public Works Traffic Division's General Traffic Requirements. This compliance includes adherence to the California Manual on Uniform Traffic Control Devices (California MUTCD), Chapter 6, which provides standards for temporary traffic control to facilitate safe and efficient movement through work zones. Additionally, the project must follow the Work Area Traffic Control Handbook (WATCH), which offers detailed guidance on traffic control measures to minimize disruptions and maintain safety for all road users. By adhering to these established guidelines, the project will mitigate traffic-related impacts during construction. The Project applicant or contractor would be required to develop a Construction Management Plan with (traffic control measures) for approval by the City of Burbank Public Works Director or their designee prior to construction of the Project. 8-5

There are expected to be approximately 35 days of hauling activity with 20 trips per day. The haul routes would be mostly on the I-5 freeway. As a reminder, any transportation of heavy construction equipment and/or materials which require use of oversized transport vehicles on State highways will need a Caltrans transportation permit. We recommend large-size truck trips be limited to off-peak commute periods. Truck drivers should cover construction trucks with tarpaulin to avoid debris spillage onto the State Highway.

The freeway queuing analysis evaluates the potential for a project to cause or extend off-ramp queues, potentially creating safety concerns due to speed differentials between exiting and mainline vehicles. Per the City of Burbank's Interim Transportation Study Guidelines and LADOT's Interim Guidance for Freeway Safety Analysis, freeway off-ramps must be analyzed if a project adds 25 or more trips during peak hours. The project 8-6

is expected to generate up to 137 inbound and 132 outbound trips during peak hours; however, no individual off-ramp is projected to receive 25 or more peak hour trips. Therefore, the project is not anticipated to cause significant queuing impacts, and further analysis is not required. 8-6 cont'd

Please be reminded that any work performed within the State Right-of-way, if any, will require an Encroachment Permit from Caltrans. Any modifications to State facilities must meet all mandatory design standard and specifications. 8-7

Please feel free to contact Mr. Alan Lin the project coordinator at (213) 269-1124 and refer to GTS # LA-2019-04710-DEIR.

Sincerely,

Anthony Higgins

Anthony Higgins
Acting LDR Branch Chief

Cc: State Clearinghouse

**Response to Comment Letter 8**

Anthony Higgins, Acting LDR Branch Chief
California Department of Transportation, District 7
January 27, 2025

8-1 This introductory paragraph summarizes the proposed Project. The comment does not contain any information requiring changes to the Draft EIR. No further response is warranted.

8-2 This comment describes the location of the Project and its proximity to nearby transit opportunities, including the Hollywood Burbank Airport, the Metrolink Ventura County Line Station, and several Metro bus lines. The comment describes how the proposed Project would provide for bicycle and pedestrian improvements in the area, thereby supporting multimodal transportation and providing alternative transportation options for hotel guests and patrons. The comment also describes the Project's onsite bicycle amenities and new protected lanes along Thornton Avenue. The comment does not contain any information requiring changes to the Draft EIR. No further response is warranted.

8-3 This comment describes the Project's improved sidewalks and walkability features, including how they promote accessibility consistent with City policies. The comment does not contain any information requiring changes to the Draft EIR. No further response is warranted.

8-4 This comment explains how the Project satisfies the City's VMT screening criteria as it is located in a TPA and along a High-Quality Transit Corridor. As such, the analysis provided in the Draft EIR demonstrates that Project implementation would result in a less than significant impact related to VMT under CEQA Guidelines Section 15064.3(b). The comment does not contain any information requiring changes to the Draft EIR. No further response is warranted.

8-5 This comment describes the Project's construction process, including daily truck trips, truck routes, and other required construction traffic control measures. The comment also states that the Project applicant/contract would be required to develop a Construction Management Plan for approval by the City of Burbank Public Works Director prior to commencement of Project construction. Additionally, it is acknowledged that a Caltrans transportation permit would be required for any transportation of heavy construction equipment and/or materials which require use of oversized transport vehicles on State highways and truck drivers should cover construction trucks to avoid debris spillage onto the State Highway. The comment does not contain any information requiring changes to the Draft EIR. No further response is warranted.

8-6 This comment describes the Project's freeway queuing analysis, in consideration of the City's Interim Transportation Study Guidelines and LADOT's Interim Guidance for Freeway Safety Analysis. As no individual freeway off-ramp is projected to receive 25 or more peak hour trips, the Project would not result in significant queuing impacts. The comment confirms the determination in the Draft EIR that the Project is not anticipated to cause significant queuing impacts and does not contain any information requiring changes to the Draft EIR. No further response is warranted.

8-7 This comment includes a reminder that Caltrans Encroachment Permits are required for any work performed within a State right-of-way. The comment also includes additional contact information and a conclusion to the letter, with direct contact details for Caltrans staff. The comment does not contain any information requiring changes to the Draft EIR. No further response is warranted.

