

August 1, 2017

VIA EMAIL AND HAND DELIVERY

Planning and Land Use Management Committee
Los Angeles City Council
200 N. Spring Street, Room 350
Los Angeles, CA 90012

Date: 8/1/17
Submitted in PLUM Committee
Council File No: 17-0029
Item No.: 8

Communication from
Appellant #2 Representative

Re: Hollywood Ivar Gardens Project – 6407 W. Sunset Boulevard
CPC-2015-2893-VZC-HD-CUB-ZAA-SPR/ENV-2015-2895-MND
Council File No. 17-0029

Dear Chairman Huizar and Honorable Committee Members:

This firm represents the Los Angeles Film School and 6363 Partners, LLLP. On behalf of our clients, we write to express our continued concern that the hotel, retail and restaurant project (the "Project") proposed for 6407 W. Sunset Boulevard (the "Project Site") pursuant to the above-referenced case, will have significant adverse impacts on the Los Angeles Film School and the surrounding Hollywood community that have not been adequately analyzed or mitigated, and therefore requires the preparation of a full Environmental Impact Report ("EIR").

Our client is an important long-term stakeholder in Hollywood. For nearly two decades, the Los Angeles Film School, an accredited private institution, has been a significant contributor to Hollywood and the broader regional economy, creating a vital pipeline of film professionals for Hollywood's major studios and production houses. The Los Angeles Film School offers both bachelor's degree and associate's degree programs and trains industry professionals for careers throughout the entertainment industry, including filmmaking and production, video game production and design, computer animation, visual effects, music production and recording arts. Its campus includes the former RCA Building at 6363 Sunset Boulevard, which has undergone extensive renovations to facilitate the school's educational mission, and the adjacent building and City block. In addition, our client operates the Ivar Theater (1605 Ivar Avenue) and the Los Angeles Recording School (6690 Sunset Boulevard).

The proposed Project would be constructed approximately 50 feet directly west of the Los Angeles Film School's main campus located at 6363 W. Sunset Boulevard, which contains, among other essential facilities, soundstages, a dubbing stage, media editing labs, sound design labs, and instructional and theater spaces that are central to the Los Angeles Film School's educational mission. These uses are particularly sensitive to noise and vibration impacts. Thus, the impacts of the proposed Project's construction alone could be particularly serious for the Los

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Angeles Film School if not properly analyzed and mitigated in accordance with the requirements of the California Environmental Quality Act (“CEQA”). Unfortunately, such analysis has not been undertaken.

We cannot emphasize enough that the Los Angeles Film School does not oppose the continued evolution and revitalization of the Hollywood community in which it is proudly located. In fact, the Los Angeles Film School welcomes responsible development and looks forward to working with community stakeholders on the continued improvement of Hollywood. However, under CEQA, the significant up-zoning for the high-rise hotel Project, in a congested area of Hollywood, and immediately adjacent to a sensitive receptor, needs to be comprehensively analyzed, and its impacts fully mitigated. Given the sheer magnitude of the Project, a Mitigated Negative Declaration (“MND”) is a wholly insufficient level of CEQA review; much smaller projects – including zoning compliant projects – in Hollywood have required EIRs. Because the MND does not appropriately and adequately analyze the Project’s significant environmental impacts, it is inadequate as a matter of law. Instead, the City must prepare an EIR to provide decision-makers and the public with sufficient information to fully consider all environmental impacts associated with the Project. Accordingly, any action taken by the City Council approving the Project and adopting the MND, without addressing the issues identified herein and elsewhere in the record, will be legally defective.

I. AN ENVIRONMENTAL IMPACT REPORT IS REQUIRED FOR THE PROJECT BECAUSE THE MITIGATED NEGATIVE DECLARATION IS LEGALLY INADEQUATE.

Under CEQA, the “fair argument” standard governs when an EIR is required. The fair argument standard represents a “low threshold” for preparation of an EIR, with the intent of maximizing protection of the environment. *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 332. Under this standard, an MND is proper only if project revisions would avoid or mitigate the potentially significant effects identified in an initial study such that clearly no significant effect on the environment would occur. *Id.* If there is substantial evidence that a project “may” have a significant environmental effect, an EIR is required. *Taxpayers for Accountable School Spending v. San Diego Unified School Dist.* (2013) 215 Cal.App.4th 1013, 1035 [“In that context, ‘may’ means a reasonable possibility of a significant effect on the environment”].

Specifically, if there is *any substantial evidence* supporting a fair argument that a project may have a significant environmental impact, an EIR must be prepared. *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 113. This strict standard requires preparation of an EIR even when the lead agency cites to contrary substantial evidence. *Parker Shattuck Neighbors v. Berkeley City Council* (2013) 222 Cal.App.4th 768,

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777-778 [unlike with an EIR, when determining whether sufficient evidence exists to support a fair argument, deference to the lead agency is not appropriate].

CEQA defines “substantial evidence” as “enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.” CEQA Guidelines § 15384(a); *Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477, 486. It includes “facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.” CEQA Guidelines § 15384(b). The fair argument standard further expands upon this definition to include factual testimony about existing conditions and relevant personal observations and knowledge about nontechnical subjects. *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928.

The following analysis presents substantial evidence supporting a fair argument that development of the Project will have significant environmental impacts that must be analyzed in an EIR.

A. The MND’s Project Description is Inadequate Under CEQA.

The proposed Project would include the demolition of an existing one-story, 4,000 square-foot Jack in the Box restaurant, and the construction of a 21-story, approximately 232 foot tall hotel with 275 guest rooms, all with kitchenettes, 1,900 square-feet of retail floor area, a four-level subterranean garage, a ground floor restaurant/lounge that includes sidewalk dining with 42 exterior seats, a market, a bar/café, and a roof terrace swimming pool. The hotel would also include meeting rooms and other guest accessory uses, such as laundry, a breakfast room, and a buffet room, among other things. To permit all of the proposed uses, the Project proponent requests (1) a Vesting Zone Change and Height District Change to allow a floor area ratio of 6:1, (2) a Conditional Use Permit to allow the sale and dispensing of a full line of alcoholic beverages for on-site consumption, (3) a Zoning Administrator’s Adjustment to permit a zero foot rear yard in lieu of the required 20 feet setback, and (4) Site Plan Review.

The MND’s description of the Project is fundamentally inadequate and misleading, particularly with respect to the lack of transparent disclosure and discussion of the true uses proposed for the Project. This failure causes the MND to omit necessary analysis of potential physical environmental impacts, which renders the MND legally inadequate under CEQA’s informational disclosure requirements. *Center for Sierra Nevada Conservation v. County of El Dorado* (2012) 202 Cal.App.4th 1156, 1171 [an accurate and complete project description is necessary for an intelligent evaluation of the potential environmental impacts of the project].

The MND’s omission of any meaningful analysis of the proposed ground floor bar/restaurant with accompanying outdoor space and seating is particularly troubling, as proper

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consideration of that use would affect various impact discussions – particularly traffic, given that restaurants have high trip generation rates. The status of the proposed bar/restaurant as an integral part of the Project, akin to the separate retail use, is fully described in the City Planning Commission’s (“CPC”) Letter of Determination dated December 5, 2016 (the “CPC Determination”), which states:

- The conditional use permit would allow “the sale and dispensing of a full line of alcoholic beverages for on-site consumption which shall be limited to the following locations: (a) ground floor *lounge/restaurant area* (including outdoor seating area) ...” *CPC Determination* at C-3.
- The hotel “*and restaurant*” will provide a significant number of jobs....” *CPC Determination* at F-8.
- “...the project is providing open space along the ground floor of the building that will serve as expanded sidewalk space and seating area for the adjoining *lounge/restaurant....*” *CPC Determination* at F-16.

However, the CPC Determination is inconsistent in its discussion of the Project’s bar/restaurant. For example, the CPC Determination fails to identify the bar/restaurant within the “Approved Project Description,” and states that alcohol service shall only be offered “in conjunction with the operation of the proposed hotel.” *CPC Determination* at 1. This inconsistency appears to be designed to purposefully minimize the bar/restaurant and characterize it as merely accessory to the hotel use, thereby avoiding any analysis of traffic generation and required parking. However, any such minimization is inappropriate and inconsistent with the overall discussion and analysis of the restaurant/bar as a mere amenity provided for the benefit of both hotel guests and visitors. *CPC Determination* at F-18 [“an amenity that complements other food and beverage options provided to hotel guests and *visitors*”] (emphasis added). Thus, like the standalone retail use, the bar/restaurant has independent utility outside of the hotel (as an attractive amenity to non-guests). Like other Hollywood hotels, the restaurant will generate its own traffic trips. And while the existing Jack in the Box that is being removed generates mostly pass-by trips, the new restaurant would likely be a sit-down *destination* restaurant.

By not separately identifying the restaurant/bar as its own use, but instead merely characterizing it as part of the hotel, the MND fails to include any meaningful discussion of the restaurant/bar and associated impacts. The MND simply acknowledges the existence of a “bar/café, a casual dining/lounge, and outdoor patio” on the ground floor, but treats those spaces as part of the hotel use for purposes of discussing and analyzing the Project’s environmental effects. But a restaurant/lounge that includes sidewalk dining with 42 seats just on the sidewalk

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is quite a restaurant! Moreover, when every room in an extended-stay hotel includes kitchenettes, it is clear that the MND is trying to sneak an independent visitor-serving destination restaurant into the project description without any analysis whatsoever. As discussed herein, such treatment is inadequate because it fails to account for the true impacts of the Project. This omission particularly implicates the MND's discussions of traffic, parking, and water use, for which it simply uses hotel rooms to assess the Project's impacts. However, as outlined below, simply relying on the number of hotel rooms gravely understates the actual impacts that would result from the various uses of the Project. *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 655-656 [a project description that gave conflicting signals to decisionmakers and the public about the nature and scope of the activity being proposed was fundamentally inadequate and misleading and fundamentally undermines the environmental review process].

B. Noise

The MND's noise analysis violates CEQA on numerous grounds, particularly because it makes unreasonable and unfounded assumptions, lacks supporting evidence, and actually demonstrates there would be a significant impact on the Los Angeles Film School, which is an adjacent sensitive receptor. As previously discussed, the Los Angeles Film School includes a number of uses and programs critical to its educational mission, including sound stages, a dubbing stage, theatres, recording studios, and classrooms, that would be adversely impacted by significant noise increase. The Los Angeles Film School identified the MND's inadequacies with respect to noise and vibration in a December 7, 2016 technical memoranda prepared by Acoustical Engineering Services (the "2016 AES Memo" attached as Exhibit A), which we provided to the applicant in the hope of remedying various shortcomings of the noise study. In response, the applicant attempted to essentially "cover up" some of these failings through its preparation of the April 14, 2017 Veneklasen Associates report (the "Supplemental Noise Analysis") that was included with the applicant's Response to Appeals. Critical inadequacies remain unaddressed, as further explained in the May 12, 2017 technical memoranda prepared by Acoustical Engineering Services (the "2017 AES Memo" attached as Exhibit B).

To that end, the Los Angeles Film School continues to be extremely troubled by the MND's acknowledgement of a significant increase in ambient noise above the 5 dBA threshold of significance and the unfounded conclusion that "voluntary mitigation" will reduce that impact to a less than significant level. Indeed, these voluntary concessions effectively constitute a recognition that the Project noise impacts are significant and an EIR is required. These issues are examined in detail in the 2016 AES Memo and the 2017 AES Memo, which are expressly incorporated into this comment letter and are discussed further below.

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i. Construction Noise

Ambient Baseline and Noise Impact. As a starting point, the baseline for establishing the existing noise levels at the Los Angeles Film School is unsubstantiated, as there is no evidence (empirical measurements or methodological explanation) supporting the so-called “prediction” of 70 dBA as the existing noise level in the most noise-sensitive area of the school. *See* Supplemental Noise Analysis at 2. The artificially inflated 70 dBA was devised out of thin air only to retroactively mask the Project’s construction noise impacts. In fact, the MND, through actual measurements, found that the existing ambient noise level along the eastern boundary of the Project site was as low as 65 dBA. *Id.* In addition, there is no explanation for how the Supplemental Noise Analysis determined the location of the “LAFS Studio” receptor.

