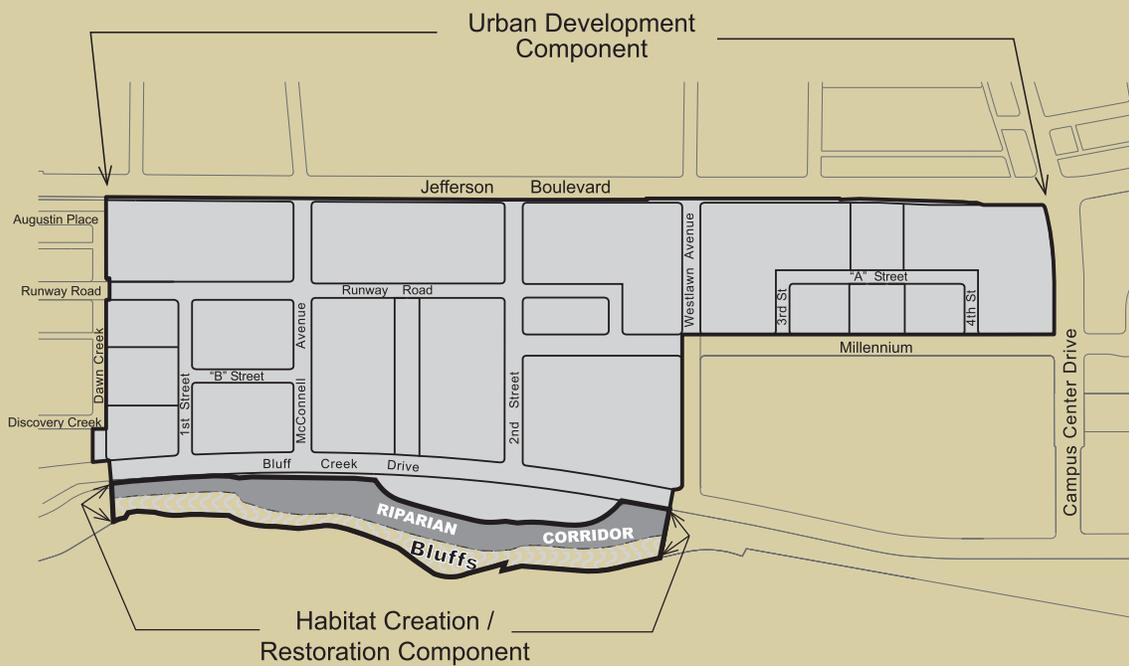


FINAL RECIRCULATED SECTIONS
OF
ENVIRONMENTAL IMPACT REPORT
(Final RS-EIR)

VILLAGE AT PLAYA VISTA



VOLUME I
Final RS-EIR

EAF NO.: ENV-2002-6129-EIR

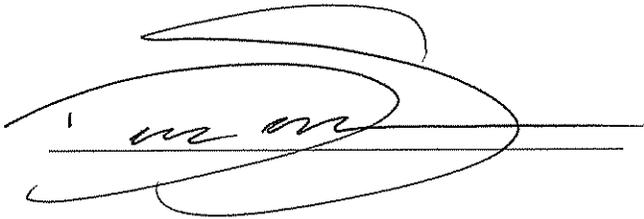
SCH NO.: 2002111065

PROJECT NAME: The Village at Playa Vista

RECOMMENDATION FOR EIR CERTIFICATION

Pursuant to California Code of Regulations, Title 14, Section 15090, this EIR has been completed in compliance with the California Environmental Quality Act and current State and City Guidelines and based on information available may be accepted and considered prior to making a final decision on the project. The decision-maker or decision-making body must certify that it has reviewed and considered the information contained in this Environmental Impact Report prior to making such decision.

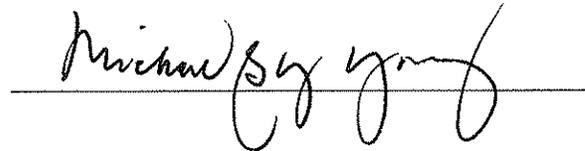
Submitted by:

A handwritten signature in black ink, appearing to read 'David J. Somers', written over a horizontal line.

David J. Somers
Project Coordinator
Environmental Review Section

A handwritten signature in black ink, appearing to read 'David S. Weintraub', written over a horizontal line.

David S. Weintraub
Senior City Planner
Environmental Review Section

A handwritten signature in black ink, appearing to read 'Michael S. Y. Young', written over a horizontal line.

Michael S. Y. Young
Deputy Advisory Agency
Division of Land

FINAL RECIRCULATED SECTIONS -
ENVIRONMENTAL IMPACT REPORT
(FINAL RS-EIR)
VILLAGE AT PLAYA VISTA

City of Los Angeles/EIR No. ENV-2002-6129-EIR

State Clearinghouse No. 2002111065

Project: Village at Playa Vista

Required Actions: Amendments to the Westchester / Playa del Rey Community Plan and the existing Playa Vista Area D Specific Plan with appropriate zone changes, a Development Agreement, a Conditional Use, a Vesting Tentative Tract Map, and various other discretionary approvals as the City may find necessary to implement the project.

Applicant: Playa Capital Company, LLC
5510 Lincoln Blvd., Suite 100
Playa Vista, California 90094

2009

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**I. EXECUTIVE SUMMARY
FOR THE FINAL RECIRCULATED SECTIONS OF THE
ENVIRONMENTAL IMPACT REPORT FOR
THE VILLAGE AT PLAYA VISTA PROJECT**

A. INTRODUCTION

This Final Recirculated Sections of the Environmental Impact Report (Final RS-EIR) for the proposed Village at Playa Vista Project (the Proposed Project) has been prepared pursuant to the requirements of the California Environmental Quality Act (CEQA).¹

The City of Los Angeles (City), which has the principal responsibility for approving the Proposed Project, is the Lead Agency pursuant to CEQA, Public Resources Code Section 21067. As the Lead Agency, the City is responsible for the preparation and distribution of this Final RS-EIR. This Final RS-EIR addresses potential significant effects that the Proposed Project may have on the environment in accordance with prior court rulings (discussed below in Section I.B.). It also indicates the manner in which the Proposed Project's potentially significant effects can be reduced or avoided through the implementation of mitigation measures. Impacts that cannot be mitigated to a level below significance are considered significant unavoidable adverse impacts. For projects that result in any significant unavoidable environmental effects, the lead agency may, after making a series of findings, certify an EIR upon adoption of a Statement of Overriding Considerations pursuant to CEQA Guidelines Section 15093.

As described in Section 15089 and 15132 of the CEQA Guidelines, the lead agency must prepare a final EIR before approving the Proposed Project. One of the purposes of a final EIR is to provide an opportunity for the lead agency to respond to the public and commenting agencies. Therefore, pursuant to CEQA Guidelines sections 15132 and 15088.5, this Final RS-EIR focuses on responses of the Lead Agency to the significant environmental points related to the four sections in the RS-DEIR which were raised in the review and comment process. This Final RS-EIR includes (i) this executive summary,

¹ Please note that this "Final RS-EIR" is a portion of the "Complete FEIR," which, as discussed in Section I.E. below, constitutes all the environmental documents from the Proposed Project, including the Original FEIR, the RS-DEIR, and the Final RS-EIR.

(ii) corrections and additions to the Original FEIR² and the RS-DEIR by environmental topic, (iii) a list of persons, organizations, and public agencies commenting on the RS-DEIR, their comments, and responses to those comments, (iv) appendices, (v) a Mitigation Monitoring and Reporting Program, as explained further in Section I.E., below, and (vi) references. Further details on the organization of the Final RS-EIR and the “Complete FEIR” are provided at Section I.E. of this Executive Summary.

B. THE SCOPE OF THE RECIRCULATED SECTIONS OF DRAFT ENVIRONMENTAL IMPACT REPORT

Although the scope of the RS-DEIR was discussed in detail in Section I.A. of the RS-DEIR, this issue is reviewed again in this Executive Summary for the Final RS-EIR since a number of commentors raised this issue.

In 2004, the City approved the Village at Playa Vista project (the Proposed Project) and certified a Final Environmental Impact Report (the Original FEIR). (The Original FEIR included the original Draft EIR prepared for the Proposed Project in 2003 (Original DEIR) and the Original FEIR prepared in 2004.) The California Court of Appeal decided, in the consolidated cases of *City of Santa Monica et al. v. City of Los Angeles et al.*, B189630 and *Ballona Ecosystem Education Project v. City of Los Angeles et al.*, B189722, that the Original FEIR contained legal deficiencies with respect to certain (but not all) analyses of land use impacts, archaeological resources, and wastewater impacts.

The Court of Appeal’s written opinion (the Court of Appeal Opinion, attached as Appendix A.i to the RS-DEIR) required:

the superior court to issue a peremptory writ of mandate, consistent with this opinion, directing the City to (1) vacate its approvals of the project and its certification of the EIR; (2) revise the analysis of land use impacts in the EIR; (3) revise the EIR to discuss preservation in place [of archaeological resources] in accordance with Guidelines section 15126.4, subdivisions (a)(1)(B) and (b)(3); and (4) revise the EIR to identify the intended and likely measures to dispose of the project’s wastewater and analyze the

² With respect to the RS-DEIR and this Final RS-EIR, please note that use of the term “Original FEIR” without a citation to a page number, section, appendix, or other specific reference refers to the entirety of the Original DEIR, responses to comments, corrections and additions, and all other portions of the final environmental impact report certified by the City of Los Angeles for the Proposed Project in September 2004. When the term Original FEIR is accompanied by a specific reference to a page number, section, appendix, or other specific reference, the term refers to the volumes titled *Village at Playa Vista Final Environmental Impact Report*, dated April 2004.

*environmental impacts of employing those measures to dispose of the wastewater generated by the project, including any cumulative impacts to the Santa Monica Bay.*³

On May 23, 2008, the Los Angeles County Superior Court issued a Writ of Mandate (Writ) limited to the items identified by the Court of Appeal described above. It should be noted that the Court of Appeal ruled that the other challenged sections of the Original FEIR complied with the CEQA.

The City circulated the RS-DEIR to address the deficiencies in the Original FEIR concerning the Proposed Project's potential impacts on land use, archaeological resources, and wastewater as required by the Writ. In addition to addressing those issues specifically identified by the Court of Appeal, the RS-DEIR discusses other matters within the land use, archaeological, or wastewater impact analyses that were not found to be deficient by the Court of Appeal in order to provide a complete context for the impact analyses. With one exception (global climate change), impact analyses concerning matters beyond land use, archaeological, and wastewater impacts were not re-examined in the RS-DEIR for the reasons discussed below.

In addition to the three issues enumerated by the Court of Appeal as requiring additional CEQA analysis, the RS-DEIR includes an analysis of the Proposed Project's potential impacts on global climate change from greenhouse gases (GHG) emissions. The City elected include this analysis in the RS-DEIR for two reasons. First, the Original FEIR did not address climate change. Second, California has adopted new legislation concerning the reduction of GHG emissions since the City's certification of the Original FEIR in 2004. Absent either of these circumstances, the City would have declined to expand the scope of the RS-DEIR to include global climate change.

With regard to the first reason, the Original FEIR did not include an analysis of climate change. In comparison, every other environmental impact area relevant to the Proposed Project (e.g., traffic, methane, water supply, etc.) was analyzed in the Original FEIR and either unchallenged in the prior litigation or expressly approved by the Court of Appeal (except for the three deficiencies noted above). Under applicable law,⁴ those impact areas need not be addressed further in the RS-DEIR.

³ *RS-DEIR Appendix A.i, Court of Appeal Opinion, pp. 113-114.*

⁴ *See, e.g., Federation of Hillside & Canyon Associations v. City of Los Angeles (2004) 126 Cal.App.4th 1180; CEQA Guidelines Section 15088.5.*

The second reason for including a climate change analysis in the RS-DEIR concerns various legislative and regulatory actions taken since the certification of the Original FEIR. In 2006, California passed the California Global Warming Solutions Act (also known as Assembly Bill 32 or, more commonly, AB 32).⁵ Generally, AB 32 mandates that California reduce statewide GHG emissions to the equivalent of those in 1990 by 2020 (a reduction of approximately 25 percent from forecast emission levels). To accomplish those reductions in GHG emissions, the California Legislature directed the California Air Resources Board to implement a new regulatory framework. That regulatory process is ongoing.

In addition to AB 32, State Senate Bill 97 (SB 97, passed in 2007) requires the California Office of Planning and Research (OPR) to develop and transmit to the California Natural Resources Agency by July 1, 2009 proposed CEQA Guidelines for addressing the effects of a proposed project's emissions of GHG. OPR has transmitted such proposed Guidelines to the Natural Resources Agency. According to OPR, these proposed amendments "would provide guidance to public agencies regarding the analysis and mitigation of the effects of greenhouse gas emissions in draft CEQA documents."⁶ The Natural Resource Agency will accept public comment on proposed amendments until August 20, 2009. SB 97 mandates that by January 1, 2010, the Natural Resources Agency shall certify and adopt the necessary amendments to the CEQA Guidelines.

In addition to AB 32 and SB 97, the California Attorney General has repeatedly emphasized the important role local agencies can play in addressing global climate change and strongly encouraged local agencies to discuss climate change in CEQA documents.⁷ The Attorney General's Office has commented on CEQA documents prepared for other projects and even pursued litigation against other jurisdictions to ensure that CEQA documents adequately address a project's GHG emissions.⁸

For all of the above reasons, the RS-DEIR analyzes the impact of the Proposed Project on climate change.

Several commentors have requested that the RS-DEIR expand its analyses beyond the scope of the Court of Appeal Opinion and the Superior Court's Writ. Such analyses are not appropriate for inclusion in the RS-DEIR for a number of reasons. For example, unlike

⁵ *Cal. Health and Safety Code Section 38500 et seq.*

⁶ *OPR's proposed amendments are available at: <http://www.opr.ca.gov/> (last visited July 28, 2009).*

⁷ *Attorney General, "The California Environmental Quality Act: Addressing Global Warming Impacts at the Local Agency Level." (updated May 21, 2008), available at: http://aq.ca.gov/globalwarming/pdf/GW_mitigation_measures.pdf (last visited July 28, 2009).*

⁸ *The Attorney General's Office's website on GHG emissions and CEQA may be found at: <http://aq.ca.gov/globalwarming/ceqa.php> (last visited July 28, 2009).*

the issue of potential climate change, all other potential environmental impacts were analyzed in the Original FEIR. Except under limited circumstances, CEQA does not require a public agency to revisit environmental analyses in an EIR that are unchallenged in litigation or those that are unsuccessfully challenged.⁹ The limited circumstances under which a lead agency is required to address in additional CEQA analysis a potential impact that was previously analyzed in an EIR prior to the certification are specified in State CEQA Guideline Section 15088.5 (which is addressed below).¹⁰ In that regard, it should be noted that the Court of Appeal held that “the form of the document used to revise the EIR and whether recirculation of the EIR is necessary are questions for the City to decide in the first instance under the standards governing recirculation of an EIR before certification....”¹¹ State CEQA Guideline Section 15088.5(c) directs that, if revisions to a draft EIR are “limited to a few chapters or portions of the EIR, the lead agency need only recirculate the chapters or portions that have been modified.”¹² Accordingly, the City has determined that its decision to limit the scope of the RS-DEIR to the four topics of land use, archaeological resources, wastewater, and global climate change comports with applicable law.

As stated in the RS-DEIR, State CEQA Guideline Section 15088.5(f)(2) authorizes a lead agency to respond only to comments on the sections of a draft EIR that were recirculated for additional public review and comment. Consistent with that Guideline, the City stated in the RS-DEIR that commentors should limit their comments to the issues discussed in the RS-DEIR. In this Final RS-EIR, the City provides responses to comments made on the RS-DEIR. In addition, as discussed in Section I.C. below, the City also responds to comments that claim that “significant new information” exists concerning the Proposed Project’s potential impacts that are not analyzed in the RS-DEIR.

C. CEQA’S REQUIREMENTS CONCERNING RECIRCULATION OF ANALYSES IN A PREVIOUSLY PUBLISHED DRAFT EIR

In certain circumstances, CEQA requires a lead agency to recirculate an EIR for additional public review and comment. Recirculation is required when “significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification” of the EIR.¹³ “Significant new

⁹ Refer, for example, to the court decision in *Federation of Hillside & Canyon Associations v. City of Los Angeles* (2004) 126 Cal.App.4th 1180.

¹⁰ See also Cal. Pub. Res. Code Section 21092.1.

¹¹ RS-DEIR Appendix A.i, Court of Appeal Opinion, p. 113.

¹² State CEQA Guidelines Section 15088(c), (f).

¹³ State CEQA Guidelines Section 15088.5(a); Cal. Pub. Res. Code Section 21092.1.

information” added to an EIR requires recirculation only when that information discloses that:

- (1) a new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.*
- (2) a substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.*
- (3) a feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project’s proponents decline to adopt it.*
- (4) the draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.¹⁴*

A lead agency’s determination not to recirculate a draft EIR must be supported by substantial evidence in light of the whole record before the agency.¹⁵

The City received several written comments purporting to introduce “significant new information” necessitating recirculation of the RS-DEIR to revise various impact analyses beyond the four impact analyses contained in the RS-DEIR. These comments are addressed individually in Section III, Responses to Written Comments. The City has considered each of these comments, and recirculation of the RS-DEIR is not warranted because (1) such comments raise issues already addressed in the Original DEIR or the Original FEIR and/or (2) the information in the comments does not constitute “significant new information” within the meaning of CEQA.

¹⁴ State CEQA Guidelines Section 15088.5(a).

¹⁵ State CEQA Guidelines Sections 15088.5(e), 15384(a); *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1135. State CEQA Guidelines Section 15384 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.”

D. THE MARCH 2009 RE-NOTICING OF THE AVAILABILITY OF THE RS-DEIR FOR PUBLIC REVIEW AND COMMENT

The RS-DEIR was circulated for a 45-day public review period beginning on January 29, 2009 and ending on March 16, 2009. For the reasons discussed below, the public review period was re-noticed for an additional 45 days, beginning on March 16, 2009 and ending on April 30, 2009. Notices announcing both of these review periods were mailed (discussed further below), published in the Los Angeles Times, posted at the Proposed Project site, and posted on-line at <http://cityplanning.lacity.org/>. During these review periods, 98 written comment letters and emails were submitted to the City Planning Department. Two additional letters were received after the close of the review period. Responses to all 100 submittals are located in Section III of this Final RS-EIR.

Toward the end of the first review and comment period for the RS-DEIR, legal counsel for Ballona Wetlands Land Trust (BWLTL), a petitioner in the *City of Santa Monica v. City of Los Angeles* case, sent a letter dated March 5, 2009 to the City stating that, in BWLTL's view, the City had not fully complied with CEQA's noticing requirements. (Refer to Comment Letter No. 26 for BWLTL's letter.) For a variety of reasons, but especially in light of the history of litigation by BWLTL concerning the Proposed Project and other aspects of the Playa Vista development, the City prepared another public notice of the completion and availability of the RS-DEIR dated March 16, 2009. (Refer to Appendix E for copies of the letters by the City and the Proposed Project applicant (Applicant) concerning BWLTL's request for an extension of the comment period.)

Upon receiving word that the public comment period would be extended, the BWLTL's legal counsel indicated to the City in a March 13, 2009 letter that there were certain organizations, individuals, and agencies that wished to receive the City's March 16, 2009 notice. Refer to Comment Letter No. 27. The City sent the March 16, 2009 notice to those parties. Further, the City sent the March 16, 2009 notice to everyone who was sent notice in January 2009, as well as to individuals and organizations that were sent notice of the Original DEIR in 2003, among others. Pursuant to the March 16, 2009 re-noticing, over 15,000 persons and entities were sent the CEQA notice. The City's conservative, expansive approach resulted in organizations and individuals receiving multiple notices. However, the City was simply attempting to be as accommodating as possible given the objections of legal counsel to BWLTL. (It should be noted that the Applicant, not the City, is ultimately responsible for all costs associated with the public notices.)

E. ORGANIZATION AND CONTENTS OF THE FINAL RS-EIR AND THE COMPLETE FEIR

As explained in Section I.A.5.0 of the RS-DEIR, the “Complete FEIR” will consist of the documents listed below.¹⁶

- (a) The Original DEIR (without the sections that have been superseded and replaced by the corresponding sections in the RS-DEIR);
- (b) The comments and responses to comments on the Original DEIR, received during the public comment period, August 21, 2003 through December 22, 2003;¹⁷
- (c) All other elements of the Original FEIR, including the corrections and additions, appendices and references to the Original DEIR;¹⁸
- (d) The RS-DEIR; and
- (e) The Final RS-EIR.

The Final RS-EIR itself consists of the following sections:

- I. Executive Summary.** The Executive Summary for the Final RS-EIR is included in this Section I. Please note that the RS-DEIR included a detailed Executive Summary that summarized, among other things, (a) the Proposed Project’s potential impacts concerning land use, archaeological resources, wastewater, and global climate change, (b) the mitigation measures recommended to reduce those impacts, and (c) other background information concerning the Proposed Project, its location, and the prior administrative and court proceedings.
- II. Corrections and Additions.** Section II of the Final RS-EIR provides a list of edits that were made to the RS-DEIR based on comments received from the public and other items in the RS-DEIR and Original FEIR requiring updating

¹⁶ Please note for additional clarification, the term “Revised Final EIR,” which was used in the RS-DEIR, is not used in this document and has been corrected in this Final RS-EIR. See Final RS-EIR Corrections and Additions.

¹⁷ Please note that any responses to comments on the Original DEIR that relate to the matters and potential impacts now covered by Sections II.A through II.D of the RS-DEIR are also superseded by the comments and responses to comments contained in this Final RS-EIR.

¹⁸ Please note Original FEIR Corrections and Additions Section II.11 Land Use, II.25 Wastewater, and II.29 Archaeological Resources are superseded by the Corrections and Additions in this Final RS-EIR, if any.

and/or corrections. This section is subdivided into subsections that correspond to the appropriate section heading in the documents.

- III. Responses to Written Comments.** Section III of this Final RS-EIR presents a table that lists all of the parties that commented on the RS-DEIR during the public review periods. The table is followed by the comments presented in each of the letters, with the City's responses to each comment.
- IV. Appendices.** Section IV of this Final RS-EIR includes appendices that are in addition to the appendices to the RS-DEIR, the Original DEIR, and the Original FEIR.
- V. Mitigation Monitoring and Reporting Program (MMRP).** Section V of this Final RS-EIR (superseding Section III of the RS-DEIR) provides the MMRP for the four environmental impacts analyzed in the RS-DEIR (Revised MMRP). The MMRP for the Proposed Project's other environmental impacts was prepared and certified by the City in connection with the original approval of the Proposed Project in September 2004 (Original MMRP). The sections of the Original MMRP applicable to the Proposed Project's land use, archaeological resource, and wastewater impacts (i.e., Mitigation Measures G-1 through G-3, N.(2)-1, and P.(2)-1 through P.(2)-8) have been superseded by the provisions in those sections in the Revised MMRP. The remaining portions of the Original MMRP have not been superseded. The Original MMRP is available at the City Planning Department, Room 720, City Hall, 200 North Spring Street, Los Angeles, 90012, or on-line at <http://cityplanning.lacity.org/>. Together, the Revised MMRP and portions of the Original MMRP that were not superseded will constitute the Complete MMRP. The Complete MMRP will be the document that will be used by the enforcement and monitoring agencies responsible for the implementation of the Proposed Project's mitigation measures if the Proposed Project is approved. The Complete MMRP will list the Proposed Project's mitigation measures, by environmental topic, and identify for each of the measures, the enforcement agency, the monitoring agency, the monitoring phase, the monitoring frequency, and the action indicating compliance with the mitigation measures.
- VI. References.** Section VI of this Final RS-EIR lists items cited in the Final RS-EIR. The full list of references used in the Original DEIR, Original FEIR, and Final RS-EIR and the documents cited in that list are available for review at the City of Los Angeles Planning Department, 200 North Spring Street, Room 720, Los Angeles, CA 90012.

F. SUMMARY OF PROJECT IMPACTS¹⁹

For Sections G.1 through G.8 of the Executive Summary, please refer to the Executive Summary in the volumes titled Village at Playa Vista Final Environmental Impact Report. This Final RS-EIR does not revise those sections.

9. Land Use

A. Court of Appeal Opinion and Response

The Court of Appeal, in summary, determined that the Proposed Project would dramatically increase the amount of development permissible on the Proposed Project site and that the Original FEIR did not acknowledge this increase and that the Proposed Project represents an “upzoning” with regard to the levels of development permitted under the existing Specific Plan and zoning. Refer to RS-DEIR Subsection I.A.4.a for additional information.

To address the Original FEIR’s deficiency, RS-DEIR Subsection II.A.2.1.4. indicates that, without an amendment to the applicable portions of the Community and Specific Plans, (a) no additional residential development is allowed as of right in the Proposed Project site’s R4(PV) zone since the entirety of the units permitted under the Specific Plan were allocated to the Playa Vista First Phase Project, and (b) development in the M(PV) zone is assumed to be limited to 108,050 sq. ft. of office and light industrial uses. The land use discussion has been revised to explicitly state that the Proposed Project represents an “upzoning” and the following uses are proposed above and beyond the existing permitted limits for the Proposed Project site: a net increase of 66,950 sq. ft. of office development; an increase of 2,600 dwelling units; an increase of 150,000 sq. ft. of retail development; and an increase of 40,000 sq. ft. of community serving uses.

Please note that while this Executive Summary has been revised to provide clarity with regard to the “upzoning” required by the Proposed Project, the amount of development comprising the Proposed Project has not changed from the development proposal

¹⁹ *This Final RS-EIR provides a summary of the Proposed Project’s impacts. This Section I.F. of the Final RS-EIR supersedes Section I.B., Summary of Project Impacts of the RS-DEIR Executive Summary.*

described in the Original FEIR. Accordingly, the description of the Proposed Project,²⁰ its setting, and background is still accurately provided in Section II of the Original DEIR, which section has not been superseded per the RS-DEIR or the Final RS-EIR.

B. Thresholds Of Significance

Land use impacts of the Proposed Project were considered pursuant to the City of Los Angeles CEQA Thresholds Guide, which provides the following factors, starting at page H.1-2 of the Guide, for use with respect to the determination of consistency with applicable General, Community, and Specific Plans as well as other applicable plans.

The determination of significance shall be made on a case-by-case basis, considering the following factors:

- Whether the proposal is inconsistent with the adopted land use/density designation in the Community Plan, redevelopment plan or specific plan for the site; and
- Whether the proposal is inconsistent with the General Plan or adopted environmental goals or policies contained in other applicable plans.

Based on these factors, the Proposed Project would have a significant impact on land use consistency if the Proposed Project is (i) inconsistent with the adopted land use/density designation in the Community Plan or Specific Plan or (ii) is inconsistent with the applicable portions of the adopted General Plan or other applicable environmental goals and policies of the other adopted plans.

The same Thresholds Guide provides, starting at page H.2-3, a different standard to address to “situations of incompatibility between land uses or activities.” That standard provides that determination of significance shall be made on a case-by-case basis, considering the following factors:

- The extent of the area that would be impacted, the nature and degree of impacts, and the type of land uses within that area;
- The number, degree, and type of secondary impacts to surrounding land uses that could result from implementation of the proposed project; and

²⁰ *However, please note that the following sentence in Section I.B.1.0 (The Proposed Project) of the Original DEIR at page 2 has been deleted in the Corrections and Additions in Section II.A of this Final RS-EIR: “As described more fully in Section I.D., the Proposed Project greatly reduces the scale of development in comparison to previous proposals within the larger area known as Playa Vista.” Note also that Section II.A. of the RS-DEIR explains how the Proposed Project represents an “upzoning.”*

- The extent to which existing neighborhoods, communities, or land uses would be disrupted, divided or isolated, and the duration of the disruptions.

Based on these factors, the Proposed Project would have a significant impact on land use compatibility if the Proposed Project would disrupt, divide, or isolate existing neighborhoods, communities, or land uses. For a discussion of the type of secondary impacts contemplated in this portion of the Thresholds Guide, refer to the appropriate section of the Original FEIR.²¹

C. Environmental Impacts

(1) Consistency with Regulatory Framework

(a) Non-City Policies and Plans

Several non-City policies and plans govern the Proposed Project site. In 1992, the Applicant was granted a federal permit by the United States Army Corps of Engineers (Corps) for the fill of wetlands on portions of the land located within the former Playa Vista Planning Area (Corps Permit No. 90-426-EV). Further, development at the Proposed Project site is governed by a “Programmatic Agreement” approved by the Corps, the State Historic Preservation Officer, and the federal Advisory Council on Historic Preservation. Additionally, the Regional Comprehensive Plan adopted by the Southern California Association of Governments and the Airport Land Use Plan adopted by Los Angeles County apply to the Proposed Project. The Proposed Project is consistent with all such federal, regional, and county plans.

(b) City Policies and Plans

With regard to the Proposed Project’s consistency with the governing existing City land use plans, the Proposed Project site is governed primarily by the Playa Vista Area D Specific Plan (City of Los Angeles Ordinance No. 160,523) and the Westchester-Playa del Rey Community Plan.²² Implementation of the Proposed Project requires (1) a vesting

²¹ *The Proposed Project’s potential impacts on adjacent uses and the surrounding area attributable to specific environmental impacts are addressed in the other sections of the Original DEIR dealing with the physical results of the Proposed Project, see e.g., Original DEIR Sections IV.O, Visual Qualities; IV.K, Traffic and Circulation; IV.E, Noise; and IV.B, Air Quality, etc. Except for the analyses relating to archaeological resources and wastewater, the Court of Appeal found no deficiency in the analysis of those other environmental impacts. Accordingly, the impact analysis in those sections of the Original DEIR and Original FEIR remain valid and address the secondary impacts contemplated by the Thresholds Guide concerning land use compatibility.*

²² *The City’s Coastal Transportation Corridor Specific Plan and Industrial Land Use Policy Project also apply to the Proposed Project site. As discussed in RS-DEIR Section II.A , the Proposed Project is consistent with that Plan and Project.*

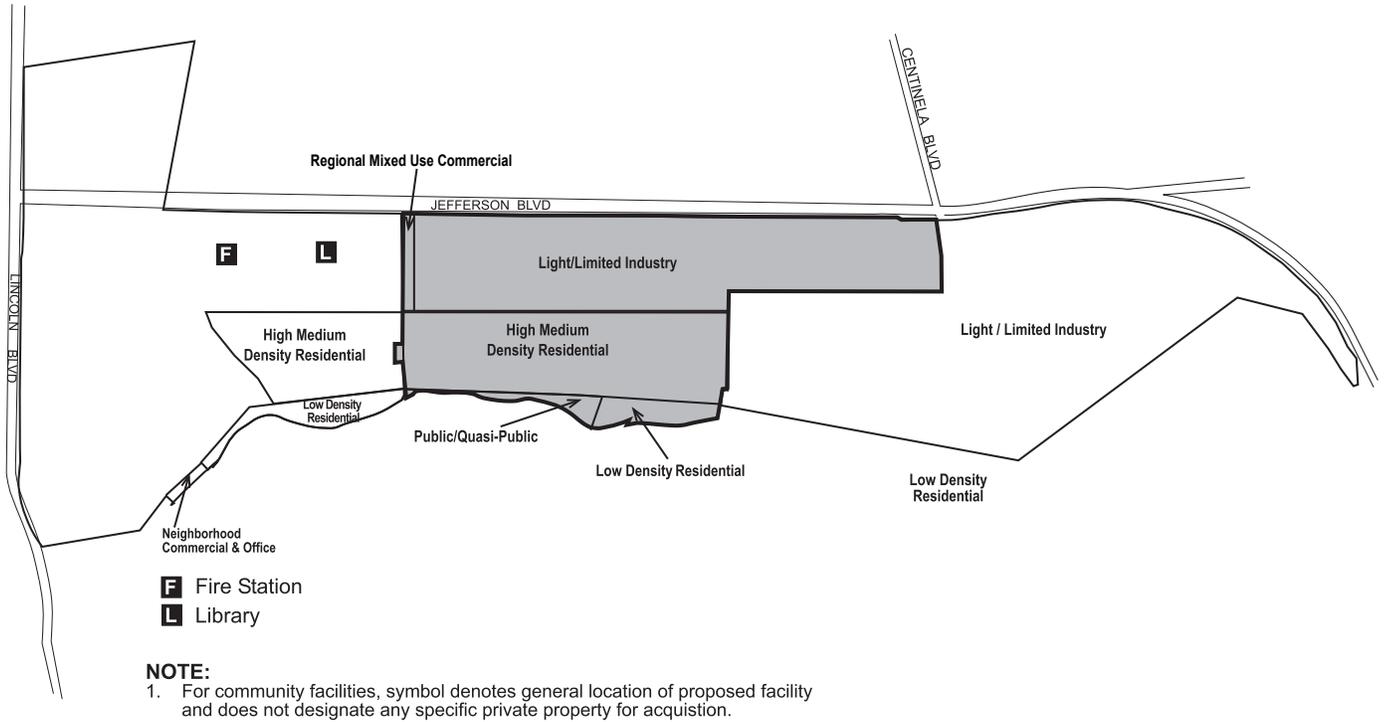
tentative tract map; (2) a General Plan amendment from Light/Limited Industry, High/Medium Residential, and Regional Mixed Use Commercial to Community Commercial and High/Medium Density Residential in the Community Plan; (3) a Playa Vista Area D Specific Plan amendment to (among other things) amend the land use elements allowed in the Area D Specific Plan and adjust the zone boundaries and designation within the Proposed Project site; (4) a development agreement for the Proposed Project; and (5) all other discretionary permits, approvals and governmental actions necessary to develop the Proposed Project. Figure I.B-1 below provides a comparison of the existing General Plan and Community Plan designations with those proposed to implement the Proposed Project. Figure I.B-2 below, provides a similar comparison, but rather focuses on a comparison of existing and proposed Specific Plan and zoning designations.

Implementation of the Urban Development Component of the Proposed Project would result in an “upzoning” when compared with the existing Area D Specific Plan. The Proposed Project would amend the relevant portions of the Specific Plan to add the following uses to the site above what is permitted under the existing Specific Plan: a net increase of 66,950 sq. ft. of office development; an increase of 2,600 dwelling units; an increase of 150,000 sq. ft. of retail development; and an increase of 40,000 sq. ft. of public or civic use. A comparison of existing entitlements and those requested to implement the Proposed Project are shown in Figure I.B-3 below.

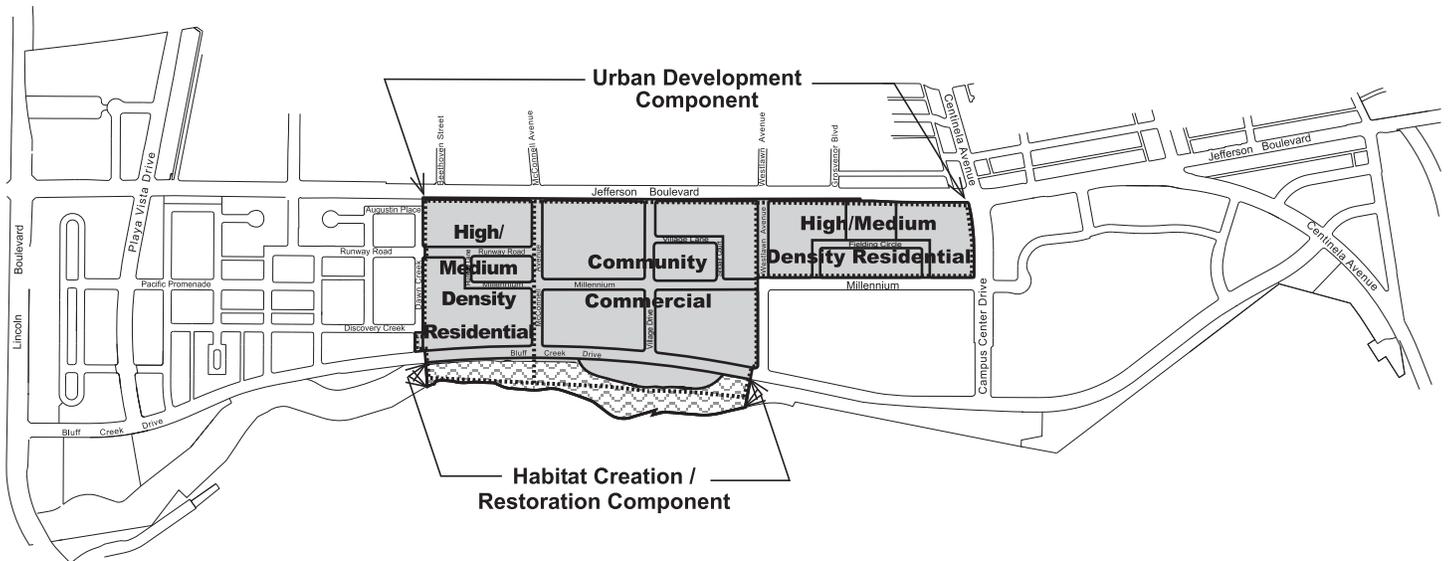
The Proposed Project is consistent with the applicable City regulatory framework, including the goals, policies, and objectives of the City of Los Angeles General Plan Framework and Westchester-Playa del Rey Community Plan. Development of the Proposed Project will further the applicable policies in those Plans. For example, the Proposed Project would create an integrated new mixed-use community that would generate housing (including multi-family housing), retail, recreational activities, and community-serving activities and jobs of a substantial scale that would serve housing, employment, shopping, and recreational needs of the City. The Proposed Project will also facilitate the City policy of maintaining the scale and character of existing neighborhoods, including single-family residential neighborhoods, while also encouraging compatible mixed-development, including affordable multi-family housing and senior housing.