COMMENT LETTER 9

ADAMS BROADWELL JOSEPH & CARDOZO
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037
TEL: (650) 589-1660
FAX: (650) 589-5062
ssannadan@adamsbroadwell.com

SACRAMENTO OFFICE
520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4721
TEL: (916) 444-6201
FAX: (916) 444-6209

KEVIN T. CARMICHAEL
CHRISTINA M. CARO
THOMAS A. ENSLOW
KELILAH D. FEDERMAN
RICHARD M. FRANCO
ANDREW J. GRAF
TANYA A. GULESSERIAN
DARION N. JOHNSTON
RACHAEL E. KOSS
AIDAN P. MARSHALL
ALAURA R. McGUIRE
TARA C. RENGIFO

*Of Counsel*
MARC D. JOSEPH
DANIEL L. CARDOZO

January 17, 2025

**Via U.S. Mail and Email**

Patrick Prescott
Community Development Director
City of Burbank
Community Services Building
150 N. Third Street
Burbank, CA 91502
**Email:** pprescott@burbankca.gov; planning@burbankca.gov

Kimberley Clark, City Clerk
Burbank City Hall
275 E. Olive Avenue, 1st Floor,
Burbank, CA 91502
**Email:** kclark@burbankca.gov; cityclerks@burbankca.gov

**Via Email Only**

Daniel Villa, Principal Planner
**Email**: dvilla@burbankca.gov

**Re: Request for Immediate Access to Documents Referenced in the Draft Environmental Impact Report - 2500 N. Hollywood Way – Dual Brand Hotel Project (SCH No. 2019110032)**

Dear Mr. Prescott, Ms. Clark, and Mr. Villa:

We are writing on behalf of Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA") to request ***immediate access*** to any and all documents referenced, incorporated by reference, and relied upon in the Draft Environmental Impact Report ("DEIR") prepared for the 2500 N. Hollywood Way – Dual Brand Hotel Project (SCH No. 2019110032) ("Project"), proposed by AWH Partners ("Applicant"). *This request excludes a copy of the DEIR and any documents that are currently available on the City of Burbank website, as of today's date*.[1] 9-1

The Project proposes development of a new seven-story dual brand hotel, consisting of approximately 262,338 square feet (SF) and a separate, detached four-story parking garage. The garage would consist of 208,040 SF of valet-only parking, providing up to 766 parking spaces, with an additional 285 parking spaces at grade. 9-2

[1] Accessed https://www.burbankca.gov/web/community-development/2500nhw on January 17, 2025.



printed on recycled paper

The Project site is located in the northwestern portion of the City of Burbank, and approximately 12 miles north of downtown Los Angeles within Los Angeles County, California. The Project site encompasses approximately 11.76 acres (Assessor Parcel Number 2464-004- 015) generally bounded by Thornton Avenue on the north, Hollywood Way on the west, Avon Street on the south and a commercial office campus, comprised primarily of office uses with various onsite support amenities, on the south and east. The proposed Project would be located within the same parcel as the existing Marriott Hotel. No changes to the existing Marriott Hotel are proposed. 9-2 cont'd

Our request for ***immediate access*** to all documents referenced in the DEIR is made pursuant to the California Environmental Quality Act ("CEQA"), which requires that all documents referenced, incorporated by reference, and relied upon in an environmental review document be made available to the public for the entire comment period.[2] 9-3

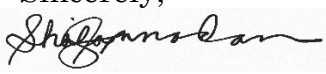
Please use the following contact information for all correspondence: 9-4

**U.S. Mail**
Sheila M. Sannadan Adams
Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080-7037

**Email**
ssannadan@adamsbroadwell.com

If you have any questions, please call me at (650) 589-1660 or email me at ssannadan@adamsbroadwell.com. Thank you for your assistance with this matter.

Sincerely,



Sheila M. Sannadan
Legal Assistant

SMS:acp

[2] *See* Public Resources Code § 21092(b)(1) (stating that "all documents referenced in the draft environmental impact report" shall be made "available for review"); 14 Cal. Code Reg. § 15087(c)(5) (stating that all documents incorporated by reference in the EIR . . . shall be readily accessible to the public"); see also *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 442, as modified (Apr. 18, 2007) (EIR must transparently incorporate and describe the reference materials relied on in its analysis); *Santiago County Water District v. County of Orange* (1981) 118 Cal.App.3rd 818, 831 ("[W]hatever is required to be considered in an EIR must be in that formal report. . ."), internal citations omitted.



printed on recycled paper

**Response to Comment Letter 9**

Sheila M. Sannadan, Legal Assistant
Broadwell Joseph & Cardozo
January 17, 2025

9-1 This comment requests immediate access for documents that the Draft EIR referenced, incorporated by reference and relied upon, not inclusive of the Draft EIR and related documents that are currently on the City's website. The comment does not contain any information requiring changes to the Draft EIR. No further response is warranted.

9-2 This comment summarizes the proposed Project and its location. The comment does not contain any information requiring changes to the Draft EIR. No further response is warranted.

9-3 This comment reiterates Comment 9-1 as it again requests immediate access to all documentation relied upon for preparation of the Draft EIR. The comment does not contain any information requiring changes to the Draft EIR. No further response is warranted.

9-4 This comment provides contact information for mailing and/or emailing related correspondence, as well as a closing statement. The comment does not contain any information requiring changes to the Draft EIR. No further response is warranted.