In particular, the Supplemental Noise Analysis does not specify the actual physical distance between the Project construction site and the adjoining LAFS Studio receptor. In Table 4, the estimated noise level from Project construction at the LAFS Studio is 79 dBA. *Id.* at 5. The 79 dBA estimated noise level suggests an assumed distance of 160 feet from the Project construction noise source, based on the construction noise level of 89 dBA at 50 feet (as provided in Table 2 of the Supplemental Noise Analysis) and standard engineering sound attenuation of 6 dB per doubling of distance. However, based on the Project receptor location shown in Figure 2 of the Supplemental Noise Analysis, the receptor appears to be at the western façade of the Los Angeles Film School building, which is approximately 70 feet from the Project Site. Therefore, the estimated construction-related noise level at a distance of 70 feet, with no mitigation, should be 86 dBA (not 79 dBA, as claimed in the Supplemental Noise Analysis), which is consistent with the estimated noise level provided in the MND. There is no evidence that the proposed measures would mitigate this impact below the applicable threshold.

Furthermore, there are existing sensitive uses throughout the ground floor of the Los Angeles Film School – including immediately adjoining Ivar Avenue – which are located less than 70 feet from the Project construction site. Therefore, the Supplemental Noise Analysis is flawed as it does not accurately reflect the location of numerous sensitive uses at the Los Angeles Film School.

The MND’s noise analysis also notes that “interior noise levels are more important than exterior noise levels” for the sensitive receptors, and includes an “estimated” interior noise level at each sensitive receptor. MND at III-83. This appears to be a deliberate attempt to redefine the analysis to assess significance by comparing existing exterior ambient noise and the resulting interior ambient noise. This apples-to-oranges analysis is at best extremely misleading and, at

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worst, intentionally deceptive.¹ The threshold adopted by the MND is clear – a significant noise impact would result if “construction activities lasting more than ten days in a three-month period ... would increase ambient *exterior noise levels* by 5 dBA or more at a noise sensitive use....” MND at III-82 (emphasis added). As evidenced by Table III-13, this threshold would be exceeded at both Grandmaster Records and the Los Angeles Film School. Thus, a significant impact would result.²

Mitigation. The MND admits that construction noise impacts would be potentially significant, but nevertheless concludes, without evidentiary support, that impacts would be less than significant because the incorporated mitigation would reduce construction noise to “the maximum extent feasible....” MND at III-87. This attempt at mitigation is entirely illusory. First, the notion that merely reducing noise “to the maximum extent feasible” justifies the conclusion that there would be a less than significant impact is simply ludicrous. While it is true that CEQA requires mitigation of impacts to the maximum extent feasible, if all feasible mitigation measures cannot reduce a significant impact to a less than significant level, that impact remains significant and unavoidable, and an EIR is required. CEQA Guidelines § 15126.4. Anything to the contrary, including what is attempted here, is fundamentally at odds with the intent of an MND, which is proper only if all potentially significant effects are mitigated such that “clearly no significant effect on the environment would occur....” *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 330-331.

Furthermore, the assertion that the MND’s proposed noise mitigation measures (N-1 to N-6) would reduce construction noise impacts associated with the proposed Project “to the maximum extent that is technically feasible” is erroneous. For example, mitigation measure N-4 requires that an acoustical sound blanket be erected “along the Project Site’s northerly property line to absorb construction noise levels” generated by construction equipment. MND at III-87. However, requiring sound blankets along the northerly property line, to the exclusion of the

¹ Moreover, the assumptions regarding “interior” noise levels at sensitive receptors are without any evidentiary support. CEQA requires, at the very least, a good faith effort at disclosure, and evidence to support the conclusions in the MND. Here, however, the MND simply makes unfounded assertions about interior noise levels, while the underlying assumptions used to generate these “estimated” interior noise levels are conspicuously absent from the MND. Without such support, the “estimated” interior noise levels fail to comply with CEQA. *City of Long Beach v. Los Angeles Unified School District* (2009) 176 Cal.App.4th 889, 902 [CEQA requires that a lead agency must include a reasonable and good-faith discussion of the project and show the analytic route the agency traveled from evidence to action].

² The included interior noise levels analysis is also, in addition to being misleading, without any informational value as it fails to identify existing interior noise levels. Presumably, like construction-related noise at the sensitive receptors, existing interior noise would be proportionally less than existing exterior noise (i.e., reduced by the same amount as construction-related noise because the mitigating factors would not change). Thus, looking at existing ambient and with-project interior noise, the increase due to construction would still exceed the threshold.

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easterly property line (adjacent to the Los Angeles Film School), does not reduce noise impacts to the maximum extent technically feasible. The MND provides no explanation whatsoever as to why sound blankets are not proposed for the eastern property line, especially when the MND states that existing ambient noise at the Los Angeles Film School will be increased by approximately 10 dBA with construction of the Project – **a significant impact requiring mitigation**. MND at III-84 [MND expressly states that the Project would have a significant noise impact if the “ambient exterior noise” at sensitive receptors would be increased by 5 dBA or more].

CEQA requires the inclusion of all feasible mitigation measures. Pub. Res. Code §§ 21002.1, 21100. The Supplemental Noise Analysis attempts to add a “voluntary mitigation measure” through a 16-foot high temporary noise barrier. Thus, placing sound barriers on the easterly property line is clearly a feasible mitigation measure, and must be **mandated** to reduce the Project’s noise impacts, not merely included as a voluntary measure. However, by itself, this is inadequate, as the Supplemental Noise Analysis implicitly acknowledges that an additional 10-foot barrier **is required** to reduce the construction noise to below the significance threshold. *See* Supplemental Noise Analysis at 4. Therefore, **two barriers** – one with a height of 16 feet at the property line and one with a height of 10 feet near the construction equipment – would be required at a minimum, even if the estimated noise generation levels were accurate, which they are not.

It is not clear that even these measures are sufficient. For example, the Supplemental Noise Analysis acknowledges that the perimeter sound barrier will have an operable gate for entry/exit, but does not disclose or analyze the extent to which this will reduce the effectiveness of the mitigation. *Id.* In fact, the Supplemental Noise Analysis and Responses to Comments are silent on the frequency and duration of such gate opening. Moreover, the location of the gate is not specified. Therefore, there is insufficient support for the claimed noise reduction by this measure.

The Supplemental Noise Analysis appears to take credit for the proposed measure to move a temporary wall “close to the loudest noise generating equipment.” *See* Supplemental Noise Analysis at 4. Yet, as this measure is not being proposed as a required mitigation measure, Project feature or condition, it is entirely irrelevant for the purposes of evaluating the Project’s post-mitigation construction noise impacts. Indeed, it may be highly impractical for this measure to be implemented for certain high-noise construction activities occurring near the Project eastern boundary, such as paving. Moreover, a second proposed voluntary mitigation measure requiring the installation of on-site noise and vibration monitors, *see id.* at 6, is illusory and meaningless, because it does not: (1) measure impacts at the locations of sensitive receptors; (2) specify the thresholds that will trigger contractor notification and/or stoppage of work; or (3) require the cessation or curtailment of noise/vibration generating activities causing the impact.

The mitigation measures are also insufficient on other grounds. For instance, although mitigation measure N-2 requires that demolition and construction activities “shall be scheduled so as to avoid operating several pieces of equipment simultaneously, which causes high noise levels” such requirement is conditioned such that it need only be followed to the “*maximum extent practical*...” MND at III-87. This important caveat makes mitigation measure N-2 illusory, as the developer could simply always state that practicality considerations warrant operating loud construction equipment simultaneously. *Federation of Hillside & Canyon Ass’ns. v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1260 [CEQA prohibits the use of vague, incomplete or untested mitigation measures].

Mitigation measure N-3, which requires the use of “state-of-the art noise shielding and muffling devices” is also illusory, as it would not reduce noise impacts. As discussed in Table III-11, the level of noise generated during construction of the Project was calculated under the assumption that mufflers would be used. MND at III-83 [for example, identifying the “Noise Levels at 50 Feet with Mufflers”]. Thus, it appears that the MND is attempting to double-count the use of mufflers as a noise reducing measure (or perhaps get double credit, as the noise reduction associated with mitigation measure N-3 was not quantified in the MND).

Finally, it appears that the MND is improperly attempting to rely on a Los Angeles Municipal Code (“LAMC”) construction noise exemption to conclude that construction-related noise upon adjacent properties would not be significant. LAMC Section 112.05 provides that its noise limitations (not to exceed 75 dBA) are not applicable if compliance is technically infeasible. However, that section, by its own language, only applies in limited circumstances – to properties in a residential zone or within 500 feet of a residential zone. LAMC § 112.05. And it certainly cannot be used to argue that impacts are less than significant with respect to a sensitive receptor, such as an educational institution. Here, the Project Site does not meet this specific criteria, so application of that section is improper. Moreover, even if the Los Angeles Film School was not a sensitive receptor and/or the Project Site was in a residential zone or within 500 feet of a residential zone, reliance on the “exemption” as a justification for concluding construction-related noise impacts are less than significant would still violate CEQA. *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 342 [a public agency cannot apply a threshold of significance or regulatory standard in a way that forecloses the consideration of any other substantial evidence showing there may be a significant effect]. As explicitly stated in the MND, a significant impact would occur if construction would result in “substantial temporary or periodic increase in ambient noise levels above existing ambient noise...” MND at III-94. The MND is clear – ambient noise would be increased by approximately (1) 46.8 dBA at Grandmaster Records and (2) 9.3 dBA at the Los Angeles Film School. This exceeds the threshold used in the MND (“...which would increase ambient exterior noise levels by 5 dBA or more at a noise sensitive use...”). MND at III-82. This is all the more troubling when one considers that the MND’s noise analysis excluded heavy construction trip traffic.

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As demonstrated above, the MND and Supplemental Noise Analysis are fundamentally inadequate, and there is substantial evidence supporting a fair argument that significant and unavoidable impacts would occur as a result of the Project. The totality of these omissions, errors and fundamental inadequacies appears to result from an ill-fated attempt to expedite the Project's CEQA review by only relying on an MND to assess the Project's impacts, when an EIR is so obviously required. The foregoing unequivocally demonstrates that an EIR must be prepared to adequately assess the Project's construction noise impacts.

ii. Operational Noise

The MND's operational noise analysis omits important information regarding noise sources typically associated with a project of this magnitude and operational characteristics, including delivery truck loading/unloading and trash compactor/collection, which would generate impactful noise for the Los Angeles Film School, a recognized sensitive receptor. For instance, the Project's site plan (Figures II-7 and II-8 of the MND) shows that the proposed hotel's service entrance is located on Ivar Street. *See also* MND at III-27 ["The one-way inbound service driveway on Ivar Avenue will accommodate one-way inbound only access movement for service and delivery vehicles"]. The loading and unloading of trucks can generate significant noise, including from engines (food deliveries in refrigerated trucks would require keeping engines running), exhaust systems, the dropping down of dock ramps, and movement up and down dock ramps. However, the operational noise analysis does not address the number, frequency or duration of anticipated deliveries and the associated impacts, and it is entirely unclear whether the analysis considered any noise impacts to the Los Angeles Film School associated with deliveries to the Project.³ Also, Figure II-8 shows that trash enclosures to be used for trash service will be located near the exit of the service entrance. It must be determined whether such operations could impact the Los Angeles Film School's existing operations by increasing ambient noise, which analysis is absent from the MND.

Additionally, while the MND identified several Project noise sources with the potential to increase the existing ambient noise, including auto traffic, mechanical HVAC equipment, parking, and open space (outdoor uses), *see* MND at III-93-94, the MND only provided quantitative analysis for the Project's off-site auto traffic, which would result in 1.2 dBA at roadway intersections adjacent to the Project site, *see* MND at III-93. Indeed, the Response to Appeals concludes, with no evidentiary support, that the Project's outdoor open space areas (which will include a rooftop pool and deck with electronically amplified music) would not

³ The traffic analysis also appears to fail to quantify the number of anticipated deliveries and assess whether such deliveries, which could be high given the anticipated uses of the Project (hotel, retail, alcohol, food service), would have any impacts to area traffic.

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exceed existing ambient levels in the vicinity of the Project site. *See* MND Responses to Comments at 24.