Additionally, the Proposed Project is consistent with City goals, objectives, and policies regarding commercial and industrial growth opportunities, as the Proposed Project is designed to connect the adjacent First Phase Project. As such, its proposed land uses are compatible with and complement the office and light industrial uses associated with the First Phase Project. The Proposed Project, and its 17 acres of parks and open space (including the Riparian Corridor), would also contribute toward City goals of identifying and providing for park, recreational, and open space opportunities to serve City residents.

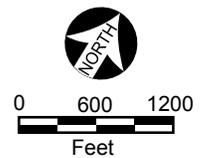
Existing General/Community Designations Plan



Proposed General/Community Plan

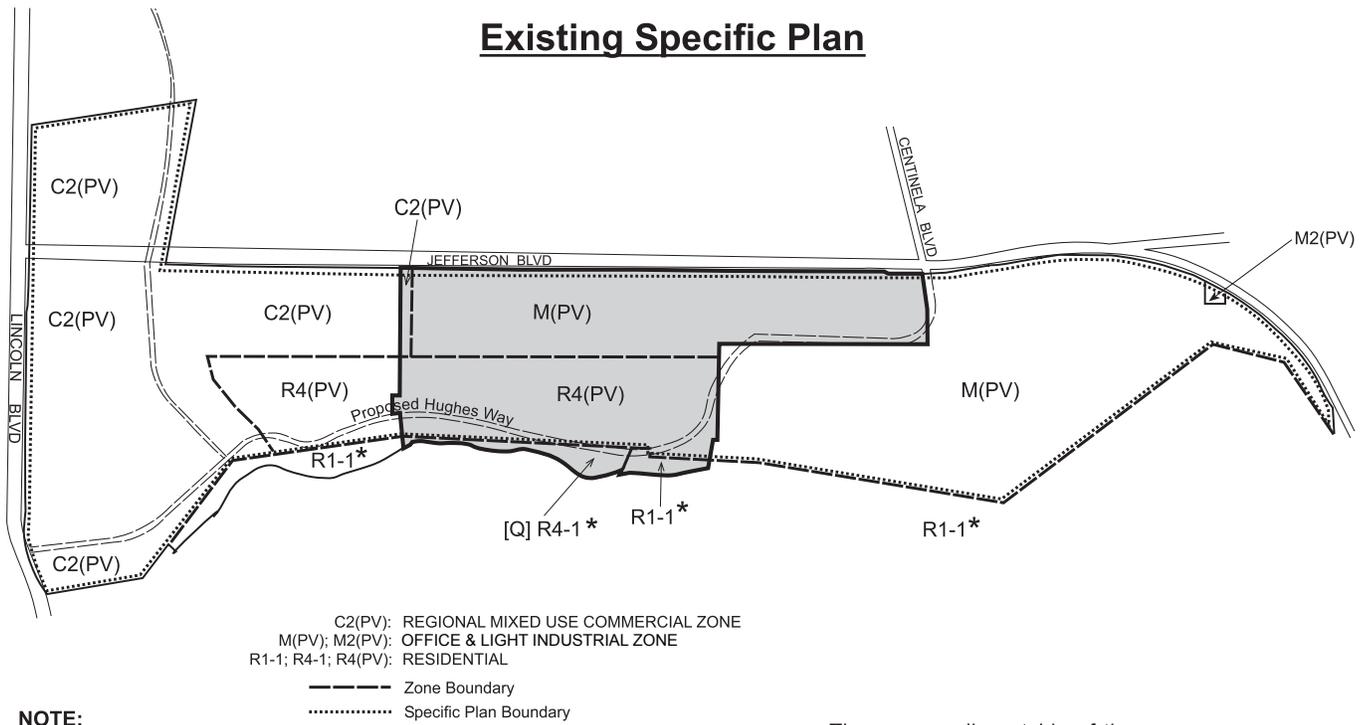


NOTE:
 Locations of roadways and land use boundaries are approximate.
 Precise placement will be determined as part of subdivision process.



Source: Playa Capital Company, March 2004.

Existing Specific Plan

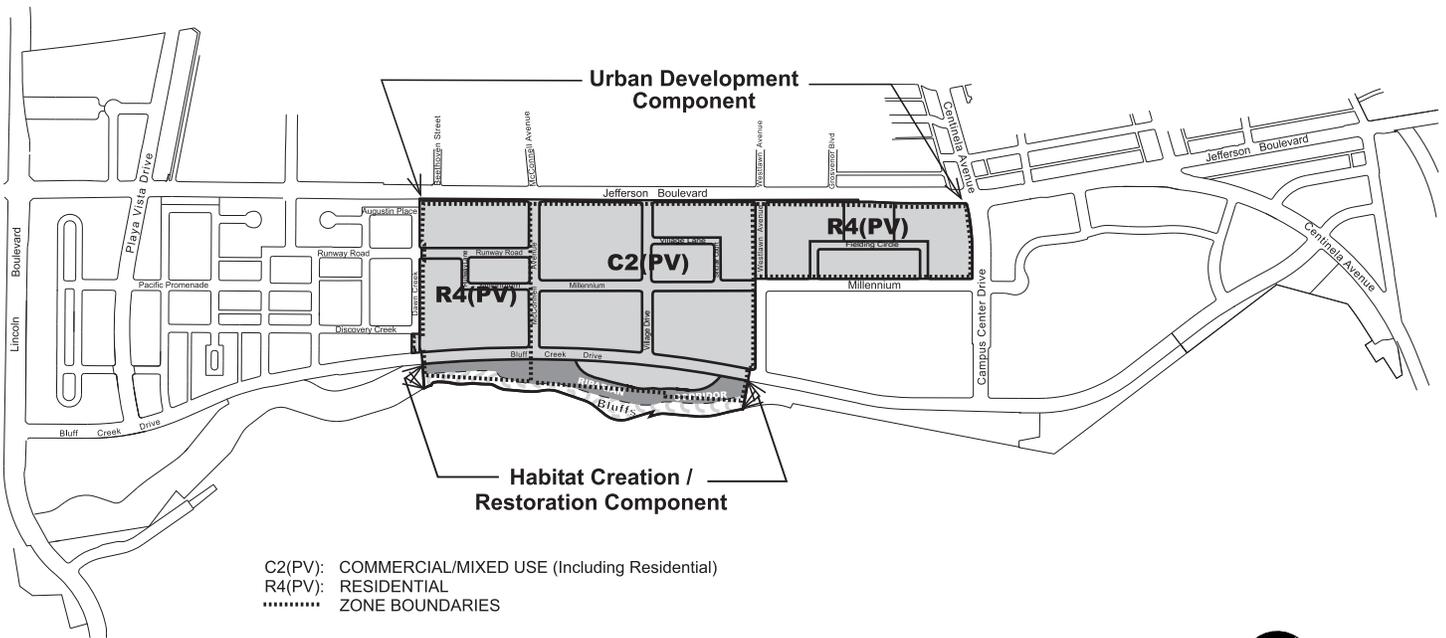


NOTE:

All conditions placed upon Specific Plan at the time of adoption by the City are also applicable. Existing Area D Specific Plan adopted November 21, 1985, amended 1996.

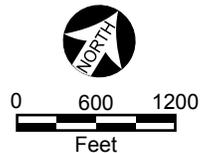
* These zones lie outside of the Area D Specific Plan boundaries

Proposed Specific Plan/Zoning Designations



NOTE:

Locations of roadways and land use boundaries are approximate. Precise placement will be determined as part of subdivision process.

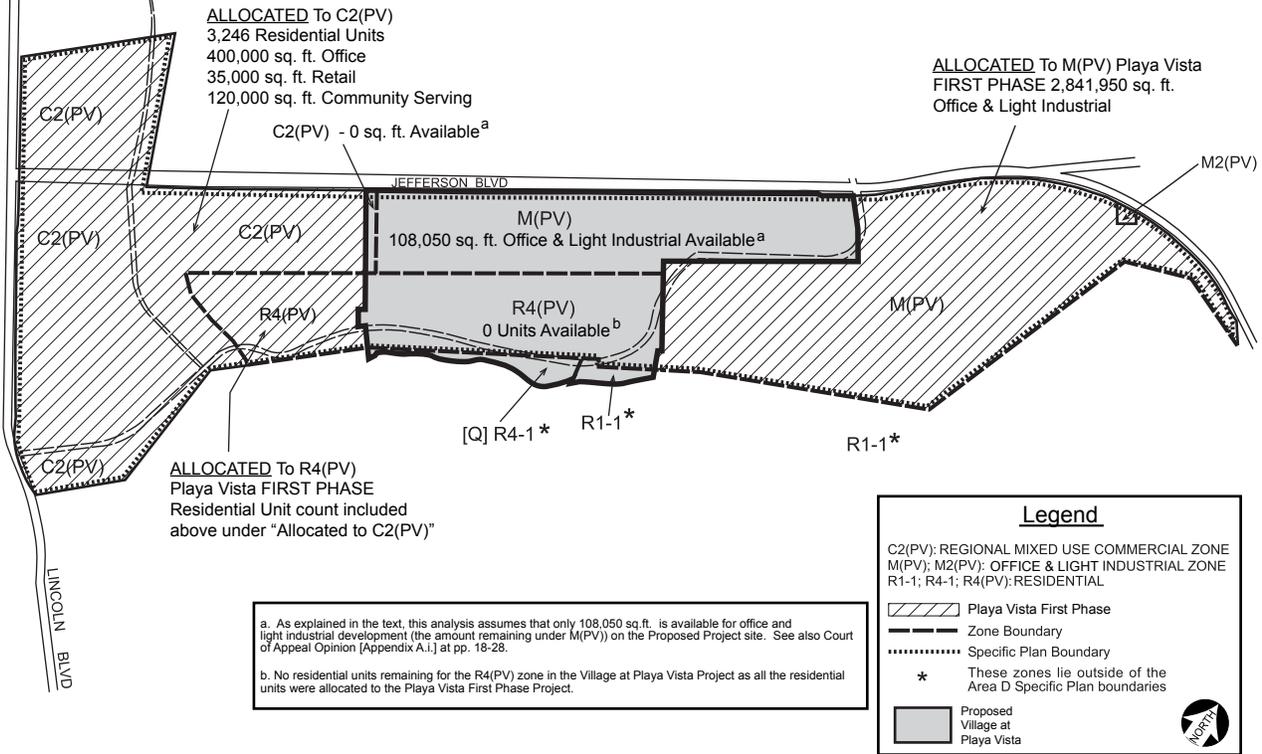


Source: Playa Capital Company, March 2004.

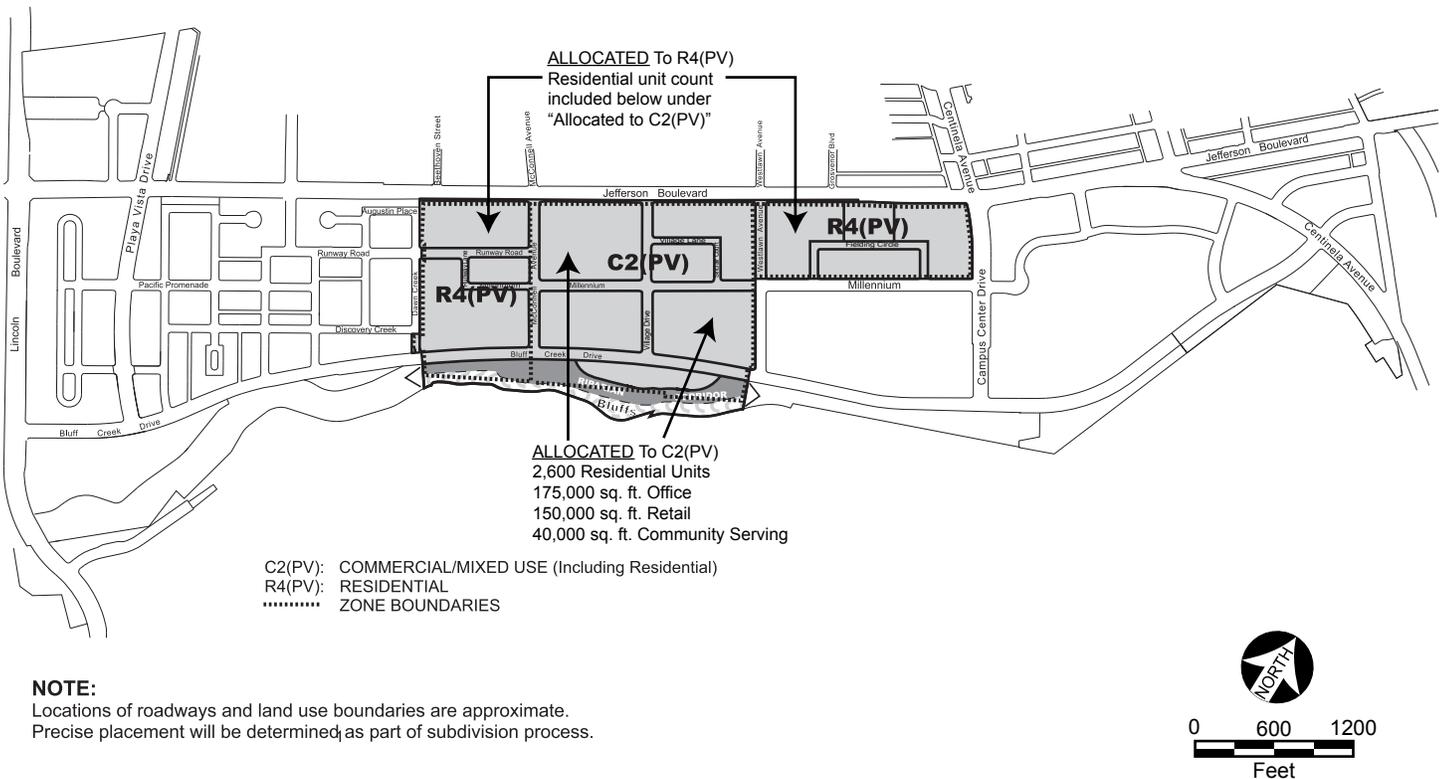


Figure I.B-2
Comparison of Existing Specific Plan
and the Proposed Designations

Existing Entitlements in Area D



Proposed Entitlements in Area D



Source: Playa Capital Company, November 2008.



Figure I.B-3
 Comparison of Entitlement Allocated
 and Entitlement Proposed in Area D

Lastly, the Proposed Project is consistent with City policies that encourage modes of transportation other than automobile. For example, the Proposed Project includes land use patterns that emphasize pedestrian/bicycle access and use (via a system of pedestrian walkways and bicycle paths) while also emphasizing public transit through the provision of an internal shuttle system and linkages to area wide bus systems. The Proposed Project's use of an internal shuttle system is designed to promote the reduction of vehicle trips within the Proposed Project site and the surrounding area. The Proposed Project also would provide improved bus service through the provision of five new buses on at least two Culver City Bus Lines. The Proposed Project's off-site improvements also would support implementation of the existing and expanded public transit programs in the area.

Therefore, while the Proposed Project implementation requires Community Plan and Specific Plan amendments, these proposed amendments would be consistent with the policies, goals, and objectives in the City's General Plan and Community Plan, as well as the goals and policies contained in other applicable plans. Thus, a less than significant impact would occur with regard to the Proposed Project's consistency with applicable land use plans.

(2) Compatibility with Existing Uses

With regard to land use compatibility, implementation of the Proposed Project would not disrupt, divide, or isolate existing neighborhoods, communities, or surrounding land uses. Furthermore, the Proposed Project would integrate with and provide continuity with development between the portions of the Playa Vista First Phase Project lying to the east and west of the Proposed Project site. Implementation of the Proposed Project also would not impact existing developments to the south or north of the Proposed Project site. Of importance to this conclusion are buffer zones to the north as well as to the south. The Habitat Creation/Restoration area of the Proposed Project lies to the south of the Urban Development Component, separating the Proposed Project's urban land uses from the Westchester Community atop the Bluffs. Jefferson Boulevard, a major arterial, serves this same buffer function with regard to land uses to the north, particularly the multi-family residential uses along Jefferson Boulevard and the Del Rey community further to the north. The land use interface between the Proposed Project and off-site land uses is further enhanced by establishing building heights that are well below the existing Area D Specific Plan height limitations on the Proposed Project site and would not create a development that extends above the average height of the adjacent Bluffs. Accordingly, impacts with regard to the Proposed Project's compatibility with surrounding land uses will be less than significant.

D. Recommended Mitigation Measures

Although the Proposed Project would not cause any significant land use impacts attributable to inconsistency with applicable land use plans or incompatibility with surrounding uses, the Original FEIR identified mitigation measures which are restated here. The Court of Appeal did not find any deficiencies related to these mitigation measures. One of these measures relates to the Proposed Project's development standards and guidelines, which concern, among other things, the arrangement, shape, and location of the buildings. Also, the entitlements for the Playa Vista First Phase project (including VTTM 49104) established certain open space requirements. To ensure that those requirements are satisfied, Lot 113 within the Proposed Project site will remain as open space until the City's Advisory Agency determines that Lot 113 is not needed for that purpose.

(1) Mitigation Measure for the Proposed Project and the Equivalency Program

- Prior to recordation of the tract map, the Proposed Project development standards and guidelines shall be incorporated as tract map conditions including, but not limited to, building height, setbacks, lot coverage, density, and land uses, as analyzed in ENV-2002-6129-EIR. Any changes shall be subject to additional environmental review and implementation of proper mitigation measures if additional impacts associated with such changes are identified.
- Lot 113 of VTTM 49104 shall remain as open space unless the Advisory Agency determines that this lot is not needed to meet the open space requirements of VTTM 49104.

(2) Additional Mitigation Measure for the Off-Site Improvements

- Any private property that is affected during the construction of off-site improvements shall be restored to be consistent with conditions prior to construction, to the extent feasible.

E. Unavoidable Adverse Impacts

The Proposed Project (including both the Urban Development Component and the Habitat Creation/Restoration Component) is or will be consistent with all federal, regional, county, and local plans and policies. Therefore, the impacts with regard to the Proposed

Project's consistency with these and other plans would be less than significant. With regard to the land use impacts relating to compatibility with surrounding land uses, the Proposed Project is compatible with existing land uses and would not have a significant adverse impact.

F. Cumulative Impacts

(1) Consistency with Regulatory Framework

The Proposed Project, inclusive of the Equivalency Program and the Proposed Project's off-site improvements, would be compatible with the regulatory land use framework and, therefore, would not contribute to a significant cumulative impact regarding such land use laws and regulations. It is anticipated that other development in the area of the Proposed Project would be consistent with applicable federal, regional, and county regulations as well as the City's General and Community Plans. Two pending related projects that may require an amendment to this Community Plan at a later date are the proposed Loyola Marymount University (LMU) Master Plan project and proposed expansion of Los Angeles International Airport (LAX). However, such plan amendments would not preclude, nor be precluded by the Proposed Project's plan amendments. Further, the activities associated with the LMU Master Plan project and proposed expansion of LAX have been considered in the cumulative analyses of the various environmental sections of the Original DEIR.

Thus, it is anticipated that other development would be consistent with applicable regulations and the updated Community Plan, or would amend the Community Plan through appropriate review and CEQA analysis as required by law. Therefore, cumulative impacts regarding the regulatory framework would be less than significant.

(2) Compatibility with Existing Uses

In conjunction with the environmental analyses for the Proposed Project, a list of related projects was identified by the Original DEIR for the area surrounding the Proposed Project site as well as a larger area extending several miles to the north, south, and east of the Proposed Project site. These projects would contribute, in conjunction with the Proposed Project, to the general development character of the West Los Angeles region.

In a general sense, the West Los Angeles region, including the immediate vicinity of the Proposed Project site, is predominantly developed. While some intensification of activity is occurring due to infill on the remaining undeveloped land parcels and conversion to more intense uses on a parcel-by-parcel basis, the basic land use character and major distribution

patterns of the region have been established. Intensification of development will have cumulative impacts on particular environmental issues such as traffic, noise, and air pollution. Such impacts are the focus of other sections of the Original DEIR that address these cumulative impacts associated with the Proposed Project (refer to footnote 21, above).

With regard to the issues addressed in the Complete FEIR concerning land use mix and distribution, the development of the Proposed Project in conjunction with the related projects is not anticipated to alter the general land use patterns and relationships in the Proposed Project vicinity. For the most part, the related projects are located at some distance from the Proposed Project and within different neighborhoods. The related projects would typically be of an infill nature, and would not alter the general land use patterns of their local area. To the extent changes do occur, those changes would be localized.

Further, the Proposed Project (inclusive of the Equivalency Program and the Proposed Project's off-site improvements) in conjunction with related projects would not disrupt, divide, or isolate existing neighborhoods, communities, or land uses. For all these reasons, cumulative impacts concerning land use compatibility would be less than significant.

For Sections G.10 through G.22 of the Executive Summary, please refer to the Executive Summary in the volumes titled Village at Playa Vista Final Environmental Impact Report. This Final RS-EIR does not revise those sections.

23. Wastewater

A. Court of Appeal Opinion and Response

The Court of Appeal held that since the Original FEIR concluded that the City's wastewater treatment system could lack capacity during peak months to handle wastewater flows by the time the Proposed Project would be built, the Original FEIR should have, but failed to, "identify the intended and likely measures [for the City] to dispose of the project's wastewater and analyze the environmental impacts of employing those measures." Refer to Subsection I.A.4.c of the RS-DEIR for additional information.

Section II.B. of the RS-DEIR, and in particular, Subsections II.B.2.2.4 and II.B.3.4, provide updated data regarding the capacity of the City's wastewater treatment system and an analysis of the system's ability to accommodate the wastewater flows generated by the Proposed Project. As discussed in the wastewater analysis, current data indicates that there is less demand on the City's wastewater collection and treatment system than previously

projected. The current information confirms that adequate treatment capacity will be available to handle wastewater flows from the Proposed Project and other future flows through at least 2020, and the City has conducted environmental review concerning future expansions of the wastewater treatment system, if needed. As such, no additional measures will be necessary to accommodate the wastewater generated by the Proposed Project.

Additionally, Subsection II.B.6.0 of the RS-DEIR provides an analysis of the Proposed Project's contribution to potential cumulative impacts on water quality in the Santa Monica Bay. Water quality in the Bay is protected by a variety of laws and regulations, which were taken into account by the governing regulatory agencies when they approved the National Pollutant Discharge Elimination System (NPDES) permit for the City's Hyperion Treatment Plant, which discharges treated wastewater into the Bay. That permit establishes a variety of conditions and requirements that are protective of the beneficial uses of the Bay, public health, and the marine environment. Since issuance of the currently operative NPDES permit, discharges from the Hyperion Treatment Plant generally have been in compliance with the requirements of that NPDES permit. The analysis in the Complete FEIR demonstrates that the Hyperion Treatment Plant's treatment and discharge of wastewater attributable to the Proposed Project and other future sources are not projected to cause any violations of the requirements in the NPDES permit or result in pollution, contamination, or nuisance as those terms are defined in Section 13050 of the Water Code.

B. Thresholds of Significance

The wastewater impacts of the Proposed Project are considered pursuant to the City of Los Angeles CEQA Thresholds Guide. The Thresholds Guide provides that a project would cause a significant wastewater impact where:

- The project would cause a measurable increase in wastewater flows at a point where, and a time when, a sewer's capacity is already constrained or that would cause a sewer's capacity to become constrained, or
- The project's additional wastewater flow would substantially or incrementally exceed the future scheduled capacity of any one treatment plant by generating flows greater than those anticipated in the Wastewater Facilities Plan or General Plan and its elements.

In its ruling, the Court of Appeal held that "the revised EIR must discuss the significant cumulative impacts to the Santa Monica Bay, if any, or explain its conclusion that there are no significant cumulative impacts" associated with the Proposed Project's contribution to water quality impairment in the Santa Monica Bay." In response to that

holding, the analysis in the RS-DEIR deems impacts to water quality in the Santa Monica Bay to be significant if the Proposed Project would:

- The project would cause a significant wastewater impact where a discharge would (i) result in pollution,²³ contamination,²⁴ or nuisance,²⁵ as those terms are defined in Water Code Section 13050 or (ii) result in a violation of applicable regulatory standards, including those provided in the NPDES permit for Hyperion Treatment Plant.

C. Environmental Impacts

(1) Wastewater Collection Capacity

The City provides sewer service to all areas within the City boundary, including the entire Proposed Project site (which is included in the Hyperion Service Area). Wastewater from the Hyperion Service Area is collected and treated by the Hyperion Treatment System, which includes the physical sewer infrastructure in the Hyperion Service Area. The Hyperion Treatment System includes sewers, pump stations, Los Angeles-Glendale Water Reclamation Plant, Tillman Water Reclamation Plant, and Hyperion Treatment Plant.

Wastewater generated by the Proposed Project will be collected first by the 42-inch Marina Interceptor Sewer. In turn, the Marina Interceptor Sewer will convey the wastewater to the City's North Central Outfall Sewer (which, in turn, will convey the wastewater to the Hyperion Treatment Plant). The Marina Interceptor Sewer has a design capacity of 17.1 million gallons per day (mgd) and current average and peak dry weather flows of 1.4 mgd and 1.9 mgd, respectively (leaving surplus capacity of 15.7 mgd for average flows and 15.2 mgd for peak flows). The North Central Outfall Sewer has a design capacity of 248.2 mgd and current average and peak dry weather flows of 55.4 mgd and 65.6 mgd,

²³ "Pollution" means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following: (A) The waters for beneficial uses or (B) Facilities which serve these beneficial uses. Pollution may include "contamination." See Cal. Water Code Section 13050.

²⁴ "Contamination" means an impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. "Contamination" includes any equivalent effect resulting from the disposal of waste, whether or not waters of the state are affected. See Cal. Water Code Section 13050.

²⁵ "Nuisance" means anything which meets all of the following requirements: (1) Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, (2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal, or (3) Occurs during, or as a result of, the treatment or disposal of wastes. See Cal. Water Code Section 13050.

respectively, leaving surplus capacity of 192.8 mgd for average flows and 182.6 mgd for peak flows.

During construction of the Proposed Project, a negligible amount of wastewater would be generated by construction staff. Therefore, wastewater generation from Proposed Project's construction activities is not anticipated to cause a measurable increase in wastewater flows at a point where, and a time when, the capacity of either Marina Interceptor Sewer or North Central Outfall Sewer is already constrained or would become constrained.

Operations of the Proposed Project are expected to produce daily average dry weather flows of 0.47 mgd and peak dry weather flows of 1.53 mgd. Because those flows would be well within the remaining capacity of both Marina Interceptor Sewer and North Central Outfall Sewer, wastewater generated by Proposed Project operations is not anticipated to cause a measurable increase in wastewater flows at a point where, and a time when, a sewer's capacity is already constrained or that would cause a sewer's capacity to become constrained. For these reasons, impacts to the City's wastewater collection capacity would be less than significant.

(2) Treatment Plant Capacity

New data made available following the certification of the Original FEIR indicates that population growth in the area served by the City's wastewater treatment system has been lower than previously forecasted, resulting in less demand on the City's wastewater collection and treatment system than previously projected. This new data became available in conjunction with the City's regular process of reviewing the adequacy of its public utilities and infrastructure (i.e., independent of the Proposed Project) and incorporates data generated by other non-City regulatory agencies, including the Southern California Association of Governments (SCAG). Based on these revised population projections, it is anticipated that the City's wastewater treatment system will have sufficient capacity to treat wastewater from the Proposed Project and other future sources. Therefore, the additional wastewater generated by the Proposed Project would not cause or contribute to any shortage of treatment capacity.

The wastewater impact analyses in the Original FEIR were based on the information set forth in the City's 2001 Integrated Plan for the Wastewater Program, which incorporated population projections from SCAG's 1998 Regional Transportation Plan (RTP). However, in 2006, based on updated demographic projections, the City released a new Integrated Resources Plan (2006 IRP) with updated data regarding wastewater treatment facilities, new treatment processes and proposed expansions of some of those facilities. Based on the 2006 IRP, the estimated wastewater flows within the Hyperion Service Area are expected to

average 477.3 mgd by 2010, with 507.4 mgd during a peak month. In fact, since the 2006 IRP was released, actual average dry weather wastewater flows within the Hyperion Service Area have been observed to be even lower than those projected in the 2006 IRP. Further, in connection with the 2006 IRP, the City conducted environmental review for future expansions of the City's wastewater treatment system if needed after 2020.

In 2008, SCAG issued an updated RTP, which again lowered population and employment projections. Based on that recent population data and the actual observed wastewater flows, updated modeling suggests that 2010 flows in the Hyperion Service Area will average only 425 mgd for the year, and 452 mgd in the peak month. Because overall capacity of the Hyperion Treatment System is expected to be 544 mgd, sufficient capacity will exist in 2010 to accommodate the updated flow expectations, with an average surplus of 118.8 mgd under average dry weather conditions and a surplus of 92 mgd under maximum month conditions. Similarly, based on this current data, flows in 2020 are expected to average 440.5 mgd, with 468 mgd in the peak month. Even assuming advanced treatment upgrades to meet new discharge permit requirements are implemented by 2020, overall capacity of the Hyperion Treatment System would still be 522 mgd, yielding a remaining surplus capacity of 81.5 mgd under average dry weather conditions and a surplus capacity of 53.7 mgd under maximum month conditions. In addition, if some facilities are expanded as described in the 2006 IRP, as much as 14 mgd of additional capacity could be made available, thus expanding the expected 2020 surplus correspondingly.

With respect to operations of the Proposed Project, daily average dry weather flow is expected to total 0.47 mgd. That 0.47 mgd contribution from the Proposed Project would represent as of 2010 approximately 0.39 percent of the projected unused treatment capacity of the Hyperion Treatment System under average dry weather conditions and approximately 0.51 percent of the projected unused treatment capacity of the Hyperion Treatment System under maximum month conditions. As of 2020, the Proposed Project's contribution of 0.47 mgd of wastewater would represent approximately 0.5 percent of the projected unused treatment capacity of the Hyperion Treatment System under average dry weather conditions and approximately 0.88 percent of the projected unused treatment capacity of the Hyperion Treatment System under maximum month conditions. Accordingly, wastewater flows from the Proposed Project are not expected to cause or contribute to any exceedance of the future scheduled capacity of any wastewater treatment facility as expected in relevant plans, and impacts from the Proposed Project would be less than significant.

Impacts from the Proposed Project's equivalency scenarios would also be less than significant. The largest amount of wastewater would be generated by the All Assisted Living scenario, with an average dry weather flow of 0.487 mgd, which would be below the Hyperion Treatment System's remaining treatment capacity. In addition, construction and

operation of the various mitigation measures and offsite improvements associated with the Proposed Project would generate a minimal amount of wastewater that would not exceed the Hyperion Treatment System's treatment capacity. For all these reasons, the Proposed Project would not cause a significant impact to the City's wastewater treatment facilities.

(3) Water Quality Impacts To The Santa Monica Bay

The current NPDES permit issued by the Regional Water Board for the Hyperion Treatment Plant establishes requirements and numeric limitations on pollutants designed protect the beneficial uses of the Santa Monica Bay, public health, and the marine environment. Those requirements and limitations implement the objectives of other water quality plans adopted under Federal and State laws, including the *Water Quality Control Plan, Los Angeles Region: Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties* (Basin Plan) (adopted as a master planning document by the Los Angeles Regional Water Quality Control Board [Regional Water Board]), and the *Water Quality Control Plan for the Ocean Waters of California* (Ocean Plan) adopted by the State Water Resources Control Board (SWRCB). Additional treatment processes at the Hyperion Treatment Plant have resulted in the City's discharges into Santa Monica Bay that achieve dilution rates that are well within regulatory guidelines established in the NPDES permit.

The additional contribution of wastewater from the Proposed Project would not cause water quality within the Bay to fall below those dilution thresholds, even when combined with the discharge of wastewater from all other sources treated by the Hyperion Treatment Plant. The maximum change in effluent dilution between the "project" and "no project" cases is expected to be less than 0.7 percent, and even accounting for all future projected flows, the lowest modeled dilution is expected to be 125:1, well above the 84:1 ratio required in the NPDES permit.

Similarly, waters at the shoreline are not expected to be impacted in a significant way by the additional wastewater generated by the Proposed Project. Effluent from the five-mile outfall used to discharge wastewater treated by the Hyperion Treatment Plant (including any Proposed Project wastewater) does not come within 2.5 km of the shoreline. Therefore, the treated wastewater discharge from the Hyperion Treatment Plant does not contribute to any detectable water quality impact at the Santa Monica Bay shoreline, and the incremental wastewater generated by the Proposed Project is not expected to cause any significant impact to shoreline water quality.

Furthermore, recently released data confirms that upgrades to the Hyperion Treatment Plant facility have led to actual improvement to the marine environment near the terminus of the five-mile outfall, including increases in a variety of marine species inhabiting

the Santa Monica Bay. Although effects on the distribution of organisms around the vicinity of Hyperion Treatment Plant's five-mile outfall are still detectable, these effects are restricted to a much smaller area than historically recorded, suggesting the spatial footprint of impacts is diminishing. None of the seven endangered species residing in the Santa Monica Bay is impacted by the secondary treated the Hyperion Treatment Plant's effluent, and toxicity testing has shown no exceedances in a variety of marine organisms at critical stages of their development. Accordingly, the physical and/or biological effects associated with the incremental increase in wastewater discharge due to the Proposed Project and other associated projects will be minimal.

California Water Code Section 13050 addresses discharges that result in "pollution," "contamination" and "nuisance." Those terms are defined in a manner that takes into account factors such as public health, beneficial uses of the affected waters, and water quality. Those factors are also addressed in the NPDES permit for the Hyperion Treatment Plant. As discussed above, the Proposed Project will not contribute to any violation of the conditions and requirements in the NPDES permit that protect beneficial uses of the Bay, public health, or the marine environment. In addition, recent data confirms that as a result of upgrades to the Hyperion Treatment Plant's wastewater treatment processes, overall water quality in the Santa Monica Bay has improved. Further, the discharge from the Hyperion Treatment Plant's five-mile outfall does not come within 2.5 km of the shoreline, so such discharges will not cause an offensive condition to users near the shoreline, another factor generally considered in Section 13050 of the Water Code. For all these reasons, the Proposed Project will not contribute to a condition of "pollution," "contamination", or "nuisances" in the Bay within the meaning of Water Code Section 13050.

D. Recommended Mitigation Measures

Although the Proposed Project would not cause any significant wastewater impacts, the Original FEIR identified mitigation measures which are restated here. The Court of Appeal did not find any deficiencies related to these mitigation measures.

- Prior to issuance of any building permit, construction of on-site infrastructure improvements necessary for the conveyance of project wastewater to the 42-inch Marina Interceptor Sewer in Jefferson Boulevard shall be completed, or suitably guaranteed, to the satisfaction of the City Department of Public Works and other applicable responsible agencies.²⁶

²⁶ *All on-site and off-site infrastructure improvements necessary to convey Proposed Project wastewater to the 42-inch Marina Interceptor Sewer have been completed.*

E. Unavoidable Adverse Impacts

The Proposed Project, Equivalency Program, and off-site improvements are not anticipated to cause a measurable increase in wastewater flows at a point where, and a time when, a sewer's capacity is already constrained or that would cause a sewer's capacity to become constrained. Similarly, the Proposed Project, Equivalency Program scenarios, and off-site improvements would not generate wastewater in excess of the City's treatment capacity through 2020. In addition, no violations of the Hyperion Treatment Plant's NPDES permit would result from the incremental wastewater generated by the Proposed Project, and the Proposed Project is not expected to cause pollution, contamination, or nuisance as defined in Section 13050 of the Water Code, so water quality in the Santa Monica Bay would not be significantly impacted. Therefore, no unavoidable adverse impacts are expected as a result of the Proposed Project's wastewater.

F. Cumulative Impacts

As discussed above, the analysis of the Proposed Project's potential impact on the City's wastewater treatment capacity accounted for wastewater from other sources. Similarly, the analysis of the Proposed Project's potential impact to the quality of water in the Santa Monica Bay considered the discharge of treated wastewater from other sources. Therefore, the potential cumulative impacts concerning these two issues and those impacts, as discussed above, will be less than significant.

For Sections G.24 through G.26 of the Executive Summary, please refer to the Executive Summary in the volumes titled Village at Playa Vista Final Environmental Impact Report. This Final RS-EIR does not revise those sections.

27. Archaeological Resources

A. Court of Appeal Opinion and Response

The Court of Appeal, in summary, determined that the Original FEIR failed to sufficiently discuss preservation in place as a means to mitigate significant impacts on historical archaeological resources, as required by CEQA Guidelines Section 15126.4, Subdivisions (a)(1)(B) and (b)(3), and that the City, in connection with a future approval of the Proposed Project may require modifications to the Proposed Project that would achieve

a greater degree of preservation in place.²⁷ Refer to Subsection I.A.4.b of the RS-DEIR for additional information.

Four options that would relocate the Riparian Corridor are addressed in RS-DEIR Section II.C.(2). To best understand the potential impacts and benefits of those four options, the RS-DEIR first discusses the reasons that led to the original design and location of the Riparian Corridor. Then, the four options are analyzed based on information known as of 2002 (the date of the Notice of Preparation of the Original DEIR for the Proposed Project), 2004 (the date of the certification of the Original FEIR), and 2008 (the preparation of the RS-DEIR) in order to provide a complete understanding of this matter. Various factors relevant to the feasibility of these options are discussed, including the impacts of pre-existing contaminated soil in the area, the hydrology and stormwater runoff in the area of the Riparian Corridor, and the implications of removing decades-old buildings from the Proposed Project site. The impacts and benefits of each option are then compared with the impacts and benefits of the Riparian Corridor's existing configuration in the Proposed Project site.

