

**APPEAL ANALYSIS
ENV-2012-920-EIR-1A**

Appellant: Mr. Tezozomoc

The Appellant's statements have been summarized in the following categories (see attached Exhibit for the Appellant's entire letter).

Appellant's Statements: Project Description

The EIR fails to adequately describe the project and to provide sufficient detail about the project operations in order to analyze environmental impacts.

Staff's Response

The appeal does not introduce new evidence in support of its assertions but instead attaches a letter dated March 9, 2015, submitted in response to the Draft EIR on behalf of the Appellant, to which responses were included in the FEIR and further addressed in the findings in the Letter of Determination. The March 9, 2015 letter argued that the project description was deficient because it did not provide enough information on the specific aspects of the proposed on-site garment manufacturing operations in order to analyze impacts on hazardous materials, traffic, noise and air quality. Contrary to the Appellant's statements and as addressed in Response to Comment No. E7-4 on pages III-70 and III-71 of the FEIR, the project description is sufficient to allow a detailed analysis of a conservative, reasonably worst case scenario of the potential environmental impacts of the proposed project. The project description is consistent with the State CEQA Guidelines Section 15124, inclusive of the project's precise location and boundary, statement of objectives, and technical, economic, and environmental characteristics. Pursuant to State CEQA Guidelines, the project description should not provide extensive detail beyond that needed for the evaluation and review of potential environmental impacts.

The information required pursuant to the CEQA Guidelines is provided in Chapter III, *Project Description*, of the Draft EIR and in Chapter IV, *Corrections and Additions to Draft EIR*, in the FEIR. As described therein, the proposed project includes the construction of a new industrial development consisting of four buildings. Building 1 consists of a single story with a mezzanine that occupies approximately 115,973 total square feet and provides 123 parking spaces; Building 2 consists of two stories that occupy approximately 133,680 total square feet and provides 79 parking spaces; Building 3 consists of a single story with a mezzanine that occupies approximately 116,724 total square feet and provides 96 parking spaces; and Building 4 consists of a single story with a mezzanine that occupies approximately 113,743 total square feet and provides 106 parking spaces. In total, the project would occupy approximately 353,375 square feet of warehouse space, 112,745 square feet of office space, and 14,000 square feet of manufacturing space. The heights of each of the four buildings range from 37 feet to a maximum building height of 40 feet. The project's proposed site plan is contained in Figure III.B-1 in Chapter IV, *Corrections and Additions to Draft EIR*, in the FEIR. The location and boundary are provided in the project description, and a project Location Map showing the precise boundary of the project is included as Figure II.A-3 of the Draft EIR.

A general description of the project's technical and environmental characteristics can be found in Section III.B of the Draft EIR. This section provides a summary of site-specific recommendations, local hire agreement, and construction scenario and phasing plan. Site ingress and egress locations for construction, emergency evacuation planning, and safety and security issues are also described. The total number of employees is identified on page IV.A-9 in Section IV.A, *Impacts Found to Be Less Than Significant*, of the Draft EIR as 990, which consist of 580

employees transferred from existing nearby facilities and 410 new employees. The project objectives are discussed in Section III.C of the Draft EIR.

Sufficient information has been provided in the project description, including the construction scenario, to allow a detailed analysis of a conservative, reasonably worst case scenario of the potential environmental impacts of the proposed project on the routine use, storage, and transport of hazardous materials, which was evaluated in Chapter VIII of the Initial Study attached as Appendix III to the Draft EIR, Chapter IV.E, Hazards and Hazardous Materials of the Draft EIR, and Chapter IV of the FEIR. As discussed therein, the project will occupy 353,375 square feet of warehouse space, 112,745 square feet of office space, and 14,000 square feet of manufacturing space for the manufacture of clothing, which would not result in significant impacts from the routine transport, use, or disposal of hazardous materials. The project is located in an M2 industrial zone, under which a variety of industrial and warehouse uses are permitted per the LAMC. The office, warehouse and manufacturing uses proposed by the project are permitted by-right in the M2 light industrial zone. Further, the proposed project would be required to comply with all relevant federal, state, and local statutes and regulations, including regulations of the routine use and storage of chemicals pursuant to 42 U.S. Code Section 11021, which require the facility owner to prepare a list of available Material Safety Data Sheets. Furthermore, the Department of Toxic Substances Control (DTSC) has reviewed the site characterization and health risk assessment for the project site and has concluded that the site is suitable for Industrial/Commercial use. DTSC further stated that future development or rezoning of the property for a use other than industrial/commercial will require additional analysis and risk evaluation by DTSC.