Also, the analyses of operational impacts from stationary noise sources, parking noise, and open space noise all generally rely on LAMC provisions to conclude that impacts would be less than significant. This rationale violates CEQA, as the LAMC is not a sufficient basis for making such conclusions without any evidence or factual analysis. For example, the MND notes that parking noise (engines accelerating, doors slamming, car alarms, and people talking) has the potential to increase ambient noise levels. However, rather than quantifying potential noise sources and impacts, the MND simply relies on LAMC Section 114.02 to conclude that no significant impacts would occur. There is no support for this conclusion because LAMC Section 114.02 only prohibits the operation of motor vehicles on property that would cause a 5 dBA increase in noise on any *occupied residential property*. Thus, this restriction is illusory as it does not operate to prohibit an increase in ambient noise above 5 dBA at the Los Angeles Film School, which is a sensitive receptor. As such, it cannot be relied upon to conclude impacts will be less than significant. *Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1390 [CEQA requires facts and analysis, not just the bare conclusions of the agency].

Similarly, the MND cannot simply rely upon LAMC provisions to conclude that open space noise and stationary source noise would not be significant. There is simply no guarantee of compliance with those LAMC provisions, and LAMC Section 116.01, which is relied upon for open space noise, suffers from the same fatal flaw as LAMC Section 114.02 – it applies only to limit noise impacts to people “residing” in the area without protecting other sensitive receptors like the Los Angeles Film School. Also, as discussed in the CPC Determination, music will be permitted on the rooftop/pool deck between 7:00 AM and 11:00 PM every day. *See CPC Determination, Attachment C-2, Condition 10*. Despite this express permission, the MND fails to identify amplified music as a potential source of operational noise. Because amplified music could impact the noise sensitive uses at the Los Angeles Film School, the potential impacts of such noise must be thoroughly analyzed.

iii. *Vibration Impacts*

As with its noise analysis, the MND’s analysis of vibration impacts resulting from the Project’s construction activities is also inadequate. To begin, the MND erroneously focuses on vibration impacts to nearby structures rather than human annoyance. *See* MND at III-89-III-90. And even this analysis is threadbare as it only reports vibration impacts on one structure – Grandmaster Records Ltd. The Los Angeles Film School, an acknowledged sensitive receptor, is relegated to an afterthought: “The Project’s construction vibration levels would be further reduced and thus less than significant for structures located more than 50 feet . . . to the east

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(across Ivar Avenue).” *Id.* at III-90. Furthermore, with respect to human annoyance, the MND claims that because all noise generating construction activity will take place on a temporary and intermittent basis during authorized time periods, vibration impacts are considered less than significant. *Id.* at III-91. There is absolutely no legal basis for this conclusion.

Moreover, neither the Supplemental Noise Analysis nor the Response to Appeals cure these deficiencies. In fact, the Supplemental Noise Analysis merely claims that the “prediction of vibration level from construction activities is highly inexact.” Supplemental Noise Analysis at 6. To be sure, regardless of whether the Project construction will use pile driving equipment, other heavy equipment (e.g., earth mover, excavator, drill rig for shoring) will be used and will cause vibration impacts that can and must be evaluated. In addition, the Supplemental Noise Analysis addressed the wrong issue – i.e., whether vibration will cause damage to buildings. The relevant question is whether vibration will impact sensitive uses, including the Los Angeles Film School – which must be evaluated based on the threshold of 65 VdB set forth in the Federal Transit Authority’s *Transit Noise and Vibration Impact Assessment*.

Additionally, the Response to Appeals improperly relies on LAMC Section 112.05 to conclude that the Project is exempt from any requirement to evaluate and mitigate vibration impacts on the basis that all technically feasible noise mitigation has allegedly been implemented. *See* MND Responses to Comments at 79. However, LAMC Section 112.05 neither regulates, nor creates an exemption for, vibration impacts; it only addresses noise levels. Indeed, the Supplemental Analysis and Response to Appeals don’t explain the relationship between mitigating noise impacts and mitigating vibration impacts. Finally, as there is no analysis of vibration impacts, there is no basis to conclude that all feasible mitigation options have been exhausted.

C. Greenhouse Gas Emissions

The MND relies upon an ambiguous methodology for its analysis of greenhouse gas (“GHG”) impacts, seemingly vacillating between qualitative and quantitative analyses. For instance, in response to a comment previously submitted on the MND, the City states that “the threshold of significance [for GHG impacts] was based on qualitative analysis of the Proposed Project’s consistency” with applicable policies in various plans, but also that the “Project’s GHG emissions were quantified ... for the purposes of demonstrating the reduction in GHG emissions” expected as a result of the design features of the Project. MND Responses to Comments at 20. The fatal methodological error in this analysis lies in its internal inconsistency. For instance, the MND asserts that the Project’s GHG emissions would be less than significant because the Project would “be consistent with local and statewide goals and policies aimed at reducing the generation of GHGs, including CARB’s AB 32 Scoping Plan....” MND at III-51. However, at the same time, the quantification of the Project’s GHGs demonstrates that the

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incorporated design features would only be able to reduce the Project's GHG emissions as compared to a business-as-usual scenario ("Base Project Without GHG Reduction Features"), by approximately 13%. MND at III-51. A 13% reduction from a business-as-usual scenario is **not consistent** with the reduction requirements of AB 32, which requires an approximately 15% reduction from business-as-usual to meet its goals. See *CARB First Update to the AB 32 Scoping Plan*. Thus, the MND's reliance upon a qualitative threshold and its conclusions about compliance with AB 32 are directly contradicted by the MND's own quantitative analysis of GHG emissions. Simply put, the Project's GHG analysis clearly demonstrates that it would generate emissions that would hinder attainment of the reduction goals of AB 32. This is a significant impact that must be analyzed in an EIR.

Furthermore, despite what is asserted in the applicant's various responses, the California Supreme Court did not expressly sanction the use of a qualitative evaluation of GHG impacts in its recent *Center for Biological Diversity v. California Dept. of Fish and Wildlife* decision. Rather, the Supreme Court noted that the use of a numerical threshold (*i.e.*, a GHG emissions number above which such emissions would be considered significant – such as the South Coast Air Quality Management draft thresholds) was not required, and that other thresholds of significance, such as compliance with AB 32's reduction requirements, could be used to ascertain the significance of a GHG impact. Importantly, however, the Supreme Court did note that CEQA Guidelines Section 15064.4 was adopted to assist lead agencies "in investigating and disclosing 'all that they reasonably can' regarding a project's GHG impacts." *Center for Biological Diversity v. California Dept. of Fish and Wildlife* (2015) 62 Cal.4th 204, 221. This purpose is consistent with CEQA's fundamental goal of public disclosure of environmental impacts. *Association of Irrigated Residents, supra*, 107 Cal.App.4th at 1397 [CEQA requires sufficient information and analysis to enable the public to discern the analytical route the agency traveled from evidence to action]. Accordingly, even if CEQA permits the use of a qualitative threshold, such a threshold cannot be applied in a manner that "forecloses the consideration of any other substantial evidence showing there may be a significant effect" caused by the Project. *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 342; see also *Berkeley Keep Jets Over the Bay Com. v. Board of Port Comrs.* (2001) 91 Cal.App.4th 1344, 1381-1382 [a CEQA violation occurs when an EIR applies an ironclad threshold that eliminates important analysis and fails to account for a project's true environmental impacts]. Therefore, the City cannot simply apply a qualitative threshold and ignore the overwhelming evidence of a significant impact identified by the quantitative analysis **in the same MND**.

Here, the MND's quantitative analysis of the Project's GHG impacts demonstrates a fundamental inconsistency with AB 32 and the achievement of its emissions reduction goals, which is substantial evidence supporting a fair argument of a significant impact. Under the fair argument standard, an EIR is required to properly assess this impact. *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 113 ["any substantial

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evidence supporting a fair argument that a project may have a significant environmental effect” triggers the preparation of an EIR].

D. Traffic

Based on numerous methodological errors, the MND fails to adequately evaluate the Project’s traffic impacts, thereby dramatically understating its impacts and entirely avoiding mitigation that should otherwise be required.

i. Trip Generation

The MND’s traffic analysis relies on improper trip generation assumptions that are inconsistent with the unique characteristics of the proposed use. Specifically, each of the Project’s 275 guestroom units includes a kitchenette. MND at I-1. This indicates that the hotel will be geared to, and utilized for, extended stay use by business travelers and others visiting Los Angeles for prolonged periods. It is reasonable to expect that business travelers and similar guests will use the hotel more like a residence than a typical hotel, with a higher percentage of expected departures from the hotel during the morning peak hour in order for guests to travel to business meetings, local offices, etc., and a higher percentage of expected returns to the hotel during the PM peak hour.

However, the traffic analysis assumes that for the 275 guestroom units, only 69 outbound trips will occur during the AM peak hour, which is only 1 outbound trip for every 4 guestroom units, and only 85 inbound trips will occur during the PM peak hour, which is less than 1 inbound trip for every 3 guestroom units. MND at III-115. See also MND Appendix G, p. 38. On its face, this makes little sense. Moreover, the only basis for these trip generation assumptions is the Institute of Transportation Engineers’ (“ITE”) *Trip Generation Manual*. *Id.* Specifically, the MND’s traffic analysis utilized the general ITE trip generation rate for hotels, Land Use Code 310. However, the description for Code 310 includes absolutely no mention of extended stay hotels, and the MND offers no explanation of why this is an appropriate assumption under the circumstances. Thus, it is wholly unclear why this trip generation would bear any meaningful relationship to the traffic generation rate for the proposed Project, which will operate in a fundamentally different manner than a traditional hotel.

In addition, in various places, the MND indicates that the proposed hotel will include two meeting rooms, a breakfast room, a bar/café, a casual dining/lounge space, and an outdoor patio with 42 exterior dining seats. MND at II-12, III-68. The CPC Determination expands on this, indicating that the Project will actually include a “[g]round floor lounge/restaurant area (including outdoor seating area).” CPC Determination at C-3. The MND includes no discussion or analysis of these additional uses at the Project, including essential information like the types

of events and expected attendance, hours of operation, etc., that are necessary to evaluate the Project's impacts, particularly related to transportation. These additional uses, which are both intended to and will likely attract significant numbers of non-guests to the hotel, are directly pertinent to an accurate assessment of trip generation resulting from the Project's most intense uses. Instead, the MND has simply ignored these independent uses by subsuming them within the broader hotel use and treating them as if they will only be used by hotel guests.

This wholly inadequate analysis is most evident when compared to the traffic analyses in the CEQA documents for other hotel developments similar to the Project. These developments include the Hollywood Tommie Hotel (1400 Cahuenga Boulevard), the Thompson Hollywood Hotel (1541 Wilcox Avenue), and the Spring Street Hotel (635 Spring Street).

The Hollywood Tommie Hotel is a proposed development of approximately 175 hotel rooms, 5,043 square feet of restaurant space, and 600 square feet of retail space in a 7-story building, with two levels of subterranean parking. Unlike for the Hollywood Ivar Gardens Project, the City required that this project's traffic impacts be analyzed for each proposed use, rather than solely as a hotel. On page 3-157 of the Tommie Hotel MND, for example, the traffic impacts of the hotel, retail, and restaurant uses are each separately evaluated.⁴

Table 3.16-2
Estimated Project Traffic Generation

Description	Size	Daily Traffic	AM Peak Hour			PM Peak Hour		
			Total	In	Out	Total	In	Out
Proposed								
Hotel	175 rooms	1,430	93	55	38	105	54	51
Specialty Retail	600 sf	27	4	2	2	2	1	1
Internal Trips	10%	(3)	(0)	(0)	(0)	(0)	(0)	(0)
Transit/Walk	10%	(2)	(0)	(0)	(0)	(0)	(0)	(0)
Pass-by	10%	(2)	(0)	(0)	(0)	(0)	(0)	(0)
Subtotal Retail		20	4	2	2	2	1	1
Restaurant	5,043 sf	641	55	30	225	50	30	20
Internal Trips	10%	(64)	(6)	(3)	(3)	(5)	(3)	(2)
Transit/Walk	10%	(58)	(5)	(3)	(2)	(5)	(3)	(2)
Pass-by	20%	(104)	(9)	(5)	(4)	(8)	(5)	(3)
Subtotal Restaurant		415	35	19	16	32	19	13
Subtotal Proposed		1,866	132	76	56	139	74	65

⁴ This Mitigated Negative Declaration is available at http://cityplanning.lacity.org/staffrpt/mnd/Pub_040716/ENV-2015-3167.pdf.