As discussed below, none of the options for the relocation of the Riparian Corridor would avoid all impacts to the archaeological resources at the Proposed Project site, and each option would result in a number of adverse impacts on water quality, habitat, and wildlife in comparison to the existing configuration of the Riparian Corridor.

B. Thresholds of Significance

The City of Los Angeles CEQA Thresholds Guide states that a project would normally have a significant impact upon archaeological resources if it could disturb, damage, or degrade an archaeological resource or its setting is found to be important under the criteria of CEQA because it:

1. Is associated with an event or person of recognized importance in California or American prehistory or of recognized scientific importance in prehistory;
2. Can provide information which is both of demonstrable public interest and useful in addressing scientifically consequential and reasonable archaeological research questions;
3. Has a special or particular quality, such as the oldest, best, largest, or last surviving example of its kind;

²⁷ *RS-DEIR Appendix A.i, Court of Appeal Opinion, pp. 39-40.*

4. Is at least 100-years-old and possesses substantial stratigraphic integrity; or
5. Involves important research questions that historical research has shown can be answered only with archaeological methods.

Based on these factors, the Proposed Project would have a significant impact on archaeological resources if:

- Project activities would disturb, damage, or degrade a unique archaeological resource or an archaeological historic resource, or setting of the resource.

In addition to analyzing the Proposed Project's impacts under that threshold, the RS-DEIR's analysis also responds to the Court of Appeal's Opinion, which requires the City to "revise the EIR to discuss preservation in place in accordance with CEQA Guidelines Section 15126.4, Subdivisions (a)(1)(B) and (b)(3)."²⁸ In its Opinion, the Court of Appeal required an analysis of possible means to preserve in place archaeological resources discovered at the Proposed Project site, including consideration of planning construction to avoid archaeological sites, incorporating sites into parks and open space, covering sites with chemically stable soil before building on top of them, and deeding sites into a permanent conservation easement.²⁹

C. Environmental Impacts

The Proposed Project site contains archaeological centers (often referred to as cultural loci). These loci have been designated as CA-LAN-1932H (historical period trash dump and redeposited shell midden), CA-LAN-2769 (shell scatter), CA-LAN-211/H (shell midden), and CA-LAN-62 Locus D (shell midden). Of these cultural loci, CA-LAN-211/H and CA-LAN-62 Locus D have been identified as potentially significant cultural resources. Prior to construction of the Riparian Corridor, both CA-LAN-62 Locus D and CA-LAN-211/H were determined to be eligible for listing in the National Register (the "Archaeological Sites"). CA-LAN-2769 and CA-LAN-1932H were tested and deemed not eligible for listing in the National Register.

Under the California Register statute, any California resource formally determined eligible for listing in the National Register of Historic Places is automatically listed in the California Register. Therefore, those archaeological sites within the Proposed Project site that have been determined eligible for the National Register, CA-LAN-62 Locus D, and CA-

²⁸ *Id.*, p. 113.

²⁹ *Id.*, pp. 35-36.

LAN-211/H, also are listed in the California Register and are historical archaeological resources for purposes of CEQA. Given the likelihood that construction of the Proposed Project would potentially result in a significant loss of archaeological resources through disturbance and removal of such resources, certain measures were implemented to mitigate those impacts. The Programmatic Agreement (PA) governing the site, which was approved by the U.S. Army Corps, the Federal Advisory Council on Historic Preservation, and the State Historic Preservation Officer, provides for many of those measures, including data recovery. The following provisions of the PA are applicable to the Proposed Project:

- The Corps shall determine the eligibility of unevaluated historical properties in consultation with the California State Historic Preservation Officer and in accordance with 36 CFR 800.4(c). The project Research Design, which has been developed in consultation with the Corps and the California State Historic Preservation Officer, will guide the evaluation of the historical properties. Treatment Plans shall be developed based on these evaluations.
- The Corps shall ensure that an Archaeological Treatment Plan (ATP) is developed in consultation with the State Historic Preservation Office for all historical properties within the Project's Area of Potential Effect, that are determined to be eligible for the National Register in accordance with the following stipulations:
 - The ATP for the Project shall be consistent with the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation (48 FR 44734-37), the California Office of Historic Preservation's (COHP) Archaeological Resources Management Reports (ARMR): Recommended Contents and Format (1989) and Guidelines for Archaeological Research Designs (1991), and take into account the Advisory Council on Historic Preservation publication, Treatment of Archaeological Properties – A Handbook. It shall also be consistent with the Department of the Interior's Guidelines for Federal Agency Responsibility Under Section 110 of the National Historic Preservation Act (53 FR 4727-46); and
 - ATPs for the Project will be developed and implemented prior to the commencement of ground-disturbing activities in the Areas of Potential Effect;
- If cultural deposits are discovered during the Project's land-disturbing activities, the Applicant would treat them in accordance with the provisions of the Archaeological Treatment Plan. If cultural deposits are discovered for which there is no treatment plan, the Applicant will cause a temporary halt to

these activities and immediately notify the Corps, the State Historic Preservation Officer, and the Advisory Council on Historic Preservation of the discoveries. The Corps shall ensure that a plan is developed for treating the unexpected discovery; and

- The Corps shall ensure that all materials and records resulting from implementation of this agreement are curated in accordance with 36 CFR Part 79. This regulation establishes definitions, standards, procedures, and guidelines to be followed by federal agencies to preserve collections of prehistoric and historic materials, remains, and associated records.
- All plans prepared under the PA shall include a schedule for the submission and review by the Corps, and the State Historic Preservation Officer of technical reports, progress reports, and the methods by which all parties, including interested Native Americans, would be kept informed.

The Riparian Corridor, which intersects CA-LAN-62 Locus D and CA-LAN-211/H in the Proposed Project area, was constructed by the Applicant after the City's September 2004 approval of the Proposed Project and before the Court of Appeal's ruling in September 2007 ordering vacation of those approvals. All data recovery work concerning archaeological resources discovered during this construction of the Riparian Corridor component of the Proposed Project has been completed. A large number of artifacts have been discovered, analyzed and are now being stored. Only three isolated human burials were found, along with eight instances of isolated human bones (which may be related to the burials). These human remains are being stored in a secure location at the Playa Vista site pending their reinterment in accordance with the applicable provisions of the California Public Resources Code. Pursuant to the Court of Appeal's Opinion, the Proposed Project's impact on the Archaeological Sites and resources would be mitigated through data recovery to a level of less than significant.³⁰

Since all mass grading and most infrastructure improvements for the Proposed Project have been completed, including the Riparian Corridor (which directly impacted CA-LAN-62 Locus D and CA-LAN-211/H), it is unlikely that additional archaeological resources will be encountered during future construction of the Proposed Project. Nonetheless, though unlikely, there is still a potential for new discovery of previously unknown resources with the remaining construction activity required to complete the Proposed Project.

³⁰ *Id.*, p. 41, fn 17.

D. Mitigation Measures

(1) Preservation in Place

In addition to the mitigation measures adopted by the Applicant and utilized during construction of the Riparian Corridor, the Court of Appeal found that the City must discuss preservation in place as required by CEQA Guidelines Section 15126.4.³¹ Section 15126.4 discusses many regulations applicable to the drafting and adoption of mitigation measures. Among those are specific mitigation measures applicable when a proposed project will result in a significant impact to historical resources, as is the case with the Proposed Project. Specifically, CEQA Guidelines Section 15126.4(b) directs an agency to consider and discuss factors related to the feasibility of “preservation in place” since it is the “preferred manner of mitigating impacts to archaeological sites.” If, however, “data recovery through excavation is the only feasible mitigation, a data recovery plan, which makes provision for adequately recovering the scientifically consequential information from and about the historical resource, shall be prepared and adopted prior to any excavation being undertaken.”³² Additionally, “[i]f an artifact must be removed during project excavation or testing, curation may be an appropriate mitigation.”³³

Preservation in place may be accomplished in various methods. CEQA Guidelines Section 15126.4(b)(3)(B) states that in whatever form, “preservation in place maintains the relationship between artifacts and the archaeological context.” However, once archaeological resources are removed from the place where they were discovered, the “return” of those archaeological resources to their original location does not eliminate the changes to the archaeological resource that occurred by virtue of their removal. When artifacts are removed from the context in which they were found, the resulting impact cannot be undone by trying to replace the artifact to its original location. Therefore, preserving an archaeological resource in place can occur only when the resource is not removed from its original location.

Despite these limitations, the RS-DEIR analyzes the feasibility of further mitigating the Proposed Project’s impacts on archaeological resources by relocating the Riparian Corridor (part of the Project’s Habitat Creation/Restoration Component) and replacing the resources that were previously discovered at or near their original location. Four options

³¹ *The Court of Appeal, while finding the archaeological discussion deficient for its failure to discuss the preferred mitigation (preservation in place), did find that “those shortcomings did not undermine the City’s finding that the proposed mitigation by data recovery would reduce the impacts on historical archaeological resources to an insignificant level.” Id.*

³² *State CEQA Guidelines Section 15126.4(b)(3)(C).*

³³ *Id.*

that would relocate the Riparian Corridor are considered. Those options were analyzed as of three different time periods (2002, Notice of Preparation of the Original DEIR; 2004, certification of the Original FEIR; and 2008, preparation of the RS-DEIR) in order to provide a complete understanding of the feasibility of the options.

Option 1: Under this option, Bluff Creek Drive would have been moved to the north out of the Archaeological Sites, and the Riparian Corridor would have been extended from the east as a widened open channel to approximately ten feet from the Archaeological Sites.

Option 2: As in Option 1, Bluff Creek Drive would have been moved to the north out of the Archaeological Sites. The Riparian Corridor again would have been extended from the east end up to the Archaeological Sites. In this option, a reinforced concrete box storm drain up to approximately 6 feet tall by 15 feet wide would have been installed within Bluff Creek Drive to route the flows from the Riparian Corridor on the east end to the Riparian Corridor on the west end of the Proposed Project site. In addition, the storm drain structures discharging flows from the Westchester Bluffs south of the Riparian Corridor would be routed around or over the Archaeological Sites.

Option 3: In this option both Bluff Creek Drive and the Riparian Corridor would have been moved to the north in an effort to maintain the Riparian Corridor as an open channel to the maximum extent possible. To provide a continuous water course and eliminate flooding, a storm drain box structure toward the west end would have been constructed to connect to the Riparian Corridor in the Proposed Project site with the riparian corridor within the western portion of the First Phase project. Due to the realignment of the Riparian Corridor north, the length of the Riparian Corridor would have been increased. This would have required the Riparian Corridor to have a shallower slope to meet the existing flowline elevations at each end, and would have required the Riparian Corridor to be widened or deepened (or both) in order to carry the same amount of flow. In addition, the storm drainage structures from the Bluffs also would have been connected to the Riparian Corridor in a similar manner as for Option 2.

Option 4: The option involves keeping the Bluff Creek Drive alignment in relatively the same location with a shift north to avoid the archaeological areas as in Options 1 and 2. The Riparian Corridor then would have been routed underneath the roadway alignments which would have been constructed as bridge sections. Drainage would have been routed to flow north of Bluff Creek Drive. A relatively short length of drainage box structure would have been required at the west end under Dawn Creek Street. Due to the realignment of the Riparian Corridor to the north, the length of the Riparian Corridor would have been increased. This would have required the Riparian Corridor to have a shallower slope to meet the existing flowline elevations at each end, and would have required the Riparian

Corridor to be widened or deepened (or both) in order to carry the same amount of flow. In addition, the storm drainage structures from the Bluffs would have been connected to the Riparian Corridor in a similar manner as for Option 2.

The analysis demonstrates that if any of these Options had been implemented instead of the existing configuration of the Riparian Corridor, impacts to archaeological resources would still have occurred. Such impacts also would have occurred under any of the Options since removal of the Hughes-era buildings and infrastructure and remediation of the Hughes-era industrial contamination in the area of the Archaeological Sites would have impacted the archaeological resources, regardless of the type of use developed in this area of the Proposed Project site.

Moreover, the following impacts would result if the existing Riparian Corridor is replaced and one of the Options is implemented:

- Under any of the Options, water flow from the Bluffs across the Archaeological Sites would likely scour the Archaeological Sites through ponding of water over the Archaeological Sites;
- Options 2, 3, and 4, while viable from a hydraulic engineering standpoint, would be less efficient in the hydraulic conveyance of flows for any level of runoff for the flows from the Bluffs, and would cause undesirable maintenance, vector control, and biological issues;
- Options 1 and 2 would cause a significant net reduction in water quality treatment area of 25 percent of the entire Riparian Corridor; and
- From a biological perspective, Options 1 or 2 would result in a 2,600-foot, 6.7-acre gap in habitat between the two sections of mature riparian corridor to the east and west (within the adjacent First Phase Project), which would diminish the function and value of the entire 25 acre riparian corridor habitat area and its associated wildlife habitat value. Under Options 3 or 4, the Bluff Restoration area would be isolated, fragmenting the overall habitat corridor, reducing habitat connectivity and opportunity for wildlife movement, and lessening the value of that area to plants and wildlife. As a result, there would be a loss of biological and habitat diversity in the area.

(2) Recommended Mitigation Measures

The following mitigation measures were implemented in connection with the initial development of the Proposed Project between the City's approval of the Proposed Project

in September 2004 and the Court of Appeal's Opinion ordering vacation of those approvals in September 2007. If the Proposed Project is approved, the mitigation measures would be readopted and would be implemented in connection with further development of the Proposed Project.

- Prior to the issuance of any grading/excavation or building permits (except for grading/excavation permits associated with archaeological investigations) which may affect the properties designated as LAN-211/H and LAN-62, the measures required within the approved Archaeological Treatment Plans for those properties, which have been determined eligible for listing in the National Register of Historic Places and accepted by the Corps, the State Historic Preservation Officer, and the Advisory Council on Historic Preservation shall be implemented. The archaeological treatment plans shall be consistent with the following: the Secretary of Interior Guidelines for Archaeological Documentation; the California Office of Historic Preservation's Archaeological Resource Management Reports: Recommended Contents and Format, and Guidelines for Archaeological Research Designs; the Department of the Interior's Guidelines for Federal Agency Responsibilities under Sections 106 and 110 of the National Historic Preservation Act; and take into account the Council's publication, Treatment of Archaeological Properties – A Handbook.
- Prior to issuance of grading/excavation or building permits, a professional archaeologist shall be retained that meets the Secretary of Interior's guidelines and is listed in the Register of Professional Archaeologists to implement the Research Design and comply with the PA.
- Historic resources eligible for listing in the National Register of Historic Places shall be avoided or unavoidable disturbance be mitigated through data recovery, documentation, analysis, and curation. Archaeological treatment plans required by the PA shall be developed and implemented, as applicable. All materials and records resulting from implementation of the PA shall be curated in accordance with 36 Code of Federal Regulations Part 79.
- In addition to a qualified archaeologist, a representative of the Gabrielino Indians shall be retained to monitor subsurface archaeological excavations. Prior to issuance of grading or building permits, evidence shall be provided for placement in the subject file with the City Planning Department that a Native American monitor has been retained.
- In the event that previously unknown archaeological and historical resources are discovered during construction, grading/excavation/construction shall

temporarily be halted. The Corps and the State Historic Preservation Officer shall immediately be notified to provide these agencies with the opportunity to assess the resources and offer recommendations for treatment required by the PA.

- The Project archaeologist shall monitor ground disturbing activities in areas where significant archaeological or historical materials are discovered or detected. If cultural resources are discovered during grading/excavation/construction monitoring, such resources shall be evaluated for their eligibility for listing in the National Register of Historic Places. If potentially significant resources are encountered, a letter of notification shall be provided in a timely manner to the Department of City Planning, in addition to the report (described below) that is filed at the completion of grading. If eligible, an archaeological treatment plan shall be developed and implemented in accordance with the PA.
- Following completion of grading activities, a qualified archaeologist, who meets the Secretary of Interior Guidelines and is listed in the Register of Professional Archaeologists, shall prepare a report of the results of archaeological investigations to the City of Los Angeles Department of City Planning, other appropriate public agencies, and concurring parties as specified in the PA. The report shall be submitted to the above parties according to the schedules established in the respective ATPs.
- If a commemorative display center for items of cultural significance should be provided in the Playa Vista First Phase Project, representative artifacts from the Proposed Project site, should they be discovered, or accurate replicas shall be made available for the display at the display center.

E. Unavoidable Adverse Impacts

The impact analysis identified several potential direct and indirect adverse impacts on archaeological or historical resources associated with excavation. These impacts would be similar under both the Proposed Project and the Equivalency Program. Encountered resources will be evaluated and treated per the protocols established the PA. Such evaluation and treatment allows for scientific discovery and contributions to the body of knowledge regarding California and/or American prehistory and history. The evaluation and treatment undertaken pursuant to these requirements would preclude, through approved and required mitigation techniques, significant impacts from the disturbance, damage, or degradation of unique archaeological resources or archaeological historic resources. With the implementation of the PA and mitigation measures listed above, impacts for the Proposed Project and the Equivalency Program are reduced to a less-than-

significant level. No adverse impacts on archaeological resources are expected from the construction of the Proposed Project's off-site improvements.

F. Cumulative Impacts

Development of the Proposed Project, inclusive of the Equivalency Program and the construction of the off-site improvements, in combination with the related projects, could contribute to the cumulative loss of cultural (archaeological and historical) resources within the region, City, and state as a whole. All potential sites are required to be evaluated prior to construction activities.

Related Project #24, the Catellus project on the West Bluffs, Related Project #25, LMU's Master Plan project on the Westchester Bluffs, and Related Project #40, the Playa Vista First Phase Project, are developing in areas where several archaeological sites are located. These sites have been known since the 1930s, and previous data recovery has mitigated the loss of information associated with these sites. For example, archaeological work during grading and construction activities in Playa Vista's First Phase Project uncovered a variety of cultural resources, including human remains, which were treated in accordance with the mitigation measures adopted for that project and applicable federal and state regulations.

At the same time, construction activity conducted under regulations often provides a vehicle for preservation of historic structures and discovery of new archaeological resources that would otherwise remain unknown. To the extent individual related projects would be required to comply with applicable laws, the potential disturbance, damage, or degradation of unique archaeological resources, or archaeological historic resources could be mitigated. The cumulative total of all related development of the Proposed Project creates the potential for additional impacts upon archaeological resources. Although each project must develop adequate mitigation measures to substantially lessen or avoid impacts on an individual basis, the incidental loss of all project-study area archaeological resources may constitute a significant cumulative impact. However, the Proposed Project's contribution to that potentially significant cumulative impact has been mitigated to the extent feasible.

For Section G.28 of the Executive Summary, please refer to the Executive Summary in the volumes titled Village at Playa Vista Final Environmental Impact Report. This Final RS-EIR does not revise this section.

29. Global Climate Change

A. Thresholds of Significance

The Original FEIR did not analyze the Proposed Project's potential impacts on global climate change, and the Court of Appeal did not mandate the City include an analysis of the Proposed Project's potential impacts related to global climate change in the RS-DEIR. However, since the certification of the Original FEIR, new legislation and regulations have been adopted to address global climate change by, among other things, reducing the amount of greenhouse gases (GHGs) emitted in the State of California, and the research and public interest regarding this subject matter have advanced to the point where many lead agencies are including analyses of the topic in CEQA documents. Additionally, global climate change was not analyzed in the Original FEIR. For these reasons, the Proposed Project's potential to cause global climate change impacts is also analyzed in the RS-DEIR.

At the time of the preparation of this Final RS-EIR, no agency had yet established project-level significance thresholds for GHG emissions relevant to the Proposed Project. In the absence of such thresholds, various State agencies and officials (including the Attorney General) have issued advisory reports and guidance recommending that lead agencies identify and quantify project emissions and evaluate a project's contribution to global climate change against objectives set forth in State and local regulatory programs designed to curb climate change. There are four potentially applicable regulatory schemes to evaluate the significance of a proposed project's GHG emissions: (1) California Assembly Bill 32 (AB 32) and associated guidance (e.g., CARB's December 2008 Scoping Plan);³⁴ (2) the 2006 Report to Governor Schwarzenegger and the Legislature by the Secretary of California EPA's Climate Action Team (2006 CAT Report³⁵); (3) guidance from the Governor's Office of Planning and Research (OPR) regarding evaluating GHG emissions, including OPR's 2008 Technical Advisory on CEQA and Climate Change (the OPR Advisory); and (4) the City of Los Angeles publication, *Green LA, An Action Plan to Lead the Nation in Fighting Global Warming (LA Green Plan)*. In addition, the California Attorney General's Office has published a document entitled *The California Environmental Quality Act: Addressing Global Warming Impacts at the Local Agency Level*, which describes various measures that can be included as project design features or mitigation measures to reduce the global warming related impacts of a project.

³⁴ CARB, *Climate Change Scoping Plan (December 11, 2008) (Scoping Plan)*.

³⁵ Please note that 2006 CAT Report was updated in 2007. However, the only provisions in the update applicable to the Proposed Project related to hydrofluorocarbon reduction. See *Corrections and Additions*, section II.B.2.d.11 through 13.

Accordingly, the Proposed Project's emissions of GHGs are quantified in the RS-DEIR for purposes of full disclosure and the significance of potential climate change impacts are evaluated according to whether the Proposed Project is consistent with legislative and regulatory programs and policies intended to reduce GHG emissions. In particular, the analysis deems climate change impacts to be significant if the Proposed Project would be inconsistent with the goals, strategies, and control measures set forth in AB 32 and associated guidance (e.g., CARB's Scoping Plan), the 2006 CAT Report, the OPR Advisory, and the *LA Green Plan*.

B. Environmental Impacts

Construction of the Proposed Project (including the mass grading and infrastructure improvements previously completed) is projected to emit a total of 57,581 metric tons per year (MT/Year) of carbon dioxide equivalent GHGs (i.e., carbon dioxide or other constituents calibrated to an equal level of carbon dioxide for ease of reference). However, because a variety of measures to reduce GHG emissions would be incorporated into the construction process, the Proposed Project would be consistent with the policies set forth in the above legislative, regulatory, and guidance documents. For example, to minimize solid waste, a construction waste recycling plan will be implemented to provide for the separation and recycling of wood waste, corrugated cardboard, scrap metal, and dry wall. Recycled content building materials, including insulation, roofing materials, and gypsum board, will also be used.

With respect to Proposed Project operations, the Proposed Project is projected to emit a total of 41,825 MT/Year of carbon dioxide equivalent GHGs (24,440 MT/Year from vehicle trips, 9,634 MT/Year from natural gas consumption, 7,679 MT/Year from electricity usage, 56 MT/Year from potable water usage, and 15 MT/Year from potable water usage). These emissions represent a very small fraction of GHG emissions totals (i.e., approximately 0.0089 percent of all emissions in the State of California, 0.0006 percent of all emissions in the United States and 0.00015 percent of all emissions worldwide). Despite this relatively small contribution to global GHG emissions, to reduce emissions even further the Proposed Project would implement a variety of design elements and operational practices, a majority of which directly parallel policies and criteria set forth in the Scoping Plan, the 2006 CAT Report, the OPR Advisory, the *LA Green Plan* and a wide array of the Attorney General's recommended emissions reduction measures.

For example, the Proposed Project would promote reductions in vehicle trips and consequent generation of GHG emissions in a variety of ways, including the arrangement of proposed land uses, and through the promotion of alternative modes of travel. Among other things, the Proposed Project includes a mixed-use community that would promote the internal relationship of mutually supportive uses such as employment, housing, recreation,

and community-serving activities, as well as a comprehensive program of resource protection, enhancement, and conservation (e.g., habitat creation and restoration). Other land use strategies that will further contribute to the reduction in GHG emissions are the Proposed Project's scaling of commercial uses to serve neighborhood and community needs, siting of office uses near residences and public transit, providing basic services within office areas, providing jobs/housing linkages, and including a variety of civic uses such as community centers and public recreational facilities in proximity to residential and commercial uses.

To further reduce GHG emissions from vehicle trips, the Proposed Project would implement a comprehensive transit program with an Internal Shuttle System using low emission vehicles to serve the Proposed Project site and an Expanded Shuttle System which provides enhanced transit service for Proposed Project residents, visitors, employees, and the surrounding community, providing connections to key destinations such as Playa del Rey, Howard Hughes Center, the adjacent Playa Vista First Phase Project, and the Fox Hills Mall. Similarly, the Proposed Project would develop pedestrian and bikeway routes that have been designed to link major activity centers within the Proposed Project site (e.g., Village Center retail uses and proposed residential uses) and the adjacent Playa Vista First Phase Project, thus providing an alternative means of transportation to the automobile. Convenient and extensive pedestrian facilities and amenities (e.g., benches/seating, water fountains, trash and recycling bins, dispensers with bags to collect dog waste, etc.) would be provided to further encourage the use of this alternative travel mode.

In addition, to further reduce energy consumption, the Applicant for the Proposed Project has developed site-specific regulations called the Village at Playa Vista Residential and Mixed Use Sustainable Performance Guidelines. With implementation of these guidelines, buildings in the Proposed Project will achieve an additional energy use reduction of 15 percent over the reductions otherwise required by the 2005 California Title 24 Building Energy Efficiency Standards (even before accounting for additional energy savings through the use of energy efficient appliances). Additional energy-saving features consistent with the programs currently being developed to implement AB 32 will also be installed, including solar energy devices to heat pools and hot tubs and "photovoltaic-ready" roofs designed to accommodate solar panels. As a result of these efforts, Playa Vista already has been certified as an "Energy Star" project by the Environmental Protection Agency. The Proposed Project's sustainability measures also would support buildings constructed within the Proposed Project in attaining certification as Leadership in Energy and Environmental Design (LEED).

Water conservation methods such as ultra low-flow toilets, low-flow showerheads, low-flow fixtures, and water saving appliances, as required by local law would also be

utilized. Energy Star-rated dishwashers and washing machines and, in office, retail and other public buildings, water faucet fixtures with activators that automatically shut off the flow of water when not in use will also be installed. Reclaimed water will also be used for landscape irrigation in open space areas such as parks and common open space. The Proposed Project will facilitate a reduction in the generation of solid waste through requirements for recycling bins for paper, landscaping waste materials, and a bin for commingled glass, plastic, and metal to be located within each building. The Village at Playa Vista will also provide open space for people to enjoy, including bike paths and walkways, and approximately 800 trees would be planted in the parks and streetscapes of the Proposed Project.

With implementation of these project design features, the Proposed Project will satisfy the applicable policies set forth in AB 32 and the Scoping Plan, the 2006 CAT Report, the OPR Advisory, and the *LA Green Plan*. Accordingly, global climate change impacts from the Proposed Project will be less than significant.

C. Recommended Mitigation Measures

The Proposed Project would not have a significant impact on global climate change, and therefore mitigation measures are not required because the Proposed Project is consistent with the goals, strategies, and control measures established under AB 32 and associated guidance (e.g., the Scoping Plan), 2006 CAT Report, the general OPR guidance regarding emissions, and the *LA Green Plan*. Implementation of many of the Proposed Project's design features and mitigation measures associated with other potential impacts will serve to reduce GHG emissions to a less than significant level. Additionally, these project design features are consistent with the applicable measures outlined by the Attorney General, as shown in Table II.D-10 of Section II.D. of the RS-DEIR, "Potential GHG Reduction Measures." In addition to the mitigation measures identified in the Original FEIR, the following measures shall be enforceable in connection with certification of the Complete FEIR and any approval of the Proposed Project:

- The Proposed Project shall coordinate with Los Angeles Unified School District (LAUSD) and the City of Los Angeles to prepare a "Pedestrian Routes to School" map, which will be distributed to parents, students, and school staff at the beginning of each school year, and will coordinate with the LAUSD on bus services to schools serving the Proposed Project site.
- The Property Owners Association of the Proposed Project shall use of Neighborhood Electric Vehicles (NEVs) or similar vehicles for landscaping, maintenance workers, janitorial services, and the building engineer.

- The Proposed Project shall incorporate food waste collection to the existing on-site greenwaste collection program.
- Car washing shall be prohibited within the Proposed Project, and the use of water for cleaning outdoor surfaces shall be restricted to the maximum extent possible.
- The Proposed Project shall include accommodations for car-sharing.
- The expanded internal shuttle would be operated as a fare-free service for residents and employees within the Proposed Project and adjacent Playa Vista First Phase Project at all times, and for visitors during peak hours (8:00 to 9:00 A.M. and 5:00 to 6:00 P.M.).
- The Proposed Project shall provide bicycle parking at all commercial projects and public spaces (such as parks).
- The Proposed Project shall include an advanced digital broadband telecommunications network, facilitating high speed data connectivity, video conferencing, video telephony, and interactive multimedia services.

D. Unavoidable Adverse Impacts

The Proposed Project will be consistent with and implement numerous features and measures from a variety of programs and regulations designed to achieve statewide GHG emission reduction goals. The various features and measures in these programs and regulations are intended to result in lower average GHG emissions per capita. Therefore, the potential impact on global climate change resulting from implementation of the Proposed Project would not be significant.

E. Cumulative Impacts

Because no single project is likely to have any effect on global climate change, global climate change is by its very nature a cumulative impact. Accordingly, because the Proposed Project is consistent with, and will in fact implement a number of the greenhouse gas emission reductions strategies described in adopted plans, regulations, and advisories, the Proposed Project will not have a cumulatively significant adverse effect on global climate change.

II. CORRECTIONS AND ADDITIONS

A. ORIGINAL FEIR¹

A.1 Original DEIR Volume 3, Section V, Growth-Inducing Impacts, pages 1249-50, third full paragraph, fourth sentence.

Delete the word “and” before “cultural resources” and insert the phrase “; and global climate change” after “cultural resources”

A.2 Original DEIR Volume 3, Section V, Growth-Inducing Impacts, pages 1251-52, fourth paragraph titled “Wastewater Treatment.” Replace with the following:

“Wastewater Treatment – The City of Los Angeles recently updated its 20-year plan for wastewater management (the Integrated Resources Plan (IRP)). Current information confirms that adequate treatment capacity will be available to handle wastewater flows from the Proposed Project and other future flows through at least 2020, and the City has already conducted environmental review in its IRP EIR concerning future expansions of the wastewater treatment system, if needed. That IRP EIR concluded that the expansion alternatives analyzed in the IRP would not result in any significant growth inducing impacts.⁵⁹⁶ The Proposed Project’s use of the existing HTS capacity or any future expanded capacity would not induce growth or cause any significant growth inducing impacts attributable to wastewater treatment capacity.”

A.3 Original DEIR Volume 3, Section V, Growth-Inducing Impacts, page 1251, footnote 596. Replace with the following:

“⁵⁹⁶ IRP DEIR, pp. 4-4 to 4-5.”

A.4 Original DEIR Volume 3, Section VI, Significant Irreversible Impacts, page 1255, third full paragraph titled “Land Use.” Replace with the following:

“Land Use – While the Proposed Project would require amendments to the Community Plan and Specific Plan, the proposed amendments would be consistent with the policies, goals, and objectives of the city’s General Plan and Community Plan, as well as other applicable plans. Further, the Proposed Project would be

¹ *Corrections and Additions to the Original FEIR are included in the Final RS-EIR in response to the Court of Appeal’s Opinion (see RS-DEIR Appendix A.i, Court of Appeal Opinion, pp. 90-94, 113-114) and to address the fact that the RS-DEIR analyzed global climate change (see Final RS-EIR Executive Summary Section B above).*

compatible with existing uses as it would not disrupt, divide, or isolate existing neighborhoods, communities, or surrounding land uses, particularly as a result of buffer zones to the north and the south of the Proposed Project site. The Proposed Project would also integrate with and provide continuity with the portions of the Playa Vista First Phase Project lying to the east and west of the Proposed Project site. Therefore, the Proposed Project would not result in a significant impact on land use. As impacts on land use are not significant, a long-term irreversible significant impact on land use would not occur.”

A.5 Original DEIR Volume 3, Section VI, Significant Irreversible Impacts, pages 1256-57, fifth paragraph that begins on page 1256, second sentence. Replace with the following:

“However, current information indicates that there is less demand on the City’s wastewater collection and treatment system than previously projected and demonstrates that the City’s wastewater treatment system will be able to accommodate the wastewater flows generated to the HTS by the Proposed Project and other future flows through at least 2020. Further, the City has already conducted environmental review in its IRP EIR concerning future expansions of the wastewater treatment system, if needed. Moreover, the additional contribution of wastewater from the Proposed Project would not contribute to a condition of “pollution,” “contamination,” or “nuisances” in the Santa Monica Bay within the meaning of Water Code Section 13050 or result in a violation of applicable regulatory standards, including those provided in the NPDES permit for HTP. Therefore, no significant irreversible impacts would occur.”

A.6 Original DEIR Volume 3, Section VI, Significant Irreversible Impacts, page 1257. Insert the following paragraph after the paragraph titled “Cultural Resources”:

“Global Climate Change – The Proposed Project will be consistent with a variety of programs and regulations designed to achieve statewide GHG emission reduction goals. These programs and regulations indicate that global climate change may be mitigated by decreasing man-made GHG emissions to 1990 levels. Implementation of many Project Design Features and mitigation measures would serve to reduce the GHG emissions of the Proposed Project and potential impacts on climate change. Accordingly, the Proposed Project would generate lower than average per capita GHG emissions. Because the Proposed Project is consistent with, and will in fact implement a number of the GHG emission reductions strategies described in adopted plans, regulations, and advisories, the Proposed Project will not have a cumulatively significant adverse effect on global climate change. Therefore, no significant irreversible impacts would occur.”

A.7 Original DEIR Volume 3, Section VII, Alternatives, page 1286, third full paragraph, third and fourth sentences. Replace with the following:

“Per this analysis, the alternative does not produce any significant traffic impacts at any of the analysis locations in the A.M. and P.M. peak hours, compared to 14 percent and 22 percent of the locations impacted by the Proposed Project during the same respective peak hours. Therefore, this alternative would impact traffic less than the Proposed Project which is projected to have a significant adverse impact on traffic.”

A.8 Original DEIR Volume 3, Section VII, Alternatives, page 1295, first paragraph, second and third sentences. Replace with the following:

“The No Project – Development Permitted by the Existing Specific Plan and Zoning Alternative would eliminate the Proposed Project’s significant adverse impacts on Traffic and Aesthetics and Views. The alternative would continue to generate significant impacts on regional air quality, construction noise, and solid waste disposal, although at reduced levels compared to the Proposed Project.”

A.9 Original FEIR Volume I, Section I.B, Executive Summary (Project Characteristics), page 3, first full paragraph.

Delete the last sentence, which begins with the words “As described”

A.10 Original FEIR Volume I, Section I.F, Executive Summary (Alternatives), page 18, first paragraph, second sentence. Replace with the following:

“In other words, the Proposed Project’s design would result in implementation and completion of privately funded remediation of existing public safety concerns in the area (i.e., localized flooding and bluff stability), which would not be implemented under the No Project Alternative.”

A.11 Original FEIR² Volume I, Section I.F, Executive Summary (Alternatives), page 18, fourth paragraph, first and second sentences. Replace with the following:

“The No Project – Development Permitted by the Existing Specific Plan and Zoning Alternative would eliminate the Proposed Project’s significant adverse impacts on Traffic and Aesthetics and Views. The alternative would continue to generate significant impacts on regional air quality, construction noise, and solid waste disposal, although at reduced levels compared to the Proposed Project.”

² Please note that the entirety of the Executive Summary in the volumes titled *Village at Playa Vista Final Environmental Impact Report* superseded the Executive Summary in the *Original DEIR*.

A.12 Original FEIR Volume I, Section II.D, History and Evolution of the Proposed Project, page 179, last paragraph.

Delete the first sentence, which begins with the words “The Proposed Project greatly reduces”

A.13 Original FEIR Volume I, Section II.D, History and Evolution of the Proposed Project, page 179, last paragraph, second sentence.

Delete the phrase “In so doing, none” and replace with “None”.

II. CORRECTIONS AND ADDITIONS
B. RS-DEIR
1. EXECUTIVE SUMMARY

B.1.1 RS-DEIR Volume I, title page. Replace title “Volume II” with “Volume I.”

B.1.2 RS-DEIR Volume I, Section I.A, Introduction, page I-1, second paragraph, first sentence.

Insert footnote after (“Original FEIR”).” that states, *“With respect to this RS-DEIR, please note that use of the term “Original FEIR” without a citation to a page number, section, appendix, or other specific reference refers to the entirety of the Original DEIR, responses to comments, corrections and additions, and all other portions of the final environmental impact report certified by the City of Los Angeles for the Proposed Project in September 2004. When the term Original FEIR is accompanied by a specific reference to a page number, section, appendix, or other specific reference, the term refers to the volumes titled Village at Playa Vista Final Environmental Impact Report, dated April 2004.”*

B.1.3 RS-DEIR Volume I, Section I.A, Introduction, page I-3, second paragraph, fourth sentence.

Replace phrase “Original FEIR was” with “volumes titled Village at Playa Vista Final Environmental Impact Report were”

B.1.4 RS-DEIR Volume I, Section I.A, Introduction, page I-5, first paragraph, first sentence.

Insert the word “and” before “wastewater”

B.1.5 RS-DEIR Volume I, Section I.A, Introduction, page I-5, last sentence.

Replace the phrase “Original EIR” with “Original DEIR”.