The project description and level of detail concerning the type of industrial use based on the Institute of Traffic Engineers traffic rates for the corresponding land use category is sufficient to be used to evaluate impacts on traffic, noise, and inputs to the air quality model. The trip generation rates and methodology in the traffic study were reviewed and approved by LADOT. As discussed on pages 4.G-12 through 4.G-13 in Chapter IV.G, *Traffic and Transportation*, of the Draft EIR, trip generation rates for the proposed project are based on the nationally recognized recommendations of the Institute of Transportation Engineers (ITE). ITE also provides information on the percentage of truck traffic associated with this type of land use, and approximately 20 percent of all vehicular trips generated by a warehouse are designated as truck trips to evaluate a conservative, worst-case scenario. A truck trip is generally equivalent to two (2) passenger car trips on average. Therefore, a 2.0 factor was applied to the number of truck trips to estimate passenger care equivalent (PCE) trips generated by the trucks.

As more fully detailed in the EIR, inclusive of the *Addendum to Traffic Impact Study* attached as Appendix IX to the Draft EIR, based on the vehicle trip generation rates in the ITE Manual for the proposed uses, the project will generate approximately 1,968 net PCE trips per average day, 351 of which would be truck trips. As discussed in Response No. E7-2 on FEIR page III-64, truck traffic for the project will consist of box trucks and cargo vans. As discussed on page 3 of the *Air Quality Health Risk Assessment* attached as Appendix V to the Draft EIR (the HRA), the cargo vans used at the facility are categorized in the EMFAC 2011 emissions model as Light Duty Truck 2 (LDT2) and Light Heavy Duty Truck 1 (LHD1). The box trucks are categorized as Light Heavy Duty Truck 2 (LHD2). These three categories of trucks can be either gasoline or diesel fueled. The fraction of diesel-fueled vehicles at the project was determined from EMFAC for Los Angeles County. Of the box trucks, approximately 17.03% are diesel fueled, while 1.46% of LDT2 and 0.20% of LHD1 are diesel fueled. It was assumed that one-half of the trucks are box vans, so the total percentage of the 351 trucks per day that visit the facility that are diesel-fueled will be about 9%, or approximately 31 diesel-fueled trucks per day. The HRA analyzed potential health risks associated with diesel emissions based on the full ITE rate of 351 daily truck trips, and concluded that potential risks are well below established thresholds and therefore would constitute a less

than significant impact. Air quality and noise impacts are further discussed below on pages 6 through 7.

Appellant's Statement: Alternatives Analysis

The EIR fails to adequately disclose, analyze, and mitigate environmental impacts.

The EIR fails to analyze a reasonable range of alternatives that would avoid or reduce the project's significant environmental impacts, especially air quality.

The EIR fails to analyze feasible park and community garden alternatives.

Staff's Response

The appeal does not introduce new evidence in support of these assertions but instead attaches correspondence to which responses were included in the FEIR. Contrary to the Appellant's statements, the EIR adequately discloses, analyzes, and mitigates the project's potentially significant impacts. The project's only significant and unavoidable impact relates to traffic at one intersection during project operations. All other potential impacts have been mitigated to less than significant levels. As discussed in the Initial Study, Appendix III to the Draft EIR, the project would not result in significant impacts to Agricultural and Forest Resources, Biological Resources, or Recreation. As discussed below, the EIR considered a reasonable range of alternatives that would attain project objectives and would avoid or substantially lessen project impacts.

As addressed in FEIR Response to Comment Nos. E7-2, E7-5 and E7-6, Section 15126.6 of the CEQA Guidelines requires an EIR to 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, and evaluate the comparative merits of the alternatives. The discussion of alternatives, however, need not be exhaustive, but must consider a reasonable range of alternatives that will foster informed decision making and public participation. The EIR should also identify any alternatives that were considered by the Lead Agency but were rejected as infeasible and briefly explain the reasons underlying the Lead Agency's determination. 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 effects.

Based on the impacts of the project, the FEIR considered the following three alternatives, Alternative A: No project Alternative; Alternative B: Use of Clean Fuel Trucks; and Alternative C: Reduced Truck Operations. As discussed in Chapter VI of the Draft EIR, under the No Project Alternative, the project would not be constructed, and the existing conditions at the project site would remain unchanged until a future project is proposed for development consistent with the existing zoning. The No Project Alternative would not meet any of the project objectives, and would not develop the property for its designated purpose as light manufacturing in accordance with the objectives of the adopted Southeast Los Angeles Community Plan.

