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January 21, 2019  
*Via Email to CityClerk@lacity.org*

Honorable Members of the City Council of the City of Los Angeles  
c/o the City Clerk of the City of Los Angeles  
200 N. Spring Street  
Los Angeles, CA 90012

**Re: Council File No. 18-1088-S1: Applicant Response to Livable LA and AIDS Healthcare Foundation Objections to Approval of Vesting Tentative Tract Map No. VTT-73568-1A, CPC-2015-2025-DB-MCUP-CU-SPR and Certification of Environmental Impact Report ENV-2015-2026-EIR**

Honorable Members of the City Council:

We write on behalf of CRE-HAR Crossroads SPV, LLC (Applicant), the Applicant in the above referenced matter in response to the January 14, 2019 objections (Objections) to the approval of the Crossroads Hollywood Project (Project) submitted by the lone remaining appellant, the commonly owned and controlled organizations Livable LA and AIDS Healthcare Foundation (Commenter), represented by Chatten-Brown & Carstens, LLP. Commenter objects to the City staff report recommending denial of the Commenter's appeal and puts forth new arguments, raised for the first time the day before the appeal hearing before the PLUM Committee on January 15, 2019. Commenter's new arguments consist of assertions that the Project would violate affordable housing and rent control requirements. Commenter's new arguments are meritless and warrant rejection, just as staff recommended the rejection of the arguments set forth in its appeal.

In Commenter's introductory statements, it asserts that the Project would "take advantage of redevelopment agency funding." (Objections, page 1.) This assertion is incorrect, is not supported by any facts or evidence and is speculative. "Argument, speculation, unsubstantiated opinion or narrative, [and] evidence which is clearly erroneous or inaccurate ... does not constitute substantial evidence." State CEQA Guidelines Section 15384(a). The Project will not utilize or require any redevelopment agency funding. Accordingly, the arguments raised by Commenter based on that false assertion are incorrect and must accordingly be rejected.

Commenter further asserts, in general and without supporting citations or other evidence, that the Project violates requirements of the Hollywood Redevelopment Plan and the Los Angeles Municipal Code (LAMC) that allegedly mandate that the Project provide at least 15 percent of its residential units as affordable units, or, if CRA/LA is providing funding for the Project, 30 percent of its units as affordable units. Commenter additionally incorrectly asserts that the Project must provide a right to return subject to the City's rent stabilization ordinance (RSO) to the tenants that would be displaced by the Project and provide them separate units in the Project, ignoring the voluntary right of return provided by the Applicant despite having



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no legal obligation to do so. (Objections, page 1.) As explained in further detail below, Commenter's objections are predicated on misstatements of law and fact and should be rejected by the City Council.

## **I. RESPONSES TO NEW OBJECTIONS RAISED IN COMMENTER'S LETTER**

### **a. Objection: The Project Fails to Provide the Amount of Affordable Housing Required by the Hollywood Redevelopment Plan.**

Commenter falsely asserts that Section 410.4 of the Hollywood Redevelopment Plan requires that all private and public project proponents provide at least 15 percent of their residential units as affordable units, and that redevelopment agency financed project proponents provide at least 30 percent affordable units in their proposed projects. (Objections, page 2.) In support, Commenter quotes from Section 410.4 of the Hollywood Redevelopment Plan.

However, Commenter's selective quotation of Section 410.4 is incomplete and misleading because it omits the critical final sentence of Section 410.4, which states:

The percentage requirements set forth in this Section shall apply in the aggregate to housing in the Project Area and not to each individual case of rehabilitation, development or construction of dwelling units.<sup>1</sup>

"Project Area" is defined in Section 100 of the Hollywood Redevelopment Plan as "all properties within the Project boundary shown on the Redevelopment Plan Map."<sup>2</sup> As such, the Hollywood Redevelopment Plan's affordable housing requirements do not apply on project-by-project basis to individual projects as Commenter claims, but to the entire Redevelopment Plan map area. Thus, Commenter's claim that the 15 or 30 percent affordable requirement applies to the Project are plainly false.

Commenter next asserts that similar requirements are contained in Health & Safety Code Section 33413(b)(1) and (b)(2)(A)(i), which Commenter erroneously cites as the Government Code. (Objections, pages 2-3.) However, these statutory provisions do not apply to the Project. Section 33413 specifically states that it applies to redevelopment projects "*subject to a written agreement with the agency or where financial assistance has been provided by the agency*" (Section 33413(a)), to "new and substantially rehabilitated dwelling units *developed by an agency*" (Section 33413(b)(1)), and to "new and substantially rehabilitated dwelling units *developed within a project area* under the jurisdiction of an agency by public or private entities or persons other than the agency" (Section 33413(b)(2)(A)(i)). As stated, the Project is not being developed pursuant to any written agreement with a redevelopment agency and will not utilize redevelopment agency financing, is not being developed by a redevelopment agency, and the general

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<sup>1</sup> The Hollywood Redevelopment Plan can be accessed at:

<http://www.crala.org/internet-site/Projects/Hollywood/upload/HollywoodRedevelopmentPlan.pdf>

<sup>2</sup> Ibid, page 5.



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requirements applicable to an entire project area do not apply to individual projects such as the Project by the clear terms of the Hollywood Redevelopment Plan.<sup>3</sup> Indeed, the Project could not take advantage of redevelopment agency financing, because under state law as of 2011, redevelopment agencies have been dissolved and their successor agencies – appointed only to wind down old redevelopment agency financial obligations – are legally prohibited from entering into new financial obligations. (See *California Redevelopment Assn. v. Matosantos* (2011) 53 Cal.4th 231, 262, 274.)

Commenter raises an equally misguided corollary argument – that “the Project must be regarded as being developed by the Agency within the meaning of section 410.4” because, commenters assert, CRA/LA “provides substantial funding for area improvements that assist the Project” (Objections, page 3) – on which they base two claims: (1) that the Project should provide 30 percent of its units as affordable units, and (2) that the Project is inconsistent with the Hollywood Redevelopment Plan, contrary to the conclusion reached in both the Staff Report and the EIR. As an initial matter, Commenter’s erroneous claims that the Project violates the Hollywood Redevelopment Plan’s affordable housing requirements rely on citations to cases holding that projects inconsistent with *general plans* cannot be approved. (Objections pages 3-4.) None of the citations address redevelopment plans. Commenter’s misleading and erroneous citations to inapplicable authority warrant rejection of its arguments for that reason alone.

Commenter’s argument that the Hollywood Redevelopment Plan requires the Project to provide 30 percent of its units as affordable units is incorrect for two reasons: (1) as stated above, by its plain language, this provision does not apply to individual projects, and (2) the Project does not rely on any form of redevelopment agency funding. The argument that the Project receives alleged indirect benefits from redevelopment agency activities – which alleged benefits are not even identified by Commenter - and therefore the Project is transformed into a redevelopment agency funded project is baseless and contrary to the plain language of a redevelopment plan provision that clearly contemplates the provision of affordable housing by projects that receive direct funding or other financial support from the City’s dissolved redevelopment agency. For the reasons stated in the City’s response to appeals for the PLUM hearing, the Project is consistent with the Hollywood Redevelopment Plan. (Communication from Dept. of City Planning – Appeal Response, Jan. 10, 2019.) Commenters assertions to the contrary are not supported by any citation to any source document or other evidence, but rather merely on argument and unsubstantiated opinion. As stated above, “[a]rgument, speculation, unsubstantiated opinion or narrative, [and] evidence which is clearly erroneous or inaccurate ... does not constitute substantial evidence.” (State CEQA Guidelines Section 15384(a).)

Relying on a May 2008 Hollywood Redevelopment Project Implementation Plan for 2009-2013 attached to its Objections, Commenter asserts that the City has a deficit of at least 331 low/moderate income units and therefore has failed to meet its obligations to produce sufficient low and moderate income units on an area-

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<sup>3</sup> The citation regarding coastal zone areas in footnote 1 of the Objections is irrelevant, since the Project Site is located in Hollywood, not in a coastal zone.