B.1.6 RS-DEIR Volume I, Section I.A, Introduction, page I-6, second paragraph, fourth sentence.

Insert the phrase “and the absence of analysis in the Original FEIR” after “local agencies”

B.1.7 RS-DEIR Volume I, Section I.A, Introduction, page I-6, footnote 4.

Replace “Appendices C.vi-C.xii” with “Appendices D.vi-D.xii”

B.1.8 RS-DEIR Volume I, Section I.A, Introduction, page I-9, second paragraph, last sentence in the paragraph.

Replace “Revised Final EIR (Revised FEIR)” with “Final Revised Sections of EIR (Final RS-EIR).” and delete the remaining words. Then insert the following sentences: “Ultimately, the City decision-makers will consider the entire environmental analysis for the Propsoed Project. The entire enviornmetnal analysis, referred to herein as the “Complete FEIR” will consist of the following documents:”

B.1.9 RS-DEIR Volume I, Section I.A, Introduction, page I-10, first full paragraph, first and second sentences.

Replace all instances of “Revised FEIR” with “Complete FEIR”

B.1.10 RS-DEIR Volume I, Section I.A, Introduction, page I-10, footnote 19.

Replace “Original DEIR” with “Original FEIR”

II. CORRECTIONS AND ADDITIONS
B. RS-DEIR
2. ENVIRONMENTAL IMPACT ANALYSIS
a. LAND USE

B.2.a.1 RS-DEIR Volume I, Section II.A, Land Use, page II.A-2, first full sentence.

Replace EIR with "Original FEIR"

B.2.a.2 RS-DEIR Volume I, Section II.A, Land Use, page II.A-3, first bullet point.

Delete "and light industrial"

B.2.a.3 RS-DEIR Volume I, Section II.A, Land Use, page II.A-3, fifth bullet point.

Delete "and light industrial"

B.2.a.4 RS-DEIR Volume I, Section II.A, Land Use, page II.A-13, third paragraph, first sentence. Replace with the following:

"The Specific Plan contains a maximum density for the Playa Vista Area D Specific Plan Area for office development for C2(PV) [2,050,000 sq. ft.], maximum density for office and light industrial development for M(PV) [2,950,000 sq. ft.], a maximum density for retail development for C2(PV) [650,000 sq. ft.], a maximum number of hotel rooms within entire C2(PV) or M(PV) [600 rooms], as well as maximum units for R4(PV) [3,246 dwelling units]."

B.2.a.5 RS-DEIR Volume I, Section II.A, Land Use, page II.A-13, third paragraph, second sentence.

Remove the phrase "and light industrial" after the phrase "1,650,000 sq. ft. of the office"

B.2.a.6 RS-DEIR Volume I, Section II.A, Land Use, page II.A-16, Table II.A-1, left-hand column.

Delete reference to footnote b on the "Office C2(PV)(sq. ft.)" heading.

B.2.a.7 RS-DEIR Volume I, Section II.A, Land Use, page II.A-31, last paragraph, first sentence.

Insert the word “the” after the word “with”

B.2.a.8 RS-DEIR Volume I, Section II.A, Land Use, page II.A-32, first bullet point.

Remove the word “to” after phrase “land uses that”

B.2.a.9 RS-DEIR Volume I, Section II.A, Land Use, page II.A-34, third full paragraph, second sentence.

Replace the word “Site” with “site”

B.2.a.10 RS-DEIR Volume I, Section II.A, Land Use, page II.A-37, second full paragraph, first sentence. Replace with the following:

“With respect to the Framework’s policies seeking to preserve scenic views, issues of scale and massing of Proposed Project-related building would be addressed through height restrictions, setbacks, and through separation by proposed landscape buffers.”

B.2.a.11 RS-DEIR Volume I, Section II.A, Land Use, page II.A-37, second full paragraph, last sentence.

Insert “II.27, Corrections and Additions, Visual Qualities of the” before the term “Original FEIR”

B.2.a.12 RS-DEIR Volume I, Section II.A, Land Use, page II.A-42, Table II.A-4, left-hand column.

Delete reference to footnote d on the “Office C2(PV)(sq. ft.)” heading.

B.2.a.13 RS-DEIR Volume I, Section II.A, Land Use, page II.A-42, last sentence.

Remove the phrase “/light industrial” after the word “office”

B.2.a.14 RS-DEIR Volume I, Section II.A, Land Use, page II.A-45, Table II.A-5, bottom row, third column from left. Replace with the following:

“Office: 175,000 sq. ft.”

B.2.a.15 RS-DEIR Volume I, Section II.A, Land Use, page II.A-46, Table II.A-5, right-hand column, first full paragraph, third sentence.

Remove the phrase “/light industrial” after the word “office”

B.2.a.16 RS-DEIR Volume I, Section II.A, Land Use, page II.A-50, second sentence.

Replace “EIR” with “Original FEIR”

B.2.a.17 RS-DEIR Volume I, Section II.A, Land Use, page II.A-50, first bullet point.

Delete “and light industrial”

B.2.a.18 RS-DEIR Volume I, Section II.A, Land Use, page II.A-51, first sentence.

Insert the word “Proposed” before the word “Project”

B.2.a.19 RS-DEIR Volume I, Section II.A, Land Use, page II.A-51, first bullet point.

Delete “and light industrial”

II. CORRECTIONS AND ADDITIONS
B. RS-DEIR
2. ENVIRONMENTAL IMPACT ANALYSIS
b. UTILITIES: WASTEWATER

B.2.b.1 RS-DEIR Volume I, Section II.B, Utilities: Wastewater, page II.B-1, second paragraph, second sentence.

Replace “projects wastewater” with “project’s wastewater”

B.2.b.2 RS-DEIR Volume I, Section II.B, Utilities: Wastewater, page II.B-3, first paragraph, last sentence.

Replace “Original DEIR and Original FEIR’s” with “Original FEIR’s”

B.2.b.3 RS-DEIR Volume I, Section II.B, Utilities: Wastewater, page II.B-15, Table II.B-1.

Replace “Original DEIR and Original FEIR” in the Note with “Original FEIR”

B.2.b.4 RS-DEIR Volume I, Section II.B, Utilities: Wastewater, page II.B-29, footnote 61.

Replace “Tables II.B-7 and II.B-8” with “Tables II.B-8 and II.B-9”

B.2.b.5 RS-DEIR Volume I, Section II.B, Utilities: Wastewater, page II.B-44, first full paragraph, fifth sentence.

Replace the phrase “on contamination” with “or contamination”

II. CORRECTIONS AND ADDITIONS
B. RS-DEIR
2. ENVIRONMENTAL IMPACT ANALYSIS
c. CULTURAL RESOURCES: ARCHAEOLOGICAL RESOURCES

B.2.c.1 RS-DEIR Volume I, Section II.C, Cultural Resources: Archaeological Resources, page II.C-33, first full paragraph, fourth and fifth sentences.

Replace two instances of the number “51” with the number “50”

B.2.b.2 RS-DEIR Volume I, Section II.C, Cultural Resources: Archaeological Resources, page II.C-64, second full paragraph, first sentence.

Remove the word “and” after “Related Project #40,” and insert the word “and” before the phrase “Related Project #40”

II. CORRECTIONS AND ADDITIONS
B. RS-DEIR
2. ENVIRONMENTAL IMPACT ANALYSIS
d. GLOBAL CLIMATE CHANGE

B.2.d.1 RS-DEIR Volume I, Section II.D, Global Climate Change, page II.D-7, first paragraph. Insert the following two sentences after the first sentence:

“CARB staff estimates the statewide 2020 business-as-usual GHG emissions will be 596 MMTCO₂E. Emission reductions from the recommended measures in the Scoping Plan total 169 MMTCO₂E, allowing California to attain the 2020 emissions limit of 427 MMTCO₂E. (Scoping Plan, F-3.)”

B.2.d.2 RS-DEIR Volume I, Section II.D, Global Climate Change, page II.D-19, second paragraph, first two sentences. Replace with the following:

“At the time that this RS-DEIR was being prepared, no agency had yet established project-level significance thresholds for GHG emissions relevant to the Proposed Project.”

B.2.d.3 RS-DEIR Volume I, Section II.D, Global Climate Change, page II.D-19, footnote 58.

Change “99” to “106-09”

B.2.d.4 RS-DEIR Volume I, Section II.D, Global Climate Change, page II.D-20, first paragraph, first sentence.

Replace the first instance of “2010” with “2020”

B.2.d.5 RS-DEIR Volume I, Section II.D, Global Climate Change, page II.D-28, n. 64, second sentence.

Replace the phrase “which is 99.6 percent of the total emissions” with “and CO₂ is approximately 99.6 percent of the CO₂EQ total emissions”

B.2.d.6 RS-DEIR Volume I, Section II.D, Global Climate Change, page II.D-31, Table II.D-5.

Replace the last “Potable water usage” in the first column (associated with the 15 MT/Year Total CO₂EQ) with “Reclaimed water usage”

B.2.d.7 RS-DEIR Volume I, Section II.D, Global Climate Change, page II.D-34, first full paragraph, first sentence.

Insert the word “relevant” before the word “strategies”

B.2.d.8 RS-DEIR Volume I, Section II.D, Global Climate Change, pages II.D-35-II.D-39, Table II.D-8.

Insert the word “Relevant” before the phrase “2006 CAT Report” in title of table

B.2.d.9 RS-DEIR Volume I, Section II.D, Global Climate Change, page II.D-35. After phrase “Alternative Fuels: Biodiesel Blends,” insert footnote 78a, which states the following:

“^{78a} Although there were no changes to the ‘Alternative Fuels: Biodiesel Blends’ strategy in the 2007 CAT Report update, the biodiesel blend strategy was superseded by the Low Carbon Fuel Standard, approved by the Air Resources Board as a discrete early action measure. See Attachment A to the 2007 CAT Report update, available at http://www.climatechange.ca.gov/events/2007-09-14_workshop/final_report/2007-10-15_ATTACHMENT_A.PDF.”

B.2.d.10 RS-DEIR Volume I, Section II.D, Global Climate Change, page II.D-35. After phrase “Alternative Fuels: Ethanol,” insert footnote 78b, which states the following:

“^{78b} Although there were no changes to the ‘Alternative Fuels: Ethanol’ strategy in the 2007 CAT Report update, the ethanol strategy was superseded by the Low Carbon Fuel Standard, approved by the Air Resources Board as a discrete early action measure. See Id.”

B.2.d.11 RS-DEIR Volume I, Section II.D, Global Climate Change, page II.D-35, Table II.D-8. Replace the text in the cell in the first column labeled “Hydrofluorocarbon Reduction” with the following:

“Hydrofluorocarbon Reduction

- 1) Reduce emissions of HFC-134a from non-professional servicing of motor vehicle air conditioning systems.
- 2) Require that only low GWP refrigerants be used in new mobile air conditioning systems.
- 3) Reduce direct and indirect GHG emissions from stationary refrigeration and air conditioning sources.
- 4) Add refrigerant leak-tightness to the pass criteria for vehicular inspection and maintenance programs for all vehicles with air conditioning systems.
- 5) Enforce federal ban on releasing HFCs during servicing and dismantling of motor vehicle air conditioning systems.”

B.2.d.12 RS-DEIR Volume I, Section II.D, Global Climate Change, pages II.D-35 through II.D-39, Table II.D-8.

Insert “ (AND 2007 UPDATE)” after “2006 CAT REPORT” in the title of Table II.D-8.

B.2.d.13 RS-DEIR Volume I, Section II.D, Global Climate Change, page II.D-35, Table II.D-8.

Insert “ and 2007 Update” after “Sources: CAT Report”

B.2.d.14 RS-DEIR Volume I, Section II.D, Global Climate Change, page II.D-47. Insert after the last paragraph in Section 3.2.3.3 the following text.

“For a more detailed discussion of the Proposed Project’s consistency with the 2008 Scoping Plan, see Table II.D-9.1.

TABLE II.D-9.1	
PROJECT CONSISTENCY WITH 2008 SCOPING PLAN	
Action	Application To Village At Playa Vista
Transportation	
<p>Zero Emission Vehicle Program:</p> <p>Program requires placement of hundreds of zero emission vehicles and thousands of near-zero emission vehicles.</p>	<p>Neighborhood Electric Vehicles (NEVs) would be used by the homeowner’s association staff for landscaping, maintenance workers, janitorial services, and the building engineer.</p> <p>The Proposed Project would encourage the use of alternative fuel vehicles by providing electric vehicle charging stations on the Proposed Project site.^{121a}</p>
<p>Develop regional targets for reducing passenger vehicle greenhouse gas emissions.</p> <p>Includes fostering efficient land use patterns that reduce vehicle travel and accommodate an adequate supply of housing, enhancing public transit service, increasing low-carbon travel choices (such as public transit, carpooling, walking and biking), and decreasing average vehicle trip lengths.</p>	<p>The Proposed Project is a mixed-use development, including residential, commercial, and community-serving uses, that would promote multiple uses throughout the Proposed Project site, and would decrease dependency on vehicular travel by encouraging pedestrian activity and alternative modes of transportation. This approach to providing mixed-use areas minimizes on- and off-site vehicle use by providing a variety of daily needs within a short walk from any residence or business. It is also located near major transit arteries, which would allow residents and patrons of the Proposed Project site the opportunity to use public transit rather than automobiles.</p> <p>One main goal of the Proposed Project is to develop a community that promotes the use of non-vehicular modes of transportation. Pedestrian and bicycling are encouraged by</p>

^{21a} *Air quality mitigation measure B-7(e), Section 2.0 Mitigation by Environmental Topic, of Mitigation Monitoring and Reporting Program, p. 16.*

TABLE II.D-9.1

PROJECT CONSISTENCY WITH 2008 SCOPING PLAN

Action	Application To Village At Playa Vista
	<p>the creation of walkways and bike paths. Internal and Expanded Shuttles systems would encourage the use of public transportation to access local and outside destinations.^{121b} The mixed-use nature of the development would enable people to travel less.</p> <p>Uses within the Proposed Project would participate in a Transportation Management Demand Plan, which would require designation of parking spaces for carpools and vanpools and adequate passenger loading and unloading and waiting areas, and would require parking fees.^{121c}</p> <p>The Proposed Project would provide accommodations for car-sharing.</p> <p>An Expanded Shuttle system will be incorporated in order to provide transit service for people at the Proposed Project site to external destinations in the area.^{121d}</p> <p>The Proposed Project would provide up to 200 transit passes per month for employees or residents of the Proposed Project for a period of 10 years to encourage transit use.^{121e} In addition, the expanded internal shuttle would be free for residents and employees within the Proposed Project and adjacent to the Playa Vista First Phase Project at all times, and for visitors during peak hours.</p>
<p>Adopt medium- and heavy-duty vehicle efficiency measures and vehicle hybridization</p>	<p>The heavy-duty vehicles that travel to and from the Proposed Project site on public roadways would be subject to all applicable CARB efficiency standards that are in effect at the time of vehicle manufacture. In addition, low emission fuels and technology and advanced low emission diesel technology would be utilized.^{121f}</p>

^{121b} *Fourth Amendment to Culver City Agreement, Appendix E.iii, Exhibit B.*

^{121c} *Appendix K-1, City of Los Angeles Department of Transportation, Interdepartmental Correspondence regarding Initial Traffic Impact Assessment for the Proposed Village at Playa Vista Project, August 11, 2003, of the Original DEIR.*

^{121d} *Traffic and circulation mitigation measures K.(1)-4 and (1)-6, Section 2.0, Mitigation by Environmental Topic of Mitigation Monitoring and Reporting Program, pp. 47 and 48.*

^{121e} *Fourth Amendment to Culver City Agreement, Appendix E.iii, Exhibit B.*

^{121f} *Air quality mitigation measure B-5(a)(i)d., Section 2.0, Mitigation by Environmental Topic, of Mitigation Monitoring and Reporting Program, p. 12.*

TABLE II.D-9.1	
PROJECT CONSISTENCY WITH 2008 SCOPING PLAN	
Action	Application To Village At Playa Vista
Electricity and Natural Gas	
Maximize energy efficiency building and appliance standards	<p>The Proposed Project would utilize energy-efficient appliances and lighting.^{121g}</p> <p>The Proposed Project would utilize certain energy-efficient strategies, including the installation of efficient HVAC equipment.^{121h}</p> <p>The Residential and Mixed Use Sustainable Performance Guidelines would exceed 2001 Title 24 standards by 22 percent. In addition, buildings within the Proposed Project would be “photovoltaic-ready”, with roofs designed to accommodate solar panels and equipment and conduit provided from the roof to the electric panel.¹²¹ⁱ</p>
Solar Water Heating	Solar systems would supplement the pool and hot tub heating systems. ^{121j}
Achieve a target 33% “renewables mix” by 2020: 33 percent of California’s electricity will be provided by renewable resources by 2020	The Residential and Mixed Use Sustainable Performance Guidelines would exceed 2001 Title 24 standards by 22 percent. In addition, buildings within the Proposed Project would be “photovoltaic-ready”, with roofs designed to accommodate solar panels and equipment and conduit provided from the roof to the electric panel. ^{121k}
Million Solar Roofs [target of 3000 MW Total Installation by 2020]	As stated above, buildings within the Proposed Project would be “photovoltaic-ready”, with roofs designed to accommodate solar panels and equipment and conduit provided from the roof to the electric panel. ^{121l}

^{121g} Air quality mitigation measures B-7 and Energy mitigation measures M-1 to M-11, Section 2.0 Mitigation by Environmental Topic, of Mitigation Monitoring and Reporting Program. pp. 15 and 72-75, respectively.

^{121h} Id., Mitigation Measure M-3, p. 73.

¹²¹ⁱ Appendix E.ii, The Village at Playa Vista Residential & Mixed Use Sustainable Guidelines and energy mitigation measures M-1 to M-11, Section 2.0 Mitigation Environmental Topic of Mitigation Monitoring and Reporting Program, pp. 72-75.

^{121j} Energy mitigation measures M-7, Original FEIR Section 2.0 Mitigation by Environmental Topic, of Mitigation Monitoring and Reporting Program, p. 74.

^{121k} Appendix E.ii, The Village at Playa Vista Residential & Mixed Use Sustainable Guidelines and energy mitigation measures M-1 to M-11, Section 2.0 Mitigation Environmental Topic of Mitigation Monitoring and Reporting Program, pp. 72-75.

^{121l} Ibid.

TABLE II.D-9.1	
PROJECT CONSISTENCY WITH 2008 SCOPING PLAN	
Action	Application To Village At Playa Vista
Green Buildings	
<p>Expand the use of green building practices to reduce the carbon footprint of California's new and existing inventory of buildings.</p> <p>A Green Building Strategy will comprise of buildings that exceed minimum energy efficiency standards, decrease consumption of potable water, reduce solid waste during construction and operation and incorporate sustainable materials.</p>	<p>The Residential and Mixed Use Sustainable Performance Guidelines, as well as other Project Design Features (such as the Riparian Corridor, mixed-use design, proximity to transit, etc.), would support buildings constructed within the Proposed Project in attaining LEED certification. ^{121m}</p> <p>The Proposed Project would be at least consistent with Title 24 standards applicable at the time of development. The Residential and Mixed Use Sustainable Performance Guidelines would exceed 2005 Title 24 standards by 15 percent. ¹²¹ⁿ</p>
Water	
Water Use Efficiency	<p>The Proposed Project would reduce water use through the use of ultra low-flow toilets, low-flow showerheads, low-flow fixtures, and water saving appliances, as required by local law; in addition, as part of its Residential and Mixed Use Sustainable Performance Guidelines, additional water conservation requirements for the Proposed Project, such as the installation of Energy Star-rated dishwashers and washing machines and, in office, retail and other public buildings, water faucet fixtures with activators that automatically shut off the flow of water when not in use.</p>
Water Recycling	<p>Reclaimed water would be used for landscape irrigation in open space areas such as parks and common open space within development areas, as well as for cooling water and toilets within commercial office buildings. In addition, drip or soaker-based irrigation with automatic controls would be used to water all plants. ^{121o}</p>

^{121m} Appendix E.ii The Village at Playa Vista Residential & Mixed Use Sustainable Guidelines.

¹²¹ⁿ Ibid.

^{121o} Water consumption mitigation measures N.(1)-4 to (1)-6, Section 2.0 Mitigation by Environmental Topic, of Mitigation Monitoring and Reporting Program, p. 77.

TABLE II.D-9.1	
PROJECT CONSISTENCY WITH 2008 SCOPING PLAN	
Action	Application To Village At Playa Vista
Water System Energy Efficiency	The Proposed Project would reduce water use through the use of ultra low-flow toilets, low-flow showerheads, low-flow fixtures, and water saving appliances, as required by local law; in addition, as part of its Residential and Mixed Use Sustainable Performance Guidelines, additional water conservation requirements for the Proposed Project, such as the installation of Energy Star-rated dishwashers and washing machines and, in office, retail and other public buildings, water faucet fixtures with activators that automatically shut off the flow of water when not in use.
Increase Renewable Energy Production	Buildings within the Proposed Project would be “photovoltaic-ready”, with roofs designed to accommodate solar panels and equipment and conduit provided from the roof to the electric panel. ^{121p}
Recycling and Waste Management	
High recycling/Zero waste	The Proposed Project would facilitate solid waste separation at the source during construction and operation. Implementation of this plan in the adjacent Playa Vista First Phase Project has resulted in over 90 percent of construction waste diverted from landfills. ^{121q} In addition, in 2007 (the latest data available), more than 50 percent of all waste generated from the residential, office, and retail uses at Playa Vista First Phase was diverted from landfills.

B.2.d.15 RS-DEIR Volume I, Section II.D, Global Climate Change, page II.D-61, second full paragraph, second sentence.

Replace “Original DEIR and Original FEIR” with “Original FEIR”

^{121p} Appendix E.ii, *The Village at Playa Vista Residential & Mixed Use Sustainable Guidelines and energy mitigation measures M-1 to M-11, Section 2.0 Mitigation Environmental Topic of Mitigation Monitoring and Reporting Program, pp. 72-75.*

^{121q} *Solid waste mitigation measures N.(3)-1 to (3)-6, Section 2.0 Mitigation by Environmental Topic, of Mitigation Monitoring and Reporting Program, pp. 78-80.*

II. CORRECTIONS AND ADDITIONS
B. RS-DEIR
3. ORGANIZATIONS AND PERSONS CONTACTED

B.3.1 RS-DEIR Volume I, Section IV, Organizations and Persons Contacted, page IV-2, address for Flow Science Incorporated. Replace with the following:

“Flow Science Incorporated
723 East Green Street
Pasadena, CA 91101”

II. CORRECTIONS AND ADDITIONS
B. RS-DEIR
4. APPENDICES
a. APPENDIX D.II, ASSESSMENT OF PRESERVATION IN PLACE OF
ARCHAEOLOGICAL RESOURCES (CA-LAN-62 LOCUS D
AND CA-LAN-211) IN PROPOSED
VILLAGE AT PLAYA VISTA PROJECT

B.4.a.1 RS-DEIR Appendix D.ii, Assessment of Preservation in Place of Archaeological Resources (CA-LAN-62 Locus D and CA-LAN-211) in Proposed Village at Playa Vista Project, Statistical Research, Inc., April 2008, page 12, fifth full paragraph, fifth and sixth sentences.

Replace two instances of the number “51” with the number “50”

II. CORRECTIONS AND ADDITIONS
B. RS-DEIR
4. APPENDICES
b. APPENDIX E.I, CLIMATE CHANGE EMISSIONS FOR THE
VILLAGE AT PLAYA VISTA

B.4.b.1 RS-DEIR Appendix E.i, Climate Change Emissions for the Village at Playa Vista, City of Los Angeles, Mestre Greve Associates, October 10, 2008, page 16, footnote 9.

Replace the phrase “which is 99.6 percent of the total emissions” with “and CO₂ is approximately 99.6 percent of the CO₂EQ total emissions”. Also insert following sentence at end of footnote: “*See also Mestre Greve Technical Report, p. 16.*”

III. RESPONSE TO COMMENTS
A. LIST OF COMMENTORS ON THE FINAL RS-EIR

Letter	Commentor
City of Los Angeles	
1	City of Los Angeles Bureau of Engineering
2	City of Los Angeles Bureau of Fire Prevention
3	City of Los Angeles Bureau of Sanitation
4	City of Los Angeles Council Office (Councilman Rosendahl)
5	City of Los Angeles Planning Department
City of Los Angeles Neighborhood Councils	
6	Del Rey Neighborhood Council
7	Mar Vista Community Council
8	Westchester Neighborhood Council
State	
9	Governor's Office of Planning and Research, State Clearinghouse and Planning Unit (March 16, 2009)
10	Governor's Office of Planning and Research, State Clearinghouse and Planning Unit (May 1, 2009)
11	Governor's Office of Planning and Research, State Clearinghouse and Planning Unit (May 7, 2009)
12	Native American Heritage Commission
13	Santa Monica Bay Restoration Commission
14	State Coastal Conservancy
Regional Agencies	
15	Southern California Association of Governments
16	Metropolitan Water District (February 12, 2009 – 1)
17	Metropolitan Water District (February 12, 2009 – 2)
County and Other Agencies	
18	County of Los Angeles, County Clerk (March 17, 2009)
19	County of Los Angeles, County Clerk (April 24, 2009)
20	County of Los Angeles, Department of Parks and Recreation
21	County of Los Angeles, Fire Department
22	County of Los Angeles, Public Health
23	Riverside County Flood Control & Water Conservation District

Letter	Commentor
Private Organizations	
24	Airport Marina Counseling Service
25	Ballona Ecosystem Education Project (Rex Frankel)
26	Ballona Ecosystem Education Project (Kathy Knight)
27	Ballona Wetlands Land Trust (March 5, 2009)
28	Ballona Wetlands Land Trust (March 13, 2009)
29	Ballona Wetlands Land Trust (April 30, 2009)
30	Central City Association
31	CLEAN (March 12, 2009)
32	CLEAN (April 30, 2009)
33	Del Rey Homeowners and Neighbors Association
34	Friends of Ballona Wetlands
35	Friends of Santa Clara River
36	Friends of Sunset Park
37	Gabrielino Tongva Nation
38	Gabrielino Tongva Tribe
39	Gabrielino/Tongva San Gabriel Band of Mission Indians
40	Grassroots Coalition
41	Heal the Bay
42	Inn at Playa Del Rey
43	LAX Coastal Area Chamber of Commerce
44	Los Angeles Area Chamber of Commerce
45	Natural Resources Defense Council
46	Pile Drivers Local #2375
47	Playa Vista Jobs
48	Positive Alternative Choices Today
49	Rincon Consultants
50	Sierra Club
51	Southern California Gas Company
52	Surfrider
53	Venice Chamber of Commerce
54	Voss, Silverman & Braybrooke
55	Westchester Vitalization Corporation
56	Westside Neighborhood School
Individuals	
57	Doug Archer
58	Diane Barretti
59	Bruce Campbell
60	Donald Culton
61	Pamela Davidson

Letter	Commentor
62	John Davis
63	Steve Donell
64	Barbara Eisenberg
65	Diane Fecho
66	Dorothy Feinstein
67	glencove@aol.com
68	Howard Hackett
69	Amy Halpern-Lebrun
70	Lloyd & Renate Hild
71	Phyllis Horning
72	Mike Janis
73	Tom Kardashian
74	David Kay
75	Thomas Kelley
76	Gail T. Levy
77	Meg Linton & Marc Meredith
78	Jessica Logan
79	Linda Lucks (March 19, 2009 – 1)
80	Linda Lucks (March 19, 2009 – 2)
81	Nora MacLellan
82	Glenn & Lyndell Martin
83	Linda McNally
84	Matthew & Molly Menzie
85	Kathy & Wally Miglin
86	Tim Myer
87	Dorothy M. Nicholson
88	Kate Oakland
89	Leslie Purcell
90	Jhoiey Ramirez
91	Craig Russell
92	Jacquelyn Sharrar
93	Gary Smith
94	Catherine A. & Thomas M. Tyrrell
95	Daniel & Lucia Walker
96	Richard W. Walker
97	John Wehner
98	Sheri Weitz
99	Mary Westcott
100	Jo Ellen Young

III. RESPONSE TO COMMENTS

B. WRITTEN RESPONSES

LETTER NO. 1

Michael Patonai
WLA District Engineer

COMMENT NO. 1-1

This memo is presented to expand upon the Interdepartmental Correspondence (the Correspondence) dated March 12, 2009 addressed to David J. Somers of the EIR Unit, Division of Land/Environmental Review, Department of City Planning from Brent Lorscheider, Division Manager of the Wastewater Engineering Services Division, Bureau of Sanitation (Attachment #1). This Correspondence discusses the City's analysis of the sewer infrastructure and projected capacity.

The last paragraph of the letter includes standard language stating "Further detailed gauging and evaluation will be needed as part of the permit process to identify a sewer connection point. If the public sewer has insufficient capacity then the developer will be required to build sewer lines to a point in the sewer with sufficient capacity. A final approval for sewer capacity and connection permit will be made at that time." This is a typical statement of the Bureau of Sanitation prior to plan approval, allowing for another final review of the capacity of the wastewater collection system tied to the permitting and connection to that system. However, as discussed below, in the case of the proposed Village at Playa Vista project, this additional review of capacity has, in fact, already occurred.

As discussed in the RS-DEIR, the Village at Playa Vista Project was originally approved by the City in September 2004. The Village approvals were subsequently vacated in compliance with a California Court of Appeals decision issued in September 2007. However, between the original 2004 approval and the appellate court's 2007 opinion, activity in furtherance of the project did occur. One such activity in the 2005 time frame was the review of sewer capacity and sewer connection plans by the West Los Angeles District of the Bureau of Engineering (Attachment #2). Specifically, at the time of permitting three sewer connection points from the on-site sewer system to the 42" diameter Marina Interceptor Sewer in Jefferson Boulevard, the Bureau of Engineering performed an evaluation of the capacity of the local and regional wastewater collection system and determined it had adequate capacity. The data provided by the Bureau of Sanitation in its Correspondence, and the analysis contained in the RS-DEIR for the Proposed Village at

Playa Vista Project, indicates that this determination remains valid and confirms that adequate sewer capacity exists for the Proposed Village at Playa Vista Project.

If you have any questions, please call me at (310) 575-8381.

RESPONSE NO. 1-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.¹

COMMENT NO. 1-2

Attachments to Comment Letter No. 1.

RESPONSE NO. 1-2

Please note that this comment letter included attachments. The full letter and associated attachments can be located at Appendix F of this Final RS-EIR.

¹ Please note that a "comment noted" response in any of the responses to comments in the Final RS-EIR does not imply agreement with any of the opinions, factual allegations, or legal analysis contained in the comment.

LETTER NO. 2

Lily Quan
Lily.Quan@lacity.org

COMMENT NO. 2-1

I wanted to appraise you that several Notices of Completion of EIR's have been mailed to the Bureau of Fire Prevention, Dal L. Howard, Asst. Fire Marshal & to Alfred B. Hernandez via regular US mail (42 postage). Both men have since retired. These Notices were signed off by David J. Somers, EIR Unit, Division of Land/Environmental Review (Rm 750, CH). Could you please inform them that the new Asst. Fire Marshal is Craig A. Fry and that these notices should be sent via grey messenger not US postal in light of the City's financial situation. Thanks

RESPONSE NO. 2-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. For a discussion on the re-noticing of the availability of the RS-DEIR for public review and comment, please see Section I.D. of this Final RS-EIR.

LETTER NO. 3

Brent Lorscheider, Division Manager
 Wastewater Engineering Services Division
 Bureau of Sanitation

COMMENT NO. 3-1

This is in response to your January 29, 2009 letter requesting wastewater service information for the proposed project. The Bureau of Sanitation, Wastewater Engineering Services Division (WESD), has conducted a preliminary evaluation of the potential impacts to the wastewater system for the proposed project.

Projected Wastewater Discharges for the Proposed Project:

Type Description	Average Daily Flow per Type Description (GPD/UNIT)	Proposed No. of Units	Average Daily Flow (GPD)
<i>Proposed</i>			
Residential (2 BR)	160 GPD/DU	2,600 DU	416,000
Office Building	180 GPD/1000 SQ.FT	175,000 SQ.FT	31,500
Retail	80 GPD/1000 SQ.FT	150,000 SQ.FT	12,000
Civil Institutional Facilities	80 GPD/1000 SQ.FT	40,000 SQ.FT	3,200
Total			462,700

SEWER AVAILABILITY

The sewer infrastructure in the vicinity of the proposed project includes the existing 42-inch Marina Interceptor Sewer (MIS) on Jefferson Blvd. The sewage from the existing line feeds into the Ballona Creek Pump Station, and then continues onto a 36-inch force main on Sepulveda Blvd, before discharging into the 114-inch North Central Outfall Sewer (NCOS). Ultimately, the sewage flow will be conveyed to the Hyperion Treatment Plant.

Based on Mike Urban modeling data, the projected dry weather conditions for the year 2010 and 2020 for the MIS, 36-inch Force Main, and the NCOS are as follows:

Sewer	ADWF (MGD)		PDWF (MGD)	
	2010	2020	2010	2020
MIS	1.43	1.60	1.91	2.13
36-inch Force Main	5.03	5.63	6.74	7.54
NCOS	55.8	58.0	66.1	68.7

Based on the estimated flows, it appears the sewer system might be able to accommodate the total flow for your proposed project. Further detailed gauging and evaluation will be needed as part of the permit process to identify a sewer connection point. If the public sewer has insufficient capacity then the developer will be required to build sewer lines to a point in the sewer with sufficient capacity. A final approval for sewer capacity and connection permit will be made at that time.

If you have any questions, please call Abdul Danishwar of my staff at (323) 342-6220.

RESPONSE NO. 3-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. See Comment 1-1 regarding the City Bureau of Engineering's conclusion that the detailed gauging and evaluation of the wastewater collection system mentioned in the next to last paragraph of this comment letter has in fact occurred, and adequate sewer collection capacity exists for the Proposed Project.

LETTER NO. 4

Bill Rosendahl
City of Los Angeles
Councilmember, Eleventh District
7166 W. Manchester Boulevard
Westchester, CA 90045

COMMENT NO. 4-1

As you know, the recirculated sections of the Draft Environmental Impact Report for Phase 2 of Playa Vista (aka Village at Playa Vista) has been released. This was done as the result of a California Court of Appeals ruling that the original FEIR contained legal deficiencies with respect to the analysis of land use impacts, archaeological resources, and wastewater impacts.

The three volumes of the DEIR are considerable in their scope and level of detail, and my constituents need adequate time to review and digest the newly released material. I am therefore writing to request an extension of time for the public comment period of no fewer than 90 days.

Such an extension will allow people adequate time to review the documents, and will allow Neighborhood Councils and other local organizations enough time to discuss the matter with their own members and constituents.

Thank you in advance for your assistance in this very important matter.

RESPONSE NO. 4-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. For a discussion on the re-noticing of the availability of the RS-DEIR for public review and comment, please see Section I.D of this Final RS-EIR.

LETTER NO. 5

Susan Stiles
City Planning Department
200 N. Spring Street
Los Angeles, CA 90012

COMMENT NO. 5-1

I just received another call on multiple mailings of the Playa Vista notice, and in addition to receiving 4 mailings, the following is a correction they want made to and address -

Michael De La Torre
Governmental Affairs Manager
STRIKE OUT PACIFIC ENTERPRISES SO. CALIFORNIA
Sempra Energy Corporation
555 West 5th St., GT 26E2
STRIKE OUT ML28
Los Angeles, CA 90013

If you have any questions, call me at 978-1271.

RESPONSE NO. 5-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. For a discussion on the re-noticing of the availability of the RS-DEIR for public review and comment, please see Section I.D. of this Final RS-EIR.

LETTER NO. 6

Mark P. Redick
President
Del Rey Neighborhood Council
13428 Maxella Avenue #730
Marina del Rey, CA 90292

COMMENT NO. 6-1

The Del Rey Neighborhood Council has approved the recommendation of its Planning, Land Use & Transportation Committee that the project known as Playa Vista Phase II be given their endorsement to accept the revised Sections of the Draft Environmental Impact Report, because it has addressed the issues raised by the Court of Appeals.

We, therefore, urge the City of Los Angeles to recertify the Environmental Impact Report for the Village at Playa Vista (including the Recirculated Sections) and to reapprove the land use entitlements and related approvals for The Village at Playa Vista.

RESPONSE NO. 6-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 7

Rob Kadota
Chair
Mar Vista Community Council
Board of Directors
P.O. Box 66871
Mar Vista, CA 90066

COMMENT NO. 7-1

The Mar Vista Community Council, at its regular April 14th meeting, passed the following motion and is submitting such as the MVCC Response to the "Village at Playa Vista Project" RS-DEIR.

Whereas the State of California Court of Appeal found the Village at Playa Vista, aka Playa Vista Phase 2, Environmental Impact Report Case No. ENV-2002-6129-EIR [State Clearinghouse Number: 2002111065) deficient in accurate assessments of impacts in the areas of Land Use; Wastewater; and Cultural Resources;

Whereas alternatives in the areas of Land Use; Wastewater; and Cultural Resources which would adhere to the remaining development of 108,050 square feet of office and light industrial space allowed by the Playa Vista Area D Specific Plan were not presented in sufficient detail to allow decision makers to evaluate the full range of impacts of the upzoning accurately;

Whereas the adverse environmental impacts of the proposed project should be mitigated to the greatest possible degree;

The Mar Vista Community Council presents comments and recommendations to the LA City Planning Department in response to the RS-DEIR pertaining to the Village at Playa Vista.