The Use of Clean Fuel Trucks Alternative is capable of achieving the six project objectives. The Use of Clean Fuel Trucks Alternative affects only the operational phase of the project, and the construction scenario would be the same as that described for the project. Because the grading area and the number of days of construction are the primary drivers of PM₁₀ emissions during the construction phase of the project, the grading area and duration of the construction scenario under this alternative would be the same as the project and would require implementation of Mitigation Measures Air-1 through Air-7, and would result in similar construction emissions compared to the project. The Use of Clean Fuel Trucks Alternative would also have the same trip generation as the project and would result in significant impacts with regard to operational traffic and transportation at the intersection of Alameda Street and Washington Boulevard, which would operate at LOS E during the p.m. peak hour. The Use of Clean Fuel Trucks Alternative would therefore not eliminate the significant and unavoidable impact resulting from the project.

The Reduced Truck Operations Alternative would also achieve the six objectives of the project. Moreover, because it proposes to reduce the number of daily truck trips for the project to no more than 75, it would avoid the project's only significant and unavoidable impact, which is p.m. peak hour traffic at the intersection of Alameda Street and Washington Boulevard.

The EIR also considered two alternate land use alternatives, the Community Garden Alternative and the Park or Recreational Use Alternative. As discussed in Response to Comments No. E7-2 in the FEIR, in response to comments submitted on behalf of the Appellant to the Draft EIR, the Community Garden alternative was withdrawn from consideration as it does not meet the project objectives:

- A community garden or park would not attain the objective of providing a minimum of 480,000 square feet of light industrial space, consistent with the existing land use designation and zoning.
- A community garden or park would not provide light manufacturing jobs within 3 miles of an existing garment manufacturing labor force in the Southeast Los Angeles Community Plan Area.
- A community garden or park would not allow for development of an industrial park that is along the Alameda Corridor to take advantage of distribution efficiency opportunities.
- A community garden or park would not facilitate the ability of existing garment labor force, located in close proximity to the project site to utilize existing public transit system and other multi-modal transportation opportunities in vicinity of proposed project.
- A community garden or park would not preserve and/or redevelop the industrial sector of the Southeast Los Angeles Community Plan Area to accommodate emerging technologies, thus providing an enhanced employment base for the Community Plan Area's population.
- A community garden or park would not benefit the Southeast Los Angeles Community Plan area population as economic stimulation through employment opportunities, attracting commercial and industrial tenants to the area, and providing tax revenue for the City would not occur.

The proposed use of the property as light manufacturing is consistent with land use planning objectives articulated in the Southeast Los Angeles Community Plan. The City of Los Angeles Southeast Los Angeles Community Plan has designated the project site as light industrial. The land use designation discourages nonindustrial uses and uses that compromise job-producing potential. Plan Goal 3 supports sufficient land for a variety of industrial uses with maximum employment opportunities, which are safe for the environment and the work force, and which have minimal adverse impacts on adjacent uses. The South East Los Angeles Community Plan further supports the retention and redevelopment of the industrial sector through Objective 3-1, Policy 3-1.1, and Objective 3-2, Policy 3-2.1:

Objective 3-1 To provide for existing and future industrial uses which contribute job opportunities for residents and which minimize environmental and visual impacts to the community.

Policies 3-1.1 Designate lands for the continuation of existing industry and development of new industrial parks, research and development uses, light manufacturing, and similar uses which provide employment opportunities.

Objective 3-2 To retain industrial plan designations to maintain the industrial employment base for community residents and to increase it whenever possible.

Policies 3-2.1 The significant, large industrially planned parcels located in predominantly industrial areas associated with the railroad transportation facilities along Alameda and in the Slauson area should be protected from development by other uses which do not support the industrial base of the community, and the City.

The Southeast Los Angeles Community Plan's open space goals and objectives support the preservation of existing open space and the development of new open space, in balance with new development, to serve the recreational, environmental, health and safety needs of the community. The objectives further note that the "Plan Map designates lands for open spaces including parklands." As noted above, the project site is in an industrial corridor adjacent to the Alameda Corridor rail line, and it is not designated for open space on the plan map. The area surrounding the proposed project site is developed almost exclusively with light and heavy industrial uses, with limited small lot single family residential homes intermixed with light/industrial warehouse uses to the south and residential areas farther to the west. The Alameda Corridor rail line is located directly to the east and runs below grade in the project area, and also includes the Southern Pacific Railroad right-of-way across South Alameda Street. The Metro Blue Line light rail is located immediately to the west of the project site. The nearest designated open space is the Ross Snyder Recreation Center, located 0.2 mile west of the proposed project.