# 3.0 ERRATA TO THE DRAFT EIR

Changes to the Draft EIR are noted below. The changes would not result in any revisions or modifications to the conclusions presented in the Draft EIR or result in new or substantially greater impacts as compared to those identified in the Draft EIR.

## REVISIONS TO THE DRAFT EIR

Throughout the Draft EIR, all references to "Transportation Management Plan" in the Draft EIR will be replaced with "Transportation Demand Management Plan" in the Final EIR.

### Section 3.0, Project Description

Draft EIR Page 3-1, first paragraph is revised in the Final EIR to correct the APN, as follows:

> The 2500 N. Hollywood Way – Dual Brand Hotel Project (herein referred to as 2500 N. Hollywood Way or the Project) site is in the northwestern portion of the City of Burbank (City), approximately 12 miles north of downtown Los Angeles within Los Angeles County (County); refer to Figure 3-1, *Regional Vicinity Map*. The Project site encompasses approximately 11.76 acres (APN 2464-004-015) generally bounded by Thornton Avenue on the north, Hollywood Way on the west, Avon Street on the south and a commercial office campus (Media Studios), comprised primarily of office uses with various onsite support amenities, on the south and east; refer to Figure 3-2, *Proposed Project Site and Offsite Improvement Areas*.

### Executive Summary

Draft EIR Table 1-1 is revised in the Final EIR to correct the Significance/Significance After Mitigation determination for UTIL-1 from Less Than Significant Impact to Significant and Unavoidable Impact, consistent with the analysis and significance determination in Draft EIR Section 5.13 Utilities and Service Systems.

### Executive Summary and Section 5.6, Hazards and Hazardous Materials

Draft EIR Mitigation Measure HAZ-2 is revised in the Final EIR to reflect the correct City Division, as follows:

HAZ-2 Prior to the issuance of a grading permit, the Applicant shall submit a Soils Management Plan (SMP) to the City of Burbank ~~Public Works Department~~ Community Development Department Building & Safety Division that addresses the proper characterization and handling of potential VOC-impacted soils, and other contaminants of concern that may be present. The SMP shall require that, as grading, excavation, and trenching are performed, exposed soil shall be monitored for stained or discolored soil, wet or saturated soils, or odors. If impacted soil is encountered, the soil shall be analyzed to identify and characterize the impact and determine if soil remediation is required. Soil samples shall be analyzed by an appropriate State-certified laboratory using appropriate methods based on the parameters to be analyzed. When a new area of contamination is identified, it shall be characterized to assess its lateral and vertical extent. The likely excavation of impacted soil shall be followed by segregated stockpiling or direct-loading,

waste profiling, and offsite disposal or recycling, which shall be performed in accordance with applicable federal, State, and local regulations.

Executive Summary and Section 5.9, Noise

Draft EIR Mitigation Measure NOI-2 is revised in the Final EIR to reflect the correct City Division, as follows:

NOI-1: The Project Applicant and/or Contractor shall implement the following noise-attenuating measures during construction of the proposed Project:

- Construction contracts shall specify that all construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers.
- A sign, legible at 50 feet from the property line shall also be posted at the Project construction site. All notices and signs shall be reviewed and approved by the City of Burbank Community Development Department's Planning ~~and Transportation Planning~~ Division~~s~~, prior to mailing or posting and shall indicate the dates and duration of construction activities, as well as provide a contact name and a telephone number where residents can inquire about the construction process and register complaints.
- The project Applicant shall provide, to the satisfaction of the City of Burbank Community Development Department's Planning ~~and Transportation Planning~~ Division~~s~~, a qualified "Noise Disturbance Coordinator." The Disturbance Coordinator shall be responsible for responding to any local complaints about construction noise. When a complaint is received, the Disturbance Coordinator shall notify the City within 24 hours of the complaint and determine the cause of the noise complaint (e.g., starting too early, malfunctioning muffler, etc.) and shall implement reasonable measures to resolve the complaint, as deemed acceptable by the Burbank Community Development Department's Planning ~~and Transportation Planning~~ Division~~s~~. All signs posted at the construction site shall include the contact name and the telephone number for the Noise Disturbance Coordinator.
- Prior to issuance of any Grading or Building Permit, the project Applicant shall demonstrate to the satisfaction of the City's Building Official that construction noise reduction methods shall be used where feasible. These reduction methods include shutting off idling equipment, installing temporary acoustic barriers around stationary construction noise sources, maximizing the distance between construction equipment staging areas and occupied residential areas, and electric air compressors and similar power tools.
- Construction haul routes shall be reviewed and approved by the City's Building Official and City Traffic Engineer and shall be designed to avoid noise sensitive uses (e.g., residences, convalescent homes, etc.), to the extent feasible.
- During construction, stationary construction equipment shall be placed such that emitted noise is directed away from sensitive noise receivers.