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wide basis. (Objections, page 3.) Commenter's evidence is stale, and reports on the City's plans for the 2009 through 2013 time period, not on current, relevant data. As such, Commenter's offered "evidence" is not relevant and fails to prove their unsubstantiated assertions. Moreover, any shortfall in affordable housing overall in the Hollywood Redevelopment Plan area – for which there is no evidence in the record - would not provide any legal basis or nexus to require additional affordable housing from a Project that is providing affordable housing consistent with City and state Density Bonus requirements, particularly relative to a Redevelopment Plan that does not apply to the Project and whose provisions for the construction of affordable housing in Hollywood as a whole were predicated on redevelopment agency tax increment financing options that no longer exist. This Project's administrative approval proceedings are furthermore not the proper venue for Commenter to raise arguments against the City regarding the City's alleged non-compliance with the area-wide affordable housing goals of the Hollywood Redevelopment Plan. If Commenter wants to bring a claim against the City for allegedly failing to adhere to the obligations of the Hollywood Redevelopment Plan, it may do so, but the Project's administrative approval proceedings have nothing to do with those claims and are not the proper place to bring them

Commenter's additional complaint that the Project is not producing any low or moderate income units instead of the very low income units provided is baseless for all the reasons set out above, namely, the Project is not subject to any affordable housing requirement for low or moderate income units under the Hollywood Redevelopment Plan, but instead provides affordable units consistent with the requirements of the Density Bonus provisions of state and City law. (Objections, page 3.)

b. **Objection: Other Projects Have Been Required to Provide This Kind of Inclusionary Zoning.**

Commenter next asserts that arguments raised by the project proponent Sapphire Equity LLC in an entirely different project against the applicability of a 15 percent affordable unit requirement contained in a the separate Central City West Specific Plan and that Response to Comment No. 22-17 in Section II, Responses to Comments, in the Final EIR for this Project are both improper because AB 1505, adopted in September 2017, affirms the right of any legislative body to adopt inclusionary affordable housing requirements as a condition of development. Once again, Commenter's claim is founded on fallacies.

First, arguments made by parties in administrative proceedings related to development projects other than the Project are irrelevant to the Project. Second, the other project to which Commenter refers is governed by a different land use plan with a different inclusionary housing requirement that does not apply to the Project. As the staff report cited by commenters (Objections, page 6) notes, the project proposed by Sapphire Equity LLC is located within the boundaries of the Central City West Specific Plan, just west of the Harbor Freeway and the Financial District in downtown Los Angeles (see staff report, pages 3, A-1.) Although not acknowledged by Commenter, the Central City West Specific Plan "includes inclusionary housing requirements for all residential projects." (Staff Report, page P-1.) Therefore, apart from its inapplicability, the Central City Specific Plan's inclusionary housing requirements are materially different



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from those in the Hollywood Redevelopment Plan, since they expressly apply to individual projects. For the reasons stated above, the City's Response to Comment No. 22-17 was correct. Commenter's citations to a different project with a different inclusionary housing requirement under an inapplicable plan are a red herring that has nothing to do with the Project.

c. **Objection: The Project Proponent Cannot Guarantee Units Set Aside to Meet Affordable Housing Requirements of the Redevelopment Plan and Density Bonus Law Will Be Provided to Returning Renters As Required by the LAMC RSO Right of Return**

Commenter objects to the Project's voluntary condition to provide a right of return to existing tenants at the Project Site to rent the Project's new low-income units once completed and, if they do not qualify, a right to return to market rate units at their prior RSO rates. Commenter instead asserts that the Project must set aside at least 60 units specifically designated for returning tenants under the RSO in addition to the Project's proposed 105 very low income affordable units, on the grounds that (1) the RSO obligates the Project Applicant to provide a right of return to existing renters, (2) displaced tenants may not qualify for the new low-income units (citing Housing Authority of the City of Los Angeles [HACLA] restrictions), and (3) returning displaced tenants cannot "cut in front of the line" (citing a HACLA policy). (Objections, pages 6-8.) Commenter's arguments are again baseless and conveniently ignore key facts.

Commenter raised these arguments before in its appeal to PLUM, and responses have been provided by the City. (See commenters' appeal points 2 through 4, and response to appeal points 2 through 4.) As previously explained, there is no legal requirement for the Project to provide a right of return. Neither the Ellis Act nor the City's RSO requires a right of return be provided to the tenants of buildings that will be demolished. As such, the voluntary conditions that allow the tenants a right of return are not related to a legal requirement but rather to a voluntary offer made by the Applicant as a benefit to the existing tenants. Moreover, contrary to the Commenter's implication, no official list of people waiting for privately owned affordable housing units is maintained by the City, and HACLA does not govern or oversee privately owned affordable housing units. While the Los Angeles Housing and Community Investment Department (HCIDLA) oversees private owners' compliance with land use covenants, including affordable housing covenants that are recorded against real property (LAMC § 11.5.11(d)), the private property owner itself is responsible for "tenant selection; certification of household income; preparation and enforcement of leases and rental agreements; affordable rent calculations; maintenance of a tenant waiting list..." among other responsibilities.<sup>4</sup> Therefore, in a privately owned building with affordable housing units, such as the Project will have, the owner maintains the right to select eligible tenants, determines the parameters of the right to return where such a right has been voluntarily provided, and maintains a waiting list, if any.

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<sup>4</sup> See <http://hcidla.lacity.org/Tenant-management-and-occupancy-monitoring>.



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Commenter further asserts in footnote 6 of the Objections that the Project fails to provide 11 percent of its units for very low income tenants as required by the State's Density Bonus Law because the Project will be offering a right of return to existing tenants. At the same time, Commenter argues out of the other side of its mouth that returning tenants will not be able to qualify for the Project's very low income units so that the right of return is an empty promise. (Objections, page 6.) First, the Applicant's voluntary agreement to make affordable units available to existing tenants that qualify does not eliminate the units from being considered affordable units, as the City's policy referenced above gives a landlord of affordable units control over who they rent the units to, so long as it's to a qualifying individual or family and does not violate any fair housing requirements. Second, Commenter fails to mention that, under the Project's voluntary right of return condition, existing Project Site tenants who do not qualify for covenanted very low income units would nonetheless be provided with an opportunity to rent market rate units in the Project at their old RSO rates, thus ensuring that all existing tenants have a reasonably usable right of return regardless of whether they qualify for the rental of affordable units. Commenter's disingenuous and inconsistent arguments regarding a right of return for existing tenants should thus be rejected.

The Project provides 11 percent of its units as very low income housing in accordance with the City and State's Density Bonus Law to qualify for a 35 percent density bonus. No other affordable housing requirement applies to the Project. Therefore, the Project does not "double count" its affordable units. Rather, the Project meets the State's Density Bonus requirements and, in addition, as a community benefit, voluntarily offers a beneficial right of return to prior tenants at the Project Site.

d. **Objection: The Project May Not Be Deemed Consistent With a Legally Adequate General Plan Because the Adopted Hollywood Community Plan is Outdated and Noncompliant with State Law.**

Commenter argues that the Project cannot be approved because the City's General Plan does not meet State requirements for adequacy. Commenter's offered reason is that the previously adopted 2012 Hollywood Community Plan Update was set aside by Judge Goodman in 2013, and the current Hollywood Community Plan that was reinstated by operation of law and a 2014 City ordinance is out-of-date. (Objections, page 9.) Commenter further asserts that, because the Hollywood Community Plan is one component of the Land Use Element of the City's General Plan, the City's General Plan must also be considered to be out-of-date; therefore, appropriate general plan consistency findings cannot be made until the Hollywood Community Plan Update has been approved. (Objections, page 9.)

Contrary to Commenter's unsupported and erroneous claims, the City's General Plan and the Hollywood Community Plan are both in force and operational. The excerpt from the *Tentative Ruling* Commenter attached to its Objections citing "fundamental flaws" in the 2012 Hollywood Community Plan Update have nothing to do with the current plan – and Commenter's convoluted arguments based on the Judge's findings with respect to the population projections in the invalidated 2012 Community Plan Update are not relevant to the current plan. Moreover, Judge Goodman's ruling in no way stated or implied that projects



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could not be approved under the existing plan while the currently pending update to the community plan is being processed. To find otherwise would be tantamount to finding that the law demands the kind of moratorium on all development Commenter put on the ballot with Measure S in 2016 that failed to pass with the voters. There is simply no indication that a moratorium on all development in Hollywood was Judge Goodman's intent or that any other law or case demands such as result. As a matter of law and by function of City Ordinance 182,960, passed in 2014, the Hollywood Community Plan is the community plan that currently governs the Hollywood area, and is only one community plan among the 35 community plans that comprise the General Plan's Land Use Element, which is merely one of eight elements required of general plans under state law.<sup>5</sup> Moreover, to the extent Commenter's claims are a collateral attack on the validity of the Hollywood Community Plan reinstatement ordinance passed in 2014 - for which the applicable 90-day statute of limitations has long since run - that claim is both time barred and is inappropriate to raise in the context of an individual Project's administrative approval process seven years after the fact. (See Govt. Code § 65009.)