RESPONSE NO. 7-1

The commentor provides background information concerning a motion adopted by the Mar Vista Community Council. The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of the decision-makers.

In addition, the commentor refers generally to project alternatives. Those matters are outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information." The alternatives

analysis contained in Section VII of the Original DEIR, and Section II.33 of the Original FEIR, included analysis of seven alternatives. Among those alternatives were two no project alternatives, one of which assumed development of the remaining 108,050 square feet of office space authorized under the existing Playa Vista Area D Specific Plan. For a further discussion regarding the analysis of alternatives, please see Response No. 25-3.

COMMENT NO. 7-2

1. LAND USE IMPACTS

The Up Zoning from Manufacturing (M1) to a combination of High Density Residential and Commercial zones was never fully explained in the first EIR, but entitlements were granted anyway.

The previous Playa Vista Phase 2 entitlements should now be re-evaluated in the light of substantially changed land use facts and circumstances, including the well publicized diminished water delivery available to the City of Los Angeles due to drought and court rulings.

RESPONSE NO. 7-2

The land use impacts of the Proposed Project and its associated entitlements are analyzed in Section II.A of the RS-DEIR. For a further discussion regarding the Proposed Project's water supply impacts, please see Response Nos. 7-3 and 29-34 through 29-41.

COMMENT NO. 7-3

WATER: Fresh water is now in short supply in Los Angeles.

LA residents have been given a mandate to reduce water consumption due to ongoing drought conditions.

In its 2003 water supply assessment report for the proposed project, the Los Angeles Department of Water and Power put forth its independent forecast of water use by land use for the year 2020. The chart titled Table II, on page 6 of Technical Appendix I, shows industrial activity would consume 4% of projected water demand across the City in the year 2020 as opposed to 35% for multifamily use and 16% for commercial use—considerable differences in consumption.

The current Playa Vista M1 zoning typically uses far less water than the proposed high density residential and commercial.

How can the City approve a development that increases density in such a massive way when at the same time it is telling its current residents that there is not enough water and has mandated severe city wide conservation measures?

RESPONSE NO. 7-3

The commentor also states concerns about water supply. This matter is outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" with respect to potential water supply impacts within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5. For further discussion regarding the Proposed Project's water supply impacts see Response Nos. 29-34 through 29-41.

In addition, please note that the Table in the Water Supply Assessment referenced by the commentor does not provide the rate of water consumption per land use type (e.g., the rate of water consumption by an industrial use or residential use). Instead, the referenced Table provides a percentage of the City's total water demand attributable to all uses within a particular land use category. For a further discussion of the Proposed Project's water supply impacts, please refer to Sections IV.N(1), Water Consumption, and Appendix N-1(b), Water Supply Assessment From The Los Angeles Department Of Water and Power For The Village At Playa Vista Project, of the Original DEIR.

COMMENT NO. 7-4

POWER CONSUMPTION: How much more power will the new development consume above what would be needed for manufacturing uses?

RESPONSE NO. 7-4

The commentor states a concern regarding the Proposed Project's energy consumption. The issue of energy consumption is outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" with respect to impacts attributable to the Proposed Project's energy consumption within the meaning of Public Resources Code Section 21092.1 and State CEQA Guidelines Section 15088.5. A detailed analysis of the Proposed Project's energy consumption was included in Section IV.M, of the Original DEIR, and Section II.23 of the Original FEIR, and the Proposed Project's energy consumption was compared to that of the various alternatives discussed in the

Original DEIR.² Please note that the Original FEIR conservatively estimated the amount of the Proposed Project's energy consumption since that estimate did not account for the energy conservation measures that will be incorporated into the Proposed Project.³

COMMENT NO. 7-5

What solar power solutions are being implemented?

The City of LA has recently passed new Green Building standards which should also be applied to this project in order to mitigate some of the various adverse environmental impacts.

RESPONSE NO. 7-5

The commentor asks a question concerning the use of solar power at the Proposed Project. As explained in the RS-DEIR, the Proposed Project would require that solar heating systems be installed to supplement the heating of all swimming pools and hot tubs, when provided together with swimming pools.⁴ In addition, buildings within the Proposed Project would be "photovoltaic-ready", with roofs designed to accommodate solar panels and equipment and conduit provided from the roof to the electric panel.⁵

Also, as noted by the commentor, the City recently approved new regulations that would require certain buildings to meet LEED building standards. The Residential and Mixed Use Sustainable Performance Guidelines established by the Applicant, which are attached as Appendix E.ii to the RS-DEIR, as well as other project design features (including, among others, the Riparian Corridor, mixed-use design, and proximity to transit), would support buildings constructed within the Proposed Project in attaining LEED certification.⁶ Those Guidelines include green building design features such as high performance glass; daylighting (in commercial buildings); lightcolored or high-albedo (reflective) roofing and exterior walls; window shading; and landscaping that provides shading during the appropriate seasons, especially of the south and west exposures; energy efficient mechanical and electrical systems; efficient heating, ventilation and air conditioning (HVAC) equipment; variable air volume systems; air economizer cycles that utilize 100 percent outside air when appropriate; under floor air distribution; building control systems for lighting, HVAC and other systems; centralized water and space conditioning systems; high efficiency individual heating and cooling units; automatic setback

² See Original DEIR, Section VII.

³ See Original DEIR, pp. 1059-1062.

⁴ RS-DEIR, p. II.D-39.

⁵ *Id.*

⁶ RS-DEIR, p. II.D-41.

thermostats; solar heating systems to supplement the heating of all swimming pools as well as hot tubs; Energy-Star rated appliances; energy efficient lighting; automatic devices to regulate interior lighting for office common spaces; electric vehicle charging stations; shade trees; passive heating and cooling design strategies; and renewable energy sources.⁷

COMMENT NO. 7-6

PRESERVATION OF INDUSTRIAL LAND: In 1995, the Playa Vista Area D Specific Plan was amended under Council File numbers 93-1621-S1 and 95-1547 to change the P (V) zone classification to the M (PV) zone along the abandoned Southern Pacific Railroad spur line which had formerly served the Hughes Aircraft manufacturing facilities.

Council File Report 95-1547 clearly states:

"All surrounding properties in the vicinity are designated for Light Industrial uses & the majority are zoned M (PV). NOW, THEREFORE MOVE that Ccl initiate a Plan amend on the subj area now designated P (PV) in Playa Vista Specific Plan Area D. FURTHER MOVE that this land be proposed for light Industrial uses. FURTHER MOVE that proposal to rezone the subj area be compatible with the surrounding use, height, intensity, yard requirements consistent with those in the immediate surrounding area without increasing development entitlements established in the Specific Plan. FURTHER MOVE that, pursuant to Section 11.5.8.D of LAMC, Ccl find that, because this action is necessary to achieve compatible land uses & other planning objectives."

CEQA requires that alternative uses and feasible mitigation measures using existing zone classifications must be explored and described in detail *even if the project's proponents decline to accept them*.

Rather than amend well thought out Community Plans, the project should be revised to accommodate the land use goals and objectives of the existing applicable Community Plans: the Palms Mar Vista Del Rey Community Plan, the Playa Vista Area D Specific Plan prior to Ordinance #176235, and the General Plan with special attention to the preservation of industrial land per the City's Industrial Land Use Policy report entitled "Los Angeles' Industrial Land: Sustaining a Dynamic Economy", December 2007, prepared by the Department of City Planning and the Community Redevelopment Agency of the City of Los Angeles.

From Page 11 of the ILUP report:

"Evolving Industrial Districts

⁷ For a list of the mitigation measures related to the Proposed Project's impacts on global climate change, refer to RS-DEIR, pp. II.D-61 and 62, the Revised MMRP, Section V of this Final RS-EIR, and the Original MMRP.

The term "industrial" no longer only refers to large factories producing steel, cars or other mass produced goods. Today the term describes a broader array of job-producing uses and activities—in addition to traditional industrial uses—such as furniture and clothing design, biomedical research/manufacturing, and entertainment-related post-production activities that do not necessarily generate impacts such as noise, traffic and pollution.

While the industrial/employment sector is evolving, Los Angeles County remains the largest manufacturing region in the United States. Although globalization has generally triggered an exodus jobs from many American city centers, the strategic importance Los Angeles and its industrial lands has been strengthened".

And from page 14 of the same report:

"Additionally, industrial lands in Los Angeles play an important role as incubator space for small start up and creative businesses. This entrepreneurial pattern fits perfectly into Los Angeles' tradition of supporting a broad base of independently owned and operated businesses; most businesses in Los Angeles are small, independently owned and operated.¹¹ These firms represent entrepreneurial and innovative businesses that can only become established under conditions available in industrial zones—relatively low rents, small spaces/lots and/or business incubator space. Many of these businesses are cleaner than those of the past and they provide good career-ladder jobs for local neighborhoods that have seen a decline in other local manufacturing jobs. "

RESPONSE NO. 7-6

The RS-DEIR provides an analysis of the Proposed Project's impacts in relationship to the General Plan in subsection 3.3.1.4 of Section II.A, Land Use. The analysis addresses impacts in relation to the policies of the General Plan Framework, the Westchester-Playa del Rey Community Plan (which covers the site of the Proposed Project), and the Playa Vista Area D Specific Plan, which implements General Plan policies at the Proposed Project site.⁸ For the reasons presented within that sub-section, the analysis concludes that impacts regarding the various plan policies would be less than significant.⁹ Because the site of the Proposed Project is not located within the Palms-Mar Vista-Del Rey Community Plan, no analysis of consistency with that plan is required.

With respect to the Area D Specific Plan, the RS-DEIR analyzes the Proposed Project's land use impacts against the version of the Area D Specific Plan in effect prior to the City Council's approval of the Proposed Project in 2004, Ordinance No. 170,785 (attached as Appendix B.i of the RS-DEIR), and discusses the consistency of the Proposed

⁸ RS-DEIR, pp. II.A-31–II.A-44.

⁹ RS-DEIR, p. II.A-44.

Project with that Specific Plan, as well as the impacts of amending that Specific Plan as proposed by the Applicant for the Proposed Project.¹⁰

With respect to the City's Industrial Land Use Policy Project (ILUP Project), the Proposed Project would not be located on any site targeted for industrial preservation by the ILUP Project. However, the Proposed Project is part of a planning effort that would complete the Playa Vista Area D Specific Plan buildout. Approximately 96 percent of the office and light industrial entitlement under the Playa Vista Area D Specific Plan has been allocated to the M(PV) zoned areas of the Playa Vista First Phase Project. A substantial industrial/employment district is currently under construction within the Campus at Playa Vista in the eastern portion of the Playa Vista First Phase Project. When complete, these office uses will generate an estimated 8,668 jobs.¹¹ The Proposed Project would provide an additional 1,180 jobs.¹² Please refer to Sections II.A.2.1.4.5. and II.A.3.3.1.4.1 of the RS-DEIR for a further discussion of the Proposed Project's consistency with the ILUP Project.

Please refer to Response No. 7-1 regarding the scope of the RS-DEIR and the analysis of alternatives to the Proposed Project in the Original FEIR.

COMMENT NO. 7-7

In the City of Los Angeles Zoning Code, grocery stores are permitted in the RAS3; RAS4; C1; C1.5; C2; C4; CM; M1; M2; and M3 Zones.

Playa Vista Phase 2 is presently zoned M.

Therefore, the desire to add a grocery store and ancillary shopping/ commercial spaces due to a planning "omission" in Playa Vista Phase 1 is not sufficient reason for a massive up zoning in Phase 2 which will have a significant negative impact upon Los Angeles shrinking industrial land base by removing 111 acres from the M classification without compensating for said loss on an acre for acre basis.

This proposed permanent loss of 111 valuable acres of industrial land in the Western Los Angeles area proximate to the region's major airport and key freeway interchanges should be analyzed in depth with regard to:

1. The impact of that economic loss on the City's urgent need to establish and maintain a stable, permanent industrial employment base in the Western Los Angeles area
2. The encouragement of sprawl contrary to SB 375's stated goal and objective of reducing vehicle miles travelled by pushing employment generating, industrial land uses to outlying

¹⁰ RS-DEIR, p. II.A-39.

¹¹ RS-DEIR, p. II.A-35.

¹² RS-DEIR, p. II.A-36.

areas of Los Angeles, and the resulting significant impacts upon job creation, traffic and infrastructure as more intense housing development follows the important industrial jobs base to the far edges of the city ... or to other municipalities.

RESPONSE NO. 7-7

The commentor's statement that it was a planning "omission" to not include a grocery store and ancillary shopping/commercial spaces in the adjacent Playa Vista First Phase Project is noted and will be incorporated into the Final RS-EIR for review and consideration of the decision-makers. The Playa Vista First Phase Project was previously approved by the City of Los Angeles (EIR No. 90-0200-SUB(C)(CUZ)(CUB), State Clearinghouse No. 90010510, certified by the City of Los Angeles in September 1993, and Mitigated Negative Declaration/Addendum to the EIR, certified by the City of Los Angeles in December 1995). These approvals allowed up to 35,000 square feet of retail uses, which were required to be allocated among certain locations throughout the Playa Vista First Phase Project site.¹³ These limitations preclude the development of larger retail spaces, such as a grocery store, within the First Phase Project.

As discussed in the RS-DEIR, the land uses within the Proposed Project are not limited to adding a grocery store and ancillary shopping/commercial spaces. The Applicant is seeking approval of retail uses, which may include a grocery store, as part of the Proposed Project based on a number of the Project Objectives, including, among others, the development of new mixed-use community that would promote the internal relationship of mutually supportive uses and the creation of a development that is consistent with the Playa Vista First Phase Project.¹⁴ Accordingly, the Proposed Project would include 2,600 residential dwelling units, 175,000 square feet of office space, 40,000 square feet of community service uses, and 150,000 square feet of retail uses (which would permit a variety of retail uses, not solely a grocery store.)¹⁵

The RS-DEIR analyzes the land use impacts attributable to the proposed amendment to the existing M(PV) zone (authorizing office and light industrial uses) that is applicable to the Proposed Project site, including the issue of employment opportunities.¹⁶

The commentor also states a concern about "sprawl." The Proposed Project's Objectives, as stated in Section II.C of the Original DEIR and Section II.D of the RS-DEIR, are focused on creating a development that avoids "sprawl." For example, the Proposed

¹³ RS-DEIR, p. II.A-13.

¹⁴ Original DEIR, pp. 171-172.

¹⁵ RS-DEIR, pp. II.A-35-II.A-36.

¹⁶ See RS-DEIR, pp. II.A-35-II.A-36.

Project Objectives include the objective of developing a mixed use community that would “decrease dependency on the automobile, encourage pedestrian activity and alternative transportation modes, make efficient use of land and infrastructure, reduce energy consumption, and foster a strong sense of community.”¹⁷

The comment also mentions SB 375. Signed in September 2008, Senate Bill 375 seeks to achieve, among other things, a reduction in GHG emissions from vehicles in order to meet the goals of AB 32. The Proposed Project would promote the objectives of SB 375 by, among other things, providing for the development of mixed-use communities with employment opportunities and retail amenities located near residential housing.¹⁸ The Proposed Project is an urban infill, mixed-use project designed to reduce the number and length of vehicle trips, thus reduce vehicle-related GHG emissions, compared to the trips and emissions that would occur if the Proposed Project’s uses were sited at different locations. For a discussion of the Proposed Project’s consistency with other applicable plans and policies for reducing GHG emissions, refer to Section II.D of the RS-DEIR.

COMMENT NO. 7-8

COMMUNITY PLAN INCONSISTENCIES: Cumulative impacts upon surrounding communities have not been adequately stated.

The Westchester Bluffs create a natural buffer between Westchester and the Playa Vista/Del Rey/Mar Vista communities.

This buffer separates these communities in a variety of practical and environmental areas including transportation, view, air quality, housing, jobs, and shopping.

In fact the impacts of this project will be felt in a much higher degree north of Jefferson Boulevard than Westchester. Changing the Westchester Community Plan to suit the needs of Playa Vista without significant mitigation for impacts upon adjacent northerly communities is not adequate.

RESPONSE NO. 7-8

The Proposed Project would take advantage of both natural features and existing development to act as buffers between the Proposed Project and the communities cited in the comment. For example, with respect to properties to the north of the Proposed Project site, the Jefferson Boulevard roadway and the existing office, commercial, and multi-family residential development along Jefferson Boulevard would act as a primary transitional buffer between the Proposed Project site and the light industrial and residential

¹⁷ Original DEIR, p. 171, RS-DEIR, pp. II.D-21–II.D-22.

¹⁸ See generally, Cal. Gov’t Code Section 65080, Cal. Pub. Res. Code Section 21159.28.

neighborhoods to the north, including Del Rey.¹⁹ In addition, the Proposed Project's land uses facing Jefferson Boulevard would be mid-rise and primarily residential, as well as mixed use retail and office, and thus would not substantially change the character of the existing neighborhood to the north.²⁰

Also, the Original FEIR and the RS-DEIR analyzed cumulative impacts as to all environmental areas, including those impacts that could affect the communities cited in this comment. The Complete MMRP will include measures to mitigate those potential impacts.

COMMENT NO. 7-9

Every detail of master planned communities is typically determined prior to construction.

The Playa Vista Area D Specific Plan Regional Mixed Use Commercial Zone C. C2 (PV) classification, as defined in Zone Regulations Section 4 C. paragraph 1, forbids some 83 uses.

This places an undue burden on surrounding communities, and constitutes a significant negative impact upon these communities which do not have the luxury of excluding those less desirable uses which Playa Vista refuses.

RESPONSE NO. 7-9

The prohibition against certain uses referenced by the commentor is contained in the existing Playa Vista Area D Specific Plan, and the entitlements requested for the Proposed Project would not amend or modify those prohibitions.²¹

COMMENT NO. 7-10

Additionally, the C2 (PV) classification requested in the entitlement application permits all uses allowed in the R5 zone, including hotels, motels, and hospitals [except animal hospitals].

Yet, there would appear to be no plans to incorporate middle schools, high schools, or places of worship within the development boundaries -surely major cornerstones of any 'live, work, play' master planned community.

¹⁹ RS-DEIR, p. II.A-34.

²⁰ RS-DEIR, p. II.A-52.

²¹ See generally RS-DEIR Appendix B.ii, Proposed Amendments to Area D Specific Plan, Ordinance No. _____.

RESPONSE NO. 7-10

With respect to the commentator's suggestion of a need to include a school within the Proposed Project site, the Original FEIR analyzed the Proposed Project's impacts on schools and concluded that impacts on schools would be less than significant.²² Further, a site within the boundaries of the Playa Vista First Phase Project site has been offered for dedication by the Applicant to the Los Angeles Unified School District for development of an elementary school pursuant to a condition of approval for the First Phase Project.

With respect to places of worship within the Proposed Project site, such uses would be authorized under the Commercial and Community-Serving land use categories set forth in the proposed amendments to the Specific Plan associated with the Proposed Project.²³

COMMENT NO. 7-11

TRACT MAP MODIFICATIONS AND LAND USE INCONSISTENCIES: City Controller Laura Chick's March 16, 2009 audit report, Performance Audit of the City of Los Angeles' Process for Planning Conditions for Development, cites failure of the existing system to effectively track implementation of entitlement conditions:

"Now as Controller, I have circled back to answer the question: "Who ensures that the requirements attached to these developments are followed,?" The answer is: "No one. " We are actually often relying on voluntary compliance by the developers.

My report found that. in general, there is no single Department in charge of development projects from beginning to end. The Planning Department is indeed the lead agency in imposing conditions. However other Departments, such as Building and Safety, can add or change conditions without including the Planning Department ... It is clear some significant changes must be made here. If projects are approved with conditions attached, is it not in the City's best interest to ensure those conditions are met? Certainly that is what the public expects. "

From the summary of audit results:

The City of Los Angeles has not established an adequate process for reviewing, approving, and overseeing development projects that ensures that the final project conforms to the intent of the decision maker. No single City department manages development projects from the project review through project construction and completion. The Department of City Planning does not manage other City departments' review of proposed projects, and does not actively monitor compliance with the projects' conditions of approval once the

²² See Original DEIR Section IV.L.(3), Schools.

²³ See for example, RS-DEIR Appendix B.i, Area D Specific Plan, as amended by Ordinance No. 170,785, Effective January 13, 1996, Section 5.E.

building permits have been issued. In the absence of a single point of management, development projects can materially change during the project plan review and project construction and completion, resulting in the final project being different from the project as it was approved by the decision maker. "

Modifications to project tract map subdivisions have occurred routinely, without an opportunity for discussions and input from nearby community stakeholders.

Additional future modifications to Vesting Tract Maps, such as changes to the Land Use Designation of Lot 113 of VTT 49104 (Open Space) to other Land Use Designations, or similar land use and zone changes to VTT 60110, should not occur without disclosure and public review.

In addition these changes should require a zone change and general plan amendment with appropriate findings and additional environmental clearances by the Advisory Agency.

RESPONSE NO. 7-11

With respect to the performance audit referenced by the commentor (which relates to development projects City-wide), the City's Planning Department and the City's Bureau of Engineering have responded to the City Controller with implementation plans to address the issues and recommendations identified in the audit.²⁴ The City Controller has indicated that those implementation plans are generally acceptable.²⁵ Those recommendations, when implemented, will apply to the City's monitoring and enforcement of the mitigation measures and conditions of approval for all development projects on a City-wide basis, including the Proposed Project. With respect to the Proposed Project specifically, as discussed in Section I.E. of this Final RS-EIR, the Original MMRP for the Proposed Project and the Revised MMRP (provided in Section V of this Final RS-EIR) detail the monitoring and enforcement requirements and schedule for each mitigation measure, as well as the agencies responsible for those activities. The Revised MMRP and portions of the Original MMRP that were not superseded will constitute the Complete MMRP.

²⁴ Refer to Interdepartmental Correspondence from S. Gail Goldberg to Laura N. Chick, Status of Audit Recommendations – Performance Audit Of The City Of Los Angeles' Process For Planning Conditions For Development, April 23, 2009; and Letter from Gary Lee Moore to Honorable Laura Chick, City Controller, regarding Bureau of Engineering's Response To The Performance Audit Of The City Of Los Angeles' Department Of City Planning's Conditions For Development, April 24, 2009.

²⁵ Refer to Letter from Laura Chick to S. Gail Goldberg, regarding Evaluation Of City Planning's Response To The Performance Audit Of The City's Process For Planning Conditions For Development, May 26, 2009; and Letter from Laura Chick to Gary Lee Moore, regarding Evaluation Of Bureau Of Engineering's Response To The Performance Audit Of The City's Process For Planning Conditions For Development, May 26, 2009.

The commentor refers to Lot 113 of Vesting Tentative Tract Map (VTTM) 49104, which was approved as part of the Playa Vista First Phase Project. The entitlements requested for the Proposed Project provide for the inclusion within the tract map of a re-subdivision of Lot 113 and a determination that Lot 113 is no longer needed for open space purposes. However, any adjustment to Lot 113 would not alter the land use analysis in the RS-DEIR since a re-subdivision of Lot 113 would not alter the overall envelope of development authorized or requested as part of the Proposed Project.²⁶ Finally, it is unclear what tract map modification the commentor is referring to that occurred without input from community stakeholders. Please note that the tract map, zone change, and plan amendments requested for the Proposed Project are included in the entitlements that were analyzed in the Original FEIR and they are analyzed in the Complete FEIR and are the subject of this public review and the public hearings to be held on the Proposed Project.

COMMENT NO. 7-12

The RS-DEIR moreover fails to address impacts and adequate mitigation measures as a result of land use inconsistencies resulting from the proposed allocation of 66,950 square feet of proposed office and light industrial uses to be developed within the Community Commercial Land Use Designation in Area D.

Light industrial uses are generally incompatible with mixed-use residential and community serving uses and incompatible with the project's already approved narrower substandard streets.

RESPONSE NO. 7-12

No light industrial land uses are proposed as part of the Proposed Project. The environmental impact analyses in the Original FEIR and the RS-DEIR are based on office uses, not light industrial uses, at the Proposed Project. All references to characterizing the 66,950 net new square feet (or 175,000 total square feet) requested for the Proposed Project as "office and light industrial" uses have been corrected to reflect office uses only. (Please refer to Section II of this Final RS-EIR, Corrections and Additions, *supra*.)

Also, please note that all streets within the Playa Vista First Phase Project, as well as all the streets to be developed in connection with the Proposed Project, meet or exceed (or will meet or exceed) all applicable City standards.

²⁶ See RS-DEIR, p. II.A-42, Table II.A-4.

COMMENT NO. 7-13

Furthermore, the entire RS-DEIR fails to adequately address any by-right density scenarios that could result in an additional 35% density, or approximately 910 units outside of the equivalency scenarios of 2810 units by exercising the use of the newly adopted City's Density Bonus Ordinance.

The maximum development of the Project's equivalency scenario shown in Table II.A-4 excludes any calculations that show the potential for an added 35% density of the project area.

The RS-DEIR falls far short of analyzing this potential major increase in density, thereby dramatically understating significant adverse environmental impacts, including traffic and water consumption, as well as overstating the number of permanent jobs potentially created by the proposed project.

Additional Land Use and transportation analysis and appropriate mitigation measures should be included as part of the evaluation of the project as it relates to density and disclosure of potential impacts due to incompatible light industrial uses with residential uses.

RESPONSE NO. 7-13

The Proposed Project is not seeking any "density bonus" under SB 1818 or any other applicable law. Development of the Proposed Project site would be limited to the development envelope analyzed in the Complete FEIR and contained in the requested entitlements for the Proposed Project. Please also note that portions of the density bonus provision in City Ordinance 179681 (which was adopted to implement the provisions of SB 1818) were invalidated by a decision of the Los Angeles Superior Court on June 8, 2009.

COMMENT NO. 7-14

LAND USE RELATED TRANSPORTATION IMPACTS: "NEW CONDITIONS WHICH REQUIRE A NEW TRAFFIC STUDY": The Mar Vista Community Council has the following concerns with Playa Vista Phase 2 traffic mitigations:

1. The City only requires mitigation of traffic impacts estimated to occur during the Peak Traffic Hour and the traffic impact mitigations secured by the City in 2004 from Playa Vista Phase 2 were based on a Traffic Study which assumed that only 1/4 to 1/3 of the project's total circulation demand from its residential units (condos) will occur during the Peak Traffic Hour (see Appendix A.), and only a portion of that portion was mitigated.
2. The combination of the unmitigated portion of the 1/4 to 1/3 Peak Hour traffic and the 2/3's to 3/4's unaddressed non-Peak-Hour traffic will severely impact commuters, residents and businesses by:
 - increasing both the severity and hours of arterial congestion,

- increasing commuter traffic cutting through residential neighborhoods,
- forcing commuters to spread their commuting over even more than 3 to 4 hours each AM and PM, and
- forcing business to further expand their Staggered Start times, and incur further productivity losses.

RESPONSE NO. 7-14

The commentor states concerns about the methodology used to analyze the Proposed Project's traffic impacts. This matter is outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" (within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5) concerning the Proposed Project's traffic impacts, as distinguished from a disagreement over the methodology used to evaluate traffic impacts in the Original FEIR. A detailed analysis of the methodology used to analyze the Proposed Project's traffic impacts, including the methodology used in estimating the Proposed Project's trip generation, was included in Section IV.K.(1), Traffic and Circulation, of the Original DEIR; Section II.15, Corrections and Additions of the Original FEIR; and Topical Responses TR-1 through TR-10 of the Original FEIR.

In particular, the trip generation for the Proposed Project was developed using the rates and equations from the nationally-accepted Informational Report *Trip Generation, VI Edition, 1997*, published by the Institute of Transportation Engineers ("ITE").²⁷ The ITE document uses a statistically valid number of data points to develop trip generation projections for the Proposed Project's land uses and serves as a reliable source of information. The ITE report is an industry standard document for trip generation and is used by transportation agencies throughout the country, including the City and County of Los Angeles and numerous other cities throughout Southern California.

It should also be noted that the Court of Appeal expressly upheld the transportation analysis methodology used in the Original FEIR.²⁸

For a further discussion of the methodology used to calculate the Proposed Project's trip generation and trip distribution, please refer to Original FEIR Topical Response TR-1.

²⁷ *Original DEIR, pp. 830, 860.*

²⁸ *RS-DEIR Appendix A.i, Court of Appeal Opinion, pp. 96-100.*

COMMENT NO. 7-15

3. The Phase 2 Traffic Study violated traffic engineering principles, and the natural laws of physics, by assuming that Phase 2 traffic can be accommodated at LOS "F" intersections, where traffic demand was already predicted to be from 1% to 40% greater (V/C Ratio 1.40) than the intersection's physical capacity (see Appendix B.)

RESPONSE NO. 7-15

Please refer to Response No. 7-14 regarding the scope of the RS-DEIR and the methodology used to analyze Proposed Project's traffic impacts. The commentor offers no "significant new information" (within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5) concerning the Proposed Project's traffic impacts, as distinguished from a disagreement over the methodology used to evaluate traffic impacts in the Original FEIR.

It should be noted that the City's transportation analysis methodology and thresholds acknowledge that additional traffic can be accommodated at LOS "F" intersections, and do not provide that the addition of traffic to an LOS "F" intersection will by itself generate a significant impact. According to the City's CEQA Thresholds Guide, a significant impact would occur at an intersection designated as LOS "F" only if traffic from the Proposed Project would increase the volume/capacity ratio by 0.010 or more.²⁹ After mitigation, the Proposed Project would not increase the volume/capacity ratio at any LOS "F" designated intersection by this amount.³⁰

COMMENT NO. 7-16

4. The assumption that only 1/3 to 1/4 of AM and PM commute trips will occur during the Peak Traffic Hours is a violation of the California Environmental Quality Act (CEQA), which requires impacts to be assessed under the worst conditions, which, with regard to traffic generation, would be that all condos will generate 2 trips during the Peak Traffic Hour (see Appendix A.)

RESPONSE NO. 7-16

Please refer to Response No. 7-14 regarding the scope of the RS-DEIR and the methodology used to analyze Proposed Project's traffic impacts. The commentor offers no "significant new information" (within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5) concerning the Proposed Project's traffic impacts, as distinguished from a disagreement over the methodology used to evaluate traffic impacts in the Original FEIR.

²⁹ See *Original DEIR*, pp. 832-833.

³⁰ See *Original FEIR*, pp. 274-294, Table 9-3.

COMMENT NO. 7-17

5. The mitigations offered for even the "Significantly Impacted intersections were insufficient to maintain both satisfactory and adequate Levels of Service at all intersections to be used by Phase 2 traffic, and therefore violated the Palms-Mar Vista-Del Rey, and the Venice Community Plans (see Appendix C.)

RESPONSE NO. 7-17

Please refer to Response No. 7-14 regarding the scope of the RS-DEIR and the methodology used to evaluate the Proposed Project's traffic impacts. The commentor offers no "significant new information" (within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5) concerning the Proposed Project's traffic impacts, as distinguished from a disagreement over the methodology used to evaluate traffic impacts in the Original FEIR. In addition, the commentor raised this same issue in comments on the Original DEIR. Responses to those comments were provided in the Original FEIR at Response Nos. 7-13 through 7-16 and Topical Response TR-6: Relationship With Community Plan Policies.

COMMENT NO. 7-18

6. To even further reduce the mitigations required, the Traffic Study used selected residential Collector streets in neighborhoods other than Playa Vista to absorb Playa Vista Phase 1 and other Related Project traffic competing with Phase 2 for arterial space (see Appendix D.) to make arterials appear to have more remaining capacity for Phase 2 traffic. This likely reduced the apparent number of intersections significantly impacted by even the underestimated Phase 2 traffic and the mitigations required. Such use of residential Collector streets violated the General Plan which states that Collector streets are intended to serve only neighborhood-local traffic.

RESPONSE NO. 7-18

Please refer to Response No. 7-14 regarding the scope of the RS-DEIR and the methodology used to evaluate the Proposed Project's traffic impacts. The commentor offers no "significant new information" (within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5) concerning the Proposed Project's traffic impacts, as distinguished from a disagreement over the methodology used to evaluate traffic impacts in the Original FEIR.

With respect to the difference between collector streets and local residential streets, the City's General Plan defines collector streets as those that are "intended to assist local

traffic flow to major and secondary highways.”³¹ Therefore, collector streets are not local residential streets but rather streets designed to connect the local residential streets to the arterial street system. The traffic model used in the Original DEIR analyzed the Proposed Project’s traffic impacts to freeways, arterials, and collector streets. For an additional discussion on this issue, please refer to Response No. 7-7 in the Original FEIR.

Further, in accordance with the City’s requirement to analyze the impacts of neighborhood cut-through traffic on local residential streets, the Original FEIR contained a separate analysis that addresses potential cut-through traffic on such local streets. For further discussion on this issue, please refer to Section 3.4.7 of Chapter IV.K.(1) of the Original DEIR and Response No. 7-27 and Topical Response TR-5 in the Original FEIR.

COMMENT NO. 7-19

7. In an attempt to nullify the above violations, the Westchester Community Plan was gutted of all rational traffic-planning policies, thereby leaving existing Los Angeles residents unprotected from Playa Vista's traffic, and causing the Westchester Community Plan to violate the Community Plan consistency rule (see Appendix E.)

RESPONSE NO. 7-19

Please refer to Response No. 7-14 regarding the scope of the RS-DEIR and the Proposed Project’s traffic impacts. The commentor offers no “significant new information” (within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5) concerning the Proposed Project’s traffic impacts.

The commentor does not state a concern regarding the adequacy of the analysis regarding the impacts of the Proposed Project, but rather the commentor states an opinion regarding the amendments of the Westchester Community Plan adopted in 2004. The amendments to the Westchester Community Plan referenced in the comment were approved by the City in April 2004 as a distinct project separate from its consideration of the Proposed Project. That amendment was approved after public involvement, input from all applicable City departments, including the Department of Transportation, and the preparation of a Final EIR. No comments were received during this process from any agency, organization, or individual suggesting that “rational traffic-planning policies” had been eliminated from the Community Plan.³²

³¹ See *City of Los Angeles General Plan Transportation Element Chapter VI, Street Designations and Standards, Section B.1.d. Chapter VI of the City’s General Plan Transportation Element may be found at : <http://planning.lacity.org/cwd/gnlpln/transelt/TE/T6StStds.pdf> (last visited June 14, 2009).*

³² *Westchester Playa Del Rey Community Plan Update, EIR No. 2003-1882(EIR), CPC Number 98-0010 (CPU), State Clearinghouse No. 20022061090 (April 13, 2004).*

For a detailed analysis of the Proposed Project's traffic impacts, please refer to Section IV.K.(1), Traffic and Circulation, of the Original DEIR; Section II.15, Corrections and Additions of the Original FEIR; and Topical Responses TR-1 through TR-10 of the Original FEIR.

COMMENT NO. 7-20

8. The Phase 2 Traffic Study was done in 2003 and is now 6 years out of date.

9. Hundreds of additional condos and thousands of additional square feet of commercial and retail development have been approved since the original Phase 2 Traffic Study (see Appendix F.), adding hundreds to thousands of additional trips to Westside arterials and leaving less room for Playa Vista Phase 2 traffic (assuming there ever was room).

Therefore the Mar Vista Community Council believes that the Playa Vista Phase 2 Traffic Study should be redone,

· Assuming two commuters per condo, because two L.A-average incomes will be required to purchase a Phase 2 condo, therefore the likelihood of two commuter trips from each condo during each commute period,

· Allocating all 5,200 commute trips generated by Phase 2's proposed 2600 residential units to the AM and to the PM Peak Traffic Hours as CEQA requires impacts to be assessed under the worst conditions and the developer was no power to force Phase 2 condo buyers to spread their commuting over more than the Peak Hour, and

· Assigning all trips only to major and secondary highways intended to absorb such traffic, not to residential streets in neighborhoods other than Playa Vista.

Then mitigate the newly discovered impacts in accordance with the Satisfactory Level of Service policies specified in the Community Plans of the communities impacted by Phase 2 traffic. We anticipate that this will result in a 200% to 300% increase in mitigations over those secured by the original irrational and now out-of-date Traffic Study.

RESPONSE NO. 7-20

Please refer to Response No. 7-14 regarding the scope of the RS-DEIR and the methodology used to analyze the Proposed Project's traffic impacts. The commentor offers no "significant new information" (within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5) concerning traffic impacts, as distinguished from a disagreement over the methodology used to evaluate traffic impacts in the Original FEIR.

The comment suggests the traffic analysis relied upon in the Original FEIR does not account for development of related projects that has occurred since the preparation of the

traffic study. The commentor raised a similar concern about the scope of the related projects list in comments on the Original DEIR. Responses to those comments were provided in the Original FEIR at Response No. 7-5. As stated in those responses, the traffic model used in the Original FEIR was designed to account for future traffic attributable to growth that occurred after the date of the Original DEIR.

The Original FEIR considered 96 related projects.³³ That related projects list included over 31 million square feet of commercial and industrial development as well as over 9,300 residential units.³⁴ (Note that a number of those related projects are not proceeding at this time, such as the LAX Master Plan (related project #34), the LAX Northside project (#36), the LA Air Force Base (#32 and #33), and Continental City – Phase 1 (#35).)

To account for additional cumulative development, the Original FEIR assumed an additional growth factor of 10 percent of commercial and industrial development and 25 percent of residential development.³⁵ These additional increments account for over 3.1 million square feet of commercial and industrial development as well as over 2,300 residential units. Therefore, the Original FEIR's related projects represented a total of over 34 million square feet of commercial and industrial development as well as over 11,600 residential units.