## Section 5.5, Greenhouse Gas Emissions

Draft EIR Page 5.5-16 has been revised to remove references to CalGreen Code Tier 2 requirements as they are not identified in Mitigation Measure GHG-1 (Draft EIR page 5.5-24) and were not included within the GHG emission calculations. The Draft EIR text will be revised in the Final EIR , as follows:

> As the proposed Project would exceed the GGRP efficiency threshold of 3.12 $MTCO_2e$ per service population even with incorporation of Project design features, the Project would be required to implement Mitigation Measure GHG-1; refer to Table 5.5-3. ~~Mitigation Measure GHG-1 would require the incorporation of Tier 2 requirements of the 2022 CALGreen Code. Per the CALGreen Code, Tier 2 requirements are typically voluntary tiers that add additional requirements beyond the mandatory measures.~~ Mitigation Measure GHG-1 includes the following features: preparation of a Transportation Management Plan, joining the Burbank Transportation Management Organization, owning a clean-fuel vehicle fleet, and no wood-burning or gas-powered fireplaces. However, it should be noted that these features are not quantifiable in CalEEMod.

Draft EIR Page 5.5-23 inadvertently references purchasing carbon offsets as being included within Mitigation Measure GHG-1. Carbon offsets are not included in Mitigation Measure GHG-1 (Draft EIR page 5.5-24) and were not considered in potential reductions to GHG emissions. The Draft EIR text will be revised in the Final EIR, as follows:

> Based on Table 5.5-4, the Project would incorporate a majority of the GHG reduction measures as a part of the Project's description. However, the Project would be required to implement Mitigation Measure GHG-1, which requires the Project applicant to implement additional features in the Project that would reduce GHG emissions, including preparing a Transportation Management Plan, which includes voluntary and mandatory trip reduction measures, such as discouraging single-occupancy vehicle trips and encouraging alternative modes of transportation, including, but not limited to, carpooling, taking transit, walking, and biking, and implementing employee parking cash-outs ~~and purchasing carbon offsets~~, thereby reducing VMT and GHG emissions to the maximum extent feasible.

## Section 5.9, Noise

Draft EIR Page 5.9-14, second to the last sentence in the continued paragraph from page 5.9-13 is an incomplete sentence and has been removed, as follows:

> As part of the proposed Project, various off-site improvements would occur along North Avon Street and Thornton Avenue. Off-site improvements include the electrical connections, relocation of existing curbs, construction of Class IV bikeways, improvement of curbs, gutters, and driveways, and installation of ADA sidewalks. However, it should be noted that these improvements would occur along Thornton Avenue along the property's northeastern boundary and North Avon Street that connects to North Hollywood Way and Empire Avenue. Unlike the sewer main improvements, these off-site improvements would not occur close to existing sensitive receptors except for the electrical improvements which would connect to existing BWP facilities at the Thornton Avenue and Ontario Street intersection. The closest residential uses are multi-family

residential units located on Ontario Street, approximately 60 feet south of the Thornton Avenue and Ontario Street intersection. These off-site improvements would occur nearer to the Project site boundary and would be in areas where residences are not located nearby. Specifically, the closest residences to the proposed off-site improvements along Thornton Avenue and North Avon Street are approximately 1,000 feet to the east. As such, construction noise from off-site improvements would be less than noise levels from sewer main improvements due to the farther distance from sensitive receptors. While the off-site improvements are located 1,000 feet from sensitive receptors, as a conservative analysis, construction noise levels as shown in Table 5.9-5 would be representative of off-site improvements within the vicinity of the Project site. Additionally, off-site improvements would occur concurrently with the construction of the proposed Project. ~~As such, off-site improvements along Thornton Avenue and North Avon Street.~~ Thus, noise impacts from off-site improvements would also be significant.

# 4.0 MITIGATION MONITORING AND REPORTING PROGRAM

The California Environmental Quality Act (CEQA) requires that when a public agency completes an environmental document which includes measures to mitigate or avoid significant environmental effects, the public agency must adopt a reporting or monitoring program. This requirement ensures that environmental impacts found to be significant will be mitigated. The reporting or monitoring program must be designed to ensure compliance during project implementation (Public Resources Code Section 21081.6). Specifically, Public Resources Code Section 21081.6 states:

> (a) *When making findings required by paragraph (1) of subdivision (a) of Section 21081 or when adopting a mitigated negative declaration pursuant to paragraph (2) of subdivision (c) of Section 21080, the following requirements shall apply:*
>
> *(1) The public agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation. For those changes which have been required or incorporated into the project at the request of a responsible agency or a public agency having jurisdiction by law over natural resources affected by the project, that agency shall, if so requested by the lead or responsible agency, prepare and submit a proposed reporting or monitoring program.*
>
> *(2) The lead agency shall specify the location and custodian of the documents or other material which constitute the record of proceedings upon which its decision is based.*

This Mitigation Monitoring and Reporting Program (MMRP) has been developed to provide the mechanism by which to monitor mitigation measures outlined in the 2500 N. Hollywood Way Project Environmental Impact Report (EIR). The 2500 N. Hollywood Way Project MMRP has been prepared in conformance with Public Resources Code Section 21081.6 and City of Burbank (City) monitoring requirements.