In addition to its invalid collateral attack on the validity of the Community Plan, Commenter notably fails to address the Project's actual proposed findings of consistency with the General Plan, presented in the staff report to which the Commenter's letter purports to respond. Commenter thus fails to even attempt to identify any legal deficiency in those consistency findings – Commenter merely complains that the Community Plan was adopted some time ago and therefore the findings must not be valid. That is not enough to show any invalidity in the City's proposed findings that the Project is consistent with the General Plan – findings: (1) over which the City has significant discretion, and (2) that are not required to demonstrate perfect compliance between the Project and the General Plan. (See, *Joshua Tree Downtown Business Alliance v. County of San Bernardino* (2016) 1 Cal.App.5th 677, 694; *The Highway 68 Coalition v. County of Monterey* (2018) 14 Cal. App. 5th 883, 895-896.) Moreover, in light the fact that a draft of the Hollywood Community Plan Update is currently going through the administrative process for approval, it is clear that the City has not delayed in updating the plan in accordance with Judge Goodman's order.<sup>6</sup>

Finally, even though the Hollywood Community Plan Update is in draft form, the Project's EIR studies an alternative, Alternative 6, the Proposed Hollywood Community Plan Update Alternative, that consists of development that would be consistent with the draft Hollywood Community Plan Update now being considered by the City that would have approximately the same total floor area as the Project as originally proposed and studied in the EIR. (See Draft EIR, Chapter V, Alternatives, pages V-269 et seq.) Finally, as explained in the Project's Final EIR, Chapter II, Response to Comments, at Response to Comment No. 15-7, at pp. III-193, the Project as currently recommended for approval by the CPC and PLUM could be approved as-is under the draft Hollywood Community Plan Update with a different set of entitlements. Commenter's time-barred, inappropriate, and baseless claims with respect to the Project's consistency with the General Plan must be rejected.

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<sup>5</sup> See discussion of community plans at: <http://cityplanning.lacity.org/Index.htm>.

<sup>6</sup> See <https://www.hcpu2.org/>.



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## **II. RESPONSES TO COMMENTER'S NEW TECHNICAL REPORTS AND ATTACHED DOCUMENTS**

Commenter supplements its prior comments asserting that the EIR's analyses of the Project's air quality, traffic and historical resources impacts are deficient by providing a report from Robert Kahn of RK Engineering Group, a traffic engineer, and a list of comments purportedly from Deborah Stevens of Environmental Audit regarding the EIR's air quality analyses, and by incorporating by reference files for the applications for Historic Cultural Monument (HCM) designation of four properties that the EIR treated as historical resources due to being listed in Survey LA (though 3 of 4 will be preserved by the Modified Project), including the buildings located at 1547-1549 McCadden Place, 6700 Selma Avenue and 1535-1555 Las Palmas Avenue, 1542 McCadden Place, and 1606-1608 Las Palmas Avenue – *all of which the City later determined did not meet the criteria for HCM status.* (Objections, page 10-11, and attachments 3, 4.) For the reasons that follow, these additional reports and arguments lack merit and fail to demonstrate any flaws in the Project EIR's analyses, or that the EIR findings are not supported by substantial evidence.

### **a. The RK Engineering Group Memo Regarding Traffic Fails To Adequately Address the EIR's Analysis And Fails To Demonstrate That The City's Proposed EIR Findings With Respect To Traffic Are Not Supported By Substantial Evidence**

Commenter attaches as Enclosure 3 to its letter a report by RK Engineering Group (RK Traffic Memo) purporting to address traffic and transportation related claims on a number of different topics. For the reasons that follow, these claims are meritless and fail to demonstrate any lack of substantial evidence to support staff's proposed findings for the Project EIR.

#### **i. Commenter's Claims With Respect To Onsite Traffic Impacts Are Meritless**

The RK Traffic Memo erroneously claims there is insufficient analysis of the operation of the Project's proposed pedestrian circulation within the proposed paseos with respect to the operation of surrounding streets. As an initial matter, the RK Traffic Memo does not attempt to demonstrate how this alleged error renders any of the Draft EIR's impact conclusions invalid. Additionally, the memo's assertion ignores the analysis on this point in the Project's Draft EIR. As detailed on page II-39 of the Draft EIR, the proposed pedestrian paseo would extend diagonally from Sunset Boulevard/Crossroads of the World to the northwestern corner of the Project Site at Highland Avenue & Selma Avenue, with a midblock crossing at Las Palmas Avenue. Additional landscaped public walkways would connect the entire Project Site, promoting access from Sunset Boulevard, Las Palmas Avenue, Selma Avenue, and McCadden Place. Thus, contrary to the claims in the RK Traffic Memo, the operation of the paseo is fully disclosed in the Draft EIR and its claims to the contrary are incorrect and fail to identify any defect in the Draft EIR.

The additional claim that the Draft EIR lacks analysis of local street impacts – particularly that McCadden Place would be affected during construction and operations, that pass-by traffic was eliminated from the





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analysis, and that capacity and queuing impacts on driveways – are incorrect. As detailed on Page IV.L-112 of the Draft EIR, the Traffic Study included the evaluation of operating conditions at four intersections located adjacent to the Project Site and provide access to the Project driveways, including McCadden Place & Selma Avenue and McCadden Place & Sunset Boulevard, both of which are projected to operate at LOS D or better during both the morning and afternoon peak hours under Existing and Future Conditions. Moreover, analysis of vehicle queues at the three unsignalized intersections that provide access to the Project driveways are evaluated and provided in Appendix D of the Traffic Study, attached to the Draft EIR. Claims to the contrary in the RK Traffic Memo are simply not accurate.

The RK Traffic Memo's demand that the EIR identify each and every location where valet services will be provided, first, does not point or claim to point to any invalidity in the EIR, and second, is excessive. An EIR is not required to speculate about every operational detail of a Project that has not yet been constructed and tenanted – decisions that will largely be made after the Project is constructed. Nor does CEQA require a lead agency to provide every project detail requested by commenters – particularly as CEQA demands environmental analysis early in the development of a project to maximize the ability of the project to incorporate design changes and mitigation to ensure environmental impacts are minimized. Nevertheless, Project Passenger loading and unloading areas that would be provided throughout the Project to accommodate pick-up and drop-off operations were analyzed in the Draft EIR – including valet, taxi, rideshare, etc. – although the specific designs have not been finalized at this time. For example, current design plans of the hotel component of the Project do include a port-cochere and valet loading area that would provide access to the parking garage. In addition, it is anticipated loading areas would be provided within the parking garage with access along Las Palmas Avenue. The loading areas would be placed to limit queue spillover onto the adjacent streets. Site access and circulation including with respect to, among other things, valet services were analyzed on pages IV.L-112 to IV.L-115 of Section L, Traffic, Access, and Parking, of the Draft EIR. As described on pages IV.L-112 to IV.L-115 of Section L, Traffic, Access, and Parking, of the Draft EIR, impacts were determined to be less than significant. The RK Traffic Memo does not challenge this conclusion relative to valets.

The RK Traffic Memo's claim that the new parking structure must be analyzed ignores the analysis in the Final EIR of that very structure. Analysis of the referenced multi-level parking structure on the adjacent church property was fully analyzed in the Final EIR and Appendix 4 to the Final EIR, the Traffic Impact Analysis for the Modified Project. As described in the Final EIR and the Modified Project Traffic Memo, the construction of the new parking structure would result in modified trip distribution patterns for the commercial uses as compared to the Original Project, thereby reducing the amount of Project-related traffic access the Project Site via Las Palmas Avenue. The modified commercial trip distribution patterns are provided in Figure 1 of the Modified Project Traffic Memo, Appendix 4 to the Final EIR. Accordingly, this analysis is fully disclosed in the EIR and any claim to the contrary is incorrect.

With the respect to the claims regarding queuing at control gates, the placements of control gates would be designed in accordance with LADOT and BOE established design standards and guidelines so as to



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minimize queue spillover onto adjacent streets. No evidence is provided by the RK Traffic Memo that adherence to these standards would be insufficient. Moreover, as stated above, site access and circulation issues were analyzed on pages IV.L-112 to IV.L-115 of Section L, Traffic, Access, and Parking, of the Project's Draft EIR, which found impacts relative thereto to be less than significant.

The request for a ULI shared parking demand analysis is not supported. As an initial matter, an EIR is not required to conduct each and every request for further study requested by a commenter. See CEQA Guidelines § 15204 ("When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR.") Crucially, as explained in Topical Response B.4, Parking, in the Final EIR, parking impacts associated with residential, mixed-use residential or employment center projects on infill sites within a transit priority area are not considered to be significant impacts, per SB 743.

Moreover, on-street parking removals both during construction and upon Project completion were addressed in the Executive Summary, Project Description, and in Section L, Traffic Access, and Parking of the Draft EIR. The temporary parking removals during construction activities are detailed in Figure 19 of Chapter 14 of the Traffic Study attached to the Draft EIR. As concluded in the EIR and the Project findings, the Project's parking supply would adequately satisfy the Project's applicable LAMC parking requirement as well as its parking demand. Therefore, secondary circulation impacts of vehicles waiting to enter and exit parking garages, by drivers circling the project site to find on-street parking, or those on surrounding streets are not anticipated. As discussed in the site access and circulation section of the Traffic Study (Section L, Traffic, Access, and Parking of the Draft EIR), to better facilitate driveway operations and minimize queuing on the adjacent street system that would block through traffic, the Project proposes to provide a center two-way left-turn lane along Las Palmas Avenue between Selma Avenue and Sunset Boulevard adjacent to the Project Site in order to accommodate turning maneuvers into and out of the Project driveways. The on-street parking spaces currently serve the residential and commercial uses along Las Palmas Avenue, which comprise the Project Site. With development of the Project, the users of these parking spaces would be accommodated within the Project's on-site parking facilities.