As further documented throughout the Draft EIR and FEIR, the former interim use of the project site as a community garden that occurred under previous ownership was acknowledged. However, the use was discontinued in 2006, and the project site is currently vacant underutilized land in an industrially zoned area. Appendix XII and Section III.E of the Draft EIR provide details of a 2003 settlement agreement between the prior owner and the City of Los Angeles to dedicate 2.6 acres of the project site for maintenance of a park for recreation and park purposes, and subsequent amendment of the agreement to allow a proposed project to be developed. This amendment for the cash pledge provided the City or a nonprofit organization with the funds to dedicate a park in a more appropriate location than the project site, which is industrially zoned and isolated to the west and east by major rail lines. The City Council accordingly determined that establishment of an active use park on the project site would be inappropriate due to the property's location in an industrial corridor, and authorized execution of a Cash Pledge Agreement whereby a payment in the amount of \$3,573,365 was made to improve and provide recreational and park facilities at more suitable alternate sites in the vicinity of the property (see Report of the Chief Legislative Analyst, Ordinance No. 181949, and City Council Motion included in Appendix XII of the Draft EIR). The value of the cash pledge was determined on the basis of the pro rata value of the 2.6 acres to be set aside for recreational purposes pursuant to the settlement agreement relative to the overall purchase price of the project site. The City Council subsequently authorized release of the funds to finance improvements at the Pueblo Del Rio Housing project, Fred Roberts Park, and Ross Snyder Park (see pages IV-11 and IV-12 of Section IV, *Corrections and Additions to the Draft EIR* of the FEIR, and pages III-6 and III-7 and Appendix XII of the Draft EIR). Furthermore, although the project site has been used as a community garden in the past, the Department of Toxic Substances Control (DTSC) concluded, in a letter dated December 22, 2015 that based on their review of the site characterization and health risk assessment, the site is suitable for industrial/commercial use, but that future development or rezoning of the property for a use other than industrial/commercial will require additional analysis and risk evaluation by DTSC.

In sum, the EIR considered a reasonable range of alternatives that could meet project objectives, and could reduce or substantially lessen project impacts to intersection traffic, which is the project's only significant and unavoidable impact. The project's potential to impact air quality is discussed below on pages 6 through 7.

Appellant's Statement: Air Quality and Noise

EIR fails to adequately disclose and mitigate the project's noise and air quality impacts on sensitive receptors.

Staff's Response

The Appellant incorrectly states that the EIR fails to mitigate the project's noise impacts. Noise impacts were evaluated in Section XII of the Initial Study, attached as Appendix III to the Draft EIR. As discussed therein, the City's CEQA Threshold Guide states that a project would have a significant impact on noise levels if construction activities lasting more than 10 days in a 3-month period would exceed existing ambient exterior noise levels by 5 dBA or more at a sensitive receptor. As discussed on Initial Study page B-124, the loudest phases of construction (excavation/grading and finishing) will generate noise levels upwards of 79.3 dBA at the nearest sensitive receptor located 153 feet to the west of the project site. Therefore, construction noise related to the project has the potential to exceed the City's existing noise regulation by 6.0 dBA at sensitive receptors. In order to reduce noise impacts to below the City's existing noise regulation, the project would incorporate a temporary noise barrier as a project design element during outdoor construction activities that would exceed allowable levels. The temporary noise barrier would be installed at the western boundary of the project site, along Long Beach Avenue. The temporary noise barrier would exceed the needed 6.0 dBA reduction at sensitive receptors. Further, this project feature is fully enforceable as a condition of approval in the Letter of Determination under Condition No. 27, Mitigation Measures and Project Design Features.

Regarding project operations, as discussed on Initial Study page B-125, the greatest noise level generated by typical building equipment at a distance of 50 feet is 61 dBA, which is well below the significance threshold of 73.3 dBA. Furthermore, noise generated from mechanical equipment is generally absorbed and or sheltered by on-site structures and buildings, further reducing noise levels. Because the nearest sensitive receptor is 153 feet away from the project site, operational noise impacts associated with mechanical equipment would be less than significant. The greatest potential noise level generated by typical parking lot sources at a distance of 50 feet is 66 dBA, which is below the significance threshold of 78.3 dBA. Therefore, the project would not result in significant impacts to noise in relation to construction or operation of the project, and no further analysis related to permanent increases in ambient noise levels is warranted.

To provide for an overview and to further clarify the EIR's analysis relative to off-site traffic noise, cumulative noise, and operational noise impacts, the project's environmental consultant has submitted a letter dated February 28, 2017 which is attached for reference.

The Appellant also incorrectly states that the project would result in admittedly significant impacts to air quality. As discussed in Section IV.B of the Draft EIR and page III-65 in Response to Comment No. E7-2 of the FEIR, criteria pollutants generated during construction and operation of the project are calculated to be below acceptable thresholds except with respect to PM₁₀ emissions during construction, which would be reduced to less than significant levels through implementation of mitigation measures Air-1, Air-2, and Air-3:

- Air-1: During the construction phase of the project, the project applicant shall apply soil stabilizers for all unpaved roads (80 percent reduction in PM_{2.5} and PM₁₀ emissions).
- Air-2: During the construction phase of the project, the project applicant shall water exposed areas three times a day (61 percent reduction in PM_{2.5} and PM₁₀ emissions).
- Air-3: During the construction phase of the project, the project applicant shall ensure that vehicular speeds are reduced to 15 miles per hour on unpaved roads.