State CEQA Guidelines Section 15097 provides clarification of mitigation monitoring and reporting requirements and guidance to local lead agencies on implementing strategies. The reporting or monitoring program must be designed to ensure compliance during project implementation. The City of Burbank is the Lead Agency for the 2500 N. Hollywood Way Project and is therefore responsible for ensuring MMRP implementation. This MMRP has been drafted to meet Public Resources Code Section 21081.6 requirements as a fully enforceable monitoring program.

The MMRP Checklist is intended to provide verification that all applicable mitigation measures related to significant environmental impacts are monitored and reported. Monitoring will include: 1) verification

that each mitigation measure has been implemented; 2) recordation of the actions taken to implement each mitigation; and 3) retention of records in the 2500 N. Hollywood Way Project file.

This MMRP delineates responsibilities for monitoring the Project but also allows the City flexibility and discretion in determining how best to monitor implementation. Monitoring procedures will vary according to the type of mitigation measure. Adequate monitoring consists of demonstrating that monitoring procedures took place and that mitigation measures were implemented. This includes the review of all monitoring reports, enforcement actions, and document disposition, unless otherwise noted in the MMRP Checklist. If an adopted mitigation measure is not being properly implemented, the designated monitoring personnel shall require corrective actions to ensure adequate implementation.

The numbering system in the following table corresponds with the EIR's numbering system. The MMRP table "Verification" column will be used by the parties responsible for documenting when the mitigation measure has been completed. The City of Burbank will complete ongoing documentation and mitigation compliance monitoring. The completed MMRP and supplemental documents will be kept on file at the City of Burbank Community Development Department.

# MITIGATION MONITORING AND REPORTING PROGRAM CHECKLIST

| Mitigation Measures | Implementation Timing | Monitoring/ Reporting Methods | Implementation Responsibility/ Monitoring Responsibility | Verification | | |
|---|---|---|---|---|---|---|
| | | | | Initials | Date | Remarks |
| **CULTURAL RESOURCES** | | | | | | |
| **Mitigation Measures** | | | | | | |
| CUL-1: The Applicant shall be required to retain the services of one or more monitor(s) who are qualified in the identification of archaeological and Native American resources. The monitor(s) shall meet the Secretary of the Interior's Professional Qualification Standards for archaeology, and shall be present during construction related ground disturbance activities including, but not limited to, site clearing (such as pavement removal, grubbing, tree removals) and/or excavation to depths greater than artificial fill (including boring, grading, excavation, drilling, potholing or auguring, and trenching) within the Project site and offsite sewer improvement area. A copy of the executed contract shall be submitted to the City of Burbank Community Development Department prior to the issuance of any permit necessary to commence a ground-disturbing activity. The Archaeological Monitor shall complete monitoring logs daily, providing descriptions of the daily activities, including construction activities, locations, soil, and any cultural materials identified. The onsite monitoring shall end when grading and excavation activities of native soil (i.e., previously undisturbed) are completed, or when the | Prior to the issuance of any permit for ground-disturbing activity/On-going during ground-disturbing activities | Executed contract/ Monitoring logs | Project Applicant; Contractor; Archaeological Monitor/ City of Burbank Community Development Department Planning Division | | | |

| Mitigation Measures | Implementation Timing | Monitoring/ Reporting Methods | Implementation Responsibility/ Monitoring Responsibility | Verification | | |
|---|---|---|---|---|---|---|
| | | | | Initials | Date | Remarks |
| Archaeological Monitor has indicated that the site has a low potential for cultural resources, whichever occurs first. The Applicant shall also be required to make the Project site available to native tribe(s) that have ancestral ties to the region during ground disturbance activities for monitoring on their own behalf, if requested – including the Gabrieleño Band of Mission Indians-Kizh Nation, the Fernandeño Tataviam Band of Mission Indians and any other tribe with ancestral ties to the region, as established by the Native American Heritage Commission. | | | | | | |
| CUL-2: If an archaeological or Native American resource is inadvertently discovered during ground disturbing activities, work shall be halted in the immediate vicinity of the find (a 60-foot buffer around the find) until the find can be evaluated by the Archaeological and Native American Monitor(s) to determine if any discovered potential resource meets the CEQA definition of historical (State CEQA Guidelines 15064.5(a)) and/or unique resources (Public Resources Code 21083.2(g)). The City of Burbank Community Development Department shall be immediately notified. If the resource is determined to be potential a tribal cultural resource, the Applicant shall retain the services of a Native American Monitor to work in consultation with the Archaeological Monitor to delineate the resource. Work on areas outside of the buffered area may continue during the assessment period. The | If resources are encountered during ground-disturbing activities | Disposition and treatment of any tribal cultural resource or if not a tribal cultural resource, preparation of a treatment plan and archaeological testing; data recovery, excavation, and archaeological mitigation if cannot be protected | Project Applicant; Contractor; Archaeological Monitor/ City of Burbank Community Development Department Planning Division | | | |