On-street parking on McCadden Place adjacent to the Project Site would be temporarily removed to maintain two-way traffic operations during construction activities, as described in Chapter 14 of the Traffic Study. These spaces, as well as standard roadway widths and sidewalks, would be restored once the Project is operational. Furthermore, LABOE requires roadway widening and dedication improvements to achieve Mobility Plan 2035 standards for a local street, which includes a 36-foot roadway width (18-foot half-roadway) and 60-foot right-of-way width (30-foot half-right-of-way). Thus, a 15-foot sidewalk would be provided on each side of the roadway. The area required to achieve the standard sidewalk widths would be dedicated along the Project Site and would not reduce travel lanes nor remove on-street parking.

Regarding the loss of on-street parking, the development of the Project would only result in the permanent removal of 32 on-street parking spaces on Las Palmas Avenue, while providing a total of 2,260 vehicle



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parking spaces. The lost street parking spaces serve the existing parcels along Las Palmas Avenue, which make up the Project Site. Thus, parking for these parcels would be replaced within the on-site parking facilities once the Project is constructed. As set forth in the Project Description of the Draft EIR, the Project's parking supply would adequately satisfy the Project's code parking requirement. Beyond that, as stated, parking impacts of infill transit priority projects such as the Project are not significant impacts as a matter of law under the SB 743.

ii. The Project's Traffic Impact Analysis Are Sufficient Under CEQA

Regarding the RK Traffic Memo's claim that the EIR traffic analysis include analysis of Saturday traffic impacts, please refer to Response to Comment No. 64-9 in the Final EIR with regards to the consistency of the traffic analysis with the City's established traffic and transportation impact analysis methodology.

Regarding the trip generation of entertainment uses, as described in the Traffic Study and Draft EIR, as well as the supplemental Traffic Memo, the number of trips generated by the Project during the morning and afternoon commuter peak hours was estimated using rates published in ITE's Trip Generation, 9th Edition (2012). These rates are based on surveys of similar land uses at sites around the country. As further described in the Traffic Study, the land use category and trip generation rates outlined in ITE Trip Generation for hotel uses include not only the hotel, but also ancillary conference area, meeting rooms, lobby lounge and bar, rooftop bar and lounge, guest amenities, as well as retail and restaurant space. Further, the land use category and trip generation rate for shopping centers, which was used to estimate trips generated by the commercial component of both the Original and Modified Project, includes not only retail uses, but also entertainment, theater, restaurant and food and beverage, banks, small offices, services, etc., that are common within shopping center developments. In addition, as described in Trip Generation, 9th Edition, the quality and high-turnover restaurant land use categories include restaurants with lounge or bar facilities that serve alcohol. Therefore, appropriate trip generation rates were applied to account for the "alcohol-related uses" of the Project. Thus, the land use category and trip generation rate for shopping centers, which was used to estimate trips generated by the commercial component of both the Original and Modified Project, includes not only retail uses, but also entertainment, theater, restaurant and food and beverage, banks, small offices, services, etc., that are common within shopping center developments.

The RK Traffic Memo's claim of unmitigated impacts – particularly at Sunset & Vine and Sunset & Cahuenga are inaccurate. All feasible and available mitigation measures were included in the Project's mitigation program. As detailed in the Traffic Study, physical improvement options at the five study intersections where unmitigated impacted were identified, including Vine Street & Sunset Boulevard and Cahuenga Boulevard were evaluated, however, were deemed infeasible due to the constraints of the physical conditions.



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The RK Traffic Memo's claim that the EIR understates the significance of cumulative impacts by failing to disclose the existence of at least 11 related projects is legally incorrect. Contrary to this opinion, the EIR considers the effects of Project-generated traffic in relation to other developments either proposed, approved or under construction, i.e., the related projects in accordance with the requirements of Section 15130 of the CEQA Guidelines. Based on a review of City Planning and LADOT files, all 11 related projects identified by Commenter – which were identified in prior comment letters by other commenters – were either filed after the Project's NOP date or have been determined to result in nominal trip generation (i.e., below LADOT's established threshold for requiring the preparation of a full transportation impact study). Accordingly, there was no obligation under CEQA to list these projects as related projects in the EIR.

Moreover, these projects were in fact captured and accounted for in the EIR with the application of the ambient growth factor. A conservative ambient growth factor of 1 percent per year compounded annually was applied and accounts for increases in traffic due to potential projects not yet proposed (at the time of the Project's NOP date), smaller projects generating few net new trips, or projects located outside of the traffic analysis study area. Therefore, these additional related projects were sufficiently considered for CEQA analysis purposes, and the EIR did not understate the significance of the Project's cumulative impacts. Regarding existing use credits, the existing uses considered in the trip generation estimates were operational at the time the MOU was approved and when the traffic counts were collected.

iii. The RK Traffic Memo Fails To Raise Any Legitimate Concerns About the Project's Traffic Mitigation Program

The RK Traffic Memo's claim that the EIR Traffic Demand Management (TDM) program trip reduction is unrealistic is incorrect. As detailed in Topical Response B.5, Traffic, and page IV.L-132 of the Draft EIR, Trip Generation Handbook, 3rd Edition (ITE, August 2014) provides a summary of research of TDM programs at many different employers. At places that had the most comprehensive programs, including both economic incentives and support services, the programs resulted in an average 24 percent reduction in commuter vehicles. For a more direct local comparison to the Project, empirical. Studies of trip generation characteristics of four high-rise office tower were conducted in Century City on 2011. As detailed extensively in the Final Subsequent Environmental Impact Report: Century City Center (LSA Associates, Inc., October 2013), actual vehicle trips arriving to and leaving office towers in Century City were less than 50% of the gross estimates that had been made using ITE's published trip generation rates. Even after a 25% transit and TDM credit had been applied, those estimates were still nearly double the empirical rates of the four towers. Compared to the Century City example, the Project Site is also located within a highly urbanized area and is located near transit. Thus, the application of TDM program trip reductions is reasonable and acceptable.

The RK Traffic Memo's complaint about "low" contributions (\$1.15 million) from the Project considering size of development only reflects the Commenter's opinion and does not raise any defect in the EIR's environmental analysis - and can be rejected for that reason alone. In addition, the claim is factually



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inaccurate, because in addition to the over \$1.53 million in contributions towards transit system improvements (\$1.33 million) and TSM improvements (\$200,000) as part of the Project's mitigation, the Project would also contribute \$200,000 towards the City's bicycle trust fund and \$500,000 to fund and coordinate implementation for the NTMP process for the six identified neighborhoods. Furthermore, the Project would voluntarily contribute \$450,000 to LADOT's Vision Zero section to fund pedestrian safety enhancements. These contribution totals were defined by LADOT in their assessment letter. These contributions do not include the Project's physical mitigation measure at the intersection of Las Palmas Avenue & Sunset Boulevard (TRAF-MM-5).

The RK Traffic Memo's demand that the Project fund traffic signals at intersection #5 (Gower[s] Street & US 101 Southbound Off-Ramp) and #8 (L[o]s Palmas Avenue at [Soma] Avenue) similarly do not point to any defect in the EIR analysis and warrant rejection for that reason alone. Furthermore, the demand is factually deficient. As detailed in the LADOT assessment letter, it is recognized that the intersections of Gower Street & US 101 Southbound Off-Ramp (Unsignalized Intersection #5) and Las Palmas Avenue & Selma Avenue (Unsignalized Intersection #8) satisfy the peak hour warrant for a signal based on Future projected traffic volumes. The signal installation at Gower Street & US 101 Southbound Off-Ramp is currently planned as part of another development project in Hollywood. As detailed in the LADOT assessment letter, LADOT recommends that the Project will conduct new traffic counts and perform an updated traffic signal warrant analysis after the Project has been operation for one year. If deemed warranted by LADOT, the design and construction of the traffic signal would be required by, and be funded by, the Project.