Emissions of VOCs will be further reduced below acceptable levels through implementation of the following mitigation measure:

- Air-7: The project applicant shall ensure low VOC paint is applied for interior and exterior uses [250 EF (g/L)].

Construction-related toxic air contaminants (TACs) from diesel particulate emissions will be short-lived (3 months), and therefore do not require a Health Risk Assessment from the Office of Environmental Health Hazard Assessment (OEHHA). Diesel particulate emissions only affect the population on a long-term (70-year) basis for cancer impacts so the impacts of short-term TACs from the construction of the project are considered less than significant and were not quantified as part of the Draft EIR. For operations of the project, there will be an estimated 31 diesel fueled trucks/day out of a total 351 total truck trips/day under the most conservative scenario. Because the total of 351 is greater than 100 daily truck trips, a refined Health Risk Assessment for operational impacts was conducted that identified sensitive receptors and individual cancer risk (Appendix V in Volume IV of the Draft EIR). The maximum potential cancer risk is 0.3 in a million, which is only 3 percent of the cancer risk threshold of 10 in one million. Therefore, the project would not result in the significant human health risks related to diesel emissions. The alternatives with clean fuel trucks and reduced truck operations would result in even fewer diesel emissions. Operational emissions generated from mobile sources will be further reduced below acceptable levels through implementation of mitigation measures Air-4, Air-5 and Air-6.

In addition to the above mitigation measures, and as discussed on FEIR page IV-13, emissions generated from mobile sources will be further reduced below acceptable levels as a result of the On-Road Heavy-Duty Diesel Vehicles Regulation Amendments approved by the California Air Resources Board (CARB) in April 2014. The main objective of this regulation is to reduce emissions from heavy-duty diesel trucks and buses by installing new filters and upgrading engines. The regulation mandates that all new heavy-duty trucks and buses must have particulate matter filters that meet CARB requirements by January 1, 2012. Lighter and older heavy trucks must be replaced starting in January 1, 2015. All trucks and buses are required to have model year 2010 engines or equivalent by January 1, 2023. The scope of the regulation includes both public and private vehicles. As a result of the various measures required to reduce impacts on air quality, the project will have a less than significant effect on air quality.

In sum, the FEIR fully and adequately analyzes the project's impacts on noise and air quality, and the conclusions in the FEIR that the noise and air quality impacts of the project can be mitigated to a less than significant level are supported by substantial evidence. The Appellant fails to provide substantial evidence to the contrary.

Appellant's Statements: Project Objectives

The EIR forecloses the consideration of alternatives based on impermissibly narrow project objectives.

Staff's Response

The Appellant has attached a letter dated March 9, 2015 which asserted that the project objectives precluded consideration of additional alternatives, including a community garden alternative, a park alternative, preservation of a portion of the project site as open space, and an alternative location.

As specified in Section 15126.6(b) of the State CEQA Guidelines, the purpose of the consideration of alternatives is to identify ways to mitigate or avoid the significant effects that the project may have on the environment and allows for the consideration of alternatives to the "project or location" which are capable of avoiding or substantially lessening any significant effects of the project. The proposed project was specifically located to avail itself of the existing labor pool that resides in close proximity to the proposed project site. Further, the significant impacts of the proposed project are related to traffic. The proposed project has mitigated all significant impacts to below a level of significance through mitigation measures with the exception of traffic impacts at the intersection of Alameda Street and East Washington Boulevard.

As stated in Chapter III of the Draft EIR, the project objectives are as follows:

- Construct a new industrial park that provides a minimum of 480,000 square feet of light industrial space to facilitate garment manufacturing.
- Locate a new industrial park within 3 miles of an existing garment manufacturing labor force in the Southeast Los Angeles Community Plan Area.
- Develop an industrial park that is along the Alameda Corridor to take advantage of distribution efficiency opportunities.
- Provide opportunities for the proposed project's labor force to utilize existing public transit systems and other multi-modal transportation opportunities in the vicinity of the proposed project.
- Preserve and/or redevelop the industrial sector of the Southeast Los Angeles Community Plan Area to accommodate emerging technologies, thus providing an enhanced employment base for the Community Plan Area's population.
- The Southeast Los Angeles Community Plan Area population stands to benefit from the proposed project due to economic stimulation through employment opportunities, attracting commercial and industrial tenants to the area, and providing tax revenue for the City.