| Mitigation Measures | Implementation Timing | Monitoring/ Reporting Methods | Implementation Responsibility/ Monitoring Responsibility | Verification | | |
|---|---|---|---|---|---|---|
| | | | | Initials | Date | Remarks |
| Applicant shall, in good faith, consult with the Tribe(s) on the disposition and treatment of any tribal cultural resource encountered during all ground disturbing activities. If the find is considered an "tribal cultural resource" the Archaeological Monitor, in cooperation with Native American Monitor, shall pursue either protection in place or recovery, salvage and treatment of the deposits. Recovery, salvage, and treatment protocols shall be developed in accordance with applicable provisions of Public Resource Code Section 21083.2 and State CEQA Guidelines Sections 15064.5 and 15126.4. If a tribal cultural resource cannot be preserved in place or left in an undisturbed state, recovery, salvage, and treatment shall be required at the Project Applicant's expense. All recovered and salvaged resources shall be prepared to the point of identification and permanent preservation in an established accredited professional repository. If the resource is determined to be non-Native in origin, the evaluation may require preparation of a treatment plan and archaeological testing for California Register of Historical Resources (CRHR) eligibility. If the discovery proves to be eligible for the CRHR and cannot be avoided by the Project, additional work such as data recovery, excavation, and archaeological mitigation may be warranted to mitigate any significant impacts. | | | | | | |
| CUL-3: In the event that human remains are discovered during onsite construction activities, the | If human remains are | Notification of Los Angeles | Project Applicant; Contractor; | | | |

| Mitigation Measures | Implementation Timing | Monitoring/ Reporting Methods | Implementation Responsibility/ Monitoring Responsibility | Verification | | |
|---|---|---|---|---|---|---|
| | | | | Initials | Date | Remarks |
| Archaeological Monitor shall immediately divert work at minimum of 50 feet and place an exclusion zone around the discovery location. The Archaeological Monitor shall then notify the construction manager who shall notify the County Coroner per Public Resources Code Section 5097.98, and Health and Safety Code Section 7050.5. The City of Burbank Community Development Department shall also be immediately notified. Work shall continue to be diverted while the coroner determines whether the remains are human and subsequently Native American. The discovery is to be kept confidential and secure to prevent any further disturbance. If the finds are determined to be Native American, the coroner shall notify the Native American Heritage Commission (NAHC) as mandated by State law who shall then appoint a Most Likely Descendent (MLD). Once NAHC identifies the most likely descendants, the descendants shall make recommendations regarding proper burial, which shall be implemented to the extent feasible in accordance with State CEQA Guidelines Section 15064.5(e). | discovered during ground-disturbing activities | County Coroner/ Notification of Native American Heritage Commission if identified remains are Native American in origin | Archaeological Monitor/<br>City of Burbank Community Development Department Planning Division | | | |
| **GEOLOGY AND SOILS** | | | | | | |
| **Mitigation Measures** | | | | | | |
| GEO-1: Prior to commencement of ground-disturbing activities a qualified vertebrate paleontologist (as defined by the Society for Vertebrate Paleontology) shall develop Worker Awareness | Prior to commencement of ground- | Verification of development and provision of WEAP training | Project Applicant; Contractor; Qualified Vertebrate Paleontologist/ | | | |

| Mitigation Measures | Implementation Timing | Monitoring/ Reporting Methods | Implementation Responsibility/ Monitoring Responsibility | Verification | | |
|---|---|---|---|---|---|---|
| | | | | Initials | Date | Remarks |
| and Environmental Program (WEAP) Training for construction personnel. This training shall be presented to construction personnel and include what fossil remains may be found within the Project area and policies and procedures that must be followed in case of a discovery. Verification of the WEAP Training shall be provided to the Burbank Community Development Department. | disturbing activities | for construction personnel | City of Burbank Community Development Department Planning Division | | | |
| GEO-2: Paleontological resources monitoring by a qualified vertebrate paleontologist (as defined by the Society for Vertebrate Paleontology) shall be required during ground disturbances (including grading, trenching, foundation work, and other excavations) in previously undisturbed sediments that exceed 10 feet in depth. The duration and timing of the monitoring shall be determined by the qualified paleontologist and the location and extent of the 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. | On-going during ground-disturbing activities in previously undisturbed sediments that exceed 10 feet in depth | Executed contract/ Monitoring logs | Project Applicant; Contractor; Qualified Vertebrate Paleontologist/ City of Burbank Community Development Department Planning Division | | | |
| GEO-3: 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 | If fossils are discovered during ground- | If fossils are significant, documentation of salvage and | Qualified Vertebrate Paleontologist/ | | | |

| Mitigation Measures | Implementation Timing | Monitoring/ Reporting Methods | Implementation Responsibility/ Monitoring Responsibility | Verification | | |
|---|---|---|---|---|---|---|
| | | | | Initials | Date | Remarks |
| 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:<br>• 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 Society of Vertebrate Paleontology standards. Typically, fossils can be safely salvaged quickly 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.<br>• 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 | disturbing activities | preparation and curation of recovered fossils | City of Burbank Community Development Department Planning Division | | | |