Similarly, the Thompson Hollywood Hotel is a proposed development of approximately 200 hotel rooms, 7,110 square feet of restaurant space, and 1,862 square feet of bar space in a 10-story building, with four levels of subterranean parking. On pages 4-130 and 4-131 of its MND, the impact of each proposed use – hotel, lobby restaurant/bar, banquet/meeting rooms, and rooftop restaurant/bar – is separately detailed.⁵

Table 4-28
Project Trip Generation

LU	Use/ Description	Size	Units	Daily	AM Peak Hour			PM Peak Hour		
					Total	I/B	O/B	Total	I/B	O/B
Proposed Uses										
310	Hotel	225	Rooms	1,383	119	70	49	135	61	74
932	Lobby Restaurant/Bar	11,797	sq ft	1,500	128	70	58	116	70	46
931	Banquet/Meetin g Rooms	10,454	sq ft	855	8	4	4	71	48	23
931	Rooftop Restaurant/Bar	4,443	sq ft	400	4	2	2	33	22	11
Subtotal				4,138	259	146	113	355	201	154
Internal Capture										
	Lobby Restaurant/Bar	10%		(150)	(13)	(7)	(6)	(12)	(7)	(5)
	Banquet/Meetin g Rooms	10%		(85)	(1)	(1)	(0)	(7)	(5)	(2)
	Rooftop Restaurant/Bar	10%		(40)	(0)	(0)	(0)	(3)	(2)	(1)
Subtotal				275	(14)	(8)	(6)	(22)	(14)	(8)
Transit/Alternative Mode Trips										
	Hotel	15%		(273)	(18)	(11)	(7)	(20)	(9)	(11)

Finally, the Spring Street Hotel is a proposed development of approximately 170 hotel rooms, 7,050 square feet of restaurant space, and 1,200 square feet of conference/screening room space in a 26-story building, with three levels of subterranean parking. For the Spring Street Hotel, the City's Draft Environmental Impact Report analyzed the traffic impacts of each separate use.⁶

⁵ This Mitigated Negative Declaration is available at <http://cityplanning.lacity.org/staff/rpt/mnd/ENV-2014-3707.pdf>.

⁶ This Draft Environmental Impact Report is available at <https://cityplanning.lacity.org/eir/SpringStHotel/DEIR/DEIR%20Spring%20Street%20Hotel%20Project.html>.

Table IV-J-5
Project Trip Generation

Land Use	ITE Code ^a	Size	Generation Rates									Estimated Trips								
			Daily	AM Peak Hour			PM Peak Hour			Daily	AM Peak Hour			PM Peak Hour						
				In	Out	Total	In	Out	Total		In	Out	Total	In	Out	Total				
Existing Use (to be removed)																				
Fast Food without Drive-Thru Window	933	600 sf	716.00	26.32	17.55	43.87	13.34	12.81	26.15	430	16	10	26	8	8	16				
Reduction for walk/transit trips (15%)										(65)	(2)	(2)	(4)	(1)	(1)	(2)				
Reduction for pass-by trips (50%)										(183)	(7)	(4)	(11)	(4)	(3)	(7)				
TOTAL EXISTING										182	7	4	11	3	4	7				
Proposed Uses																				
Hotel	310	176 rms ^c	8.17	0.31	0.22	0.53	0.31	0.30	0.61	1,438	55	38	93	54	53	107				
Reduction for walk-transit trips (15%)										(216)	(8)	(6)	(14)	(8)	(8)	(16)				
Subtotal for Hotel										1,222	47	32	79	46	45	91				
Quality Restaurant	931	8,430 sf	89.95	0.45	0.36	0.81	5.02	2.47	7.49	758	4	3	7	42	21	63				
Reduction for internal trips (20%)										(152)	(1)	(0)	(1)	(8)	(5)	(13)				
Reduction for walk/transit trips (15%)										(91)	(1)	(0)	(1)	(5)	(3)	(8)				
Reduction for pass-by trips (10%)										(52)	(0)	(0)	(0)	(3)	(1)	(4)				
Subtotal for Quality Restaurant										463	2	3	5	26	12	38				
Bar/Lounge	925	5,290 sf	113.40	2.09	0.70	2.78	7.71	3.63	11.34	600	12	3	15	41	19	60				
Reduction for internal trips (20%)										(120)	(2)	(1)	(3)	(8)	(4)	(12)				
Reduction for walk/transit trips (15%)										(72)	(2)	(0)	(2)	(5)	(2)	(7)				
Reduction for pass-by trips (0%)										(0)	(0)	(0)	(0)	(0)	(0)	(0)				
Subtotal for Bar/Lounge										408	8	2	10	28	13	41				
Hotel Conference Space	— ^b	80 occ	0.84	0.41	0.00	0.41	0.00	0.41	0.41	133	33	0	33	0	33	33				
Subtotal for Hotel Conference Space										133	33	0	33	0	33	33				
TOTAL PROPOSED										2,227	90	37	127	100	103	203				
Less Existing										(182)	(7)	(4)	(11)	(3)	(4)	(7)				
TOTAL NET										2,045	83	33	116	97	99	196				

Note: Totals may not add up exactly due to rounding. sf = square feet; rms = rooms; occ = occupants

^a Per Institute of Transportation Engineers (ITE), Trip Generation – 9th Edition, 2012.

^b No ITE trip rates available. Trips were estimated based on the following assumptions: Maximum capacity of 80 attendees, 1.2 persons/car, 50% arrive/depart in AM and PM peak hour.

^c The proposed room count for the Project is not to exceed 170 rooms. The traffic study was prepared on an earlier version of the Project that included 176 rooms. Accordingly, the conclusions presented in this Draft EIR with respect to traffic impacts are conservative.

Source (data): The Mobility Group, 633 S. Spring Street Hotel Project Traffic Study, April 2016.

Source (table): EcoTierra Consulting, 2016.

Further, as noted in the May 11, 2017 letter (the “May 11 MRO Letter”) to the City from MRO Engineers, Inc. (“MRO”), the MND’s traffic analysis improperly adjusted the trip generation estimates to reflect “pass-by” trips (i.e. trips that are already on the adjacent streets before being attracted to the Project Site). In particular, MRO noted that “it is incorrect to simply deduct the pass-by trips from the total trip generation estimates, because doing so fails to account for the fact that such trips have different flow patterns in the immediate vicinity of the proposed project.” May 11 MRO Letter at 2. The MND’s failure to apply the generally-accepted pass-by trip adjustment procedure, as documented in the *ITE Trip Generation Handbook*, has resulted in erroneous traffic assignment. MRO specifically determined that “one additional eastbound left turn in the PM peak hour would result in a significant traffic impact at the Sunset Boulevard/Cahuenga Boulevard intersection,” *id.* at 3, and added that “there is a reasonable likelihood that correcting the analysis will result in a previously-unreported significant traffic impact at the intersection of [Sunset and Cahuenga],” *id.* at 4.

Similarly, given the Project’s location, the MND’s assumptions for the existing Jack in the Box restaurant’s peak-hour traffic, based solely on generic ITE trip generation rates, likely over-estimate existing volumes, thereby underestimating the Project’s traffic impacts. MRO indicated that the subject location would be expected to have higher levels of pedestrian activity

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and lower levels of automobile activity than similar restaurants used by ITE in establishing generic trip generation rates. May 11 MRO Letter at 4. Accordingly, “this would lead, in turn, to [an] underestimation of the number of ‘net new trips’ associated with the proposed project.” *Id.* The only way to accurately describe, disclose and analyze the traffic conditions in the study area is to perform actual counts of traffic at the restaurant’s driveways, which did not occur here. LADOT’s acceptance of generic ITE rates is insufficient justification for the MND’s approach.

Additionally, notwithstanding that the Project may satisfy the City’s code requirements for parking, the MND includes no discussion of parking for the Project’s meeting facilities, bar/café and restaurant uses. Given the high cost of parking throughout Hollywood, it is reasonably foreseeable that non-hotel guests who access the hotel for a meeting or a visit to the bar/café or restaurant will circulate around the neighborhood searching for on-street parking or lower-cost parking options, rather than parking in the hotel’s subterranean parking garage. The MND and supporting traffic analysis wholly omit any discussion of such additional trip generation, which will further exacerbate congestion throughout Hollywood.

Accordingly, the traffic study must be revised in order to accurately reflect the specific trip generation characteristics of a hotel consisting entirely of guestrooms units with kitchenettes, which primarily serve visitors on an extended stay basis, along with the proposed meeting facilities, bar/café and restaurant uses. The MND’s failure to evaluate these fundamental issues precludes an accurate assessment of the Project’s traffic impacts.

ii. Traffic Impacts – Study Area and LOS

The MND’s primary method for evaluating the Project’s traffic impacts is through the analysis of the projected Levels of Service (LOS) at a limited set of intersections, based on a calculation of Volume-to-Capacity ratios. However, this analysis is fundamentally flawed for at least two reasons.

First, the study area for the traffic analysis, which only includes 6 intersections, is far too small to accurately capture the traffic impacts of such a large project. MND at III-114. Indeed, the traffic study contains only a cursory and unsubstantiated explanation of why only 6 intersections were studied, solely relying on vague references to “coordination with LADOT staff” and general practices of traffic engineering. MND Appendix G, p. 3. The selection of such a small study area, which is not supported by substantial evidence, artificially constrains the scope of the analysis, thereby inherently minimizing any disclosure of Project impacts.

Second, the traffic counts that were used to determine LOS at the 6 study area intersections do not represent peak traffic conditions in Hollywood, either during weekends or other high traffic-volume days. Instead, the traffic study only relied upon traffic counts for

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weekday AM and PM peak period trips. MND Appendix G, p. 22. Specifically, manual counts were performed for 2 of the intersections on Wednesday, April 8, 2015, and for 4 of the intersections on Wednesday, September 30, 2015. By choosing to perform manual counts on Wednesdays, the traffic study fails as an informational document, as it doesn't accurately represent the traffic conditions during peak periods in Hollywood.

The MND offers no explanation for why only weekday AM and PM peak hours were studied for this Project, particularly given that many projects of comparable scale include weekend impact analysis. This area of Hollywood is the center of Los Angeles nightlife on weekends, with vehicles creating gridlock from approximately 9 p.m. to 3:00 a.m. (often at levels that by far exceed weekday AM and PM peak hours). Moreover, the Project is located across the street from the ArcLight Hollywood, which frequently hosts movie premieres and is one of the busiest movie theaters in Southern California, particularly on Friday and Saturday evenings. The traffic study cannot be complete until weekend impacts are also studied and all feasible mitigation reduces those impacts to a less than significant level.

Furthermore, the April 8, 2015 traffic counts were performed in clear violation of the Los Angeles Department of Transportation ("LADOT") *Traffic Study Policies and Procedures*. As noted in the May 11 MRO Letter to the City, these traffic counts were performed on a Wednesday following Easter Sunday. See May 11 MRO Letter at 1. "LADOT policies explicitly prohibit using data collected during a week with a holiday" and does so "to ensure that the data reflect 'typical' traffic flow patterns in the vicinity of a proposed project." *Id.* No evidence has been provided to confirm that the data represents typical conditions.

iii. *Queuing*

The traffic study concludes that "[w]ith provision of two service lanes along with the drop-off area/by-pass lane, more than sufficient queuing area is provided as part of the proposed [P]roject in order to preclude the potential for site-related traffic to extend into public right-of-way." MND Appendix G, p. 22. However, there is absolutely no analysis to support this conclusion. First, the MND does not indicate the actual vehicular capacity of the service lanes, so there is no basis for reaching this conclusion. Based on a review of the Project site plan, given the location of the drop-off at the mid-way point of the Project's service lanes, it appears that if two cars are simultaneously parked at the drop-off area, then there is only capacity for a limited number of cars stacked behind those parked cars before vehicular queuing extends into the right-of-way. MND Appendix G, p. 8.