As discussed in Response No. E7-5 on page III-73 of the FEIR, the first of the six objectives was based on the applicant's anticipated space requirements to accommodate the anticipated garment manufacturing, consistent with the City of Los Angeles light manufacturing land use designation and Zoning Ordinance. The applicant is currently operating facilities in proximity to the proposed project site and has exceeded the capacity of the existing facility. The requirement for the minimum square feet is based on their documented need for additional space. The second and fifth objectives are consistent with the adopted goals and objectives of the Southeast Los Angeles Community Plan Area to encourage the provision of jobs in proximity to labor resources and to preserve or redevelop industrial land uses in the plan area, as discussed in Section IV.F, Land Use section of the Draft EIR (see page IV.F-4). The third and fourth objectives are consistent with the adopted goals and objectives of the Transportation Element of the City of Los Angeles General Plan and the Southeast Los Angeles Community Plan which encourage development in conjunction with existing infrastructure and use of the transit system to move people and goods, as discussed in Section IV.G, Transportation/Traffic section of the Draft EIR (see pages IV.G-3 and -4). The sixth and final objective was also crafted in alignment with the Southeast Los Angeles Community Plan to promote economic stimulation in the plan area through employment opportunities and tax revenue from the industrial land uses.

Contrary to the Appellant's claims, the project objectives did not preclude the consideration of a reasonable range of alternatives. As described above, the FEIR evaluated the No Project Alternative, the Use of Clean Fuel Trucks Alternative, and the Reduced Truck Operations Alternative. The Community Garden Alternative and the Park or Recreational Use Alternative were withdrawn from consideration because they did not satisfy the project objectives. Furthermore, as discussed above, the Draft EIR and FEIR describe how the City Council determined that use of a portion of the project site for park purposes would be inappropriate due to the property's location in an industrial corridor and isolated to the west and east by major rail lines, and authorized execution of a Cash Pledge Agreement whereby a payment in the amount of \$3,573,365 was made to improve and provide recreational and park facilities at more suitable alternate sites in the vicinity of the property. The value of the cash pledge was determined on the basis of the pro rata value of the 2.6 acres to be set aside for recreational purposes pursuant to the settlement agreement relative to the overall purchase price of the project site. The City Council subsequently authorized release of the funds to finance improvements at the Pueblo Del Rio Housing project, Fred Roberts Park, and Ross Snyder Park (see pages IV-11 and IV-12 of Section IV, *Corrections and Additions to the Draft EIR* of the FEIR, and pages III-6 and III-7 and Appendix XII of the Draft EIR).

The project has mitigated all significant impacts to below a level of significance with the exception of traffic impacts at the intersection of Alameda Street and East Washington Boulevard. Relocation to an alternative site would not change the project's trip generation. An alternative location would also likely not achieve the project goals and objectives related to minimizing worker travel because locating the project in close proximity to the existing public transit system and other multimodal transportation alternatives would likely decrease average vehicle miles travelled per employee. Furthermore, it is well established that in contrast to public infrastructure projects, private development projects generally do not need to evaluate alternative locations as part of their alternative analysis, as it is reasonably assumed that the developer owns or controls the project site, but not multiple other sites in different locations. A comparison of site specific conditions or potential impacts at unknown or non-existent sites is speculative and not supported by evidence, and would not be appropriate. Section 15126.6(f)(1) of the CEQA Guidelines states that 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 an alternative site are among the factors to be considered when addressing the feasibility of alternatives.

Finally, the EIR did indeed evaluate alternatives that could reduce project-related impacts. The Reduced Truck Operations Alternative would avoid and substantially lessen the effects of the project by limiting the number of daily truck trips and thus meet the requirements of the State CEQA Guidelines, which requires the consideration of alternatives that could avoid or substantially lessen the impacts of the project.

Appellant's Statements: Mitigation Measures

The EIR fails to require concrete and enforceable mitigation measures.

The EIR impermissibly defers analysis and mitigation of environmental impacts to post-approval processes.

Staff's Response

Prior comments submitted on behalf of the Appellant had asserted that the project's mitigation measures were impermissibly vague. Those mitigation measures that were identified as vague were Mitigation Measure Air-4 Air-6, and Traffic-3. Mitigation Measure Utilities and Service Systems-1 was described as requiring deferred mitigation. Such comments were adequately addressed in Response to Comment No. E7-8 in Chapter III of the FEIR. The Appellant has not provided further evidence to the contrary, but rather has made general statements that the mitigation measures were not concrete or enforceable.

As detailed in Response to Comment No. E7-8, Mitigation Measures Air-4 and Air-6 further reduce operational air quality impacts that are already less than significant. Nevertheless, Air-4 and Air-6 were included in the EIR in order to further reduce air quality emissions below already acceptable levels. As stated in the Draft EIR, Mitigation Measures Air-4 and Air-6 are as follows:

Air-4: The project applicant shall establish incentives for increased transit frequency.