| Mitigation Measures | Implementation Timing | Monitoring/ Reporting Methods | Implementation Responsibility/ Monitoring Responsibility | Verification | | |
|---|---|---|---|---|---|---|
| | | | | Initials | Date | Remarks |
| 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. | | | | | | |
| **GREENHOUSE GAS EMISSIONS** | | | | | | |
| **Mitigation Measures** | | | | | | |
| GHG-1: Prior to the issuance of building permits, the Project applicant shall provide documentation (e.g., building plans, site plans) to the City of Burbank Community Development Department to verify implementation of the design requirements specified in this mitigation measure. Prior to the issuance of the certificate of occupancy, the City shall verify implementation of these design requirements:<br>• The Project applicant shall prepare a Transportation Management Plan with the help of certified Traffic Engineer which includes voluntary and mandatory trip reduction measures such as discouraging single-occupancy vehicle trips and encouraging alternative modes of transportation such as carpooling, taking transit, walking, and biking, implementing employee parking cash-outs, thereby reducing VMT and GHG emissions. The Transportation Management Plan shall grant all employees located within the Project site eligibility to participate. The Transportation | Prior to the issuance of building permits; prior to the issuance of the certificate of occupancy | Approval of Transportation Demand Management Plan/Verification of design requirements | Project Applicant/<br>City of Burbank Community Development Department Planning Division and Transportation Division | | | |

| Mitigation Measures | Implementation Timing | Monitoring/ Reporting Methods | Implementation Responsibility/ Monitoring Responsibility | Verification | | |
|---|---|---|---|---|---|---|
| | | | | Initials | Date | Remarks |
| Management Plan shall be reviewed and approved by the Transportation Planning Division.<br>• The Project applicant shall join the Burbank Transportation Management Organization (TMO), which helps provide services to employees that encourages the use of public transit, carpooling, vanpooling, walking, and biking.<br>• The Project applicant shall demonstrate to the Planning Division that new vehicles owned and operated by the Project operators that provide transport between the Hollywood Burbank Airport and the Project will be clean-fuel vehicles.<br>• No wood-burning or gas-powered fireplaces shall be installed in the proposed development.<br>• All major appliances provided/installed (e.g., dishwashers, refrigerators, clothes washers and dryers, and water heaters) shall be electric-powered EnergyStar-certified or of equivalent energy efficiency, where applicable. | | | | | | |
| **HAZARDS AND HAZARDOUS MATERIALS** | | | | | | |
| **Mitigation Measures** | | | | | | |
| HAZ-1: Prior to the issuance of building permits, the Applicant shall include on the building plans an appropriate vapor intrusion mitigation system using a VOC-compatible vapor barrier that is | Prior to the issuance of building permits | Review and approval of building plans | Project Applicant; Contractor/Regulatory Agency | | | |

| Mitigation Measures | Implementation Timing | Monitoring/ Reporting Methods | Implementation Responsibility/ Monitoring Responsibility | Verification | | |
|---|---|---|---|---|---|---|
| | | | | Initials | Date | Remarks |
| incorporated into the design of new onsite structures, where there may be a potential for vapor intrusion risk to occupants. The elements of the vapor intrusion mitigation system shall include the design of an appropriate vapor barrier compatible with known VOCs, installation oversight to ensure compliance with VOC barrier manufacturers' warranty requirements, and subsequent post-installation VOC barrier integrity testing.<br><br>The Applicant shall incorporate all requirements in the design of the Project as set forth by the applicable regulatory oversight agency for issuance of building permits, including the following measures: The proposed design of the vapor barrier shall be pre-approved by the applicable regulatory oversight agency (e.g., DTSC, the LARWQCB, or other appropriate local regulatory agency). The design of a physical vapor barrier beneath the structure(s) foundation shall prevent soil gas from seeping into breathing spaces inside the structure. The system shall include a passive or powered vapor mitigation system layer that draws soil gas out of the under-foundation base rock and directs that soil gas to a treatment system to prevent people from being exposed outdoors. Any contaminants found in shallow soil vapor shall be mitigated to levels that are protective of human health for the proposed commercial uses. Upon completion, the Project Applicant shall prepare a report documenting the | | *Following implementation*: Documentation of testing and vapor barrier installation; Submittal of Operations, Maintenance, and Monitoring (OMM) Plan | City of Burbank Community Development Department Building & Safety Division | | | |

| | Mitigation Measures | Implementation Timing | Monitoring/ Reporting Methods | Implementation Responsibility/ Monitoring Responsibility | Verification | | |
|---|---|---|---|---|---|---|---|
| | | | | | Initials | Date | Remarks |
| | testing results and installed vapor mitigation method and submit the report to the regulatory agency with jurisdiction.<br><br>An Operations, Maintenance, and Monitoring (OMM) Plan shall be prepared and implemented to maintain the vapor barrier system and confirm that the vapor barrier system continues to be protective of human health. The OMM Plan shall include details of methods for monitoring the vapor barrier system, provide monitoring frequencies and maintenance procedures for the system components and provide for post construction indoor air quality monitoring. The OMM Plan shall be approved by the regulatory agency with jurisdiction. | | | | | | |
| HAZ-2: | Prior to the issuance of a grading permit, the Applicant shall submit a Soils Management Plan (SMP) to the City of Burbank Community Development Department Building & Safety Division that addresses the proper characterization and handling of potential VOC-impacted soils, and other contaminants of concern that may be present. The SMP shall require that, as grading, excavation, and trenching are performed, exposed soil shall be monitored for stained or discolored soil, wet or saturated soils, or odors. If impacted soil is encountered, the soil shall be analyzed to identify and characterize the impact and determine if soil remediation is required. Soil samples shall be analyzed by an appropriate State-certified laboratory using | Prior to the issuance of grading permit | Approval of Soils Management Plan | Project Applicant; Contractor/<br><br>City of Burbank Community Development Department Building & Safety Division | | | |