Given that there is no indication in the MND or elsewhere of how the Project's on-site circulation and queuing will be managed, it is likely that the traffic volume of incoming cars will exceed this limited queuing capacity. This problem will be especially acute during peak periods,

or when meetings or other events are held at the hotel. This traffic backup will cause congestion on Cahuenga, with the potential to extend all the way to the intersection of Cahuenga and Sunset Boulevard. In addition to congestion, this poses a significant safety risk to pedestrians travelling along the Cahuenga sidewalk, who will be forced to squeeze between cars that are jockeying for position in the queue. Moreover, approval of the driveway design has been deferred to “a later date.” May 11 MRO Letter at 5. As such, there is no indication that the appropriate operational analysis has been undertaken to ensure that the driveway will function safely and effectively. *Id.* Indeed, no maneuvering studies have been provided for public review and comment. *Id.* With respect to service vehicle entrance on Ivar Avenue in particular, concerns remain about the ability of the applicant to stagger deliveries. No assurances have been provided that truck arrivals will not coincide or that a plan is in place to address this situation. The MND and traffic study have ignored these issues entirely, and the failure to address them renders the traffic study legally deficient.

iv. *Street Closures*

The MND must analyze potential impacts associated with the possible closure of streets adjacent to the Project Site. The MND notes that construction activities “*may necessitate* temporary lane closures on *streets* adjacent to the Project Site” for a variety of possible bases such as materials deliveries and utility relocations. MND at II-29. There is no certainty whatsoever or even any attempt at defining the parameters of possible closures, despite the fact that the Project’s site plan, haul routes, truck trips, and other characteristics of construction are currently known, all of which lend themselves to identifying possible closures. Because there is a high probability that street closures (plural – could be multiple per the MND’s discussion) will result in impacts to traffic and pedestrian safety, such impacts must be analyzed in the MND. It is unreasonable to simply assume that closures may be required and then omit any analysis of impacts caused by such closures. *Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1390 [CEQA requires a good faith attempt at disclosure].

The Project is located at the intersection of two highly traveled (both pedestrian and vehicular travel) roads in the City – Cahuenga Boulevard and Sunset Boulevard. As such, the possible temporary closure of lanes and/or sidewalks along either street has the potential to seriously impact traffic and pedestrian safety generally. Moreover, any closures along Sunset Boulevard or Ivar Avenue would seriously jeopardize the safety of Los Angeles Film School students and faculty accessing the campus by creating hazardous conditions and increasing traffic. Given these potential impacts, a possible street closure analysis must be included in the MND.

The MND’s traffic mitigation measures, particularly Traffic-2, cannot be relied upon as justification for omitting a street closure impact analysis. Traffic-2 requires preparation of a

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construction work site traffic control plan prior to the start of construction, and is cited as evidence for minimizing temporary construction impacts. MND Responses to Comments at 14. However, any reliance on Traffic-2 is inappropriate as it defers analysis of reasonably foreseeable impacts and fails to include specific performance criteria that would mitigate the impact. *Santa Monica Baykeeper v. City of Malibu* (2011) 193 Cal.App.4th 1538, 1555 [reliance on a study to be conducted after approval of an EIR is a violation of CEQA]; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1395 [mitigation measures must include specific performance criteria when used to defer analysis of potential impacts].

E. Hazards and Hazardous Materials

Under established CEQA principles and case law, the MND's analysis of the Project's potential impacts from hazards and hazardous materials is fundamentally inadequate because it defers both the analysis of the impacts and the formulation of required mitigation. Specifically, the MND fails to adequately evaluate the potential contamination from carcinogens commonly associated with the Project Site's prior land uses, while acknowledging that the "most recent levels of contamination" at the Site from the previously existing Texaco and Hollywood Laundry facilities are **unknown**. MND at III-55. Ultimately, the MND expressly recognizes a "potential significant impact" (see MND at III-54) and incorporates purported mitigation to reduce the impact to a less than significant level. However, there remain undisclosed health risks from Project construction and operations by potential subsurface contaminants on the Project Site, which could result in dangerous exposure to construction workers, hotel guests and employees, and the users of nearby properties.

It is well-settled that CEQA generally prohibits deferring the analysis of a project's potential significant impacts. *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 306. In fact, under CEQA, analysis of potential impacts may only be deferred if the lead agency (1) recognizes the significance of the potential impact, (2) commits itself to mitigating the impact, and (3) articulates **specific performance criteria** to ensure the impact is mitigated. *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1395. Only under these limited circumstances may the formulation of the exact mitigation measure be deferred. Similarly, with regard to hazardous materials analysis, courts have concluded that analysis was not deferred when an EIR (1) included an extensive preliminary site investigation, (2) required further investigatory steps that were subject to numerous rules and regulations, and (3) required review and approval by the California Department of Toxic Substances Control. *City of Maywood v. Los Angeles Unified School District* (2012) 208 Cal.App.4th 362, 412. Following *Sundstrom*, the *City of Maywood* court noted that for impacts for which mitigation is known to be required and feasible, an agency can commit itself to eventually devising measures that will satisfy **specific performance criteria** articulated at the time of project approval without improperly deferring analysis. *Id.*

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Here, the MND *expressly acknowledges that there is a potentially significant impact* associated with past use of the Project Site as a gas station and laundromat. Indeed, as detailed in a July 5, 2016 report from SWAPE (the “July 5 SWAPE Report”), contamination from tetrachloroethylene (PCE), a likely human carcinogen, is commonly associated with dry cleaners, and contamination from benzene, a known human carcinogen, is commonly associated with gas stations. Both PCE and benzene pose risks to future users through vapor intrusion. Yet, without the benefit of any independent testing, the MND relies solely on a Regional Water Quality Control Board case from three decades ago in connection with the closure of the gas station. Because the MND did not independently review the test results prepared at the time of such closure, the City can only “presume” that the Site satisfied then-applicable standards, and on that basis conclude that the Site is clean. However, as explained in the July 5 SWAPE Report, the investigation for the closure of the former gas station would not necessarily have yielded results showing contamination caused by the dry cleaner, as the former would have involved sampling at the sites of underground storage tanks, whereas the latter would have investigated samples from locations where PCE may have leaked through floor cracks or had been dumped on the ground.

The MND states that even though site remediation was previously required, *existing contamination levels are currently unknown and mitigation is required* to minimize the potentially significant impact to a less than significant level. MND at III-55. However, mitigation measure HAZ-1, the only mitigation measure required to address the Project’s impacts from hazardous materials, merely requires that prior to the issuance of permits, “the applicant shall obtain a sign-off from the Fire Department indicating that all on-site hazardous materials, including contamination of the soil and groundwater, have been suitably remediated, or that the proposed project will not impede proposed or on-going remediation measures.” *Id.* There is no obligation to perform sampling and no standard by which the Los Angeles Fire Department is authorized to sign-off. Indeed, the MND presumes that no hazardous materials are on-site. Finally, there is no evidence that the Los Angeles Fire Department is the appropriate agency to evaluate human health risks from soil, soil vapor, and groundwater contamination, which are properly within the scope of the California Department of Toxic Substances Control. Accordingly, the mitigation measure is illusory.

This analysis further fails to comply with CEQA by improperly deferring the complete analysis of the Project’s impacts associated with potential disturbance of hazardous materials. *Sundstrom, supra*, 202 Cal.App.3d at 306. Although CEQA does permit deferral in limited circumstances (*Gentry* and *City of Maywood*), such deferral is only permitted if the lead agency commits to both further investigation and measures that ensure that the impact will be mitigated. Neither of those requirements is met here, where no additional analysis to further classify the potential impact identified in the MND has been mandated and the mitigation measure does not

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include any specific performance criteria. Instead, mitigation measure HAZ-1 is circular and is not meaningful mitigation, given that without any performance standards, it would permit the Fire Department to conclude that any hazardous materials have been “suitably remediated” based upon the Regional Water Quality Control Board’s past closure.

F. *Energy*

The MND is also deficient based on its wholesale omission of any meaningful analysis of the Project’s potential energy impacts. This failure results in noncompliance with the City’s CEQA Thresholds Guide, which the MND claims as the basis for its analytical methodology and thresholds of significance. MND at II-39. Also, without having analyzed the Project’s potential energy impacts, the MND precludes public review and consideration of the potential environmental impacts of the Project. CEQA Guidelines § 15151 [CEQA requires that decisionmakers and the public be provided with information that allows them to make an informed decision that accounts for a project’s environmental consequences].

Section M.4 (*Energy*) of the City’s CEQA Thresholds Guide provides that the energy impacts of a project should be considered in an MND. *CEQA Thresholds Guide* at M.4-2 [noting that a “yes” response to the screening criterion indicates that further study in an initial study, negative declaration, or MND may be required]. Here, the MND did not include any analysis of energy impacts, despite this clear directive. Moreover, it appears that under the screening criteria of the CEQA Thresholds Guide, the MND is required to conduct further analysis under the enumerated thresholds. For example, the first screening criterion asks whether a project would “conflict with adopted energy conservation plans or policies of the City, or exceed the growth anticipated in the applicable Community Plan?” *Id.* As the MND specifically states, the Regional Center Commercial General Plan land use designation generally limits development to a FAR of 4.5:1. MND at III-68. Here, the Project exceeds anticipated growth through an increase of FAR to 6:1. Because the Project meets the screening criterion, a full analysis of its potential energy impacts is required by the City’s CEQA Thresholds Guide. Any non-compliance with the CEQA Thresholds Guide, which the MND uses as its basis for thresholds and evaluation, fails under this standard. *Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1390. [When assessing the legal sufficiency of an environmental document, a court focuses on adequacy, completeness, and a good faith effort at disclosure.] Accordingly, the Project’s energy impact must be analyzed in an EIR.

G. *Land Use*

The MND’s discussion of the Project’s land use impacts is inadequate because it fails to fully discuss whether the Project conflicts with “any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the

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general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect....” MND at III-67 (Threshold b).

The Project Site is subject to the Hollywood Community Plan, which includes specific policies intended to guide development within the community plan area. In addition, the Project is subject to the Hollywood Redevelopment Plan (“Redevelopment Plan”), which also implements “the Community Plan’s goals for the revitalization of the” area, and includes policies and regulations that must be addressed. The MND only makes a cursory attempt at discussing the Project’s consistency with the Redevelopment Plan, limited to only addressing the goals stated in Section III of that document. However, as discussed above, the applicable CEQA threshold requires consideration of plans, policies **and** regulations applicable to the Project and designed to reduce environmental impacts. MND at III-67.

Section 506.2.3 of the Redevelopment Plan includes specific regulations limiting floor area ratios (“FAR”) in developments with the Regional Center Commercial land use designation. That section provides, for example, that development in excess of 4.5:1 FAR up to a maximum of 6:1 FAR may be permitted only upon specific findings. *Redevelopment Plan*, Section 506.2.3. Among the required findings is that “[a]ny adverse environmental effects, especially impacts upon the transportation and circulation system of the area caused by proposed development **shall be mitigated or are overridden by other social, economic or physical considerations...**”

The MND must discuss the Project’s consistency with Redevelopment Plan Section 506.2.3, given that such regulation is clearly “adopted for the purpose of avoiding or mitigating an environmental effect...” (and thus requiring consideration under the threshold of significance). See also *City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal.App.4th 889, 918-919 [CEQA requires identification and discussion of plan inconsistencies]. Moreover, given the Project’s significant environmental impacts discussed above, this finding cannot be made. Because it is a “fundamental, mandatory, and clear” regulation, any inconsistency with Section 506.2.3 is a significant impact that triggers the preparation of an EIR. *Spring Valley Lake Association v. City of Victorville* (2016) 248 Cal.App.4th 91, 101 [a project’s inconsistency with a fundamental, mandatory, and clear policy does not overcome consistency with a plan’s broader policies].

H. Public Services

The MND concludes that the Project would have a less than significant impact on public services on the basis that the Project would not “result in substantial adverse physical impacts associated with the provision of new or physically altered government facilities, or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, **in order to maintain acceptable service ratios, response**

times or other performance objective” for fire and police protection. MND at III-100 to III-105 (emphasis added). This conclusion is not supported.

In fact, the MND shows that there was a steady increase in violent and property crimes in Hollywood from 2013 to 2015. MND at III-104. In addition, the MND acknowledges that the Project would “result in an increase of site visitors and employees to the Project Site, thereby generating a potential increase in the number of service calls from the Project Site. Responses to thefts, vehicle burglaries, vehicle damage, traffic-related incidents, and crimes against persons would be anticipated to escalate as a result of the increased on-site activity and increased traffic on adjacent streets and arterials.” MND at III-104. Nevertheless, the MND concludes, without substantiation, that the Project’s potential impacts on Los Angeles Police Department (“LAPD”) services would be reduced to a less than significant level simply by incorporating lighting elements and “secure parking facilities”. *Id.*

These limited mitigation measures will do nothing to ensure that LAPD will be able to maintain acceptable response times in the face of increasing demands on police services caused by the Project. Moreover, the MND fails to evaluate the likelihood that police responses stemming from alcohol service at the hotel will further burden LAPD. Accordingly, this issue requires further analysis in an EIR.