Air-6: The project applicant shall provide traffic calming measures through street improvements.

However, in response to comments received on the Draft EIR, Mitigation Measures Air-4 and Air-6 were refined (see pages III-80 and III-81 in Chapter III *Responses to Comments*, and pages IV-4 through IV-6 in Chapter IV *Corrections and Additions to Draft EIR*, in the FEIR):

Air-4: The project applicant shall establish incentives for increased transit frequency in compliance with the transportation demand management and trip reduction measures set forth in Section 12.26J of the Los Angeles Municipal Code ("LAMC"), which include the

following requirements for nonresidential projects with more than 100,000 square feet of floor area.

(a) Development in excess of 25,000 square feet of gross floor area. The owner shall provide a bulletin board, display case, or kiosk (displaying transportation information) where the greatest number of employees are likely to see it. The transportation information displayed should include, but is not limited to, the following:

- 1) Current routes and schedules for public transit serving the site;
- 2) Telephone numbers for referrals on transportation information including numbers for the regional ridesharing agency and local transit operations;
- 3) Ridesharing promotion material supplied by commuter-oriented organizations;
- 4) Regional/local bicycle route and facility information;
- 5) A listing of on-site services or facilities which are available for carpoolers, vanpoolers, bicyclists, and transit riders.

(b) Development in excess of 50,000 square feet of gross floor area. The owner shall comply with Paragraph (a) above and in addition shall provide:

- 1) A designated parking area for employee carpools and vanpools as close as practical to the main pedestrian entrance(s) of the building(s). This area shall include at least ten percent of the parking spaces required for the site. The spaces shall be signed and striped sufficient to meet the employee demand for such spaces. The carpool/vanpool parking area shall be identified on the driveway and circulation plan upon application for a building permit;
- 2) One permanent, clearly identified (signed and striped) carpool/vanpool parking space for the first 50,000 to 100,000 square feet of gross floor area and one additional permanent, clearly identified (signed and striped) carpool/vanpool parking space for any development over 100,000 square feet of gross floor area;
- 3) Parking spaces clearly identified (signed and striped) shall be provided in the designated carpool/vanpool parking area at any time during the building's occupancy sufficient to meet employee demand for such spaces. Absent such demand, parking spaces within the designated carpool/vanpool parking area may be used by other vehicles;
- 4) No signed and striped parking spaces for carpool/vanpool parking shall displace any handicapped parking;
- 5) A statement that preferential carpool/vanpool spaces are available on-site and a description of the method for obtaining permission to use such spaces shall be included on the required transportation information board;
- 6) A minimum vertical clearance of 7 feet 2 inches shall be provided for all parking spaces and accessways used by vanpool vehicles when located within a parking structure;
- 7) Bicycle parking shall be provided in conformance with Section 12.21A16 of the LAMC.

(c) Development in excess of 100,000 square feet of gross floor area. The owner shall comply with Paragraphs (a) and (b) above and shall provide:

- 1) A safe and convenient area in which carpool/vanpool vehicles may load and unload passengers other than in their assigned parking area;

- 2) Sidewalks or other designated pathways following direct and safe routes from the external pedestrian circulation system to each building in the development;
- 3) If determined necessary by the City to mitigate the project impact, bus stop improvements shall be provided. The City will consult with the local bus service providers in determining appropriate improvements. When locating bus stops and/or planning building entrances, entrances shall be designed to provide safe and efficient access to nearby transit stations/stops;
- 4) Safe and convenient access from the external circulation system to bicycle parking facilities on-site.

Air-6: The project applicant shall provide traffic calming measures through street improvements. The applicant will be dedicating additional right-of-way along 41st Street, Alameda Street, and Martin Luther King, Jr. Boulevard. In connection with the street dedications and development of the proposed project, the applicant will be upgrading existing sidewalks, curb and gutter, as well as street trees, street lighting, and street furniture around the entire perimeter of the property in consultation with the City Department of Transportation and Department of Public Works. Upgrades to the existing sidewalks will require new curb cuts and crosswalks and the replacement of existing traffic signals at intersections. Additional traffic control devices will be installed as necessary and required to facilitate safe traffic circulation in and around the proposed project site.

Mitigation Measure Traffic-3 requires that the project dedicate land along its 41st Street frontage between Alameda Street and Long Beach Avenue. This street dedication is pursuant to Bureau of Engineering requirements, and is a condition of approval for the project.