The RK Traffic Memo's demand that the Project make contributions to Caltrans to improve freeway ramp intersections similarly does not attempt to identify any defect in the EIR. Furthermore, as indicated in Table 6 of the Modified Project Traffic Memo, Appendix 4 to the Final EIR, the Modified Project would not result in any significant impacts at any Caltrans freeway ramp intersections. Significant impacts identified on Santa Monica Boulevard, a Caltrans facility, would be mitigated to less than significant with implementation of the proposed mitigation program. In addition, as described in Response to Comment No. 1-4 of the FEIR, Caltrans does not identify specific incremental criteria by which to measure the significant of impacts to freeway mainline segments or intersections. Therefore, it is not possible to identify whether a specific facility would be significantly impacted under such unknown criteria. In addition, as detailed in Response to Comment No. 1-6 in the FEIR, Caltrans has not provided the City with substantial evidence to support the adoption of a Traffic Mitigation Agreement (TMA) as a mitigation measure. Caltrans has not provided the methodology used to identify a mitigation measures, the threshold in identifying impacts requiring a TMA, the basis for finding it reasonably foreseeable, and the mitigation measure to reduce the identified significant impact. Thus, the claim that Caltrans facility funding is needed to mitigate any potentially significant impacts caused by the Project is incorrect.



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iv. The PK Traffic Memo's Opinions About The Project's Contributions To Address Residential Street Segment Impacts Do Not Raise Any CEQA Issues

The RK Traffic Memo's complaint about "low" contributions to residential street segment "cut through" impacts is only the speaker's opinion, does not raise any defect in the EIR's environmental analysis and can be rejected for that reason alone. Moreover, the Applicant's offer to contribute \$500,000 to fund any necessary Neighborhood Traffic Management (NTM) measures within the six identified neighborhood boundaries was deemed proportionate by LADOT in the LADOT assessment letter based on the size of the Project and with the level of residential street impacts that were anticipated. As detailed in TRAF-MM-6, Neighborhood Traffic Management Plan (NTMP), the Project would submit an NTM Implementation Plan to LADOT that sets key milestones and identifies the proposed process in developing an NTMP for the six identified neighborhoods.

v. The PK Traffic Memo's Claims Regarding the EIR Analysis Of Project Traffic Construction Impacts

The RK Traffic Memo's claim that a more detailed assessment of specific roadway impacts during construction is required are baseless. The DEIR and Traffic Study included the evaluation of the excavation and grading phase, peak haul truck activity is anticipated, and the building construction phase, when peak worker activity is projected. As detailed on page IV.L-87 of the Draft EIR, a most haul truck activity and construction worker trips would occur outside of the typical weekday commuter peak periods. However, the potential temporary impact of intermittent lane closures was analyzed. As detailed on page IV.L-88 of the Draft EIR, conservatively assuming construction activities all proposed lane and road closures would occur simultaneously, temporary significant traffic impact are anticipated at the intersections of Highland Avenue & Hollywood Boulevard (Intersection #37) and Highland Avenue & Sunset Boulevard (Intersection #65).

The RK Traffic Memo's claim that the temporary loss of 74 parking spaces during construction should be made up merely states the speaker's opinion – it does not raise any argument against the EIR's analysis, and on that basis can be rejected for that reason alone. Moreover, the parking spaces temporarily removed during construction activities serve the existing uses at the Project Site, which would not be in operation during construction. Other than the on-street parking spaces on Las Palmas Avenue, all other temporarily removed on-street spaces would be replaced when the Project is operational.

The RK Traffic Memo's claim that the Project must maintain two-way operations on McCadden Place at all times during construction is simply inaccurate, and points to no legal requirement for the same. Please see Response to Comment 2.2-4 to the VTTM appeal letter from the Hollywood Media Center (August 2018) regarding traffic operations on McCadden Place during construction activities. As detailed on page IV.L-87 of the DEIR, McCadden Place would be temporary narrowed with the removal of parking and one travel lane. However, two-way operations would be maintained with a flag person to control traffic movement during temporary traffic flow disruptions, as required in the Construction Management Plan.



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The RK Traffic Memo's claim that the Project must accommodate off-site parking for construction workers fails to recognize that, as detailed on page 242 of the Draft EIR Traffic Study, adequate parking for construction workers would be secured in the vicinity of the Project Site. The Construction Management Plan would restrict construction workers parking in the public right-of-way in the vicinity of (or adjacent to) the Project Site, as detailed in TRA-PDF-1. The RK Traffic Memo's claim that the Project construction vehicles must not block existing local streets also fails to recognize that TRA-PDF-1 includes the prohibition of staging or construction-related vehicles parking on surrounding public streets or adjacent to a school property. Thus, the Commenter's complaints lack merit.

Aside from Mr. Kahn's report, commenters assert that the Redevelopment Plan requires the City to "cease all development activities and provide credible traffic and mobility mitigation measures after development in the Regional Center reaches an FAR of 2:1," which commenters claim is a level that has been reached. No support is provided for this proposition – nor is any claim regarding how this issue relates to the Project. To the contrary, this allegation is not related to the Project, and does not point to any defect in the City's findings and determinations appealed by the Commenter. If Commenter wants to raise an objection to the City's compliance with the Hollywood Redevelopment Plan, the administrative approval process for the Project is not the proper venue for those complaints.

**b. The Air Quality Claims From Environmental Audit Fail To Adequately Address the EIR's Analysis And Fail To Demonstrate That The City's Proposed EIR Findings With Respect To Air Quality Are Not Supported By Substantial Evidence**

As an initial matter, there is no indication of the source of the comments that are attached as Enclosure 4 to the Objections (Air Quality Report), as these comments are presented on paper that does not contain a letterhead or any other identifying marks that indicate that they originate from Ms. Stevens, Environmental Audit Inc., or any other source, expert or otherwise. As such, there is no indication that these comments originated from an expert source, as the Commenter implies.

The Air Quality Report asserts that the EIR underestimates construction emissions, the LST analysis is incorrect, mitigation measures provided in the EIR are inadequate, the cumulative air quality impact analysis is inadequate, and the health risk analysis is inadequate. As a result, she opines that the EIR must be revised and recirculated or a subsequent EIR must be prepared and circulated to the public to address the identified problems. However, as discussed below, no additional analysis is required, no changes to significance conclusions would occur, and a subsequent EIR is not required.

**i. The Air Quality Report's Claims Regarding The EIR's Analysis Of Construction Emissions Are Incorrect**

Contrary to the opinion in the Air Quality Report that the construction schedule is not clearly defined, the construction phases are discussed on page II-57 in Section II, Project Description, of the Draft EIR, which



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states that construction is anticipated to occur over approximately 48 months, to be completed in 2022, and to be conducted in phases. The phases are as follows: (1) demolition of the buildings and surface parking lots proposed for demolition; (2) grading and excavation for the subterranean parking garages; (3) placement of building foundations; (4) building construction; (5) architectural coating application; (6) paving/concrete installation; and (7) landscape installation. This construction sequence, typical of any development, is what comprises the construction phases.

Contrary to the suggestion in this comment, not supported by substantial evidence, overlap between demolition and grading and excavation is not anticipated to occur. The Draft EIR assumes that demolition would occur in one phase, followed by excavation in one phase with no overlap with other phases (i.e., building foundation or building construction) across all parcels within the Project Site. As shown in Table IV.B-4 in Section IV.B, Air Quality, of the Draft EIR, maximum daily emissions occur in Year 2018 over a 5-month period during excavation activities and would result in short-term significant unavoidable regional air quality impacts. Excavation activities require the use of more heavy-duty construction equipment and haul truck activity than any other phase of construction. Thus, any potential overlap suggested by this comment would in fact reduce air quality impacts since the amount of equipment and vehicular activity would be reduced on some of the parcels as Project construction enters the building construction phase on those parcels. Thus, the analysis presented in the Draft EIR assumes a worst-case scenario.

The suggestion in this comment that the number of days during demolition should be extended in comparison to the number of days of demolition provided in the Draft EIR would result in a less conservative analysis. Analysis of peak conditions is required by the South Coast Air Quality Management District (SCAQMD) in order to compare a project's pollutant emissions against the maximum daily SCAQMD significance thresholds. Since the Draft EIR analysis includes maximum daily activity for demolition (e.g., maximum daily equipment, haul truck trips, and employees), extending the number of construction days would result in a reduction in the maximum daily activity (i.e., spread out over a longer duration) and air pollutant emissions. Thus, the suggested mitigation measure to impose limits on the number of days of activity would not serve to reduce potential daily air quality impacts and is not considered further.