I. Air Quality

Finally, the conclusion in the MND’s air quality analysis that the health risk to nearby sensitive receptors from exposure to diesel particulate matter (“DPM”) emissions from Project construction and operation would be less than significant, MND at III-32, is unsupported by any quantitative assessment. In short, the City has failed to quantify such risk in light of applicable thresholds of significance.

Furthermore, substantial evidence supporting a fair argument that DPM emissions will result in significant cancer risks has been presented to the City. Indeed, SWAPE prepared a preliminary screening-level health risk assessment (“HRA”) which found excess cancer risk to adults, children, and infants “over the course of Project construction and operation are 8.6, 63, and 120 in one million, respectively.” July 5 SWAPE Report at 5. Additionally, the screening-level HRA found that “excess cancer risk over the course of a residential lifetime (30 years) is approximately 190 in one million.” *Id.* SWAPE found that the child, infant, and lifetime cancer risks exceed the South Coast Air Quality Management District (“SCAQMD”) threshold of 10 in one million. *Id.*

In light of this evidence, the City must prepare an EIR that includes a quantitative HRA, as recommended by the SCAQMD. Any failure to do so would constitute a failure to disclose and analyze the Project’s significant health risks.

II. THE CITY COUNCIL MUST INDEPENDENTLY REVIEW AND ACT ON THE MITIGATED NEGATIVE DECLARATION

The CPC Determination indicates that the CPC found that a Mitigated Negative Declaration was appropriate for the project and adopted the MND. See *CPC Determination* at 1. However, such delegation is improper under CEQA because the City Council, not the CPC, is the “decisionmaker” with authority to approve the Project. *California Clean Energy Committee v. City of San Jose* (2013) 220 Cal.App.4th 1325, 1336 [CEQA Guidelines specifically prohibit a decisionmaking body (the “person or group of people within a public agency permitted by law to approve or disapprove the project”) from delegating its authority to review and approve an MND]. The City Council is undoubtedly the “decisionmaker” for the Project, as it requires legislative actions – approval of a Vesting Zone Change and Height District Change – which can only be taken by the City Council. Therefore, only the City Council may act on the MND.

III. CONCLUSION

The Los Angeles Film School’s location in Hollywood makes it keenly sensitive to the impacts that new development can have on a neighborhood. Furthermore, the Los Angeles Film School’s unique learning environment for its students – using sound stages, dubbing stages, instruction and theatre spaces – makes it particularly susceptible to external impacts from nearby projects. The Project is no different, as it includes a significant upzoning to allow a high-rise hotel.

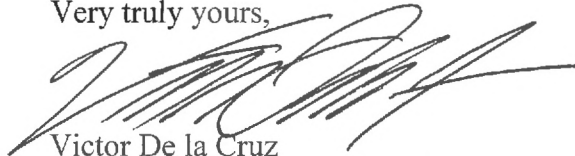
CEQA is a statute that demands transparency with respect to environmental impacts and, consistent with this purpose, there is a low threshold for preparation of an EIR. *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 390-391 [an EIR is required whenever a public agency proposes to approve or carry out a project that may have a significant effect on the environment]. The Los Angeles Film School simply wants to ensure that CEQA’s mandates are followed, and that the public and decisionmakers are adequately apprised of the Project’s impacts so that they can make a fully-informed decision.

As the foregoing clearly demonstrates, the MND’s analysis of the Project’s environmental impacts is severely lacking, fails to comply with CEQA, and there is substantial evidence supporting a fair argument of the Project’s significant impacts. Therefore, an EIR must be prepared to fully assess potential impacts not just to the Los Angeles Film School, but the broader Hollywood community.

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Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Victor De la Cruz', with a long horizontal flourish extending to the right.

Victor De la Cruz
Manatt, Phelps & Phillips, LLP

EXHIBIT A

To	Victor De la Cruz/ Manatt, Phelps & Phillips, LLP C.J. Laffer/ Manatt, Phelps & Phillips, LLP	Project number 2016124
cc	Amir Yazdanniyaz/ AES	File reference M-6407 Sunset-110916
From	Sean Bui, PE	Date December 7, 2016
Subject	Hollywood Ivar Gardens Project ENV-2015-2895-MND Review of the IS/MND Noise Section	

This memorandum summarizes the findings of the technical peer review performed by Acoustical Engineering Services (AES) of the noise and vibration analysis in the *Initial Study Mitigated Negative Declaration*, dated June 9, 2016 (MND), for the Hollywood Ivar Gardens Project/ENV-2015-2895-MND (Project). This peer review evaluates the adequacy of the MND's noise and vibration impacts analysis and its proposed mitigation measures in light of the analytical requirements imposed by the California Environmental Quality Act (CEQA) and the Initial Study CEQA Checklist, the State CEQA Guidelines and the City of Los Angeles (City) *L.A. CEQA Thresholds Guide*. As shown below, there is substantial evidence that the Project would cause significant noise and vibration impacts that will not be mitigated to a less-than-significant level by the proposed mitigation measures.

Our comments, summarized below, are organized to correspond to the specific thresholds of significance utilized in the MND.

I. Noise Threshold (a) / Checklist XII.a: *Would the project result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?*

Construction Noise Impacts. As explained below, the MND's noise analysis does not provide adequate information for the public and the City's decision makers to determine (i) the potential noise impacts caused by the Project's construction activities and (ii) whether the proposed mitigation measures would adequately reduce the potential noise impacts to a less than significant level, as required for an MND under CEQA.

- Construction Equipment Mix: The MND's construction noise analysis lacks the basic information necessary to determine its reasonableness and accuracy. For instance, construction noise appears to have been estimated (*i.e.*, "noise levels shown in Table III-11 represents composite noise levels associated with typical construction activities") rather than quantified based on the industry-standard methodology, which uses actual construction equipment mix and characteristics of the Project (MND pp. III-82 and 83). However, the *L.A. CEQA Thresholds Guide* specifically requires the calculation of Project-related construction noise levels based on the type and volume of equipment that will be used during

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construction (*i.e.*, noise emissions from individual equipment and the combined noise levels from equipment that will be operated simultaneously during different phases of construction.) Here, there is no evidence that the MND's noise analysis is consistent with the underlying construction assumptions used for the MND analysis of the Project's air quality impacts (MND Appendix A). This departure from CEQA's requirements is especially problematic because the MND acknowledges a significant noise impact and the construction equipment mix associated with the Project is known (or should be known).

In order to illustrate the Project's construction impacts, noise levels from Project construction activities were calculated based on the construction equipment assumptions used in the MND's Air Quality (AQ) impact analysis. The following construction equipment mix was extracted from the AQ modelling worksheets.

- **Demolition:** (1) concrete saw; (2) tractor/loader/backhoe; (1) rubber tired dozer.
- **Grading:** (1) concrete saw; (2) tractor/loader/backhoe; (1) rubber tired dozer.
- **Building Construction:** (1) crane; (2) tractor/loader/backhoe; (2) forklifts.
- **Paving:** (1) paver; (1) roller; (1) tractor/loader/backhoe; (4) cement and mortar mixers.
- **Architectural Coating:** (1) air compressor.

It should be noted that the construction equipment mix used in the AQ analysis does not include heavy construction equipment that is typically used for construction of high rise building, such as, drilling rigs (for shoring and placement of piles), excavators (for the subterranean parking structure), and concrete trucks/pumps (for building construction). Nevertheless, a noise model was created, based on the limited number of construction equipment provided in the AQ analysis, to calculate the Project's construction noise levels at the adjacent Los Angeles Film School and Grandmaster Records.

As shown in Table 1 below, the estimated construction noise levels would exceed the ambient noise levels from 17.0 dBA at the Los Angeles Film School to 49.8 dBA at the Grandmaster Records. In addition the estimated construction related noise levels at the Los Angeles Film School, based on the construction mix used by the AQ analysis is 1.2 dBA higher than the general level used in the Project noise analysis. As discussed above, the construction equipment mix assumed in the AQ analysis does not include other heavy construction equipment that would be used, which would likely generate even higher noise levels.

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Table 1: Estimated Construction Noise at Sensitive Receptors

Receptor	Distance to Project Site, ft	Ambient Noise Levels, dBA L _{eq}	Estimated Construction Noise Levels, dBA L _{eq}				Project Construction Noise Relative to Project Noise Impact Criteria (Ambient plus 5, dBA) dBA L _{eq}
			Demolition	Grading	Building Construction	Paving	
1. Grandmaster Records	1	65.2	120.0	120.0	118.0	117.4	49.8
2. Los Angeles Film School	50	65.2	87.2	87.2	84.2	86.1	17.0

- **Trucks:** As explained in the MND's Project Description (MND p. II-29), construction of the Project would include approximately 56,000 cubic yards of soil export to be hauled off-site, which would require approximately 50 haul trucks (or 100 haul trips) per day during the three month grading phase alone. (MND, Response to Comment p. 11) In addition to the on-site construction activities, the haul trucks used for the soil export during this three month period would also generate noise and ground vibrations along the anticipated haul routes.

However, the MND includes no analysis of these noise and vibration impacts. The omission of any analysis of noise and vibration impacts from haul trucks is particularly troubling for the adjacent sensitive receptors, such as the Los Angeles Film School (6363 Sunset Boulevard) and Grandmaster Records (1518 N. Cahuenga Boulevard), and likely results in a further underestimation of noise construction impacts (especially when coupled with the operation of on-site construction equipment). Therefore, noise impacts associated with the haul trucks must be analyzed.

Based on the anticipated six hours of hauling per day (between 9 a.m. and 3 p.m.), there would be approximately nine haul trucks entering and leaving the Project site (total of 18 trips) per hour, based on even distribution. (MND, Response to Comment p. 11) As described in the MND (MND p. II-30), haul trucks would access the Project site via Cahuenga Boulevard (adjacent to the Grandmaster Records) or Sunset Boulevard (adjacent to the Los Angeles Film School). Noise generated by the haul trucks would be approximately 67.4 dBA (L_{eq}) along the haul routes.

In addition to noise, haul trucks would generate groundborne vibration, which could potentially impact the uses at the Los Angeles Film School and the Grandmaster Records. Based on FTA published information, haul truck would generate vibration of approximately

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63 VdB at a distance of 50 feet. The Los Angeles Film School and the Grandmaster Records are approximately 20 feet from the haul truck traveled lane, which would be exposed to groundborne vibration level of 75 VdB. The estimated groundborne vibration from haul trucks would exceed the FTA significance threshold of 65 VdB (as discussed below), applicable to Los Angeles Film School and the Grandmaster Recording (i.e., recording studios).

- Significant Impact: The MND's noise analysis concludes that the Project-related construction activities would exceed the City's Noise Ordinance (i.e., 75 dBA at 50 feet distance) and the significance threshold established by the *L.A. CEQA Thresholds Guide* (i.e., exceeding the ambient exterior noise levels by 5 dBA). Specifically, as shown on Table III-13 (MND p. III-86), the estimated construction noise levels would be as high as 120 dBA at the Grandmaster Records (recording studio) and 86 dBA at the Los Angeles Film School (sound stages, mixing/recording studios, theaters, classroom), which would exceed both the City's noise limit of 75 dBA at 50 feet and the MND's own significance threshold of 5 dBA above the ambient, i.e., up to 46.8 dBA and 9.3 dBA above the ambient at the Grandmaster Records and Los Angeles Film School, respectively. However, the Project noise analysis concludes that the Project's construction-related noise impacts would be "considered less than significant in accordance with City requirements and standards" with the implementation of Mitigation Measures N-1 through N-6 (MND p. II-87).

As shown below, the Project will cause a significant noise impact that, based on the inadequacy of the mitigation measures, will not be reduced to a less-than-significant level. This is particularly troubling given that the MND's noise analysis excluded heavy trip traffic and impermissibly relies on noise levels for "typical" construction sites, rather than the actual equipment mix that will be used for construction of the Project.