Prior comments submitted on behalf of the Appellant had asserted that Mitigation Measure Utilities and Service Systems-1 represents deferred mitigation. This comment was addressed in Response to Comment No. E7-8 in Chapter III of the FEIR. Mitigation Measure Utilities and Service Systems-1 provides as follows:

Utilities and Service Systems-1: The project applicant shall either have further sewer system gauging obtained to identify a specific sewer connection point based on the capacity of the public sewer or build sewer lines to a point in the sewer system with sufficient capacity if the public sewer has insufficient capacity.

The Draft EIR determined that the existing storm water and sewer capacity would be adequate to accommodate the project, and there would accordingly be no significant impact. The additional gauging to support the sizing and location of sewer connections provides an additional check that is part of standard City review processes, and should not be considered deferred mitigation. Further, the City has adopted a Mitigation Monitoring Plan which is included as Chapter V of the FEIR and which will ensure that the mitigation measures for the project are enforced. The Appellant provides no support for its assertion that the FEIR impermissibly defers analysis and mitigation of environmental impacts to post-approval processes.

Appellant's Statements: Greenhouse gas impacts

The EIR fails to adequately analyze and mitigate greenhouse gas emissions.

Staff's Response:

The Appellant's comments regarding greenhouse gas emissions were addressed in Section IV.D of the Draft EIR and FEIR Response to Comment No. E7-9. As discussed therein, the modeling for direct, indirect, and cumulative greenhouse gas (GHG) emissions was conducted in accordance with CalEEMod2013.2.2, which is a statewide model, accepted by the South Coast Air Quality Management District (SCAQMD), to calculate air quality and GHG emissions in land

use projects. The model incorporates multiple components of the project including the construction scenario with its heavy construction equipment, landscaping, mobile trips (car and truck), architectural coatings, and potential energy and water efficiency savings. Based on emissions modeling, unmitigated construction emissions equal approximately 643.22 metric tons of CO₂e. Operational emissions equal approximately 2,090.25 metric tons of CO₂e per year. The operational GHG emissions can be attributed to mobile sources associated with the project's approximate 353,375 square feet of warehouse space. In the absence of regional thresholds adopted for GHG emissions, the California Air Resources Board (CARB) has suggested a threshold of 25,000 metric tons of CO₂e per year for the quantitative analysis of GHG emissions. Additionally, based on the suggested thresholds proposed by the California Air Pollution Control Officers Association (CAPCOA), the project would be expected to have the potential to result in significant impacts related to global climate change if the project emits more than 25,000 metric tons of CO₂e per year. Because the project's construction and operational emissions are not expected to exceed the CARB recommended threshold of 25,000 metric tons of CO₂e per year, mitigation measures are not required. Compliance with the following mandatory measures in the Los Angeles Green Building Code will further reduce the project's direct GHG emissions below acceptable levels:

- **99.05.106.5.3.1.** Electric Vehicle Supply Wiring. Provide a minimum number of 208/240 V 40 amp, ground AC outlet(s), that is equal to 5 percent of the total number of parking spaces, rounded up to the next whole number. The outlet(s) shall be located in the parking area.
- **99.05.203.1.3.** Energy Efficiency. Exceed California Energy Code requirements, based on the 2008 Energy Efficiency Standards, by 15 percent.
- **99.05.210.1.** ENERGY STAR Equipment and Appliances. Residential grade equipment and appliances provided and installed shall be ENERGY STAR labeled if ENERGY STAR is applicable to the equipment or appliance.
- **99.05.211.4.** Prewiring for Future Electrical Solar System. Install conduit from building roof, eave, or other locations approved by the Department to the electrical service equipment. The conduit shall be labeled as per the Los Angeles Fire Department requirements.
- **99.05.303.2.** Twenty Percent Savings. A schedule of plumbing fixtures and fixture fittings that will reduce the overall use of potable water within the building by 20 percent shall be provided. The reduction shall be based on the maximum allowable water use per plumbing fixture, and fittings as required by the California Building Standards Code.
- **99.05.410.1.** Recycling by Occupants. Provide readily accessible areas that serve the entire building and are identified for the depositing, storage, and collection of nonhazardous materials for recycling, including (at a minimum) paper, corrugated cardboard, glass, plastics and metals

Substantial evidence therefore supports the conclusion that the project will not result in significant impacts due to GHG emissions. The Appellant has not provided substantial evidence to the contrary. To provide for an overview to further clarify the EIR's analysis relative to potential GHG impacts, in particular consistency with applicable plans and policies, the project's environmental consultant has submitted a letter dated February 28, 2017, attached for reference, which supports the City's conclusions that the project would not result in GHG impacts.

Conclusion

As the appellant has failed to adequately disclose how the City erred in its actions relative to the EIR, Planning staff respectfully recommends that the appeal of ENV-2012-920-EIR be denied.