In response to the comment regarding overlapping phases, Appendix C, Air Quality and GHG Modeling, of the Draft EIR discloses that there would only be overlap between the building construction and the architectural coating application phases. Accordingly, the construction air quality analysis in Section IV.B, Air Quality, of the Draft EIR accounts for this overlap of construction activities and addresses potential air quality impacts based on peak daily activity (maximum number of pieces of equipment operating for the maximum number of hours per day). As discussed above, analysis of peak conditions is required by the SCAQMD in order to compare a project's pollutant emissions against the maximum daily SCAQMD significance thresholds. The air quality analysis conservatively includes the necessary equipment (e.g., air compressors) and employee trips within the building construction phase. The purpose of including the architectural coatings phase in the building construction phase is to determine the amount of volatile





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organic compound (VOC) emissions released during the application of architectural coatings. Appendix C-2 (CalEEMod output file) shows that, in 2021, VOC emissions would equal 60 pounds per day, of which 6 pounds would result from off-road equipment (e.g., air compressors), 3 pounds from vehicular trips, and 51 pounds from application of architectural coatings. These emissions are then combined with the emissions from the overlap with building construction. The equipment mix and vehicular activity assumed for the building construction phase represents the peak day over the entire Project Site and includes all parcels. The Draft EIR determines, based on this substantial evidence, that there would be a less-than-significant impact on air quality during the building construction phase (i.e., after the first six months of construction during the demolition and excavation/grading phases), and no additional mitigation measures are required beyond Mitigation Measures AIR-MM-1 through AIR-MM-5,<sup>7</sup> as identified on pages IV.B-55 and IV.B-66 in Section IV.B, Air Quality, of the Draft EIR.

The Air Quality Report further asserts that the length of the architectural coating phase of construction has been increased in the CalEEMod model assumptions, which it incorrectly speculates has been done to prevent the Project from exceeding the VOC daily emission threshold and “hide” the “fact” that the Project’s VOC emissions would be significant under CalEEMod default assumptions. As discussed above, however, architectural coatings would overlap with the building construction phase. The equipment mix and vehicular activity assumed for the building construction phase represent the peak day over the entire Project Site and include all parcels. Thus, some buildings would be completed sooner than other buildings over the duration of building construction. As a result, the use of architectural coatings would occur earlier and over a longer duration than the duration included as a default within the CalEEMod model. It is important to note that the CalEEMod default is based on a limited number of construction surveys conducted by the SCAQMD to generically represent a broad range of project types.<sup>8</sup> Thus, where more project-specific information is available, the default values should be updated.

Regarding the Air Quality Report’s suggestion that another mitigation measure be added limiting the VOC content of architectural coatings, such a measure is not required in this air basin. The CalEEMod default value of 100 g/l for non-residential and 50 g/l for residential interior coatings is consistent with SCAQMD Rule 1113, Architectural Coatings, requirements. The Project would comply with the requirements of SCAQMD 1113.

ii. The Air Quality Report’s Claims Regarding The EIR’s Use Of SCAQMD’s LST Methodology Are Inaccurate

The Air Quality Report claims that the Project is too large to use the SCAQMD’s screening tables, and that project-specific modeling was required. However, as discussed on Page IV.B-25 of Section IV.B, Air

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<sup>7</sup> As shown in Section III, Revisions, Clarifications, and Corrections to the Draft EIR, of this Final EIR, the naming/numbering of the mitigation measures identified in the Draft EIR has been revised to be consistent with the naming/numbering convention used in Section IV, Mitigation Monitoring Program, of this Final EIR.

<sup>8</sup> <http://www.aqmd.gov/home/rules-compliance/ceqa/air-quality-analysis-handbook/localized-significance-thresholds>



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Quality, of the Draft EIR, the localized air quality impacts analysis was conducted properly using SCAQMD methodology. LSTs represent the maximum emissions from a project that are not expected to cause or contribute to an exceedance of the most stringent applicable federal or State ambient air quality standard and are developed based on the ambient concentrations of that pollutant for each source receptor area (SRA) and distance to the nearest sensitive receptor. The mass rate look-up tables were developed for each source receptor area (e.g., area-specific meteorological conditions) and are used to determine whether or not a project may generate significant adverse localized air quality impacts. It is acknowledged that the LST Methodology (revised July 2008) does recommend lead agencies perform project-specific air quality modeling for larger projects. However, the SCAQMD CEQA Program Supervisor provided additional guidance in 2011 for projects that exceed 5 acres, such as the Project, the 5-acre LST look-up values can be used as a screening tool to determine which pollutants require detailed analysis. Understanding how the AERMOD model calculates pollutant concentrations, this approach is conservative as it assumes that all on-site emissions would occur within a 5-acre area and would over-predict potential localized impacts (i.e., more pollutant emissions occurring within a smaller area and within closer proximity to potential sensitive receptors). If the project exceeds the LST look-up values, then the SCAQMD recommends that project-specific air quality modeling must be performed. It should also be noted that the SCAQMD reviewed the Draft EIR and did not recommend project-specific modeling. Please refer to Comment Letter No. 5 in Section II, Responses to Comments, of the Final EIR.

The Air Quality Report also opines that one comprehensive LST analysis should not have been performed but, instead, a separate LST comparison should have been done on each project parcel, claiming that this methodology would have concluded that the Project would have significant localized air quality impacts. However, as discussed above regarding construction, the Draft EIR assumes that demolition would occur in one phase followed by excavation in one phase with no overlap with other phases (i.e., building foundation or building construction) across all parcels within the Project Site. Thus, the modeling approach suggested in this comment would not be applicable to the Project analysis, since the maximum daily emissions cited in this comment represent grading and excavation activities that would occur across all parcels within the Project Site (approximately eight acres). Please note that subsequent phases of construction (building foundation, building construction, and architectural coatings) would all be even less than the cited LST thresholds in this comment for a one acre site at 25 meters. No changes to the significance conclusions in the Draft EIR would occur based on this comment and no additional mitigation measures are necessary.

iii. The Air Quality Report's Complaints About Project Mitigation Measures Lack Merit

The Air Quality Report raises several objections to Mitigation Measure AIR-MM-5, originally designated as B-5 in the Draft EIR. First, she asserts that mitigation for significant construction impacts must include the use of Tier 4 engines which result in a 90 percent reduction in NOx and PM emissions. As discussed on page IV.B-56 in Section IV.B, Air Quality, of the Draft EIR, implementation of the Mitigation Measures B-1 through B-5 (relabeled AIR-MM-1 through AIR-MM-5 in the Final EIR) would reduce construction emissions for all pollutants. However, even with the incorporation of these identified mitigation measures,



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construction of the Original Project would still generate emissions that exceed the SCAQMD regional significance thresholds for NOX during excavation and grading activities. With the implementation of Mitigation Measures B-1 through B-5, regional NOX emissions would be reduced from 240 pounds per day to 225 pounds per day, or to 125 pounds over the 100 pounds per day SCAQMD significance threshold. The duration of this reduction would be limited to the grading/excavation/ export phase, or to approximately five months near the beginning of the 48-month construction period.

Mitigation Measure B-5 of the Draft EIR requires the use of Tier III equipment, which reduces on-site equipment NOX emissions by 30 percent. The suggested measure that would require equipment to meet Tier 4 standards may not be feasible for the following reasons:

Tier IV requirements went into effect in 2015, and it would not be reasonable to assume that the construction market would have a substantial amount of the newer equipment readily commercially available in 2019 when proposed grading/excavation/export activities would occur. The California Air Resources Board (CARB) OFFROAD 2017 is an emissions model for heavy construction equipment used within California and includes heavy-duty equipment registration data within the State. At the start of Project construction, the OFFROAD 2017 model indicates that Tier 4 equipment may not be readily available.<sup>9</sup> As discussed above, emissions generated from Project construction would exceed the SCAQMD significance threshold during the five month duration of excavation and grading activities. These construction activities would require bore/drill rigs, cranes, excavators, and pumps. OFFROAD 2017 indicates that the equipment population meeting Tier 4 requirements represent approximately 21 percent of bore/drill rigs, 10 percent of cranes, and 25 percent of excavators and pumps. Given such low availability and the number of construction projects ongoing and expected to be ongoing during Project construction, equipment meeting Tier 4 standards may not be commercially available when needed for Project construction, especially given the large size of the Project, even as modified.

On-site equipment emissions account for approximately 16 percent of the total peak daily regional NOX emissions, and, therefore, any reduction from use of Tier IV equipment would marginally reduce overall regional NOX emissions.

The recommended additional measure would not help meet the goal of the SCAQMD 2016 AQMP by reducing regional NOX emissions by 2023. However, construction of the Project would be completed in 2022 and, thus, would not serve to help the SCAQMD reach the 2023 goal provided in the 2016 AQMP.

Although the suggested measure may not be feasible, in consideration of this comment and SCAQMD's Comment No. 5-5 of the Final EIR, Mitigation Measure B-5/AIR-MM-5 was further strengthened in the Final EIR as follows:

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<sup>9</sup> California Air Resources Board OFFROAD2017—ORION database, [www.arb.ca.gov/orion/](http://www.arb.ca.gov/orion/).