| Mitigation Measures | Implementation Timing | Monitoring/ Reporting Methods | Implementation Responsibility/ Monitoring Responsibility | Verification | | |
|---|---|---|---|---|---|---|
| | | | | Initials | Date | Remarks |
| appropriate methods based on the parameters to be analyzed. When a new area of contamination is identified, it shall be characterized to assess its lateral and vertical extent. The likely excavation of impacted soil shall be followed by segregated stockpiling or direct-loading, waste profiling, and offsite disposal or recycling, which shall be performed in accordance with applicable federal, State, and local regulations. | | | | | | |
| **NOISE** | | | | | | |
| **Mitigation Measures** | | | | | | |
| NOI-1: The Project Applicant and/or Contractor shall implement the following noise-attenuating measures during construction of the proposed Project:<br>• Construction contracts shall specify that all construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers.<br>• A sign, legible at 50 feet from the property line shall also be posted at the Project construction site. All notices and signs shall be reviewed and approved by the City of Burbank Community Development Department's Planning Division, prior to mailing or posting and shall indicate the dates and duration of construction activities, as well as provide a contact name and a telephone number where residents can | Prior to the issuance of grading or building permit; On-going during construction | Approval of notices and signs; Proof of Noise Disturbance Coordinator; Verification during construction activities; Approval of construction haul routes | Project Applicant; Contractor/<br>City of Burbank Community Development Department Planning Division; City of Burbank Building Official; City of Burbank Public Works Department – Traffic Division | | | |

| Mitigation Measures | Implementation Timing | Monitoring/ Reporting Methods | Implementation Responsibility/ Monitoring Responsibility | Verification | | |
|---|---|---|---|---|---|---|
| | | | | Initials | Date | Remarks |
| inquire about the construction process and register complaints.<br>• The project Applicant shall provide, to the satisfaction of the City of Burbank Community Development Department's Planning Division, a qualified "Noise Disturbance Coordinator." The Disturbance Coordinator shall be responsible for responding to any local complaints about construction noise. When a complaint is received, the Disturbance Coordinator shall notify the City within 24 hours of the complaint and determine the cause of the noise complaint (e.g., starting too early, malfunctioning muffler, etc.) and shall implement reasonable measures to resolve the complaint, as deemed acceptable by the Burbank Community Development Department's Planning Division. All signs posted at the construction site shall include the contact name and the telephone number for the Noise Disturbance Coordinator.<br>• Prior to issuance of any Grading or Building Permit, the project Applicant shall demonstrate to the satisfaction of the City's Building Official that construction noise reduction methods shall be used where feasible. These reduction methods include shutting off idling equipment, installing temporary acoustic barriers around stationary construction noise sources, | | | | | | |

| Mitigation Measures | Implementation Timing | Monitoring/ Reporting Methods | Implementation Responsibility/ Monitoring Responsibility | Verification | | |
|---|---|---|---|---|---|---|
| | | | | Initials | Date | Remarks |
| maximizing the distance between construction equipment staging areas and occupied residential areas, and electric air compressors and similar power tools.<br>• Construction haul routes shall be reviewed and approved by the City's Building Official and City Traffic Engineer and shall be designed to avoid noise sensitive uses (e.g., residences, convalescent homes, etc.), to the extent feasible.<br>• During construction, stationary construction equipment shall be placed such that emitted noise is directed away from sensitive noise receivers. | | | | | | |
| NOI-2: The following measure shall be incorporated on all grading and building plans and specifications subject to approval of the City's Building and Safety Division prior to issuance of a grading permit:<br>• Sonic pile drivers shall be used as an alternative to impact pile drivers to reduce groundborne vibration levels. Impact pile driver operations shall be prohibited. | Prior to the issuance of grading permit | Review and approval of grading and building plans | Project Applicant; Contractor/<br>City of Burbank Community Development Department Building and Safety Division | | | |
| **TRIBAL CULTURAL RESOURCES** | | | | | | |
| **Mitigation Measures** | | | | | | |
| *Refer to Mitigation Measures CUL-1 and CUL-2.* | -- | -- | -- | | | |
| **UTILITIES AND SERVICE SYSTEMS** | | | | | | |
| **Mitigation Measures** | | | | | | |

| Mitigation Measures | Implementation Timing | Monitoring/ Reporting Methods | Implementation Responsibility/ Monitoring Responsibility | Verification | | |
|---|---|---|---|---|---|---|
| | | | | Initials | Date | Remarks |
| *Refer to Mitigation Measure NOI-1.* | -- | -- | -- | | | |