- Incorrect Use of Ambient Baseline Noise Level: The MND uses an artificially high ambient noise level (i.e., 76.7 dBA (L_{eq}) for its analysis of construction noise impacts at the Los Angeles Film School, which caused an underestimation of the Project's potential noise impacts. As indicated in Table III-12 (MND p. III-84) and Figure III-17 (MND p. III-85), the measured ambient noise levels range from 65.2 dBA (L_{eq}) at the Project's northeast corner to 76.7 dBA (L_{eq}) at the Project's southeast corner. The Los Angeles Film School building spans the Project's entire eastern boundary. Therefore, the baseline ambient noise at the Los Angeles Film School for the impact analysis should be 65.2 dBA, not 76.7 dBA. Choosing to use the higher baseline ambient noise levels at the Grandmaster Records building grossly underestimates the impact level to this sensitive receptor (by as much as 11.5 dBA).

The MND also uses an artificially high ambient noise level (i.e., 73.2 dBA (L_{eq})) for its analysis of construction noise impacts at Grandmaster Records, which caused an underestimation of the Project's potential noise impacts. As indicated in Table III-12 (MND p. III-84) and Figure III-17 (MND p. III-85), the measured ambient noise levels range from 65.2 dBA (L_{eq}) at the Project's northeast corner to 73.2 dBA (L_{eq}) at the Project's northwest

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corner. The Grandmaster Records building spans the Project's entire northern property line (between Cahuenga Boulevard and Ivar Avenue). Therefore, the baseline ambient noise at the Grandmaster Records building for the impact analysis should be 65.2 dBA, not the 73.2 dBA. Choosing to use the higher baseline ambient noise levels at the Grandmaster Records building grossly underestimates the impact level to this sensitive receptor (by as much as 8.3 dBA).

- Interior Noise Levels: The MND states that "interior noise levels are more important than exterior noise levels" for the particular sensitive receptors in close proximity to the Project site, and therefore includes an "estimated" interior noise level at each sensitive receptor (MND p. III-83). This seems to redefine the MND's noise impacts analysis by comparing existing exterior ambient noise and the resulting interior ambient noise, and is fundamentally different than the actual significance threshold adopted by the MND – *i.e.*, a significant noise impact would result if "construction activities lasting more than ten days in a three-month period ... would increase ambient exterior noise levels by 5 dBA or more at a noise sensitive use...." (MND p. III-82).

The MND then attempts to estimate interior noise levels at the Project's nearby sensitive receptors, but it proceeds on incorrect and unsubstantiated assumptions. As shown in Table III-13, the noise analysis assumed an outdoor-to-indoor sound attenuation of 50 dBA, 10 dBA and 30 dBA for the Grandmaster Records, Los Angeles Film School, and Cinerama Dome building structures, respectively. However, the MND includes insufficient documentation or analysis (*e.g.*, sound attenuation test data) to support these sound attenuation assumptions or conclusions. The MND assessments of the interior noise impacts lack any considerations of the specific building characteristics (design, materials, height, etc.) or the existing background ambient noise levels at the sensitive receptor locations. Nevertheless, the MND concludes that the "*project's construction activities would have the potential to generate noise in excess of 5 dBA on the interior of the structure.*" As explained below, there is insufficient evidence that the proposed mitigation measures will adequately reduce such interior noise impacts on sensitive receptors. Moreover, it is likely that Project construction will result in interior ambient noise levels that are much higher than estimated in the MND.

To identify the potential noise impacts at the interior of the Los Angeles Film School and Grandmaster Records, the Project construction related noise levels were calculated at the interior of the adjoining Grandmaster Records and Los Angeles Film School buildings. As indicated in Table 2 below, the estimated construction related noise levels at the interior of Grandmaster Records and the Los Angeles Film School would be well above the existing interior noise levels at both facilities. For example, the estimated interior noise levels at the Los Angeles Film School range from 35.2 to 40.2 dBA at the ground floor and from 30.2 to 35.2 for upper floors, where classrooms are located. With construction, the interior noise levels may exceed 60 dBA in both locations. Moreover, the interior noise levels with Project construction will also exceed published interior noise standards.

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Table 2: Interior Noise Impacts at Sensitive Receptors					
Receptor	Construction Noise Levels at the Building Exterior, dBA L_{eq}	Estimated Building Noise Reduction, dBA	Estimated Interior Ambient Noise Levels, dBA	Estimated Construction Noise Levels at the Interior of the Building, dBA L_{eq}	Interior Ambient Noise Standards,⁴ dBA L_{eq}
1. Grandmaster Records	120.0	35 - 40 ¹	25 - 30	85.0 - 90.0	30
2. Los Angeles Film School					
- Ground Floor (solid wall with doors), Recording Use	87.2	25 - 30 ²	35.2 - 40.2	57.2 - 62.2	30
- Upper Floors (w/ glass windows), Classroom Use	81.2	20 - 25 ³	30.2 - 35.2	56.2 - 61.2	35
	¹ Estimated based on solid brick wall construction (no windows) ² Estimated based on solid concrete wall, with double door to the exterior (without acoustics seals). ³ Estimated based on typical exterior glass wall. ⁴ Interior background noise standard, per FTA (for recording studio) and ASHRAE (for classroom use).				

- **Mitigation - Not Proven:** The MND does not fully show how the anticipated noise reduction would be provided through Mitigation Measures N-1 through N-6. Therefore, the determination that the mitigation measures would reduce the Project's noise impacts to a less than significant level is not adequately supported. Based on the MND's estimated construction noise levels of up to 120 dBA, it would not be technically feasible, through only these mitigation measures, to reduce 120 dBA construction-related noise levels to below the significance threshold of 5 dBA above ambient adopted in the MND. Furthermore, the MND's noise analysis attempts to evaluate the construction-related noise at the interior of the adjacent noise sensitive buildings (*i.e.*, the Grandmaster Records and the Los Angeles Film School); but fails to evaluate the anticipated impact level following implementation of the mitigation measures.

The majority of noise mitigation measures in the MND would not have any tangible mitigating effect whatsoever (*e.g.*, restricting construction between certain hours, notice provisions). In addition, without quantifying the reduction in noise impacts that would result from implementation of the proposed mitigation measures, the MND's conclusions that noise impacts would be reduced to a less than significant level are without any factual basis.

- **Mitigation – Feasibility:** The MND's assertion that the proposed noise mitigation measures (N-1 to N-6) would reduce construction noise associated with the proposed Project "to the maximum extent that is technically feasible" is erroneous. Mitigation measure N-4 requires

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that an acoustical sound blanket be erected “along the Project Site’s northerly property line to absorb construction noise levels” generated by construction equipment (MND p. III-87). The mitigation measure fails to specify the required acoustic properties, such as height or required noise reduction, for the proposed sound wall. Without specific technical details, there is no way of confirming that the proposed sound wall along the northerly property line would reduce noise impacts to the greatest extent feasible.

In addition, the MND does not explain why sound blankets are not proposed for the eastern property line, especially when the MND states that existing ambient noise at the Los Angeles Film School will be increased by approximately 10 dBA with construction of the Project – a significant impact requiring mitigation. Instead, no noise mitigation measure is provided. The Los Angeles Film School is a multi-story building with acoustically sensitive uses located on the ground and upper floors, production/recording and classrooms, respectively, facing the Project construction site. As indicated by the estimated interior noise levels (see Table 2) the Project’s construction related noise levels would severely impact the interior uses at the Los Angeles Film School. In the upper floors classrooms the Project construction activities would adversely interfere with normal speech/communications between students and the instructors. Clearly, the Project must provide appropriate noise mitigation measures to minimize the noise impacts on the interior uses at the nearby sensitive buildings.

- Mitigation - Illusory/Double Counting: Mitigation Measure N-3 requirement to use “state-of-the art noise shielding and muffling devices” is misleading, as it would not reduce noise impacts. As discussed in Table III-11, the level of noise generated during construction of the Project was already calculated under the assumption that construction equipment is equipped with appropriate mufflers device (MND p. III-83). Thus, it appears that the MND is attempting to double-count the use of mufflers as a noise reducing measure (or perhaps get double credit, as the noise reduction associated with mitigation measure N-3 was not quantified in the MND).

Operational Noise Impacts. The MND identified several noise sources associated with the operational phase of the Project with the potential to increase the existing ambient noise, including: automobile traffic, mechanical HVAC equipment, parking operations, and open space (*i.e.*, outdoor uses). However, this fails to evaluate other noise sources typically associated with a project of this magnitude and operational characteristics, including delivery truck loading/unloading and trash compactor/collection, which would generate impactful noise for the adjacent noise sensitive uses. Furthermore, the MND concludes that the Project would not cause an increase in the ambient noise at the affected sensitive uses without providing any quantitative analysis for the Project-related noise sources discussed below:

- Truck Loading/Unloading: As shown on the Project’s site plan (Figures II-7 and II-8 of the MND), the proposed hotel’s service entrance is located on Ivar Street, with the service truck at the northern portion of the Project Site. The loading and unloading of trucks generates significant noise, including from engines (food deliveries in refrigerated trucks would require keeping engines running), exhaust systems, the dropping down of dock ramps, and the up-

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and-down movement of dock ramps. However, the MND's operational noise analysis does not address the number, frequency or duration of anticipated deliveries and the associated noise impacts, and it appears that the analysis failed to consider any noise impacts to the Los Angeles Film School associated with deliveries to the Project.

- Trash: Figure II-8 of the MND shows depicts the location of trash collection near the exit of the service entrance. However, the MND lacks any analysis of whether noise from such trash operations would impact the Los Angeles Film School's existing operations by increasing ambient noise.
- Outdoor Uses: As described on page III-88 of the MND, the Project would include open spaces on Level 2 (Open Level 2 Roof Terrace) and Level 21 (roof deck), which would increase noise from hotel guests using these spaces. The MND's noise analysis concludes that the noise generated at these open spaces (guest mingling and recreating) would not exceed the ambient noise levels at the pedestrian level; however, there is no quantitative analysis to substantiate this conclusion. Moreover, it fails to recognize that the Los Angeles Film School has sensitive uses in classrooms many stories above ground-level, with the windows facing the Project's proposed open spaces. In addition, music will be permitted on the Project's rooftop/pool deck between 7:00 a.m. and 11:00 pm. daily (Staff Report, Attachment C-2, Condition 10). Noise levels from amplified sound systems often reach or exceed 90 dBA, which would likely impact the noise sensitive uses at both the Grandmaster Records to the north and the Los Angeles Film School to the east, particularly noise-sensitive classrooms on the Los Angeles Film School's upper floors.

The above shows that a comprehensive noise analysis must be conducted for the Project that quantifies its operational noise impacts from truck loading/unloading, trash hauling, and the Project's outdoor uses.

II. Noise Threshold (b) / Checklist XII.b: Would the project result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

Construction Vibration Impacts. As explained below, the MND utilizes an improper threshold of significance to determine the significance of the Project's vibration impacts on adjacent recording facilities during construction, relies upon incorrect assumptions regarding the proximity of sensitive receptors, and incorrectly states that the Project qualifies for an exemption regarding vibrations impacts under LAMC Section 112.05.

- Improper Vibration Threshold: The MND relies upon the Federal Transit Administration's (FTA) vibration impact thresholds for human annoyance, including 80 VdB at residences and buildings where people normally sleep and 83 VdB at institutional buildings (e.g., schools and churches). The FTA's vibration criterion of 80 VdB and 83 VdB for residences and institutional uses are appropriate for "Infrequent Events" vibration sources, which are defined as fewer than 30 vibration events of the same kind per day (FTA, Table 8-1). This is an improper criterion. For the construction of a project of this magnitude, construction

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equipment would likely generate more than 30 vibration events per day. Therefore, the vibration impact for human annoyance should be based on the FTA's criterion for "Frequent Events" (more than 70 vibration events of the same source per day), which is 72 VdB for residences and 75 VdB for institutional use. It should be noted that hauling associated with construction of the Project will require an estimated 50 trucks per day, or 100 trips (e.g., vibration events).

The MND also misleadingly states that no vibration thresholds have been adopted or recommended for commercial and office uses. However, as described on pages III-83 and III-84 of the MND, the Grandmaster Records and the Los Angeles Film School, identified as nearby sensitive receptors, include recording studios. The FTA manual provides groundborne vibration impact criterion of 65 VdB for recording studios (FTA *"Transit Noise and Vibration Impact Assessment"*, Table 8-2). Therefore, the FTA's vibration criterion for recording studios (i.e., 65 VdB) should have been used for the vibration analysis at the Grandmaster Records and Los Angeles Film School.