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Mitigation Measure AIR-MM-5 (Referred to as B-5 in the Draft EIR): During plan check, the Project representative shall make available to the lead agency and SCAQMD a comprehensive inventory of all off-road construction equipment, equal to or greater than 50 horsepower, that will be used an aggregate of 40 or more hours during any portion of the grading/excavation/export phase. The inventory shall include the horsepower rating, engine production year, and certification of the specified Tier standard. A copy of each such unit's certified tier specification, BACT documentation, and CARB or AQMD operating permit shall be provided on-site at the time of mobilization of each applicable unit of equipment to allow the Construction Monitor to compare the on-site equipment with the inventory and certified Tier specification and operating permit. Off-road diesel-powered equipment that will be used an aggregate of 40 or more hours during any portion of the construction activities associated with grading/excavation/export phase shall meet Tier 4 standards to the extent such equipment is commercially available, but if such equipment meeting Tier 4 standards is not commercially available, then such equipment shall meet Tier 3 standards. Furthermore, where equipment meeting Tier 4 standards is not commercially available, substantial evidence of that fact shall be provided to the City. Construction contractors supplying heavy duty diesel equipment greater than 50 horsepower shall be encouraged to apply for AQMD SOON funds. Information including the AQMD website shall be provided to each contractor which uses heavy duty diesel for on-site construction activities.

Use of equipment meeting Tier 4 standards during the excavation/export phase has the potential to further reduce off-road emissions by approximately 90 percent. Thus, in the context of overall construction activities that include both on- and off-road equipment and vehicles, regional NOX emissions during the 5 month long excavation/export phase would be further reduced from 225 pounds per day to 193 pounds per day. Thus, the emissions from construction of the Project would be reduced to approximately 93 pounds over the 100 pounds per day SCAQMD significance threshold.

The Air Quality Report additionally argues that AIR-MM-5 should not be limited to the grading/excavation/export phase, but that the use of Tier 4 construction equipment should apply to all phases of construction activity, as heavy equipment (e.g. cranes, cement and mortar mixers, plate compactors) would still be expected to be used in the building construction phase which is expected to last close to three years and because she believes that the Project's construction emissions have been underestimated (which comment was addressed above). However, as discussed above, the duration of the significant air quality impact would be limited to the grading/excavation/ export phase, or to approximately five months near the beginning of the 48-month construction period. Thus, extending the requirements of Mitigation Measure AIR-MM-5 (Referred to as B-5 in the Draft EIR) beyond the grading/excavation/export phase would not be necessary since air quality impacts during the other phases of construction would be less than significant.



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iv. The Project's Cumulative Air Quality Impact Methodology Was Valid And the Air Quality Report Does Not Credibly Argue Otherwise

The Air Quality Report asserts that the EIR's analysis of the Project's potential cumulative air quality impacts is deficient since it does not rely on the "list approach" option provided in State CEQA Guidelines Section 15130(b)(1), and that the analysis should have considered other projects in the area that could be under construction at the same time. Ms. Stevens includes tables that show that, using her preferred methodology, the Project would have significant cumulative impacts and that mitigation would be required. However, the Air Quality Report's suggested methodology is contrary to the SCAQMD's methodology, which is the methodology the City as lead agency chose to adopt.

The definition of a cumulative impact is included on pages III-3 through III-6 of Chapter III, Environmental Setting, of the Draft EIR. The Draft EIR appropriately uses specific analyses for each cumulative analysis impact category. The SCAQMD guidance regarding air quality cumulative impact methodology is explained below and does not require an analysis comparing the Project's emissions in combination with other related project emissions against the significance thresholds.<sup>10</sup>

The SCAQMD shares responsibility with the California Air Resources Board (CARB) for ensuring that all federal and State ambient air quality standards are achieved and maintained throughout all of Orange County and the urban portions of Los Angeles, Riverside, and San Bernardino counties. SCAQMD has developed methodologies and thresholds of significance that are widely used by lead agencies throughout the air basin. As set forth in the LA CEQA Thresholds Guide, the City adopted the SCAQMD thresholds to assess the significance of a project's project-specific and cumulative air quality impacts. SCAQMD's White Paper on Potential Control Strategies to Address Cumulative Impacts From Air Pollution prepared in August 2003 specifically states:

*The AQMD, as Lead Agency, complies with all cumulative impact analysis requirements when preparing CEQA documents. As a Commenting Agency, the AQMD recommends that other public agencies perform cumulative impact analyses relative to air quality in the same manner as does AQMD.... As Lead Agency, the AQMD uses the same significance thresholds for project specific and cumulative impacts for all environmental topics analyzed in an Environmental Assessment or EIR.... Projects that exceed the project-specific significance thresholds are considered by the SCAQMD to be cumulatively considerable. This is the reason project-specific and cumulative significance thresholds are the same. Conversely, projects that do not exceed the project-specific thresholds are generally not considered to be cumulatively significant.<sup>11</sup>*

<sup>10</sup> Email Correspondence with Jillian Wong, SCAQMD, dated August 8, 2016.

<sup>11</sup> White Paper on Potential Control Strategies to Address Cumulative Impacts from Air Pollution. Appendix D, South Coast Air Quality Management District, August 2003, [www.aqmd.gov/docs/default-source/Agendas/Environmental-Justice/cumulative-impacts-working-group/cumulative-impacts-white-paper.pdf?sfvrsn=2](http://www.aqmd.gov/docs/default-source/Agendas/Environmental-Justice/cumulative-impacts-working-group/cumulative-impacts-white-paper.pdf?sfvrsn=2).



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The cumulative analysis of air quality impacts within the Draft EIR appropriately follows SCAQMD's specified methodology. Specifically, as discussed on page IV.B-53 in Section IV.B, Air Quality, of the Draft EIR, individual projects that exceed the SCAQMD's recommended daily thresholds for project-specific impacts would cause a cumulatively considerable increase in emissions for those pollutants for which the Air Basin is in non-attainment.

Section 9.5, Cumulative Impact Evaluation, of SCAQMD's CEQA Air Quality Handbook also provides guidance regarding evaluation of cumulative impacts.<sup>12</sup> On page 9-12 of the CEQA Air Quality Handbook (1993), a project's cumulative impacts could be evaluated by determining whether the project reduces the rate of growth in vehicle miles traveled (VMT). This analysis was conducted on page IV.D-54 in Section IV.D, Greenhouse Gas Emissions, of the Draft EIR. As discussed therein, the Project is the type of land use development that is encouraged by SCAG's 2016–2040 RTP/SCS to reduce VMT and expand multi-modal transportation options. The Project results in a VMT reduction of approximately 45 percent in comparison to a project with no implementation of emission reduction measures as estimated by CalEEMod and would be consistent with the reduction in transportation emission per capita provided in the 2016–2040 RTP/SCS. This analysis further supports the Draft EIR's conclusion that the Project would have less than significant cumulative operational air quality impacts.

v. The Air Quality Report's Claims Regarding Health Risk Assessments Are Incorrect

The Air Quality Report criticizes the methodology used in the EIR for the construction HRA, and opines that a quantitative HRA for diesel particular matter (DPM) emissions should have been conducted using the methodology established by the Office of Environmental Health Hazards Assessment (OEHHA) adopted in 2015. She also claims that a cumulative analysis should have been conducted.

As discussed on Page IV.B-30 of the Draft EIR, the City provides the following guidance pertaining to potential air quality impacts associated with toxic air contaminants. In the context of the questions from Appendix G of the CEQA Guidelines, the L.A. City CEQA Thresholds Guide sets forth the following factors for consideration on a case-by-case basis in making a determination of significance: (1) The regulatory framework for the toxic material(s) and process(es) involved; (2) The proximity of the toxic air contaminants to sensitive receptors; (3) The quantity, volume, and toxicity of the contaminants expected to be emitted; (4) The likelihood and potential level of exposure; and (5) The degree to which project design will reduce the risk of exposure.

The SCAQMD Handbook does not recommend analysis of TACs from short-term construction activities. The rationale for not requiring a health risk assessment for construction activities is the limited duration of exposure. According to SCAQMD methodology, health effects from carcinogenic air toxics are usually

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<sup>12</sup> South Coast Air Quality Management District CEQA Air Quality Handbook, 1993, Section 9.5, [www.aqmd.gov/home/rules-compliance/ceqa/air-quality-analysis-handbook/ceqa-air-quality-handbook](http://www.aqmd.gov/home/rules-compliance/ceqa/air-quality-analysis-handbook/ceqa-air-quality-handbook).



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described in terms of individual cancer risk. Specifically, “Individual Cancer Risk” is the likelihood that a person continuously exposed to concentrations of toxic air contaminants (TACs) over a 70-year lifetime will contract cancer based on the use of standard risk assessment methodology.<sup>13</sup> Because the construction schedule for the Project estimates that the phases which require the most heavy-duty diesel vehicle usage, such as site grading/excavation, would last for a much shorter duration (e.g., approximately five months) and the overall construction schedule would be limited to approximately 48 months (four years), construction of the Project would not result in a substantial, long-term (i.e., 70-year) source of TAC emissions. No residual emissions and corresponding individual cancer risk are anticipated after construction. Because there is such a short-term exposure period (48 out of 840 months of a 70-year lifetime), further evaluation of construction TAC emissions within the Draft EIR was not warranted. This supporting information was used consistent with L.A. City CEQA Thresholds Guide in making on a case-by-case basis a determination of significance. As such, the Draft EIR correctly concludes that Project-related TAC emission impacts during construction would be less than significant.