In addition, the Original FEIR's traffic analysis was conducted using a transportation model based on the Southern California Association of Governments (SCAG) regional model, which included the socioeconomic and land use growth anticipated by SCAG for the entire region.³⁶ To check the validity of the SCAG projections, each of the cities within the study area was asked to supply a list of their related background projects.³⁷ This list was compared against the land use assumptions for each traffic analysis zone (TAZ) to determine whether each TAZ included sufficient land use growth to accommodate the related projects.³⁸ Additional land use development was added to those TAZs that did not have sufficient growth based on SCAG's forecast.³⁹ Thus, the amount of cumulative land

³³ *Original DEIR, pp. 195-202, Table 5.*

³⁴ *Id.*

³⁵ *See Original DEIR, p. 789.*

³⁶ *Original DEIR, p. 829; Original FEIR, p. 453.*

³⁷ *Original DEIR Appendix K-2, Kaku Associates and Raju Associates, Inc., The Village at Playa Vista Transportation Plan Environmental Impact Report, pp. III-2 – III-3; Original FEIR, p. 453.*

³⁸ *Id.*

³⁹ *Id.*

use development assumed in the Original FEIR's traffic model exceeded that assumed in the related projects list.⁴⁰

For a further discussion concerning the cumulative traffic impacts analysis in the Original FEIR, please refer to Original DEIR Section IV.K.(1); Original FEIR, Topical Response TR-1 through TR-10.

COMMENT NO. 7-21

STORMWATER RUNOFF: "Additionally, on March 2, 2007, Council members Ed Reyes (CD 1) and Bill Rosendahl (CD 11) introduced Council Motion 07-0663 to develop a water quality master plan with strategic directions for planning, budgeting and funding to reduce pollution from urban runoff in the City of Los Angeles.

The Water Quality Compliance Master Plan for Urban Runoff (WQCMPUR) was developed by the Bureau of Sanitation, Watershed Protection Division to address the requirements of the Council Motion" [from the final draft of the Water Quality Compliance Master Plan for Urban Runoff (WQCMPUR) developed by the Bureau of Sanitation, Watershed Protection Division].

Therefore, the Playa Vista Phase 2 RS-DEIR must address the issue of stormwater runoff into Ballona Creek and other bodies of water, and include plans if not already included, to mitigate the effects of runoff from Phase II to the citizens of Los Angeles and others.

RESPONSE NO. 7-21

The commentor states concerns about water quality impacts relating to stormwater runoff. This matter is outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" with respect to potential water quality impacts relating to stormwater runoff within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5. For a further discussion regarding the Proposed Project's impacts relating to stormwater runoff, please see Response Nos. 41-1 through 41-3.

⁴⁰ *Original FEIR, pp. 453-454.*

COMMENT NO. 7-22

2. CULTURAL [ARCHAEOLOGICAL] IMPACTS

The First EIR did not analyze more environmentally superior alternatives and the second EIR has the same faults. CEQA mandates that these superior alternatives be considered.

Such alternatives include "No Build" and other options for avoiding archaeologically sensitive areas completely.

RESPONSE NO. 7-22

Please refer to Response No. 7-1 regarding the scope of the RS-DEIR and the analysis of alternatives to the Proposed Project in the Original FEIR. The first "No Project" alternative analyzed in the Original FEIR was a "No Build" alternative. For a further discussion regarding the analysis of alternatives, please see Response No. 25-3.

The commentor also refers to the avoidance of archaeologically sensitive areas. Preservation in place, and its status as the preferred mitigation measure for reducing a project's impacts on archaeological impacts, is discussed in detail in Section II.C. of the RS-DEIR. Please see Response Nos. 29-8 through 29-14 for a further discussion of this issue.

COMMENT NO. 7-23

3. WASTEWATER IMPACTS

After extensive cost to the City of LA and LA taxpayers, the LA Hyperion Plant was built and more recently, after much more additional costs to taxpayers, its capacity was greatly increased.

The Plant is now providing mitigation of the Environmental Impacts of the Playa Vista project in regards to the millions of gallons of wastewater created by the project.

It has been determined that its capacity will be sufficient for the next 10 years, but what then?

RESPONSE NO. 7-23

For a detailed discussion regarding the Proposed Project's wastewater impacts, please see Response Nos. 29-20 through 29-28. Also, please refer to Sections 2.1.1 and 2.2.4 of the RS-DEIR for a discussion of the City's ongoing planning process concerning the amount of treatment capacity needed to accommodate wastewater flows. As stated in

those sections, the City plans for future wastewater management needs based on a 20-year horizon.

COMMENT NO. 7-24

The Mar Vista Community Council recommends all these aforementioned significant impacts be analyzed in the RS-DEIR.

The Mar Vista Community Council also recommends the significant land use impacts of Playa Vista Phase 1 upon neighboring communities be assessed prior to any additional Playa Vista Phase 2 discretionary approvals by the City.

As the primary Charter function of the Mar Vista Community Council is to represent Mar Vista Community Stakeholders, the Mar Vista Community Council recommends that any negotiations that take place with Playa Capital and Council District 11, should include at a minimum a Mar Vista Community Council representative Chair or Co Chair from the Traffic and Infrastructure, and the Planning and Land Use Management Committees [PLUM].

RESPONSE NO. 7-24

The RS-DEIR analyzed the Proposed Project's cumulative land use impacts, which included the Playa Vista First Phase Project as a related project.⁴¹

The remainder of the comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decisionmakers.

COMMENT NO. 7-25

Mar Vista Community Council Response to The Village at Playa Vista Project RS-DEIR Appendices

Appendix A. Estimated Trips versus Probably Real Trip Generation

Trips Estimated in City-Certified Phase 2's Traffic Study

To estimate the traffic impact from development projects, the City used Trip Generation Rates from the Institute of Transportation Engineers (ITE). These Rates are an averaging of trips observed from prior completed projects:

- in cities with better mass transit options than are available to L.A. commuters,
- where two incomes, therefore the likelihood of 2 commuters, are not required to purchase a condo, and
- averaged as far back as the 1970's when two career families was not the norm.

⁴¹ *RS-DEIR, p. II.A-61.*

Today such observations represent congestion-constrained flow out of or into recently completed projects. They do **NOT** represent the project's total circulation **DEMAND**, most of which is forced to remain inside or outside of the project during peak traffic hours due to the arterial congestion caused by the City not requiring developers to mitigate all of their projects' traffic impacts. None of the ITE studied projects were of California-based, much less Los Angeles-based development projects.

The AM and PM Trip Rates used for Playa Vista Phase 2 are shown in the table below, along with the number of trips estimated to occur during the AM and PM Peak Traffic Hours, and the Total Daily Trips. The Total Daily Trip estimates for the 2600 Dwelling Units appears to account for the 2 commute trips likely for Westside-priced condos during the AM and PM commute period (4 trips total), plus one additional round-trip, for an average to approximately 6 Total Daily Trips.

Trip Source	Size	AM Trip Rate	AM Peak Hour Trips	PM Trip Rate	PM Peak Hour Trips	Daily Trip Rate	Total Daily Trips
Office	175,000 sf		326		305		2,271
Dwelling Units	2,600 du	0.44	1,444	0.54	1,404	5.86	15,236
Retail	150,000 sf		143		575		6,193
Community Serving	40,000 sf		13		18		520
Total			1,926		2,302		24,220

Probable Real Trip Generation

The probably real AM and PM Trip DEMAND Rates for Playa Vista Phase 2 are shown below. Since the California Environmental Quality Act (CEQA) requires impacts to be assessed under the worst conditions, it must be assumed that the total circulation demand from Phase 2's 2600 condos must be assessed during the AM and PM Peak Traffic Hours.

Trip Source	Size	AM Trip Rate	AM Peak Hour Trips	PM Trip Rate	PM Peak Hour Trips	Daily Trip Rate	Total Daily Trips
Office	175,000 sf		326		305		2,271
Dwelling Units	2,600 du	2.00	5,200	2.00	5,200	5.86	15,236
Retail	150,000 sf		143		575		6,193
Community Serving	40,000 sf		13		18		520
Total			5,682		6,098		24,220

As you can see, the Peak Hour Trip Rates and counts used in the original Playa Vista Phase 2 Traffic Study (based on ITE Trip Rates) account for only approximately one-quarter (1/4) of the actual demand to be generated by Phase 2's Dwelling Units which constitute 92% of the additional demand this project would place on the City's transportation infrastructure. Not addressing and not requiring the developer to provide the mitigations necessary to accommodate the entire demand during the Peak Hour will severely impact commuters, residents and businesses by:

- increasing both the severity and hours of arterial congestion,

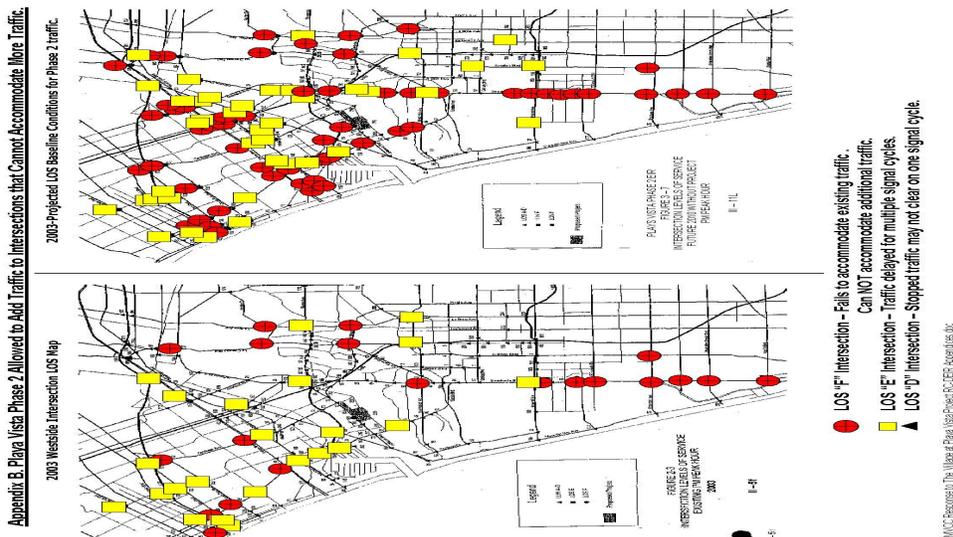
- increasing commuter traffic cutting through residential neighborhoods,
- forcing commuters to spread their commuting over even more than 3 to 4 hours each AM and PM, and
- forcing business to further expand their Staggered Start times, and incur further productivity loses.

If the above probable trip counts were used, the traffic impact mitigations required from Playa Vista would be approximately three times those secured by the 2004 Development Agreement just to achieve the same but still unsatisfactory and inadequate intersection Level of Service ratings to be expected from the currently planned mitigations. But at least it will prevent congestion and cut-thru traffic from increasing, compute periods from lengthening, and business productivity from dropping further.

RESPONSE NO. 7-25

Please refer to Response No. 7-14 regarding the scope of the RS-DEIR, the Proposed Project’s traffic impacts, and the methodology used to calculate the Proposed Project’s trip generation and trip distribution. The commenter offers no “significant new information” (within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5) concerning the Proposed Project’s traffic impacts, as distinguished from a disagreement over the methodology used to evaluate traffic impacts in the Original FEIR.

COMMENT NO. 7-26



RESPONSE NO. 7-26

Please refer to Response No. 7-14 regarding the scope of the RS-DEIR and the Proposed Project's traffic impacts. The commentor offers no "significant new information" (within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5) concerning the Proposed Project's traffic impacts.

Please also note that while the two graphics depicted in the comment appear to have been adapted from the Original DEIR, Appendix K-2, Kaku Associates and Raju Associates, Inc., The Village at Playa Vista Transportation Plan Environmental Impact Report, August, 2003, the titles to each graphic and the descriptions of the LOS standards at the bottom of the graphics did not appear in the referenced graphic in the Original DEIR. Table 113 on page 811 of the Original DEIR contains the industry-standard definitions of the various LOS standards as set forth in Transportation Research Board, *Transportation Research Circular No. 212, Interim on Highway Capacity*, 1980.

COMMENT NO. 7-27**Appendix C. Intersection Level of Service Policy Violations of the Brentwood, Del Rey, Mar Vista, Palms, Venice, West Los Angeles, and Westwood Community Plans.**

Community Plans, which make up the Land Use section of the Los Angeles General Plan, contain the City's fundamental Land Use Transportation Policies, pursuant to State Code 65300.

All 35 Community Plans, with the exception of the Westchester Community Plan which was modified to benefit Playa Capital, contain the following two basic Transportation Policies related to maintaining a satisfactory Level of Service (LOS) for existing residents and ensuring an adequate infrastructure before approving new development: (the policy numbers may differ by Plan)

Policy 15-1.1 [a] "Maintain a satisfactory LOS for streets and highways not to exceed LOS "D" for secondary highways and collector streets; nor LOS "E" for major highways or major business districts."

% Unsatisfactory Intersections (Below LOS "D")	<u>2003</u>	<u>After PV Phase 1</u>	<u>After PV Phase 2</u>
- Mar Vista	27%	60%	53%*
- Westside	20%	40%	42%*

Policy 16-1.1 [b] “If existing levels of service are LOS “E” or LOS “F” on a portion of a highway or collector street, then the level of service for future growth should be maintained at LOS “E.”

Playa Vista improved only 4 of 84 LOS ‘F’ intersections to LOS ‘E’.

Policy 16-2.1 “No increase in density shall be effected by zone change or subdivision unless it is determined that the transportation infrastructure serving the property can accommodate the traffic generated.”

LOS ‘F’ rated intersections cannot accommodate more traffic.”

% Unsatisfactory Intersections (Below LOS “D”)	<u>2003</u>	<u>After PV Phase 1</u>	<u>After PV Phase 2</u>
- Mar Vista	10%	33%	30%*
- Westside	10%	38%	36%*

Results:

105%* increase in “Unsatisfactory” arterial intersections increasing congestion, commute times and neighborhood cut-thru traffic.

173%* increase in “Failed”, 5-minute-delay, LOS ‘F’ intersections.

100%* to 200% increase in Cut-thru traffic in residential neighborhoods.

* All of the above are based on assessing the impact of only 1/4 (25%) of actually total circulation demand likely to be generated by Phase 2’s 2600 residential dwelling units. The actual adverse impact to the City’s transportation infrastructure’s Level of Service will be much greater than shown above.

Source: Intersection V/C & LOS data presented to MVCC Traffic Committee by Playa Vista and Kaku Associates on September 22, 2003, and the Playa Vista Phase 2 EIR.

RESPONSE NO. 7-27

Please see Response No. 7-17 regarding the scope of RS-DEIR and the Proposed Project’s consistency with certain traffic-related policies in the Community Plans identified by the commentor.

With respect to the commentor’s suggestion that the Westchester/Playa Del Rey Community Plan was modified to benefit the Applicant, it is unclear which modifications the

commentor suggests are at issue. To the extent the commentor is referring to the 2004 amendments to the Westchester/Playa Del Rey Community Plan, please see Response No. 7-19.

COMMENT NO. 7-28

Appendix D. General Plan and Community Plan Street Usage Policy Violations

LA’s General Plan (LA’s “official” policy document pursuant to State Code 65300) states that,

“Collector streets are intended to assist local traffic to major and secondary highways.”

- General Plan, Transportation Element, Chapter VI – Street Designations and Standards, Section B. Selection/Performance Criteria For Street Designations, paragraph 1. Item d. “Collector Streets”

The Palms, Mar Vista, Del Rey and Venice Community Plans say that the City is to:

“Discourage Non-Resident Traffic on Residential Streets.”

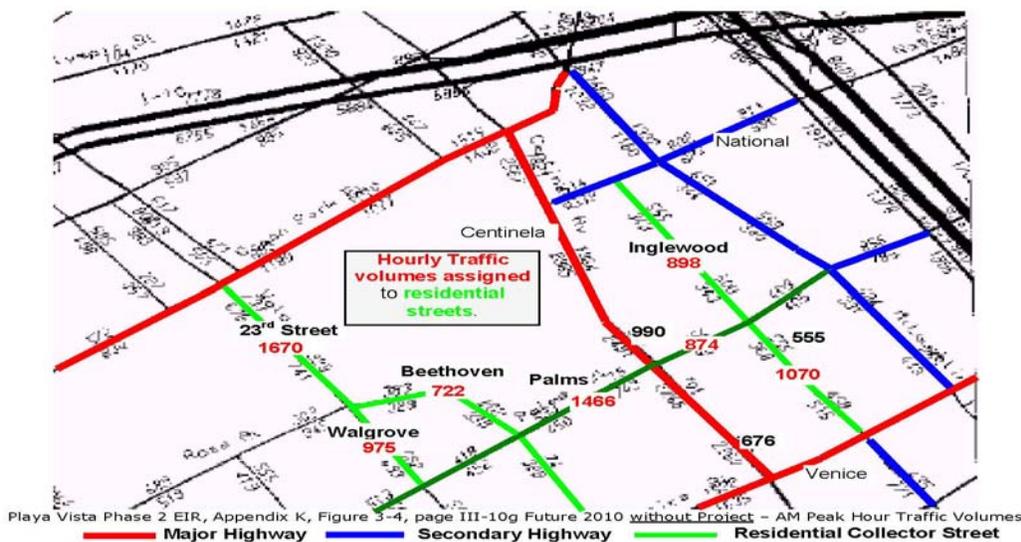
- Neighborhood Protection Plan, Goal 14

However Playa Vista Phase 2’s EIR says,

“The City’s [arterial framework] model was revised to add network enhancements (to add all Collector streets”

“As one corridor becomes congested, the model assigns traffic to parallel routes”

“The City’s transportation policy planning criteria seeks to focus traffic on arterials and collector streets and away from residential streets.”



Therefore Playa Vista Phase 2's Traffic Plan violated the above General and Community Plan policies.

1. Collector streets are residential streets, and are for local neighborhood traffic only!

2. Residential streets, either Collector or Local, are not to serve as commuter arterials.

RESPONSE NO. 7-28

Please refer to Response No. 7-18 regarding the scope of the RS-DEIR and the analysis of the Proposed Project's traffic impacts on collector streets and local residential streets. The commentor offers no "significant new information" (within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5) concerning the Proposed Project's traffic impacts.

COMMENT NO. 7-29

Appendix E. Westchester Community Plan Gutted of Rational Traffic Planning Policies to Enable Phase 2 Approval.

The following modifications were made to the Westchester Community Plan.

Transportation Section, page III-32

The former Westchester Community Plan contained the following policy:

"Maintain a satisfactory LOS for streets and highways not to exceed LOS "D" for secondary highways and collector streets; and not to exceed LOS "E" for Major Highways or major business districts."

See the 2003 and 2010 Intersection LOS Maps in the Phase 2 EIR or above for a graphical picture of how many intersections will be driven over the acceptable level of LOS "D" and "E" by 2010. The combined Playa Vista Phase 1 and 2 projects will cause 51% of this degradation. Councilwoman's Miscikowski's husband Doug Ring's Marine Development projects will cause 28% of the degradation.

The modified Westchester Community Plan now reads:

11-1.1 Seek to maintain a satisfactory Level of Service (LOS) **to extent possible** for Major Highways, Secondary Highways and Collector Streets. (Pg III-34)

Although traffic from Playa Vista Phase 1 and Phase 2 projects impact intersections in the Palms, Mar Vista, Del Rey and Venice communities, and these projects can not survive without use of streets and intersections in the these communities, Playa Capital stated in

the Final EIR that they were not bound by policies in the Palms, Mar Vista, Del Rey and Venice Community Plans. The EIR shows that Playa Vista projects contribute a majority of the projected traffic increases that will result in 18 intersections, currently providing Levels of Service of "D" or better, to deteriorate to LOS "E", (a 40% increase in LOS "E" intersections and a violation of the original Plan's policy), the deterioration of 76 intersections to LOS "F" (a 176% increase and also a violation of the original policy), and only 4 of 84 projected LOS "F" intersections will be "maintained at" (brought back to) LOS "E" by Phase 2 planned mitigations.

All Westside Community Plans (except the modified Westchester Plan) contain the following policy:

No increase in density shall be effected by zone change or subdivision unless it is determined that the transportation infrastructure serving the property can accommodate the traffic generated.

In 2003, 10% of Westside were rated LOS "F" by LADOT, meaning the intersections fails to accommodate the current traffic demand being placed them.

The 2010 Baseline traffic model for Phase 2, which predicts the conditions after Playa Vista Phase 1 and the conditions into which Phase 2 traffic would be added, predicts that 38% of intersections required by Phase 2 traffic will be LOS "F".

While the above predicted Westside infrastructure deterioration is said to be the combined impact of 96 "Related Projects", Playa Vista Phase 1 and 2 constitute 51% of residential unit increases cited in the EIR and therefore must be considered as contributing the majority of traffic increases. The Ring/Miscikowski Marina Development Projects contributed 27% of the residential unit increases and therefore a likely percentage of the traffic increases.

Playa Vista Phase 2 could not be approved into these conditions under the original Westchester Community Plan policies. Therefore, the Westchester Community Plan was altered as shown below:

11-2.1 No increase in density shall be effected by zone change, plan amendment, subdivision or any other discretionary action, unless ~~it is determined that the transportation infrastructure serving the property can accommodate the traffic generated~~ the Decision-makers make the following findings [see below] or a statement of overriding considerations:

The transportation infrastructure serving the project site and surrounding area, specifically the Freeways, Highways, and Streets presently serving the affected area within the Westchester-Playa del Rey Community Plan, have adequate capacity to accommodate the existing traffic flow volumes, and any additional traffic volume which would be generated from projects enabled by such discretionary actions.

The weakening of the Westchester Community Plan allowed the project to be approved solely on a statement that "Overriding Considerations justify approval", in spite of the fact that the Phase 2 traffic model clearly predicted that **the transportation infrastructure serving the property can not accommodate the traffic it will generate.**

RESPONSE NO. 7-29

Please see Response No. 7-19 regarding the scope of RS-DEIR and the amendment of the Westchester Community Plan. Please also see Response No. 7-17.

COMMENT NO. 7-30

Neighborhood Traffic Protection Plan Section, page III-40.

Even after removing the requirements for Playa Vista to maintain Satisfactory Levels of Service at LA intersections, their traffic would not physically fit solely on the major and secondary highways, the streets designated and designed for such traffic. Therefore Playa Capital spread their traffic over all Westside residential Collector streets in their mathematical traffic model so it would appear as if Playa Vista traffic would be accommodated.

Such use of residential Collector streets was a violation of the Los Angeles General Plan and all Westside Community Plans (except the modified Westchester Community Plan. All other plans state that the City is to,

"DISCOURAGE NON-RESIDENT TRAFFIC FLOW ON RESIDENTIAL STREETS..."

There are two types of Residential streets; Collector streets or Local streets.

The modified Westchester Community Plan now states that the City need only to:

DISCOURAGE NON-RESIDENT TRAFFIC FLOW ON **LOCAL** RESIDENTIAL STREETS.

This allowed Playa Capital to offload Phase 1 traffic, in their traffic model, from the arterials onto residential Collector streets to make it appear as if there would still be room on the arterials for Phase 2 traffic.

This was a violation of the General Plan Transportation Element policy which states that,

"Collector streets are intended to assist local traffic flow to major and secondary highways",

rather than being used as a major or secondary highway.

The modification made this policy illogical. "Local" streets do not connect to commuter arterials (Major or Secondary Highway) at signal-controlled intersections. Therefore they do

not require protection from non-resident traffic because non-resident commuter traffic cannot use Local streets to cut through a residential neighborhood.

RESPONSE NO. 7-30

Please see Response No. 7-18 regarding the scope of the RS-DEIR and the analysis of the Proposed Project's traffic impacts on collector streets and local residential streets.

COMMENT NO. 7-31

Appendix F. Development Projects Approved Since Playa Vista Phase 2's Traffic Study in 2003

The following is a partial list of traffic-generating development projects believed to have been approved since Playa Vista Phase 2's 2003 Traffic Study. The additional traffic from these project leaves less capacity for Playa Vista Phase 2 Traffic. The Phase 2 Traffic Study needs to be redone to account for these significantly changed conditions.

[City Planning should verify, correct and/or expand this partial list of Phase 2's Related Projects.]

Many Lofts in Marina Del Rey (No trip data available.)

Marina Pointe = 31 stories, 800 new condos.

Lincoln/Washington Office Building = 7 stories.

Centinela/Bundy SMC Campus = 5000 more trips on Centinela (or residential streets).

Centinela/Venice Condos = 80+ additional Peak Hour cut-thrus on Inglewood, Grand View.

Centinela/Washington Condos = 300+ additional Peak Hour cut-thrus on Inglewood, Grand View.

Centinela/Grand V.–LT Care Facility = 100+ additional P.H. cut-thrus on Inglewood, Grand View.

New Projected Peak Hour Cut-Thru Traffic on Inglewood = 1500 per hour for 6 hours.

11904 Culver @ Inglewood – add 70 – 190? new Condos.

11427 W Culver – 5 Condos.

S Barrington: 417 – 33 Condos, 1835– 8 Condos

Bundy & Olympic 377 Condos

3115 Sepulveda – 173 Condos

12095 Washington Boulevard

12099 Washington Boulevard

12101 Washington Boulevard

12803 Washington Boulevard

“Over the last decade, LA City Planning has approved new development projects at twice the historic rate.”

– LA City Controller Audit of LA Planning Department.

RESPONSE NO. 7-31

Please refer to Response No. 7-14 regarding the scope of the RS-DEIR and the Proposed Project’s traffic impacts. The commentor offers no “significant new information” (within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5) concerning the Proposed Project’s traffic impacts, as distinguished from a disagreement over the methodology used to evaluate traffic impacts in the Original FEIR. In addition, for a further discussion regarding other development approved near the Proposed Project, please see Response No. 7-20.

LETTER NO. 8

Cyndi Hench
President
The Neighborhood Council of Westchester/Playa (NCWP)
8726 South Sepulveda Boulevard, PMB 191A
Los Angeles, California 90045

COMMENT NO. 8-1

On March 3, 2009, the Neighborhood Council of Westchester/Playa voted to adopt the attached Resolution regarding The Village at Playa Vista RS-DEIR.

If you have any questions, please feel free to contact me at 310.779.6706 or the Chairperson of our Planning and Land Use Committee, Steve Donell, at 310.207.8481.

**NEIGHBORHOOD COUNCIL OF WESTCHESTER/PLAYA
RESOLUTION OF SUPPORT
The Village at Playa Vista**

Whereas, the Playa Vista project is located within the boundaries of the Westchester Playa Neighborhood Council; and

Whereas, the Westchester Playa Neighborhood Council in 2004 concluded that The Village at Playa Vista project (the "Village") should be approved due to its many benefits to our community, including new parks and habitat, transportation improvements, retail opportunities and new homes to improve the jobs/housing imbalance on the Westside; and

Whereas, the Westchester Playa Neighborhood Council therefore endorsed the Village when it was going through the city approval process in 2004 (see attached resolution) **[Note to Team: Attachment not provided by City as of this date. Matrix is coordinating with City to obtain the Attachment.];** and

Whereas the Los Angeles City Council voted overwhelmingly to support the Village in 2004; and

Whereas the Los Angeles Superior Court ruled on two California Environmental Quality Act lawsuits and upheld the City Council's approval of the Village in 2006; and

Whereas the Court of Appeals, in 2007, required further analysis of three issues (land use, wastewater and archaeological resources) in the Village Environmental Impact Report and ruled that the balance of the Village Environmental Impact Report (including traffic and methane analyses) complied with the California Environmental Quality Act; and

Whereas the City of Los Angeles has conducted further analysis of the three issues required by the Court of Appeals and released "Recirculated Sections of the Draft Environmental Impact Report" for the Village for public comment; and

Whereas the land use analysis has been revised to indicate that the Village is an "upzoning" with regard to the levels of development permitted under the existing Specific Plan and zoning, and concludes that with the proposed zone changes and plan amendments, the Village would be consistent with all applicable policies and plans, and would be compatible with surrounding land uses; and

Whereas the wastewater analysis has been revised and concludes that current information confirms that adequate treatment capacity will be available at Hyperion to handle wastewater flows from the Village, as well as other future flows through at least 2020, and that the additional wastewater generated by the Village, along with other future projected sources, would not have a cumulative impact on water quality in Santa Monica Bay; and

Whereas the archaeological resources analysis has been revised to discuss preservation in place, including possible options to relocate the riparian corridor, and concludes that impacts to archaeological resources would still occur under any such relocation, and that any such relocation would result in additional adverse impacts on water quality, habitat and wildlife; and

Whereas the City of Los Angeles will soon consider whether to recertify the Environmental Impact Report for the Village and reapprove land use entitlements and related approvals for Village; and

NOW THEREFORE BE IT RESOLVED:

That the Westchester Playa Neighborhood Council strongly reiterates its 2004 support for the Village at Playa Vista and urges the City of Los Angeles to recertify the Environmental Impact Report for the Village at Playa Vista (including the Recirculated Sections thereof) and to reapprove the land use entitlements and related approvals for The Village at Playa Vista

Adopted this 3rd day of March, 2009.

RESPONSE NO. 8-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 9

Scott Morgan, Senior Planner
State of California
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit
1400 10th Street
P.O. Box 3044
Sacramento, California 95812-3044

COMMENT NO. 9-1

The Lead Agency has revised some information regarding the above-mentioned project. Please see the attached materials for more specific information. The review period has been extended to end on April 30, 2009. All other project information remains the same.

ATTACHMENT B

PROJECT DESCRIPTION:

The Village at Playa Vista consists of the following two components: (1) a mixed-use community ("the Urban Development Component"); and (2) a Riparian Corridor and restoration and maintenance of a portion of the Westchester Bluffs adjacent to the Riparian Corridor (the "Habitat Creation/Restoration Component").

The Urban Development Component, the primary component of the Project, would enable the development of a master planned community composed of residential, commercial, recreational, and community-serving uses. This development would occur on an approximately 99.3-acre site consisting of 87.5 acres of development, 11.4 acres of parks, and 0.4 acre of other passive open space. The proposed development includes 2,600 dwelling units, 175,000 square feet (sq.ft.) of office space, 150,000 sq.ft. of retail space, and 40,000 sq.ft. of community-serving uses. The Urban Development Component also would provide a comprehensive program of parks and open space areas that would contribute to the aesthetic character of the area and complement the land use program described above. An Equivalency Program is proposed to allow a limited exchange of office uses for retail and/or assisted living uses in order to meet future needs, within the framework of a balanced Project consistent with the Project's mixed-use concept. Under the proposed Equivalency Program, a maximum of 125,000 sq.ft. of office development may be exchanged for up to 56,832 sq.ft. of retail uses or up to 200 assisted living units, or a combination thereof (e.g., an increase of both retail and assisted living development).

Land uses may be exchanged based on specific equivalency factors and subject to the limits set forth above.

The Habitat Creation/Restoration Component includes a total of 11.7 acres, of which the Riparian Corridor involves approximately 6.7 acres, with the restoration of the adjoining portion of the Westchester Bluffs occurring over the remaining 5 acres. The construction of the Riparian Corridor would complete a 25-acre riparian corridor that also includes sections east and west of the Riparian Corridor, ultimately feeding into the Playa Vista First Phase Freshwater Marsh.

RS-DEIR SECTIONS AND SIGNIFICANT EFFECTS:

In accordance with the California Court of Appeal's opinion and the Superior Court's writ of mandate, the City has prepared and circulated this RS-DEIR pursuant to CEQA Guidelines section 15088.5, subdivision (c) and (g). As CEQA Guidelines section 15088.5, subdivision(f)(2) permits, the City requests that reviewers limit the scope of their comments to that material which is within the text of the revised sections and the appendices included in the RS-DEIR. This RS-DEIR contains the following revised and updated sections to be recirculated for public comment:

- (1) This Executive Summary for the RS-DEIR, which includes a revised Introduction and summary of the Proposed Project's potential impacts on land use, archaeological resources, and wastewater, including cumulative impacts to the Santa Monica Bay. This Executive Summary replaces and supersedes Sections I.A and I. G-9, 23 and 27 of the Original DEIR.
- (2) Revised analysis of land use impacts, which supersedes and replaces in full Section IV.G, Land Use, of the Original DEIR.
- (3) Revised archaeology section that discusses the preservation in place of Native American resources in accordance with Guidelines section 15126.4, subdivisions (a)(1)(B) and (b)(3), which supersedes and replaces in full Section IV.P.2, Cultural Resources, of the Original DEIR.
- (4) Revised wastewater section that identifies the intended and likely measures to dispose of the Proposed Project's wastewater and analyzes the environmental impacts of employing those measures to dispose of the wastewater generated by the Proposed Project, including any cumulative impacts to the Santa Monica Bay, which section supersedes and replaces in full Section IV.N.2, Wastewater, of the Original DEIR.

In addition to the above sections required to address deficiencies in the Original FEIR, this RS-DEIR contains an analysis of the Proposed Project's impacts regarding global climate change. While neither the appellate opinion nor the writ of mandate directed the City to include such an analysis, California has adopted new legislation since the certification of the Original FEIR that requires State agencies to implement regulations designed to address climate change by, among other things, reducing the amount of greenhouses gases emitted. In addition, the research and public interest regarding this subject matter

has advanced to the point where many lead agencies are now including analyses of the topic in CEQA documents. Therefore, even though not required by the Court of Appeal's decision and case law concerning the effect of that decision, the City has analyzed global climate change in this RS-DEIR for the Proposed Project given the recent State legislation and regulations concerning climate change and the absence of any analysis of climate change in the Original FEIR. The discussion of global climate change may be found in Section II.D. of this RS-DEIR. All of the potential impacts with regard to the four issues analyzed in this RS-DEIR are concluded to be less than significant, except that the projects contribution to cumulative archeological resources impacts is concluded to be significant and cumulatively considerable.

RESPONSE NO. 9-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 10

Terry Roberts, Director
State of California
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit
1400 10th Street
P.O. Box 3044
Sacramento, California 95812-3044

COMMENT NO. 10-1

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. The review period closed on April 30, 2009, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

RESPONSE NO. 10-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

COMMENT NO. 10-2

Attachments to Comment Letter No. 10.

RESPONSE NO. 10-2

Please note that this comment letter included attachments. The full letter and associated attachments can be located at Appendix F of this Final RS-EIR.

LETTER NO. 11

Terry Roberts, Director
State of California
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit
1400 10th Street
P.O. Box 3044
Sacramento, California 95812-3044

COMMENT NO. 11-1

The enclosed comment(s) on your Draft EIR was (were) received by the State Clearinghouse after the end of the state review period, which closed on April 30, 2009. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2002111065) when contacting this office.

RESPONSE NO. 11-1

The attached letter from the Native American Heritage Commission was also sent directly to the City, and is responded to in this Final RS-EIR. Please see Comment Letter No. 12.

LETTER NO. 12

Dave Singleton
Program Analyst
Native American Heritage Commission
915 Capitol Mall, Room 364
Sacramento, California 95814

COMMENT NO. 12-1

The Native American Heritage Commission (NAHC) is the state 'trustee agency' pursuant to Public Resources Code §21070 designated to protect California's Native American Cultural Resources. The NAHC is also a 'reviewing agency' for both federal and state environmental documents circulated for review under both federal and state statutes and environmental regulations. The California Environmental Quality Act (CEQA) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c)(f) CEQA guidelines). Section 15382 of the 2007 CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ...objects of historic or aesthetic significance." In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following action:

RESPONSE NO. 12-1

The comment provides background information on CEQA's regulatory regime for archaeological resources. A detailed discussion of the legal regulatory framework for analyzing impacts to archaeological resources is provided in RS-DEIR Section II.C.2.1. The NAHC's role in the CEQA process is acknowledged.

COMMENT NO. 12-2

√ Contact the appropriate California Historic Resources Information Center (CHRIS) for possible 'recorded sites' in locations where the development will or might occur.. Contact information for the Information Center nearest you, the South State Central Coastal Information Center (Contact Ms. Stacy St. James at 714-278-5395). The record search will determine:

- If a part or the entire APE has been previously surveyed for cultural resources.
- If any known cultural resources have already been recorded in or adjacent to the APE.
- If the probability is low, moderate, or high that cultural resources are located in the APE.

- If a survey is required to determine whether previously unrecorded cultural resources are present.
- √ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
- The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
- The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological Information Center.

RESPONSE NO. 12-2

The NAHC's comment contains general guidance for ascertaining whether or not a proposed project may encounter Native American archaeological resources. In the case of the Proposed Project, the existence of archaeological resources at the Playa Vista site has long been known. The Proposed Project is located in the Playa Vista Archaeological and Historic Project area, which is the subject of a comprehensive archaeological planning regime. As part of that planning process, in addition to historic information record searches (including searches at the California Historic Resources Information Center noted by the commentor, among others) the entire Playa Vista site was surveyed and inventoried for archaeological resources, with the results described in Chapter 6 of the Playa Vista Archaeological and Historical Project Research Design, which is attached to the RS-DEIR at Technical Appendix D.x. Part of that planning process also included the adoption of a Programmatic Agreement regarding the Implementation of the Playa Vista Project. The Programmatic Agreement is attached to the RS-DEIR at Technical Appendix D.vi. In accordance with the Programmatic Agreement, Archaeological Treatment Plans (ATPs) have been developed for both of the two known archaeological sites in the Proposed Project area that are eligible for listing in the National Register. The ATP for the first area, CA-LAN-62, Locus D, is the "Data Recovery Plan for CA-LAN-62 and CA-LAN-211," and the ATP for the second area, CA-LAN-211/H is included in "At the Base of the Bluffs." These documents are attached as Technical Appendix D.ix. and Technical Appendix D.viii, pages 272-79 to the RS-DEIR, respectively.