- Incorrect Assumptions Regarding the Proximity of Sensitive Receptors. The MND estimates a maximum construction-related vibration velocity level of 0.089 in/sec at the Grandmaster Records, which is based on a distance of the 25 feet from the Project construction site. (MND Table III-15, MND p III-90.) However, the construction site is located much less than 25 feet from the Grandmaster Records building. In fact, it is actually situated immediately adjacent to the Project construction site, as shown on Figure II-7 (MND p. II-13). In addition, the construction noise analysis as provided in Table III-13 indicates that the construction would be as close as one foot to the Grandmaster Records. As such, the MND's construction vibration analysis significantly underestimates the potential impacts of groundborne vibration at the Grandmaster Records site. Instead, the MND's vibration analysis must utilize the actual distance between the project site and the Grandmaster Records. Given the immediate adjacency of the Project to Grandmaster Records, based on our technical expertise and experience, we estimate that the groundborne vibration at Grandmaster Records would exceed MND's 0.2 in/sec significance threshold. Therefore, the Project would cause a significant vibration impact.
- Incorrect Assumptions Regarding Human Annoyance. The MND concludes that the Project would cause a less than significant impact with respect to human annoyance based on the following assumptions: (i) the construction would be restricted to daytime hours (i.e., 7 a.m. to 6 p.m.); and (ii) construction vibration levels would be considered exempt from the noise threshold under LAMC Section 112.05 if all technically feasible noise attenuation measures are implemented. The assumptions are not correct.

LAMC Section 112.05 does not apply to vibration impacts. Furthermore, as discussed above, the MND does not utilize the appropriate vibration threshold for the recording studio uses at the Grandmaster Records and at the Los Angeles Film School.

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Therefore, based on the close proximity of the Project site to the affected sensitive receptors, construction activities (e.g., use of large bulldozer and caisson drilling) would likely exceed the appropriate FTA's criterion of 65 VdB for recording studios, which would result in a significant impact.

III. Noise Threshold (c) / Checklist XII.c: *Would the project result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?*

Operational Noise Impacts. As discussed below, the MND failed to include a quantitative analysis of a variety of the Project's noise sources.

- Exclusion of Project Noise Sources. The MND concludes that the Project would not cause the ambient noise at the affected uses to increase by 3 dBA CNEL to or within the "normally unacceptable" or "clearly unacceptable" category, and the noise impacts associated with the Project would be less than significant. However, while the MND identified several Project noise sources with the potential to increase the existing ambient noise, including auto traffic, mechanical HVAC equipment, parking, and open space (outdoor uses), the MND only provided quantitative analysis for the Project's off-site auto traffic, which would result in 1.2 dBA at roadway intersections adjacent to the Project site.

With respect to on-site sources, the MND indicates that: (i) mechanical HVAC equipment could increase the ambient by up to 5 dBA at the adjacent properties (per LAMC Section 112.02); (ii) parking associated with the Project could potentially increase ambient noise levels in the area, but no quantitative analysis provided; and (iii) the proposed open spaces on Level 2 and Level 21 would potentially increase ambient noise levels, but no quantitative analysis provided. In addition, the analysis omitted any analysis of the potential noise impacts caused by delivery truck loading/unloading and trash compaction/collection.

The MND must be revised to include a quantitative analysis for all Project-related noise sources, including a composite noise analysis, which should evaluate all noise sources against the appropriate significance threshold.

IV. Noise Threshold (d) / Checklist XII.d: *Would the project result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?*

Constructions Noise Impacts. The MND's noise analysis concludes that the impacts associated with Project construction would only be less than significant upon implementation of the proposed Mitigation Measures N-1 through N-6. However, as discussed above, the MND does not quantify the level of noise reduction that would be achieved through implementation of Mitigation Measures N-1 through N-6, in order to determine whether the mitigation measures would reduce the impacts to a less than significant level (i.e., not to exceed the ambient by 5 dBA). Accordingly, the MND does not have sufficient evidence to support the conclusion that the Project will not result in a

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substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.

EXHIBIT B

To:	Victor De la Cruz/ Manatt, Phelps & Phillips, LLP C.J. Laffer/ Manatt, Phelps & Phillips, LLP	Project number: 2016124
Cc:	Amir Yazdanniyaz/ AES	File reference: M-6407 Sunset-051217
From:	Sean Bui, PE	Date: May 12, 2017
Subject:	Hollywood Ivar Gardens Project ENV-2015-2895-MND Responses to Appeals Veneklasen Associates, <i>Technical Memorandum on Hollywood Ivar Gardens Initial Predictions of Construction Noise</i> , April 14, 2017	

Acoustical Engineering Services (AES) conducted a peer review of the Initial Study/MND (IS/MND) for the Hollywood Ivar Gardens Project/ENV-2015-2895-MND (Project) and prepared a detailed analysis identifying its adequacies with respect to the noise section of the California Environmental Quality Act (CEQA) requirements, dated December 7, 2016.

The Project Applicant prepared the Responses to Appeals, which included a supplemental noise analysis prepared by Veneklasen Associates. AES reviewed the Responses to Appeals and the Veneklasen Associates "Technical Memorandum on Hollywood Ivar Gardens Initial Predictions of Construction Noise", April 14, 2017 (Supplemental Analysis). The Responses to Appeals (Response 3.5) and the Supplemental Analysis did not address or remedy the fundamental inadequacy of the IS/MND.

The Supplemental Analysis and Responses to Appeals are deficient as follows:

1. Unsubstantiated Baseline for Existing Noise Levels at Los Angeles Film School (LAFS). There is no evidence (empirical measurements or methodological explanation) presented supporting the "prediction" of 70 dBA as the existing noise level in the most noise-sensitive area of LAFS. The MND, and through the actual measurements of the existing noise condition, found that the existing ambient noise level along the eastern boundary of the Project site is as low as 65 dBA.
2. Inadequate Analysis of Impacts to LAFS. There is no explanation for how the Supplemental Analysis determined the location of the "LAFS Studio receptor." In particular, the Supplemental Analysis does not specify the actual physical distance between the Project construction site and the adjoining LAFS Studio. In Table 4, the estimated noise level from Project constructions at LAFS Studio is 79 dBA. Through a reversed engineering, the 79 dBA estimated noise level suggests a distance of 160 feet assumed from the Project construction noise source, based on the construction noise level of 89 dBA at 50 feet (as provided in Table 2 of the Supplemental Analysis) and standard engineering sound attenuation of 6 dB per doubling of distance. However, based on the Project receptor location shown in Figure 2 of the

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Supplemental Analysis, the receptor appears to be at the western façade of the LAFS building; which is approximately 70 feet from the Project site (ZIMAS map, zimas.lacity.org). Therefore, the estimated construction related noise level at 70 feet distance and with no mitigation should be 86 dBA (not 79 dBA, as reported by the Supplemental Analysis) which is consistent with the estimated noise level provided in the IS/MND. Furthermore, there are existing sensitive uses throughout the ground floor of LAFS, including immediately adjoining Ivar Avenue, which are located less than 70 feet from the Project construction site. Therefore, the Supplemental Analysis does not accurately reflect the location of sensitive uses at LAFS.

3. Significant Impact at Grandmaster Records. The estimated noise level from a paving equipment is 89 dBA at a distance of 50 feet (Table 2 of the Supplemental Analysis). Table 4 of the Supplemental Analysis inexplicably states that Grandmaster Records, which is located *immediately* adjacent to the Project site, would have a construction noise level of 86 dBA. Immediately adjacent to the Project site would suggest the distance between the Grandmaster Record and the Project construction site is less than 50 feet. , Following the standard engineering noise attenuation calculations (i.e., 6 dBA per doubling distance) the estimated construction noise level of 89 dBA at 50 feet would increase to 95 dBA at 25 feet, 101 dBA at 12.5 feet, etc. Therefore, at the property line for the Grandmaster Records, the construction noise could exceed 101 dBA with construction equipment operation within 12 feet of the building. The Supplement Analysis provides for a 16-foot wall to reduce the construction noise level at Grandmaster Records by 17 dBA – from 86 dBA to 69 dBA, barely below the 5 dBA threshold for a significant impacts. However, if the pre-mitigation noise level, as stated above, equals or exceeds 89 dBA, then the post mitigation levels (89 – 17) will be greater than 70 dBA, in which case there is a significant impact.
4. Operational Noise. The Response to Appeals concludes, with no evidentiary support, that the Project’s outdoor open space areas (which will include a rooftop pool and deck with electronically amplified music) would not exceed existing ambient levels in the vicinity of the Project site. As with the MND, there is no quantitative analysis to support this conclusion.
5. No Analysis of Vibration Impacts.
 - a) The Supplemental Analysis does not remedy the MND’s deficiencies concerning the vibration impacts that will result from Project construction, instead merely claiming that the “prediction of vibration level from construction activities is highly inexact.” It may be inexact, but the “supplemental analysis” doesn’t even try. Even if Project construction will not use pile driving equipment, other heavy equipment (e.g., earth mover, excavator, drill rig for shoring, etc.) will be used and will have vibration impacts that can and should be evaluated. In addition, the analysis responded to the wrong question – i.e., whether vibration will cause damage to

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buildings. The issue is whether vibration will impact sensitive uses, including LAFS and Grandmaster Records. This should be evaluated based on the threshold of 65 VdB set forth in the FTA manual.

- b) In addition, the Response to Appeals relies on LAMC Section 112.05 to conclude that the Project is exempt from any requirement to evaluate and mitigate vibration impacts, on the basis that all technically feasible *noise mitigation* has allegedly been implemented. However, LAMC Section 112.05 neither regulates, nor creates an exemption for, vibration impacts. In addition, the Supplemental Analysis and Response to Appeals don't explain the relationship between mitigating noise impacts and mitigating vibration impacts. Finally, as there is no analysis of vibration impacts, there is no basis to conclude that the feasibility of all vibration mitigation has been exhausted.

6. Inadequate Mitigation.

- a) The mitigation measure requiring a 16-foot high temporary noise barrier alone is inadequate, as the Supplemental Analysis indicated that an additional 10-foot barrier is required to reduce the construction noise to below the significance threshold. Therefore, two barriers with height of 16 feet at the property line and with height of 10 feet near the construction equipment are required to support the Supplemental Analysis conclusions. In addition, the mitigation measure acknowledges that it will have an operable gate for entry/exit, but does not disclose or analyze the extent to which this will reduce the effectiveness of the mitigation. However, under the measure, the gate will only remain closed when "feasible," and the supplemental analysis and Responses to Appeals are silent on the frequency and duration of such gate opening. Moreover, the location of the gate isn't specified. Therefore, there is insufficient support for the claimed noise reduction by this measure.
- b) The Supplemental Analysis also appears to take credit for a proposed measure that move a temporary wall "close to the loudest noise generating equipment." Because this measure is not being proposed as a required mitigation measure, Project feature or condition, it is irrelevant for the purposes of evaluating the Project's construction noise impacts. In addition, it is highly impractical that this mitigation measure can be implemented for certain high-noise construction activities occurring near the Project eastern boundary, such as paving.
- c) Voluntary mitigation measure no. 2, which would require the installation of on-site noise and vibration monitors, is illusory and meaningless, because it does not:

- 1. Measure impacts at the locations of sensitive receptors;

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2. Specify the specific thresholds that will trigger contractor notification and/or stoppage of work; or
 3. Require the cessation or curtailment of noise/vibration generating activities causing the impact.
7. Improper Reliance on LAMC Section 112.05. The MND attempts to rely on LAMC Section 112.05 to find that the Project will not have significant construction related vibration impacts, on the grounds of an exemption (from the maximum construction noise level of 75 dBA) where mitigation is not “technically feasible.” The LAMC Section 112.05 only address noise levels, it does not cover vibration impacts. Therefore, it is improperly concluded that Project construction would result in less than significant as relates to vibration impacts. Moreover, even if it did apply, the findings of the Supplemental Analysis show that additional mitigation is feasible (beyond what was evaluated in the MND), but fails to definitively show that all feasible mitigation options have been exhausted.