The comment correctly notes that the Office of Environmental Health Hazard Assessment (OEHHA) adopted a new version of the Air Toxics Hot Spots Program Guidance Manual for the Preparation of Risk Assessments (new Guidance Manual) in March of 2015.<sup>14</sup> The Guidance Manual was developed by OEHHA, in conjunction with CARB, for use in implementing the Air Toxics “Hot Spots” Program (Health and Safety Code Section 44360 et seq.). The Air Toxics “Hot Spots” Program requires stationary sources to report the types and quantities of certain substances routinely released into the air. The goals of the Air Toxics “Hot Spots” Act are to collect emission data, to identify facilities having localized impacts, to ascertain health risks, to notify nearby residents of significant risks, and to reduce those significant risks to acceptable levels.

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

OEHHA’s new Guidance Manual provides for the use of Age Sensitivity Factors (ASFs). Use of these factors would not be applicable to this Project, however, as neither the City nor SCAQMD has developed recommendations on whether these factors should be used for CEQA analyses of potential construction

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<sup>13</sup> South Coast Air Quality Management District (SCAQMD) CEQA Handbook, Chapters 5, 9 and 10 (1993).

<sup>14</sup> See OEHHA, Notice of Adoption of Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments 2015, [www.oehha.ca.gov/air/hot\\_spots/hotspots2015.html](http://www.oehha.ca.gov/air/hot_spots/hotspots2015.html).



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impacts, as discussed below. Furthermore, a review of relevant guidance was conducted to determine applicability of the use of early life exposure adjustments to identified carcinogens. The U.S. Environmental Protection Agency provides guidance relating to the use of early life exposure adjustment factors (Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens, EPA/630/R-003F) whereby adjustment factors are only considered when carcinogens act “through the mutagenic mode of action.” The U.S. Environmental Protection Agency has identified 19 compounds that elicit a mutagenic mode of action for carcinogenesis. For diesel particulates, polycyclic aromatic hydrocarbons (PAHs) and their derivatives, which are known to exhibit a mutagenic mode of action, comprise less than 1 percent of the exhaust particulate mass. To date, the U.S. Environmental Agency reports that whole diesel engine exhaust has not been shown to elicit a mutagenic mode of action.<sup>15</sup> Therefore, early life exposure adjustments are neither required nor appropriate for use in an HRA used to evaluate diesel engine exhaust from construction activities.

On behalf of the City, Eyestone Environmental (Eyestone) coordinated with the SCAQMD to determine whether the SCAQMD had any available current guidance on use of the Guidance Manual. According to Lijin Sun, SCAQMD CEQA Program Supervisor, the SCAQMD is currently evaluating the new Guidance Manual, but has not developed any recommendations on its use for CEQA analyses for potential construction impacts.<sup>16</sup> The SCAQMD has only provided guidance for the use of OEHHA’s new Guidance Manual for HRAs subject to SCAQMD’s AB 2588 and Rule 1402. These rules apply to large stationary sources subject to the Air Toxics “Hot Spots” Program that routinely release air toxics into the air (e.g., industrial facilities) and not short-term construction activities. Moreover, the City, as lead agency, has not adopted the Guidance Manual as part of its CEQA methodology. Therefore, use of the L.A. City CEQA Thresholds Guide for determining impacts related to potential construction TAC impacts is appropriate.

It should again be noted that the SCAQMD provided a comment letter on the Draft EIR for the Project (included as Comment Letter No. 5 in Section II, Responses to Comments, of the Final EIR), but SCAQMD’s comments did not identify the Project as a “substantial source of Diesel Particulate Matter warranting a Health Risk Assessment.”

Although a construction HRA is not required by the SCAQMD or the L.A. City CEQA Thresholds Guide and no guidance for health risk assessments for construction has been adopted by the SCAQMD or the City, an HRA has been prepared in response to this and other comments to confirm, as the Draft EIR concludes, that no significant health risk impacts would occur from construction of the Project. The HRA is provided in Appendix C of Errata-2 of the Final EIR. The HRA demonstrates that health risks from the Project would be

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<sup>15</sup> United States Environmental Protection Agency, 2006. Memorandum - Implementation of the Cancer Guidelines and Accompanying Supplemental Guidance - Science Policy Council Cancer Guidelines Implementation Workgroup: <https://www.epa.gov/osa/memoranda-about-implementation-cancer-guidelines-and-accompanying-supplemental-guidance-science>

<sup>16</sup> Lijin Sun, SCAQMD CEQA Program Supervisor. Personal communication via email, May 16, 2018. See Appendix B to Errata No. 2 to the Crossroads Hollywood Project Final EIR.





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a maximum of 4.7 in one million for residences located southwest of the Project Site, which is below the applicable significance threshold of 10 in one million. Cancer risk at school receptors would be 2.0 in a million, which is also below the significance threshold.

Therefore, as the information discussed above shows, the ' comments do not result in or require any changes to the conclusions in the EIR and no additional analysis is necessary. Therefore, neither a revised and recirculated EIR, nor a subsequent EIR is warranted.

**c. The Comment's Claims Regarding Alleged Historical Resources Are Incorrect**

Regarding the alleged historical buildings on McCadden Avenue and Selma Place, as the Commenter acknowledges, the PLUM Committee and full City Council denied HCM designation applications for all four potential buildings. The administrative proceedings relating to the Project are not the proper forum for commenters to request reconsideration of the PLUM Committee and City Council's decision on those applications. Commenters also request that an alternative to the Project be considered that retains these buildings; however, that alternative *is* included in the EIR as Alternative 5, the Historic Preservation Alternative. (Draft EIR, Chapter V, pages V-211 et seq.) Contrary to Commenter's assertion in footnote 8 of the Objections, substantial evidence supporting the infeasibility of Alternative 5 is provided by the Economic Feasibility Review – Crossroads Hollywood, prepared by Kosmont Companies (April 17, 2018) and by the Crossroads Hollywood Financial Feasibility Peer Review prepared by HRA (May 1, 2018), both of which are included in Appendixes FEIR-2 and FEIR-3 of the Final EIR.

Commenter incorporates by reference the comments made in the letter submitted by AIDS Healthcare Foundation on May 14, 2018, which Commenter asserts identifies "deficiencies" in the Economic Feasibility Evaluation of Alternative 5, the Historic Preservation Alternative. To the contrary, the economic analysis was subject to both an expert economic feasibility study and a peer review of that study by a separate expert, which both support the conclusions of the EIR. The Commenter's conclusory assertion otherwise is not supported by substantial evidence in the face of the multiple expert reports that support the City's determinations regarding the Project. Moreover, the Commenter fails to note that all four buildings identified are treated as historic in the Project EIR and Statement of Overriding Considerations due to having previously been listed as potential HCMs by SurveyLA (later denied by the City Council). Commenter in no way challenges the analysis of potential impacts to the buildings in the EIR or the conclusions of the Statement of Overriding considerations, it instead merely seeks to re-litigate the City's HCM determination and the validity of the economic analysis that forms *a part* of the basis for the City's rejection of the historic preservation alternative in Chapter 5 of the Draft EIR as infeasible. Beyond that, the Commenter fails to acknowledge that, under the Modified Project, only one of the four identified buildings – the apartments at 6700-6718 Selma Avenue and 1535-1555 Las Palmas Avenue – would be demolished. The other buildings are being preserved. Commenter fails to address these key facts, the substance of the EIR and Statement of Overriding Considerations, and fails to raise any valid claim against the EIR.



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### III. CONCLUSION

For the reasons stated above, Commenter has failed to disclose how the City has erred or abused its discretion, or will err or abuse its discretion, in approving the Project, including the VTTM and the MCUP, has failed to state adequate grounds on which to deny certification of the EIR, and has failed to show that the City erred and/or abused its discretion by denying Commenter's appeals. In addition, Commenter has presented no new substantial evidence and no new evidence that would require revision and recirculation of the EIR.

Thank you for your consideration of these responses to Commenter's meritless Objections.

Very truly yours,

**DLA Piper LLP (US)**

A handwritten signature in black ink, appearing to read 'KJC', with the word 'FOR' written in small capital letters to the right of the signature.

Kyndra Joy Casper  
Partner

KJC

cc. Will Lamborn (william.lamborn@lacity.org)  
PLUM Clerk (clerk.plumcommittee@lacity.org)