The commentor also raises concerns about the confidentiality of information regarding Native American human remains discovered at the Proposed Project site. Historically the City has refrained from publicly disclosing information concerning specific archaeological site locations and Native American human remains and associated funerary objects and has kept archaeological monitoring reports and similar materials concerning such matters in separate volumes that are not publicly disseminated. However, in order to

address preservation in place as required by the Court of Appeal's ruling in the consolidated cases of *City of Santa Monica v. City of Los Angeles* and *Ballona Ecosystem Education Project v. City of Los Angeles* and to provide the opportunity for meaningful public participation under CEQA, some information about site locations and Native American human remains is included in the RS-DEIR.

Data recovery for the areas of the Proposed Project that contain known archaeological resources has been completed, and the balance of these areas is expected to remain undisturbed if the Proposed Project is built out as proposed in the RS-DEIR and the Riparian Corridor is not relocated. Final analysis of the results of data recovery and report preparation is currently in process. Preliminary reports on archaeological resources recovered at the Playa Vista site, including at the Proposed Project area, have been submitted to the appropriate regional information center. The reports submitted include the *Preliminary Report on Data Recovery within the Phase 2 Project Area at CA-LAN-62, Locus D, and CA-LAN-211/H*,⁴² and *At the Base of the Bluff*,⁴³ both of which are particularly relevant to the Proposed Project and are attached in the RS-DEIR at Technical Appendix D.ii. and Technical Appendix D.viii, respectively, as well as the *Preliminary Report on Data Recovery within the Phase 1 Project Area at CA-LAN-62, Playa Vista, California*.⁴⁴ The final report, which will discuss archaeological resources found at the entire Playa Vista site (including areas outside of the Proposed Project's location), will be submitted to the California Historical Resources Information Center when completed.

COMMENT NO. 12-3

√ The Native American Heritage Commission (NAHC) performed.

* A Sacred Lands File (SLF) search of the project 'area of potential effect (APE)'; The results: Known Native American Cultural Resources were identified within one-half mile of the 'area of potential effect' (APE): The NAHC SLF is not exhaustive and local tribal contacts should be consulted from the attached list and there are Native American cultural resources in close proximity..

⁴² Van Galder, Sarah J., Benjamin R. Vargas, Jeffrey H. Altschul, John G. Douglass, Richard Ciolek-Torrello, and Donn R. Grenda, *Preliminary Report on Data Recovery within the Phase 2 Project Area at CA-LAN-62, Locus D, and CA-LAN-211/H, Playa Vista, California, September 2006.*

⁴³ RS-DEIR Appendix D.viii, Altschul, Jeffrey, H., et al., *Playa Vista Archaeological and Historical Project, At the Base of the Bluff, Archaeological Inventory and Evaluation along Lower Centinela Creek, Marina del Rey, California. Statistical Research, Inc. Tucson, AZ, Redlands, CA, April 2003.*

⁴⁴ Vargas, Benjamin R., Jeffrey H. Altschul, John G. Douglass, Richard Ciolek-Torrello, Donn R. Grenda, Robert M. Wegener, and William L. Deaver, *Preliminary Report on Data Recovery within the Phase 1 Project Area at CA-LAN-62, Playa Vista, California. Playa Vista Archaeological and Historical Project, Technical Report 12, Statistical Research, Redlands, California, and Tucson, Arizona, 2005.*

RESPONSE NO. 12-3

The commentor's reference to an area one-half mile away from the Proposed Project's area appears to relate to the Playa Vista First Phase Project site, approximately one-half mile west of the Proposed Project area where a Native American burial area was found. That burial area was approximately one-half mile west of the Proposed Project, and did not extend into the Proposed Project site. The archaeological deposits found at the Proposed Project's site do not contain a formal burial area; rather, three scattered human burial features and some isolated human remains (which may be related to the burials) were found at CA-LAN-211/H in the Proposed Project area.

With respect to local tribal contacts, the City has sent a Notice of Completion and Availability of the RS-DEIR to all of the tribal contacts listed on the NAHC's attachment. In addition, the City, the Applicant and other public agencies have consulted with various Native American tribal groups throughout development of archaeological plans and implementation of excavation and reinterment activities at Playa Vista. For more information on the history of Native American consultation concerning Playa Vista, refer to Response No. 89-6.

COMMENT NO. 12-4

- The NAHC advises the use of Native American Monitors, also, when professional archaeologists or the equivalent are employed by project proponents, in order to ensure proper identification and care given cultural resources that may be discovered. This is particularly true for this, proposed project, because of the *plethora of Native American human remains and archaeological features discovered during Phase I of the Playa Vista Project*.

RESPONSE NO. 12-4

Mitigation Measures proposed in the RS-DEIR include the following:

"Prior to issuance of grading/excavation or building permits, a professional archeologist shall be retained that meets the Secretary of Interior's guidelines and is listed in the Register of Professional Archaeologists to implement the Research design and comply with the Programmatic Agreement."

"In addition to a qualified archaeologist, a representative of the Gabrielino Indians shall be retained to monitor subsurface archaeological excavation. Prior to issuance of grading or building permits, evidence shall be provided for placement in the subject file with the City Planning Department that a Native American monitor has been retained."⁴⁵

⁴⁵ RS-DEIR, pp. II.C-61–II.C-63; see also Revised MMRP attached in Section V to this Final RS-EIR.

As explained in the RS-DEIR, the Proposed Project's professional archaeologists, Statistical Research Inc., undertook data recovery work in the Proposed Project site consistent with the Programmatic Agreement and the relevant Archaeological Treatment Plans in the fall of 2005. Native Americans monitored this work. For additional information on the Native American monitoring program, refer to Response No. 37-4.

The archaeological resources found in the Proposed Project area are far less numerous than those found in the First Phase Project site. The deposit at CA-LAN-62 Locus D was very sparse, and consisted of three features – one refuse pit and two areas of artifact concentration. No human burial features or instances of isolated human remains were found at CA-LAN-62 Locus D. The archaeological deposit at CA-LAN-211/H contained three human burial features, along with some isolated human remains (which may be related to the burials). The burial features and human remains found at CA-LAN-211/H were scattered (unlike the burials found in the far western portion of the First Phase Project site, which were concentrated in a relatively compact burial area). The overwhelming majority of archaeological features found at CA-LAN-211/H (47 of 50 total features) were non-burial features, containing hearths, fire affected rock, and artifacts such as shell, animal bone and stone tools. Portions of CA-LAN-62 Locus D and CA-LAN-211/H were left intact after the data recovery and Riparian Corridor construction in the Proposed Project area, and are expected to remain undisturbed if the Proposed Project is built out as proposed in the RS-DEIR, and the Riparian Corridor is not relocated.

COMMENT NO. 12-5

The NAHC, FURTHER, recommends that contact be made with Native American Contacts on the attached list to get their input on potential IMPACT of the project (APE) on cultural resources.. In some cases, the existence of a Native American cultural resources may be known only to a local tribe(s) or Native American individuals or elders.

RESPONSE NO. 12-5

The City has sent a Notice of Completion and Availability of the RS-DEIR to all of the tribal contacts listed on the NAHC's attachment. Refer also to Response No. 12-3.

COMMENT NO. 12-6

- √ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
- Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5 (f). In areas of identified archeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.

- Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
- Again, a culturally-affiliated Native American tribe may be the only source of information about a Sacred Site/Native American cultural resource.

RESPONSE NO. 12-6

The RS-DEIR acknowledges that due to the historic activity on the Playa Vista property, including various episodes of construction and fill, the surface visibility of archaeological resources has been hampered. Site research and testing have occurred at the entire Playa Vista site, including in the Proposed Project area, since 1991 pursuant to the Programmatic Agreement and the Research Design. The mitigation measures for the Proposed Project include provisions for encountering and handling previously unknown resources. Specifically, the mitigation measures include: “In the event that previously unknown archaeological and historical resources are discovered during construction, grading/excavation /construction shall temporarily be halted. The Corps and the State Historic Preservation Officer shall be immediately notified to provide these agencies with the opportunity to assess the resources and offer recommendations for treatment required by the Programmatic Agreement.”⁴⁶ In addition to requiring the retention of a professional archeologist the mitigation measures proposed in the RS-DEIR also provide: “In addition to a qualified archaeologist, a representative of the Gabrielino Indians shall be retained to monitor subsurface archaeological excavations. Prior to the issuance of grading or building permits, evidence shall be provided for placement in the subject file with the City Planning Department that a Native American monitor has been retained.”⁴⁷

With respect to the disposition of archaeological resources at known Archaeological Sites, found at the Proposed Project, the mitigation measures require that the operative Archaeological Treatment Plans (ATPs) be followed. The ATPs developed for the known archaeological sites require that if Native American human remains are encountered, ground-disturbing activity in the immediate area will cease, and the County Coroner, the NAHC, and the Most Likely Descendant (MLD) will be notified. Human remains will be handled in accordance with California Health and Safety Code Section 7050.5 and Public Resources Code Section 5097.98. Under the Public Resources Code, the Native American MLD can make recommendations for the treatment and disposition of the human remains. The MLD, Mr. Robert Dorame, has provided a series of guidelines for handling human remains, which are attached to the RS-DEIR at Technical Appendices D.xi, D.xii, and Final RS-EIR Technical Appendix B.i, and has expressed his desire that Native American human remains found at the Proposed Project be reinterred at the Ballona

⁴⁶ RS-DEIR, pp. II.C-62–C.II-63.

⁴⁷ RS-DEIR, p. II.C-62.

Discovery Center with the remains from the First Phase Project that have already been reinterred. For more information concerning reinterment of the human remains found at the Proposed Project site, refer to Response No. 29-5 and Response No. 37-3. With respect to the artifacts found at the Proposed Project that are not human remains or associated grave goods, the mitigation measures proposed in the RS-DEIR and the Programmatic Agreement provide that those items are to be curated at a facility meeting federal standards in accordance with 36 Code of Federal Regulations Part 79. The Fowler Museum at UCLA is the curation facility for the Playa Vista project.

COMMENT NO. 12-7

√ Lead agencies should include provisions for discovery of Native American human remains or unmarked cemeteries in their mitigation plans.

- CEQA Guidelines, section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens.

RESPONSE NO. 12-7

The mitigation measures proposed in the RS-DEIR provide that Archeological Treatment Plans be developed and implemented for the treatment of archaeological resources discovered at the Proposed Project site. The ATPs developed for the known archaeological sites provide for notification of the Native American MLD and the respectful handling of any Native American human remains. The MLD has provided a series of guidelines for handling human remains, which are attached to the RS-DEIR at Technical Appendices D.xi, D.xii, and Final RS-EIR Technical Appendix B.i. The mitigation measures proposed in the RS-DEIR also address procedures to be followed if previously unknown archaeological resources are encountered, including halting construction, assessment of resources and recommendation for treatment. Refer to Response No. 12-6 and Response No. 29-9 for more information.

COMMENT NO. 12-8

FURTHERMORE, we assume this project, *The Village at Playa Vista*, will also require a permit, as required for Phase I of the Playa Vista Project, from the Department of the Army, Corps of Engineers -Los Angeles District, and possibly a Programmatic Agreement of which the City of Los Angeles will be a signatory. The NAHC is also a 'reviewing agency' for environmental documents prepared under the National Environmental Policy Act (NEPA; 42 U.S.C 4321 *et seq*); Parts 1500 to 1508, USACE Regulations for Implementing

NEPA, 33 CFR Part 220; and that are subject to the Tribal and interested Native American consultation requirements of the National Historic Preservation Act, as amended (Section 106) (16 U.S.C. 470).

The provision of the Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. 3001-3013) apply to this project if Native American human remains are inadvertently discovered during 'ground-breaking' activity. The NAHC is of the opinion that the federal standards, pursuant to the above-referenced Acts of the U.S. Congress and the President's Council on Environmental Quality (CSQ; 42 U.S.C. 4371 et seq) are similar to and in many cases more stringent with regard to the 'significance' of historic, including Native American items, and archaeological features, including those of Native American origin, than are the provisions of the California Environmental Quality Act (CEQA.) of 1970, as amended. Therefore, the NAHC urges the City of Los Angeles to support and coordinate the federal tribal consultation and Native American cultural resource requirements with those provided for in state statutes and regulations also found in a *Programmatic Agreement* or memorandum of understanding (MOU).

RESPONSE NO. 12-8

The Clean Water Act Section 404 permit issued by the Army Corps of Engineers in 1992 and the Programmatic Agreement entered into in 1991 regarding the Playa Vista project apply to the entire Playa Vista project, including the Proposed Project, and not merely to the First Phase Project. In 2001, the parties to the Programmatic Agreement, which are the U.S. Army Corps of Engineers, the California State Historic Preservation Officer, and the Advisory Council on Historic Preservation, extended the Programmatic Agreement until October 22, 2011. In a February 2006 letter to Gordon Hamilton of the City's Planning Department, attached as Technical Appendix B.ii to this Final RS-EIR, the Army Corps stated that the ATPs for the Proposed Project site were being implemented satisfactorily. The Army Corps received notice of the completion and availability of the RS-DEIR and did not submit a comment. Finally, the Programmatic Agreement's extension was raised by petitioners in the *City of Santa Monica, et al. v. City of Los Angeles, et al.* case, and the City's recognition of the Programmatic Agreement extension was upheld in that litigation.⁴⁸

The commentor also refers to the National Environmental Protection Act (NEPA, 42 U.S.C. §§ 4321 et seq.). The previously issued Section 404 permit and Programmatic Agreement cover both the First Phase Project and the Proposed Project, and those federal

⁴⁸ *Superior Court Opinion, consolidated cases of City of Santa Monica v. City of Los Angeles (BS093502) and Ballona Ecosystem Education Project v. City of Los Angeles (BS093507) (January 10, 2006), p. 36.*

approvals have already been subject to NEPA.⁴⁹ Therefore, NEPA review has already been completed for the Section 404 permit and Programmatic Agreement.

With respect to the Native American Graves Protection and Repatriation Act (NAGPRA, 25 U.S.C. §§ 3001 et seq.), that statute is inapplicable to the Proposed Project since it only applies to “cultural items which are excavated or discovered on Federal or tribal land.”⁵⁰ The Proposed Project is private property, and NAGPRA does not apply when a federal permit merely enables a project on private land.⁵¹

In terms of consultation with Native American tribes, the Gabrielino-Tongva are not a federally recognized tribe. Nevertheless, Gabrielino-Tongva individuals and organizations did participate in the development of, and concurred in, the Programmatic Agreement and have participated as monitors at Playa Vista. The MLD named by the NAHC, Mr. Dorame, has provided guidelines and recommendations for the handling and reinterment of Native American human remains. For more information on the history of Native American consultations concerning Playa Vista, refer to Response No. 89-6. As noted in the RS-DEIR, while not a signatory to the Programmatic Agreement, the City of Los Angeles also participated in the consultations that led up to the adoption of the above-referenced federal approvals.

COMMENT NO. 12-9

√ Health and Safety Code §7050.5. Public Resources Code §5097.98 and Sec. §15064.5 (d) of the California Code of Regulations (CEQA Guidelines) mandate procedures to be followed, including that construction or excavation be stopped in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery until the county coroner or medical examiner can determine whether the remains are those of a Native American. Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony.

RESPONSE NO. 12-9

The Native American human remains found at the Proposed Project site have been found in locations that are not a dedicated cemetery. Under California state law, a burial ground is a “cemetery” under California law only if it was used to bury “six or more bodies” after 1872.⁵² The Proposed Project site did not include six or more bodies, and the human

⁴⁹ See *Wetlands Action Network v. U.S. Army Corps of Engineers*, 222 F.3d 1105, 1122 (9th Cir. 2000).

⁵⁰ 25 U.S.C. Sections 3002(a), 3001(5), 3001(15) (Native American Graves and Reparations Act).

⁵¹ See *Castro Romero v. Becken*, 256 F.3d 349, 354 (5th Cir. 2001); *Abenaki Nation of Mississquoi v. Hughes*, 805 F.Supp.234 (D. Vt. 1992).

⁵² *Wana the Bear v. Community Construction Inc.* (1982) 128 Cal.App.3d 536.

remains found at the Proposed Project substantially pre-date 1872.⁵³ For more detail on the handling of human remains found at the Proposed Project site and the potential discovery of additional Native American human remains in the future, refer to Response Nos. 12-6,12-7, and 29-13.

COMMENT NO. 12-10

√ Finally, Lead agencies should consider avoidance, as defined in § 15370 of the California Code of Regulations (CEQA Guidelines), when significant cultural resources are discovered during the course of project planning and implementation.

Please feel free to contact me at (916) 653-6251 if you have any questions.

RESPONSE NO. 12-10

RS-DEIR Section II.C. discusses “preservation in place” of archaeological resources in detail and examines four design options in detail (and six design options total) for relocating the Riparian Corridor in the Proposed Project area and restoring the archaeological resources which were removed during construction of the Riparian Corridor to their original location. That analysis includes a discussion of the potential impacts of the four options. Additional information on this issue is provided in Response Nos. 29-5 through 29-12. With respect to avoidance and future development of the Proposed Project (if it is approved by the City) please refer to Response No. 29-13.

COMMENT NO. 12-11

Attachment to Comment Letter 12.

RESPONSE NO. 12-11

See Response No. 12-5 above. The full letter and associated attachment can be located at Appendix F of this Final RS-EIR.

⁵³ *Comments Relating to Analysis of Archaeological Impacts in the Recirculated Sections of Draft Environmental Impact Report (RS-DEIR) for the Village at Playa Vista Project (Proposed Project), Statistical Research, Inc., July 16, 2009 (Appendix B.iii).*

LETTER NO. 13

Shelley Luce, D.Env.
Executive Director
Santa Monica Bay Restoration Commission
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COMMENT NO. 13-1

I would like to review this DEIR (No. ENV-2002-6129-EIR). I cannot locate it online. Can you send me a link or an e-copy? Thank you,

RESPONSE NO. 13-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. In response to this request, City Planning staff provided the commentor with instructions to access the RS-DEIR on the City Planning website and offered to send a CD copy of the document. The commentor indicated that the website instructions were sufficient.

LETTER NO. 14

Melanie Denninger
Project Specialist
State Coastal Conservancy
1330 Broadway, 13th Floor
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mdenninger@scc.ca.gov

COMMENT NO. 14-1

Please remove my name and street address from your mailing list for this project.

Incidentally, today I received 4 envelopes, each containing an identical notice for this project.

RESPONSE NO. 14-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. For a discussion on the re-noticing of the availability of the RS-DEIR for public review and comment, please see Section I.D. of this Final RS-EIR.

LETTER NO. 15

Jacob Lieb, Manager
Southern California Association of Governments
818 West Seventh Street, 12th Floor
Los Angeles, CA 90017

COMMENT NO. 15-1

Thank you for submitting the **Recirculated Sections of Draft Environmental Impact Report (RS-DEIR) (ENV-2002-6129-EIR) for The Village at Playa Vista [SCAG No. I20090020]** to the Southern California Association of Governments (SCAG) for review and comment. SCAG is the authorized regional agency for Intergovernmental Review of Programs proposed for federal financial assistance and direct development activities, pursuant to Presidential Executive Order 12372 (replacing A-95 Review). Additionally, pursuant to Public Resources Code Section 21083(d) SCAG reviews Environmental Impacts Reports of projects of regional significance for consistency with regional plans per the California Environmental Quality Act Guidelines, Sections 15125(d) and 15206(a)(1). SCAG is also the designated Regional Transportation Planning Agency and as such is responsible for both preparation of the Regional Transportation Plan (RTP) and Regional Transportation Improvement Program (RTIP) under California Government Code Section 65080 and 65082. As the clearinghouse for regionally significant projects per Executive Order 12372, SCAG reviews the consistency of local plans, projects, and programs with regional plans. This activity is based on SCAG's responsibilities as a regional planning organization pursuant to state and federal laws and regulations. Guidance provided by these reviews is intended to assist local agencies and project sponsors to take actions that contribute to the attainment of regional goals and policies.

SCAG staff has reviewed this project and determined that the proposed project is regionally significant per California Environmental Quality Act (CEQA) Guidelines, Sections 15125 and/or 15206. The proposed project, located on 111 acres, would offer 2,600 dwelling units, 175,000 square feet (sq. ft.) of office space, 150,000 sq. ft. of retail space, 40,000 sq. ft. of community-serving uses, along with an 11.7-acre Habitat Creation/Restoration Component. SCAG staff's comments will address updates to the following sections in the Recirculated Sections of the Draft Environmental Impact Report (land use impacts, archaeological resources, and wastewater impacts) as well as a new section on global climate change.

We have evaluated this project based on the policies of SCAG's Regional Transportation Plan (RTP) and Compass Growth Vision (CGV) that may be applicable to your project. The RTP and CGV can be found on the SCAG web site at: <http://scag.ca.gov/iqr>. The attached detailed comments are meant to provide guidance for considering the proposed project within the context of our regional goals and policies. We also encourage the use of the SCAG List of Mitigation Measures extracted from the RTP to aid with demonstrating consistency with regional plans and policies. Please provide a copy of the Final

Environmental Impact Report (FEIR) for our review. If you have any questions regarding the attached comments, please contact Bernard Lee at (213) 236-1800.

RESPONSE NO. 15-1

This comment serves as an introduction. Detailed comments and responses follow.

COMMENT NO. 15-2

COMMENTS ON THE RECIRCULATED SECTIONS OF DRAFT ENVIRONMENTAL IMPACT REPORT NO. ENV-2002-6129-EIR - THE VILLAGE AT PLAYA VISTA [SCAG NO. I20090020]

PROJECT LOCATION

The proposed project is within the larger Playa Vista development and is located in the City of Los Angeles, approximately two miles east of Santa Monica Bay. It is generally bounded by the adjacent Playa Vista First Phase Project to the east and west, Jefferson Boulevard to the north, and the Westchester Bluffs to the south.

PROJECT DESCRIPTION

The proposed project which is located on 111 acres, consists of two components - an Urban Development Component and a Habitat Creation/Restoration Component. At buildout, the Urban Development component would offer 2,600 dwelling units, 175,000 square feet of office space, 150,000 square feet of retail space, and 40,000 square feet of community-serving uses. The proposed project would include an Equivalency Program to allow a limited exchange of office uses for retail uses and/or assisted living uses. In addition, the Urban Development Component would include 11.4 acres of on-site parks and an acre of on-site bicycle lanes. The Habitat Creation/Restoration Component includes a 6.7-acre Riparian Corridor (which would connect the riparian corridor built as part of the Playa Vista First Phase development) and restoration of native vegetation on a 5.0-acre area of the adjacent Westchester Bluffs.

The proposed project site is currently vacant. The Playa Vista First Phase Project located east of the proposed project site is being developed with office and commercial uses, while the area west of the proposed project site contains predominantly residential uses with some mixed-use development.

The following summarizes discretionary actions and permits being sought by the project:

- Amendment of the General Plan to amend the Westchester/Playa del Rey Community Plan
- Amendments to the Playa Vista Area D Specific Plan
- Approval of a Tract Map for the Village at Playa Vista by the City

- In conjunction with approval of the Village Tract Map, adoption of Conditions of Approval
- Re-subdivision of Lot 113 of VTTM 49104 within the Village Tract Map
- Approval of a Development Agreement with the City
- Approval of Conditional Use Permits (CUPs) for alcohol sales, community-serving uses, and other uses that require CUPs
- Approval by the City of grading, building, and other permits
- Plot plan/site plan approvals by the City
- Approval of a NPDES construction permit for development in the proposed project area by RWQCB
- Other actions from local, regional, state, and federal agencies as may be required to implement the proposed project

Due to findings of legal deficiency, the RS-DEIR was created to provide updates to land use impacts, archaeological resources, and wastewater impacts. SCAG staff's comments in this letter will only address content from these updated sections, as well as content from a new section related to global climate change.

RESPONSE NO. 15-2

This comment provides background regarding the Proposed Project and SCAG's review. Detailed comments and responses follow.

COMMENT NO. 15-3

CONSISTENCY WITH REGIONAL TRANSPORTATION PLAN

Regional Growth Forecasts

The RS-DEIR states that it reflects the most current SCAG forecasts, which are the 2008 RTP (adopted May 2008) Population, Household and Employment forecasts.

The **2008 Regional Transportation Plan (RTP)** also has goals and policies that are pertinent to this proposed project. This RTP links the goal of sustaining mobility with the goals of fostering economic development, enhancing the environment, reducing energy consumption, promoting transportation-friendly development patterns, and encouraging fair and equitable access to residents affected by socioeconomic, geographic and commercial limitations. The RTP continues to support all applicable federal and state laws in implementing the proposed project. Among the relevant goals and policies of the RTP are the following:

Regional Transportation Plan Goals:

RTP G1 *Maximize mobility and accessibility for all people and goods in the region.*

RTP G2 *Ensure travel safety and reliability for all people and goods in the region.*

RTP G3 *Preserve and ensure a sustainable regional transportation system.*

- RTP G4** *Maximize the productivity of our transportation system.*
- RTP G5** *Protect the environment, improve air quality and promote energy efficiency.*
- RTP G6** *Encourage land use and growth patterns that complement our transportation investments.*
- RTP G7** *Maximize the security of our transportation system through improved system monitoring, rapid recovery planning, and coordination with other security agencies.*

SCAG Staff Comments:

Regional Transportation Plan Goals RTP G1, G2, G3, G4, G5, and G7 are not applicable. Regarding RTP G6, the proposed project meets consistency, as it attempts to utilize various modes of transportation. On page II.A-32 the RS-DEIR states that "The Proposed Project would create an integrated new mixed-use community that would generate housing (including multi-family housing), recreational activities, community-serving activities, a ratio of jobs to housing, so as to decrease dependency on the automobile, encourage pedestrian activity and alternative transportation modes, make efficient use of existing infrastructure, reduce energy consumption, and foster a sense of place/cohesion."

RESPONSE NO. 15-3

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of the decision-makers. According to guidance provided by SCAG that the operative document for planning and CEQA analysis purposes (as of the preparation of the RS-DEIR) was the 1996 Regional Comprehensive Plan and Guide (1996 RCPG), the RS-DEIR analyzed the Proposed Project's consistency with the 1996 RCPG in Section II.A. Land Use.⁵⁴ These comments provide further support for the RS-DEIR's finding of consistency with the applicable regional policies.⁵⁵

COMMENT NO. 15-4

GROWTH VISIONING

The fundamental goal of the **Compass Growth Visioning** effort is to make the SCAG region a better place to live, work and play for all residents regardless of race, ethnicity or income class. Thus, decisions regarding growth, transportation, land use, and economic development should be made to promote and sustain for future generations the region's mobility, livability and prosperity. The following "Regional Growth Principles" are proposed to provide a framework for local and regional decision making that improves the quality of

⁵⁴ See RS-DEIR, p. II.A-8, fn. 7.

⁵⁵ See RS-DEIR, pp. II.A-30–II.A-31.

life for all SCAG residents. Each principle is followed by a specific set of strategies intended to achieve this goal.

Principle 1: Improve mobility for all residents.

- GV P1.1*** *Encourage transportation investments and land use decisions that are mutually supportive.*
- GV P1.2*** *Locate new housing near existing jobs and new jobs near existing housing.*
- GV P1.3*** *Encourage transit-oriented development.*
- GV P1.4*** *Promote a variety of travel choices*

SCAG Staff Comments:

The proposed project meets consistency with Principle 1. The project meets consistency with GV P1.1 and P1.2, based on the project description on page II.A-32.

The proposed project intends to create transit-oriented development and meets consistency with GV P1.3. Per page II.A-38, "The Proposed Project would emphasize public transit and non-motorized transportation through the provision of an internal shuttle system and linkages to area wide bus systems. Also, the Proposed Project would implement a system of pedestrian walkways and bicycle paths, coupled with access to public transit. The Proposed Project use of an internal shuttle system is designed to promote the reduction of vehicle trips within the Proposed Project site and the surrounding area. The Proposed Project also would provide improved bus service through the provision of five new buses on at least two Culver City Bus Lines. The Proposed Project's off-site improvements also would support implementation of the existing and expanded public transit programs in the area."

In addition to promoting the use of transit, the proposed project would promote pedestrian/bicycle modes, and meets consistency with GV P1.4. Starting on page II.A-37, the RS-DEIR states "The Proposed Project, a mixed-use development, would place interrelated uses in proximity to one another. The various on-site activity centers would be connected via convenient and extensive pedestrian facilities, the internal shuttle system, and Class II bicycle trails."

RESPONSE NO. 15-4

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of the decision-makers. These comments provide further support for the RS-DEIR's finding of consistency with the applicable regional policies.⁵⁶

⁵⁶ See RS-DEIR, pp. II.A-30–II.A-31.

COMMENT NO. 15-5***Principle 2: Foster livability in all communities.***

GV P2.1 *Promote infill development and redevelopment to revitalize existing communities.*

GV P2.2 *Promote developments, which provide a mix of uses.*

GV P2.3 *Promote "people scaled," walkable communities.*

GV P2.4 *Support the preservation of stable, single-family neighborhoods.*

SCAG Staff Comments:

Overall, the proposed project meets consistency with Principle 2. In general, the proposed project meets consistency with GV P2.1, as its location is infill in nature. It is surrounded on the west and east by the Playa Vista First Phase, as well as development along Jefferson Boulevard. It is not a redevelopment given that the project site is currently vacant.

The proposed project meets consistency with GV P2.2. As mentioned earlier, page II.A-32 describes the mixed-use nature of the project.

With respect to GV P2.3, the proposed project would create a walkable community. On page II.A-38, the RS-DEIR states "With regard to the pedestrian paths more specifically, in addition to a well-defined sidewalk network along all residential local, collector, and arterial streets within the Proposed Project site, pedestrian paths would be provided at appropriate locations to connect with crosswalks at intersections and other key destinations within the Proposed Project site. A pedestrian path would also be provided along the south side of Bluff Creek Drive within the Proposed Project site and the adjacent Playa Vista First Phase Project from Lincoln Boulevard on the west to Centinela Avenue on the east. In addition, the Proposed Project's Village Center is envisioned as an area defined by mixed-use development centered on a public plaza which would provide pedestrian amenities that encourage pedestrian travel.

The proposed project meets consistency with GV P2.4, as it would support the preservation of single-family neighborhoods. As described on pages II.A-33 and II.A-34, the proposed project would not alter existing single-family neighborhoods and would be buffered from the residential area to the south by the Westchester Bluffs and from the residential area to the north by Jefferson Boulevard.

RESPONSE NO. 15-5

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of the decision-makers. These comments provide further support for the RS-DEIR's finding of consistency with the applicable regional policies.⁵⁷

⁵⁷ See RS-DEIR, pp. II.A-30–II.A-31.

COMMENT NO. 15-6***Principle 3: Enable prosperity for all people.***

- GV P3.1** *Provide, in each community, a variety of housing types to meet the housing needs of all income levels.*
- GV P3.2** *Support educational opportunities that promote balanced growth.*
- GV P3.3** *Ensure environmental justice regardless of race, ethnicity or income class.*
- GV P3.4** *Support local and state fiscal policies that encourage balanced growth*
- GV P3.5** *Encourage civic engagement.*

SCAG Staff Comments:

The proposed project partially meets consistency with Principle 3. GV P3.2, P3.3, and P3.5 are not applicable.

The proposed project intends to offer a range of housing types to meet the needs of all income levels. Pages II.A-34 and II.A-35 describe the proposed non market-rate housing program in the project. Therefore the proposed project does meet consistency with GV P3.1.

With respect to GV P3.4, the project meets consistency as it does attempt to provide commercial and industrial growth opportunities that provide employment opportunities and maintain the City's fiscal viability. Page II.A-36 indicates that the proposed project "would provide a long-term revenue stream to the City, contributing to the City's long-term economic viability and stability. The Proposed Project's commercial development, integrated into the mixed-use development, is designed to meet the needs of the Proposed Project as well as the adjoining Playa Vista First Phase Project."

RESPONSE NO. 15-6

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of the decision-makers. These comments provide further support for the RS-DEIR's finding of consistency with the applicable regional policies.⁵⁸

COMMENT NO. 15-7***Principle 4: Promote sustainability for future generations.***

- GV P4.1** *Preserve rural, agricultural, recreational, and environmentally sensitive areas*
- GV P4.2** *Focus development in urban centers and existing cities.*
- GV P4.3** *Develop strategies to accommodate growth that uses resources efficiency, eliminate pollution and significantly reduce waste.*
- GV P4.4** *Utilize "green" development techniques*

⁵⁸ See RS-DEIR, pp. II.A-30–II.A-31.

SCAG Staff Comments:

The proposed project partially meets consistency with Principle 4. SCAG staff cannot determine consistency with GV P4.1, since the project is located in an environmentally sensitive area. Page II.A-4 describes how most of the original project site is now open space/recreation and that the applicant must maintain a freshwater marsh.

With respect to GV P4.2, the proposed project meets consistency as it is within the City of Los Angeles and adjacent to urbanized areas, as described in the Surrounding Areas subsection on page II.A-20.

The proposed project meets consistency with GV P4.3 since it proposes to utilize resources efficiently, and reduce pollution and waste. Table II.D-8 (Project Consistency with 2006 CAT Report Greenhouse Gas Emission Reduction Strategies), which starts on page II.D-35, outlines some of the measures the proposed project intends to take to meet this principle. Some of the measures include increased recycling programs (which have been successful at the Playa Vista First Phase), water-saving fixtures, energy-efficient appliances, and reduced vehicle travel due to accessibility of uses and availability of alternate modes.

With respect to GV P4.4, the proposed project meets consistency, as it intends to utilize "green" development techniques, which is outlined on page II.D-41. This would include planting 800 trees as a means of providing carbon storage and supporting buildings constructed in attaining LEED certification.

RESPONSE NO. 15-7

The comment is noted as to GV P4.2, GV P4.3, and GV P4.4. According to guidance provided by SCAG, the RS-DEIR analyzed the Proposed Project's consistency with the 1996 RCPG in Section II.A. Land Use.⁵⁹ These comments provide further support for the RS-DEIR's finding of consistency with the applicable regional policies.⁶⁰

With respect to GV P4.1, the commentor states that the original project site is now open space/recreation and that the applicant must maintain a freshwater marsh," citing the RS-DEIR, p. II.A-4. First, the Proposed Project site is a former industrial area which included portions of the Hughes Aircraft Company facilities. Further, the site has not been maintained as open space/recreation and is not designated as open space/recreation on any federal, state, or local plans. Finally, the Freshwater Marsh is not part of the Proposed Project site; however, the Proposed Project will contribute to its continued maintenance. In addition, please note that Playa Vista Areas A, B, and C, which are referenced by the commentor on

⁵⁹ See RS-DEIR, p. II.A-8, fn. 7.

⁶⁰ See RS-DEIR, pp. II.A-30–II.A-31.

RS-DEIR page II.A-4 have been acquired by the State of California and are not part of the Proposed Project.⁶¹ As such, the Proposed Project is consistent with GV P4.1.

COMMENT NO. 15-8

CONCLUSION

On the whole, where Goals and Principles are applicable to the content in the RS-DEIR, the proposed project generally meets consistency with SCAG Regional Transportation Plan Goals and Growth Visioning Principles.

All feasible measures needed to mitigate any potentially negative regional impacts associated with the proposed project should be implemented and monitored, as required by CEQA. Refer to the SCAG List of Mitigation Measures for additional guidance, which may be found here: http://www.scag.ca.gov/igr/documents/SCAG_IGRMMRP_2008.pdf

When a project is of statewide, regional, or areawide significance, transportation information generated by a required monitoring or reporting program shall be submitted to SCAG as such information becomes reasonably available, In accordance with CEQA, Public Resource Code Section 21018.7, and CEQA Guidelines Section 15097 (g).

RESPONSE NO. 15-8

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of the decision-makers. A detailed Mitigation Monitoring and Reporting Program related to the four RS-DEIR sections (known as the Revised MMRP) is attached to this Final RS-EIR. Additionally, the Complete MMRP will include all the mitigation measures applicable to all the sections analyzed in the Complete FEIR.

⁶¹ See RS-DEIR, pp. II.A-19, II.C-32.

LETTER NO. 16

Delaine W. Shane
Manager, Environmental Planning Team
Metropolitan Water District of Southern California
700 N. Alameda Street
Los Angeles, California 90012

COMMENT NO. 16-1

Change of Contact for Public Notices Relating to
CEQA Documents and Environmental Regulatory Permit Application

Effective immediately, please direct all Public Notices and CEQA documents addressed to The Metropolitan Water District of Southern California to:

Ms. Rebecca De Leon
Environmental Planning Team
Metropolitan Water District of Southern California
700 N. Alameda Street, US3-230
Los Angeles, CA 90012

If you have any questions, please call me at (213) 217-6217. Thank you for your cooperation.

RESPONSE NO. 16-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. For a discussion on the re-noticing of the availability of the RS-DEIR for public review and comment, please see Section I.D. of this Final RS-EIR.

LETTER NO. 17

Delaine W. Shane
Manager, Environmental Planning Team
Metropolitan Water Districts of Southern California
700 N. Alameda Street
Los Angeles, California 90012

COMMENT NO. 17-1

Notice of Preparation of a
Draft Environmental Impact Report for the Village at Playa Vista Project

Thank you for submitting the Village at Playa Vista Project for review and comment. The Metropolitan Water District of Southern California (Metropolitan) is comprised of 26 cities and water agencies charged with providing a reliable supply of high quality drinking water to 18 million people in six counties in Southern California. Metropolitan reviews the consistency of local plans, projects, and programs for effects to Metropolitan's projects, programs, activities, and planning efforts. Information provided by these reviews is intended to encourage local agencies and project sponsors to take actions that aid and sustain Metropolitan's water policies and programs, including conservation, recycling, and reclamation.

We reviewed the notice environmental document and determined the proposed Project is not regionally significant to Metropolitan. Metropolitan does not own or operate any facilities or maintain real estate entitlements within the footprint of the proposed Project; however, we are concerned with water conservation and encourage projects to include water conservation measures. Metropolitan supports mitigation measures such as using water efficient fixtures, drought-tolerant landscaping, and reclaimed water to offset any increase in water use associated with the proposed project.

Should there be a change in the scope of the Project, we would appreciate the opportunity to review and comment at that time. If we can be of further assistance, please contact Mrs. Rebecca De Leon at (213) 217-6337.

RESPONSE NO. 17-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. For a discussion of the water conservation measures incorporated into the Proposed Project, please see Response No. 29-39.

LETTER NO. 18

Dean C. Logan
County of Los Angeles
Registrar-Recorder/County Clerk
12400 E. Imperial Highway
P.O. Box 53592
Norwalk, California 90650

COMMENT NO. 18-1

Please resubmit enclosed documents with necessary correction(s) for processing

5. There is a posting fee in the amount of \$75.00 for each notice submitted.

14. Other: all these document are the same

RESPONSE NO. 18-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

COMMENT NO. 18-2

Attachments to Comment Letter No. 18.

RESPONSE NO. 18-2

Please note that this comment letter included attachments. The full letter and associated attachments can be located at Appendix F of this Final RS-EIR.

LETTER NO. 20

Jui Ing Chien
Park Planner
County of Los Angeles
Department of Parks and Recreation
Planning and Development Agency
510 Vermont Ave
Los Angeles, CA 90020

RESPONSE NO. 20-1

The Recirculated Sections of Draft Environmental Impact Report for the above project has been reviewed for potential impacts on the facilities of the Los Angeles County Department of Parks and Recreation. We have determined that the proposed project will not affect facilities under the jurisdiction of this Department.

Thank you for including this Department in the environmental review process. If we may be of further assistance, please contact me at (213) 351-5129.

RESPONSE NO. 20-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 21

Frank Vidales, Acting Chief, Forestry Division
Prevention Services Bureau
County of Los Angeles
Fire Department
1320 North Eastern Avenue
Los Angeles, California 90063-3294

COMMENT NO. 21-1

The Draft Environmental Impact Statement has been reviewed by the Planning Division, Land Development Unit, Forestry Division, and Health Hazardous Materials Division of the County of Los Angeles Fire Department. The following are their comments:

PLANNING DIVISION:

1. The subject property is totally within the boundaries of Los Angeles City and does not appear to have any impact on the emergency responsibilities of this Department. It is not a part of the emergency response area of the Consolidated Fire Protection District.

LAND DEVELOPMENT UNIT:

1. This project is located entirely in the City of Los Angeles. Therefore, the City of Los Angeles Fire Department has jurisdiction concerning this project and will be setting conditions. This project is located in close proximity to the jurisdictional area of the Los Angeles County Fire Department. However, this project is unlikely to have an impact that necessitates a comment concerning general requirements from the Land Development Unit of the Los Angeles County Fire Department.

FORESTRY DIVISION - OTHER ENVIRONMENTAL CONCERNS:

1. The statutory responsibilities of the County of Los Angeles Fire Department, Forestry Division include erosion control, watershed management, rare and endangered species, vegetation, fuel modification for Very High Fire Hazard Severity Zones or Fire Zone 4, archeological and cultural resources, and the County Oak Tree Ordinance.
2. Due to the limited amount of information included in your request, we are unable to respond to specific potential impacts.

HEALTH HAZARDOUS MATERIALS DIVISION:

1. We have no comments at this time.

RESPONSE NO. 21-1

This comment letter, dated June 2, 2009, was received by the City of Los Angeles over a month after the close of the public review period for the RS-DEIR (April 29, 2009). The comments raise no substantive issues with the RS-DEIR, and are noted and will be incorporated into the Final RS-EIR for review and consideration by the decision-makers.

LETTER NO. 22

Cole Landowski
Head, Environmental Hygiene Program
County of Los Angeles Public Health
5050 Commerce Drive
Baldwin Park, California 91706

COMMENT NO. 22-1

This is to inform you that upon review of all documents forwarded to our program by you and upon visiting the proposed project site location on the Westside area of the City of Los Angeles, it appears that the proposed construction project **will have a significant noise impact** upon the surrounding community during the construction and operational phases.

The potential noise impacts associated with the Project's Urban Development Component were identified as the result of project generated vehicular traffic and increased point sources within the site.

The following mobile noise sources were identified as having on-site impacts:

1. Traffic noise: Projected noise levels along south Jefferson Boulevard and north of Bluff Creek Drive would exceed the 65 dBA CENL. Mitigation engineering controls are recommended by this office in order to minimize this impact.
2. Helicopter and aircraft noise: Two small helistops may be located east of the site with projected 200 operations (takeoff and landing) per month between the hours of 7:00 A.M. and 10 P.M. Heliport consultants calculated noise levels using Heliport Noise Model database provided by the Federal Aviation Administration. Helicopter noise will affect land uses located within portions of the adjacent Playa Vista First Phase development.
3. LAX noise associated with its expansion will be very minor according to the calculations provided by the consultants.
4. Threshold levels associated with operational traffic on off site noise sensitive locations are not considered significant based on the projected 2010 baseline traffic noise and the existing roadway traffic volumes with and without the project.

The stationary noise sources were identified as follows:

1. Roof top heating, ventilating and air conditioning (HVAC) units. Noise levels associated with the operation of these units should comply with general construction standards and the city noise ordinance. The city noise ordinance limits noise levels to 50 dBA Leq (7 A.M. through 7 P.M.) and 40 dBA Leq (7 P.M. to 7 A.M.).

All noise impacts associated with the construction and operation of this project were identified as significant without the mitigation. Therefore, we recommend the implementation of the mitigation measures presented in the Draft EIR in pages 583-584.

We appreciate the opportunity to be of service on this project and look forward to working with you in the future. If you have any questions please contact Evenor Masis at (626) 430-5430.

RESPONSE NO. 22-1

The commentor summarizes the analysis of the Proposed Project's impacts on noise. Those matters are outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" with respect to potential noise impacts within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5. The potential impacts on noise were addressed in Section IV.E of the Original DEIR and Section II.8, Corrections and Additions of the Original FEIR.

The commentor's recommendation that the mitigation measures presented in the Original DEIR analysis at pages 583-84 (and included in the Original MMRP) be implemented is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 23

Mark H. Wills
Chief of Regulatory Division
Riverside County Flood Control &
Water Conservation District
mwills@rcflood.org

COMMENT NO. 23-1

Just wanted to let you that RCFC&WCD will not be commenting on the recirculated sections of the DEIR. West Los Angeles is well outside the District's service area and we do not foresee any impacts to District facilities, programs, etc. Also, you may want to re-examine your mailing process/list as we received five identical copies of the subject notice.

RESPONSE NO. 23-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. Please refer to Section I.D. of this Final RS-EIR concerning the noticing of the completion and availability of the RS-DEIR.

LETTER NO. 24

Kathleen O'Leary Lefferman
Executive Director
Airport Marina Counseling Service
7891 La Tijera Boulevard
Los Angeles, CA 90045

COMMENT NO. 24-1

On behalf of the Board of Directors of the Airport Marina Counseling Service, I am writing to express our organization's support of The Village at Playa Vista. We have reviewed the re-circulated sections of the EIR, and find that the City's analysis fully and fairly deals with the outstanding issues. We urge you to quickly approve The Village.

The Village at Playa Vista provides significant benefits to the area. This last and final phase of Playa Vista includes a new neighborhood retail center, new public parks and 2,600 new residential units. The Village also includes state-of-the-art traffic improvements that will increase the safety and efficiency of traffic flow in the region, and it will also realize a sustainable, urban infill vision for our city.

In addition, construction of The Village would quickly create thousands of construction jobs and ultimately create millions of dollars in new city tax revenues annually. Given the current economic environment, these benefits cannot be overstated.

With any new development there will be some environmental impacts, but the benefits of building The Village are clear. It's time to complete Playa Vista.

RESPONSE NO. 24-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 25

Rex Frankel
Ballona Ecosystem Education Project
6038 west 75th Street
L.A., CA 90045
www.rexfrankel.com

COMMENT NO. 25-1

My comment letter is organized with the quoted section from the RS-DEIR first, then my response.

Comment 1:

Page I-9 Executive Summary

“As CEQA Guidelines Section 15088.5, Subdivision (f)(2) permits, the City requests that reviewers limit the scope of their comments to that material which is within the text of the revised sections and the appendices included in the RS-DEIR. The City also requests that reviewers not make new comments on old matters not included in this RS-DEIR....

...Further, with respect to the matters and potential impacts now covered by Sections II.A. through II.D of this RS-DEIR, in accordance with CEQA Guidelines Section 15088.5(f)(2)(ii), written responses will be prepared only to comments received on this RS-DEIR on such topics.”

The city is attempting to improperly limit the public’s opportunity to comment on this document by “asking that comments be limited to the revised DEIR only”. As the entire EIR was decertified by the Appeals Court, the public is entitled to challenge any portion of the EIR for compliance with CEQA. Only after the lead agency responds to all comments relating to the legal sufficiency of this EIR can the City properly recertify the revised CEQA documents. The public notice inviting comments on this RS-DEIR is thus legally inadequate as it discourages public review and comment on the entire document that is under review, contrary to CEQA’s goal of encouraging public review of this type of project.

RESPONSE NO. 25-1

The process undertaken by the City with respect to the RS-DEIR complies with CEQA and is expressly authorized in State CEQA Guidelines Section 15088.5, subdivision (f)(2). In its opinion regarding the Original FEIR, the Court of Appeal stated that the form and process for revising the deficiencies noted by the Court were left up to the City.⁶²

⁶² *The Court of Appeal Opinion states:*

“The City can achieve full compliance with CEQA only by vacating the project approvals that were based on the certified EIR and revising the EIR to remedy these deficiencies. Only then can the City properly certify a revised EIR and grant the project approvals. The form of the document used to revise the EIR and whether recirculation of the EIR is necessary are questions for the City to decide in the first instance under the standards governing recirculation of an EIR before certification.”

Neither the Court of Appeal nor the Superior Court required recirculation of the entire EIR. Please refer to Sections I.B. and I.C of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

COMMENT NO. 25-2

Comment 2:

Page I-6 Executive Summary

"Documents attached to the Original DEIR as Appendices O(1), O(2), and O(4) and the Original Appendices J(1)-J(4) are also attached as Appendices C.vi-C.xii, respectively, to this RS-DEIR."

Appendices C.vi-C.xii are not attached, and are not on the city's website for the RS-DEIR.

RESPONSE NO. 25-2

The Executive Summary of the RS-DEIR at page I-6 contains a typographical error and incorrectly refers to Appendices C.vi-C.xii, instead of Appendices D.vi-Dxii. Each Appendix D.vi through D.xii was attached to the RS-DEIR, made available to the public and posted on the City's website. (Please refer to Section II of this Final RS-EIR, Corrections and Additions, *supra*)

COMMENT NO. 25-3

Comment 3:

Page I-7 Executive Summary

" It should be noted that the revisions to the land use section in this RS-DEIR do not trigger the need to revise other Proposed Project impact discussions in the Original FEIR because those impact analyses utilized the appropriate baseline (i.e., undeveloped land) and actual Proposed Project development uses and figures (i.e., square feet, unit numbers, etc.)."

Page I-10:

"Finally, with regard to Sections I.B (The Proposed Project), I.C (Project Location), I.D (Project Background), I.E (Areas of Controversy), and I.F (Alternatives) of the Executive Summary in the Original DEIR, this RS-DEIR does not revise those sections and the reader is referred to the Original DEIR for the information contained in those sections."

RS-DEIR Appendix A.i, Court of Appeal Opinion, pp. 112-13 (footnote and citations omitted).

We strongly disagree with this assumption. The false and misleading land use analysis and baseline in the 2003 EIR irreparably tainted the analysis of alternatives. By falsely stating that the land was already entitled to massively more development than the applicant was seeking, this caused the range of alternatives to reflect this false assumption. Therefore, while in truth all alternatives but the 2 no-project alternatives featured a massive upzoning, the public was told the exact opposite..

Because the project was falsely described as a subdivision of land that was already entitled to such massive density, rather than a subdivision of land and a massive upzoning of this land, nearly all of the 8 projects considered in the alternatives review (the applicant's proposal and 7 alternatives) except the 2 no-project alternatives featured massively greater entitlements than the correct existing zoning would allow, ranging from 2 ½ times the existing to 25 times the existing zoning.

This falsely stated baseline tainted the public's review of reasonable alternatives because the intentionally misleading land use description caused the decision-makers to believe that to deny approval of the project which the developer claimed was only a fraction of the size of the project they were otherwise already permitted to build, would either 1) result in exponentially larger environmental impacts if the developer chose to proceed instead with the enormously larger project they claimed they were entitled to build, or 2) could lead to a "takings" lawsuit by Playa Capital. This false land use baseline led decision makers and the public to believe that any lesser impacting alternative would require a downzoning of the property and would result in a denial to Playa Capital of their rightful zoning entitlements.

Because the applicant is not legally entitled to any upzoning, a reasonable range of alternatives should have included alternatives to the discretionary "upzoning" portion of the project. Alternative entitlement caps should not just be numerical, but also acreage-based. Therefore, one upzoning alternative could include upzoning half of the land, while leaving the other half at the existing zoning. Another could be upzoning ¼ of the land, while leaving the rest at the existing zoning. Another range of alternatives could include 108,050 square feet of retail space, and another could be 108,050 square feet of residential space. There is no question that these alternatives would be per se "feasible" based on the fact that they are similar to the zoning entitlement the applicant now has on the property.

Moreover, a challenge to the adequacy of the revised EIR is ripe now because the false and misleading land use baseline made it impossible for the public to even recommend alternatives to the upzoning, as we were continuously told that no upzoning was part of the project. As CEQA cases show, there is no environmental impact from downzoning property. But there can be significant environmental impact from upzoning land. (for analogy, see Mountain Lion Foundation v. California Dept. of Fish and Game, protecting an endangered species does not create an impact, but un-protecting that endangered species does create an impact under CEQA). When a project contains a massive upzoning as this project does, once the lead agency admits that this what they are doing, then the alternatives must take into account a reasonable range of alternatives to the upzoning

along with alternatives to the subdivision of the land. If the only range of potentially feasible alternatives is artificially designed as 2.5 times existing zoning to 25 times bigger, this is hardly a reasonable range.

RESPONSE NO. 25-3

The commentor states concerns regarding the analysis of alternatives to the Proposed Project. Those matters are outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information." The commentor offers no "significant new information" with respect to the alternatives analysis within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5.

The alternatives analysis contained in Section VII of the Original DEIR, and Section II.33 of the Original FEIR, included analysis of several alternative uses. Various aspects of the Original FEIR's alternatives analysis were challenged in the prior litigation challenging the Proposed Project's Original FEIR, and the trial and appellate courts upheld that alternatives analysis as being in compliance with CEQA.⁶³ For example, the Court of Appeal rejected various challenges to each of the "no project" alternatives, including the Original FEIR's determination that using the Proposed Project site as wetlands for natural treatment of surface water runoff would not meet the basic objectives of the Proposed Project and that a treatment wetland would not be the practical result of the project's nonapproval.⁶⁴ The Court of Appeal also rejected challenges to the Original FEIR's discussion in the "no project" alternative of remediation of contaminated groundwater and soil;⁶⁵ the characterization of traffic impacts;⁶⁶ and the evaluation of solid waste impacts.⁶⁷ Further, although the Court of Appeal invalidated the Original FEIR's land use analysis for failing to adequately describe the "upzoning" associated with the Proposed Project, the Court of Appeal did not order the City to revise the alternatives analysis in the Original FEIR.

In addition, the commentor's characterization of the alternatives analysis in the Original FEIR is contrary to CEQA and the analysis in the Original FEIR. Any alternatives analysis "must focus on alternatives that could avoid or substantially reduce one or more of

⁶³ *Id.*, pp. 86-89.

⁶⁴ *Id.*, pp. 84, 88-89.

⁶⁵ *Id.*, pp. 89-90.

⁶⁶ *Id.*, pp. 90, 94.

⁶⁷ *Id.*, pp. 94-96.

the significant environmental effects of the project while still serving most of the project's fundamental objectives, even if the alternatives would impede to some degree the attainment of the project objectives or would be more costly."⁶⁸ "An EIR need not consider every conceivable alternative but, under the rule of reason, must consider a range of alternatives sufficient to permit the agency to make a reasoned choice and to meaningfully inform the public."⁶⁹ An EIR need not "analyze an alternative designed to reduce each individual significant impact [of a project]."⁷⁰

A reasonable range of seven alternatives were analyzed in detail in the Original FEIR.⁷¹ Of the seven, two are "no project" alternatives, in accordance with State CEQA Guidelines Section 15126.6(e). The first "no project" alternative assumed that there will be no changes to existing on-site conditions – the property would remain undeveloped. The second "no project" alternative assumed that development will occur as permitted by the existing governing land use plans and regulations – that is, without any of the amendments proposed by the Project to upzone the property. Additionally, as requested by the commentor, four of the seven alternatives were reduced versions of the Proposed Project in order to evaluate potential alternatives that could lessen the Proposed Project's significant impacts. The analysis of all of these alternatives evaluated land use impacts as against the Proposed Project's land use impacts and, contrary to the commentor's suggestion, clearly stated that the Proposed Project would require amendments to the existing land use plans and zoning.

Further, the physical impact analyses in the Original FEIR (e.g., traffic, air quality, biota, noise, etc.) were each based on a comparison of the full development envelope associated with the Proposed Project's "upzoning" (i.e., 2,600 residential units, 175,000 total square feet of office space, 150,000 square feet of retail space, and 40,000 square feet of community-serving uses) against a baseline of completely undeveloped land. The RS-DEIR does not change the Proposed Project's types and amount of uses analyzed in the Original FEIR which served as the basis for comparing the relative merits of the various alternatives.

Finally, please note that the Original FEIR did not include any reference to a potential "takings" claim by the Applicant.

⁶⁸ See *id.*, p. 50, citing State CEQA Guidelines Section 15126.6(a), (b) and *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 400.

⁶⁹ *Id.*, pp. 50-51, citing State CEQA Guidelines Section 15126.6; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 565-566 and *Laurel Heights Improvement Assn v. Regents of University of California* (1988) 47 Cal.3d 376, 406-07.

⁷⁰ *Id.*, p. 53; see also State CEQA Guidelines Section 15126.6(a).

⁷¹ *Id.*, p. 51; *Original DEIR*, pp. 1260-1263.

COMMENT NO. 25-4

Comment 4:

Page I-35 Executive Summary

“Under Options 3 or 4, the Bluff Restoration area would be isolated, fragmenting the overall habitat corridor,”

I believe this is in error. Only Option 4 would result in the riparian corridor being separate from the bluff face habitat area. Regardless, this would only result in a very small portion of the bluff face being separate from the riparian corridor, as there would be no disconnection for the remaining 1 ½ miles of the corridor. Therefore, inclusion of this as a “problem” or negative impact to rule out this alternative is extreme nitpicking.

If one examines the big picture, as CEQA requires, Playa Capital has already completed the damage to this cultural resource. The evidence cited in the RS-DEIR shows that none of the Options could be more damaging to this resource than what Playa Capital has already done. It is notable that the RS-DEIR points out no benefits to the 4 different locations for the riparian corridor, only negative impacts.

It is stunningly biased that this project has so subjectively slanted the analysis of significant issues to favor the applicant’s project, allowing them to falsely create this rosy positive image of their project, while when ordered to do so by the court, they present an overwhelmingly negative picture of all possible alternatives, both to the location of the riparian corridor, and to any alternative design of the entire project.

RESPONSE NO. 25-4

With respect to the Proposed Project's impacts on archaeological resources, the RS-DEIR, in Section II.C, examines four design options in detail (and six design options total) for relocating the Riparian Corridor in the Proposed Project area and restoring the archaeological resources, which were removed during construction of the Riparian Corridor, to their original location. That analysis includes a discussion of the potential impacts of the four options. Additional information on this issue is provided in Response Nos. 29-8 through 29-13.

With respect to the commentor’s specific concern regarding isolation of the Bluff Restoration area from the Riparian Corridor in Option 3, as explained in the RS-DEIR, this option involves the realignment of both the Riparian Corridor and Bluff Creek Drive to the north, outside of known archaeological sites. Option 3 is described at RS-DEIR pages II.C-48 and II.C-49, and at page 11 of the technical report attached as Appendix D.i. to the RS-DEIR (Analysis for Alignments of the Riparian Corridor Through the Village at Playa Vista to Preserve in Place Archaeological Resources), and is also depicted at Figure II.C-10 of the RS-DEIR and Exhibit 6 of the technical report. Under 2002 and 2004 conditions, the

area between the relocated Riparian Corridor and the Bluff Restoration area under Option 3 would have consisted of pavement and dirt (with subsurface contamination) and substructures.⁷² Under 2008 conditions, the Riparian Corridor had already been constructed, so regardless of how that area could be developed if the Riparian Corridor were to be relocated, the loss of habitat value associated with moving the Riparian Corridor and interfering with the existing physical link between the Riparian Corridor and the Bluff Restoration area in that area would still occur under Option 3.⁷³ Thus, as noted in The Village at Playa Vista Riparian Corridor Biological Resources Report attached at RS-DEIR Technical Appendix D.iv., this location of the Riparian Corridor farther from the Bluffs would isolate the Bluff Restoration area, decreasing the ecotonal benefits between the upland scrub and riparian habitats associated with the contiguity between the Riparian Corridor and the Bluffs.⁷⁴

With respect to the biological impacts of Options 3 and 4, the biological technical report acknowledges that Option 4, which involves the Riparian Corridor being separated from the Bluff Restoration Area by Bluff Creek Drive, would cause greater impacts from a biological perspective than Option 3, but states that the loss of habitat value associated with Option 3 is “still significant.”⁷⁵ Accordingly, the statement from the Executive Summary quoted by the commentor is correct and supported by the analyses contained in the RS-DEIR and its technical reports.

COMMENT NO. 25-5

Comment 5:

Page II.A-44—Land Use section

“However, since the Proposed Project is consistent with the policies, goals, and objectives in the applicable federal, state, and local plans, the Proposed Project is not considered to be inconsistent with any applicable land use plans, particularly in light of the proposed amendments to the General Plan and Area D Specific Plan, which as discussed above will ensure consistency with all elements of those plans.”

In fact, the proposed project is not consistent with the Playa Vista Specific Plan, which is by definition a local plan. So to claim that this massive upzoning is consistent with a plan only because you intend to change the plan along with the upzoning does not make the project consistent with the “baseline” of the plans.

⁷² RS-DEIR, p. II.C-49.

⁷³ RS-DEIR Appendix D.iv, *The Village at Playa Vista Riparian Corridor Biological Resources Report*, Psomas, April 2008, pp. 3-9 – 3-10.

⁷⁴ *Id.*, p. 4-1; RS-DEIR, pp. II.C-52, II.C-54.

⁷⁵ *Id.*

Impacts and conclusions in an EIR must be measured from the existing conditions, not some possible new baseline after the project is approved. Therefore, the conclusion that there will be no land use impacts is incorrect. In fact, it is highly likely that the land use impacts are significant. If so, the applicant must mitigate those impacts if feasible, as CEQA requires. One way to mitigate those impacts is to dedicate open space to the City in compensation for this upzoning. The land use impacts must be mitigated on their own, and Playa Capital should not be allowed to claim that traffic mitigation also mitigates these added land use impacts. These land use impacts are completely separate from all other areas of impacts and require mitigation solely for their own area of impact

RESPONSE NO. 25-5

The Proposed Project would be implemented via amendments to the General Plan (through the Westchester/Playa Del Rey Community Plan) and the Playa Vista Area D Specific Plan. The Proposed Project could not be constructed as proposed without amending the General Plan and Specific Plan. However, consistent with CEQA, the RS-DEIR evaluated the Proposed Project, including its proposed amendments to the City's General Plan (through the applicable Community Plan) and the Specific Plan, against all existing federal, state, and local plans. Thus, the commentor is incorrect in stating that the land use analysis in the RS-DEIR used the incorrect "baseline" planning documents.

It is also important to note that the fact that a project proposes amendments to applicable land use plans does not mean that the project necessarily has a significant land use impact. Therefore, although the Proposed Project requires amendments to, among other things, the Playa Vista Area D Specific Plan, an "inconsistency between a project and other land use controls does not in itself mandate a finding of significance."⁷⁶ As explained in the RS-DEIR, the Proposed Project would be consistent with the goals and policies in all relevant federal, regional, county, and city plans.⁷⁷ For a further discussion regarding the Proposed Project's land use impacts, please see Response No. 75-2.

In addition, consistent with the Court of Appeal opinion, the land use analysis in the RS-DEIR considers the type and patterns of land use activities associated with the Proposed Project relative to the existing conditions and zoning at the site.⁷⁸ The analysis provides that only 108,050 square feet of office and light industrial development could be developed on the Proposed Project site due to existing Specific Plan and zoning

⁷⁶ *Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170, 1207 (such an inconsistency "is merely a factor to be considered in determining whether a particular project may cause a significant environmental effect").

⁷⁷ RS-DEIR, p. II.A-44.

⁷⁸ RS-DEIR, p. II.A-2.

limitations.⁷⁹ Against those existing conditions and limitations, the revised land use analysis contrasts the uses and envelopes associated with the Proposed Project.⁸⁰ For example, RS-DEIR Table II.A-5 contains a detailed comparison of the features and development intensities of the Proposed Project against the limitations prescribed in existing city plans, including square footages, unit allocations, building heights, setbacks, lot coverage, and residential density.⁸¹ In addition, RS-DEIR Subsection II.A.3.3.1.6 provides an analysis of the Proposed Project's requested changes in zoning and explains that the Proposed Project would add a net increase of 66,950 square feet of office uses; 2,600 dwelling units; 150,000 square feet of retail development; and 40,000 square feet of community-serving uses.⁸²

Finally, the RS-DEIR did not conclude that the Proposed Project would not cause a significant land use impact because the Proposed Project would amend the General Plan and Community Plan. Instead, the RS-DEIR evaluated the significance of the Proposed Project's land use impacts by evaluating the consistency of the Proposed Project against the numerous goals, objectives, and policies in the City's existing General Plan Framework and applicable Community Plan.

With respect to the commentor's suggestion of additional mitigation measures for the Proposed Project's land use impacts, no additional mitigation measures are necessary because the RS-DEIR concluded that the Proposed Project's land use impacts would be less than significant.⁸³

COMMENT NO. 25-6

Finally, this new EIR attempts to claim no land use impacts by claiming the proposed project will comply with general goals and policies of various plans. The error here is that compliance with some generalized "goals or policies" of the existing plans is a lot different than compliance with the specific entitlements granted by those plans for the purpose of determining significance of impacts. Therefore, the reasoning claiming no inconsistency on page Page II.A-51 is erroneous.

⁷⁹ *Id.*

⁸⁰ See RS-DEIR, pp. II.A-42 – II.A-43, Table II.A-4, Figure II.A-10.

⁸¹ RS-DEIR, pp. II.A-45 – II.A-49.

⁸² RS-DEIR, pp. II.A-50 – II.A-51.

⁸³ RS-DEIR, pp. II.A-58 – II.A-60.

RESPONSE NO. 25-6

The comment suggests that the RS-DEIR should analyze the land use impacts of the Proposed Project against the “specific entitlements” granted in City planning documents. Please see Response Nos. 25-5 and 75-2 for a detailed discussion of the evaluation of the significance of the Proposed Project’s potential land use impacts attributable to consistency with existing plans. Please also see Response No. 25-5 for a detailed discussion of how the RS-DEIR analyzed the Proposed Project against requirements contained in the applicable plans with respect to including square footages, unit allocations, building heights, setbacks, lot coverage, and residential density. It should also be noted that the commentor does not specify which “specific entitlements” in those plans require any further analysis.

COMMENT NO. 25-7

Comment 6:

PROBLEMS WITH SECTIONS OF THE EIR THAT WERE NOT RECIRCULATED:

Finally, since the Land Use section of the EIR has been changed to so that it now correctly describes the zoning and entitlement changes sought by the developer, other sections of the EIR also needed to be updated to reflect the corrected information. The revised EIR contains no indication at all as to whether the City has reviewed the unchanged sections of the EIR to determine if the substantial change to the project description would affect the analysis in any other section of the EIR. Among the sections that certainly are affected by the change are the Alternatives and the executive summary of the alternatives, but the City should perform its own review of sections that need to be changed and comment thereon.

The alternatives sections need to be changed in a number of respects to reflect the corrected Land Use analysis. First, the sections should explicitly identify Alternative 2 as being a No Project alternative. Alternative 3 should be eliminated since 1) it is not a development that could legally be constructed on the phase 2 site without massive changes in zoning, and 2) it was simply a "straw man" No-Project alternative to support the argument made by the developer in that the project they were proposing was “substantially less than the project they were otherwise entitled to build”, an argument that was rejected by the court as so misleading that it rendered the EIR deficient as an informational document.

Also, the executive summary of the alternatives contains misstatements about the traffic impacts and the environmental impacts of the "no project" and lower density alternatives, specifically by incorrectly stating that Alternative 2 would have "significant" traffic, waste, and other environmental impacts when the studies on which those conclusions were based specifically found that there would be no significant impacts.

RESPONSE NO. 25-7

Please refer to Response No. 25-3 above regarding the scope of the RS-DEIR and the analysis of alternatives to the Proposed Project. In addition to the discussion below as to why no “significant new information” warranting a revised alternatives analysis within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5 has been identified, please also refer to Response No. 25-3 for a further discussion of this issue.

Although the land use analysis has been revised to accurately describe the “upzoning” associated with the Proposed Project, the City has determined that these revisions do not affect the adequacy of the other analyses in the Original FEIR. In particular, although the comment characterizes the revisions to the land use impact analyses as a change in the “Project Description,” the actual scope of development constituting the Proposed Project analyzed in the RS-DEIR contains the same physical characteristics as the Proposed Project described in the Original FEIR. Because the RS-DEIR does not change the Proposed Project’s types and amount of uses and the Original FEIR compared the physical impacts of those uses against a baseline of undeveloped land, there is no need to revisit the other analyses of environmental impacts due to the revisions to the land use impacts analysis.⁸⁴ Please refer to Response No. 25-3 for a further discussion of this issue.

For a further discussion regarding the Original FEIR’s analysis of alternatives, please refer to Response Nos. 29-65 through 29-72 and 58-9.

In addition, it should be noted that Alternative 2 was identified as a “No Project” alternative in the Original FEIR – “No Project – Development Permitted By Existing Specific Plan And Zoning.”⁸⁵ The Court of Appeal referred to this alternative as one of two “no project” alternatives in the Original DEIR. With respect to the commentor’s claim that the land use analyses of Alternative 3 was misleading, that analysis states that a zoning boundary adjustment would be required for Alternative 3, just as the Proposed Project would require amendments to the Westchester/Playa Del Rey Community Plan and the Playa Vista Area D Specific Plan.⁸⁶ Finally, the Court of Appeal found that any inconsistencies between the executive summary of the alternatives and the technical reports analyzing the various impacts associated with the alternatives were “minor imperfections that did not seriously impede a proper understanding of the relative impacts

⁸⁴ Please note that while the archaeological and wastewater impacts analyses were also revised, those revisions were made based on issues identified by the Court of Appeal that were unrelated to the land use impacts analysis.

⁸⁵ Original DEIR, p. 1260.

⁸⁶ Original DEIR, p. 1261, fn. b.

of that alternative and the proposed phase two project with respect to traffic.”⁸⁷ The imperfections noted by the Court are corrected in the Corrections and Additions section of this Final RS-EIR. (Please refer to Section II.1, of this Final RS-EIR, Corrections and Additions, *supra*.) As a result, there is no “significant new information” (within the meaning of CEQA Section 21092.1 and State CEQA Guideline 15088.5) warranting further recirculation of the alternatives analysis of the Original FEIR.

⁸⁷ *RS-DEIR Appendix A.i, Court of Appeal Opinion, p. 94.*

LETTER NO. 26

Kathy Knight
Board Secretary
Ballona Ecosystem Education Project (B.E.E.P.)
P.O. Box 451153
Los Angeles, CA 90045-1153

COMMENT NO. 26-1

Following are supplemental comments to those submitted by the Ballona Ecosystem Education Project.

Regarding the Playa Vista Phase 2 RS-DEIR — it is defective and not compliant under CEQA. A Supplemental or Subsequent EIR needs to be done. These are some of the reasons for the RS-DEIR being defective:

1) There is a lot of new information that was not known at the time of its approval on September 29, 2004. Some of this new information is regarding the gas problem at Playa Vista (see comments of Grassroots Coalition). This information needs to be examined under CEQA and a supplemental or subsequent EIR needs to be done, for everyone's health and safety. This is especially important since LAUSD is proposing to put an elementary school near the site.

RESPONSE NO. 26-1

Methane gas impacts are outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" with respect to methane gas impacts within the meaning of California Public Resources Code 21092.1 and State CEQA Guidelines Section 15088.5. A detailed analysis of the Proposed Project's impacts regarding methane gas was included in Section IV.I, Safety/Risk of Upset, of the Original DEIR, Section II.13, Corrections and Additions of the Original FEIR and Topical Response TR-12 of the Original FEIR. For further discussion regarding methane gas impacts associated with the Proposed Project, including the status of the proposed school, refer to Response Nos. 29-42 and 29-43 and Comment Letter No. 40.

COMMENT NO. 26-2

2) Other new information is that oceans have become much more polluted, and there is a greater need for saving wetland ecosystems along the coast to help clean up polluted streams such as Centinela Creek and Ballona Creek (the largest polluter of Santa Monica Bay). These wetland/upland systems are MUCH MORE valuable for these purposes, than as more development in-fill.

RESPONSE NO. 26-2

Project alternatives are outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" with respect to project alternatives within the meaning of California Public Resources Code 21092.1 and State CEQA Guidelines Section 15088.5. A detailed analysis of the Proposed Project alternatives may be found in Section V.II of the Original DEIR, and Section II.33 of the Original FEIR. Please note that the Proposed Project site is not a wetlands ecosystem.⁸⁸ The Proposed Project site is a former industrial site which has been graded and contains infrastructure improvements such as streets and utility lines. The Proposed Project is surrounded by existing development to the north, west, and south, and the land to the east of the Proposed Project is approved for office and commercial uses and is currently under construction. For a detailed discussion regarding the analysis of alternatives and a treatment wetland alternative, please refer to Response No. 25-3 and Response No. 29-65.

To the extent that the comment concerns the Proposed Project's water quality impacts, that matter is also outside the scope of the RS-DEIR. A detailed analysis of the Proposed Project's water quality impacts was included in Section IV.C.(2), Water Quality, of the Original DEIR, and Section II.6, Corrections and Additions of the Original FEIR. The commentor offers no "significant new information" with respect to water quality impacts within the meaning of California Public Resources Code 21092.1 and State CEQA Guidelines Section 15088.5. See also Comment Letter No. 40.

⁸⁸ As was discussed in the Original FEIR, in July 1992, the Corps delineated 0.7 acre of small, fragmented federal jurisdictional wetlands within the Proposed Project site, including the Centinela Ditch, which the California Department of Fish and Game (CDFG) also recognized as the state wetlands in the Proposed Project site. See Original DEIR, p. 535. All of the 0.7 acre of delineated wetlands within the Proposed Project site have been filled in compliance with permits issued by the City, Corps, and CDFG.

The commentor's views about a treatment wetland alternative and surface water quality are noted and will be incorporated into the Final RS-EIR for review and consideration by the decision-makers.

COMMENT NO. 26-3

3) A cost analysis needs to be done with other alternatives, such as keeping this 111 acres open space. The cost of developing it will include expensive infrastructure costs on a wetland area. A study done in Fresno in the 1990's showed that open space development costs local governments much more in infrastructure maintenance than it gets in new tax revenues. This would be especially so in a wetland/liquefaction/high gas area.

On the other hand, if the City acquired the 111 acres for a treatment wetland to help clean up Centinela Creek, and to restore upland habitat, it could actually pay off the costs over time.

RESPONSE NO. 26-3

Please refer to Response No. 26-2 above regarding the scope of the RS-DEIR and comments on project alternatives.

COMMENT NO. 26-4

4) Other very important new information that has occurred since the approval of the EIR on Phase 2 is that the State of California has stated that their preferred restoration plan for the wetlands west of Lincoln Blvd. (that were acquired by the State in 2003) is to bulldoze a significant portion of the upland habitat and turn it into water habitat. Therefore, this makes the 111 upland area east of Lincoln much more valuable as upland habitat to support the Ballona wetlands. Many of the insects, birds, and mammals of Ballona need upland habitat.

What happens to this land is crucial, as it represents part of the last remaining 5% of LA County's wetlands, and 5% of the state's coastal wetlands.

RESPONSE NO. 26-4

Please refer to Response No. 26-2 above regarding the scope of the RS-DEIR and comments on project alternatives. To the extent that the comment concerns the Proposed Project's biotic resources impacts, that matter is also outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no “significant new information” with respect to impacts on biotic resources within the meaning of California Public Resources Code Section 21092.1 and State CEQA Guidelines Section 15088.5. A detailed analysis of the Proposed Project’s biotic resources impacts was included in Section IV.D, Biotic Resources, of the Original DEIR, and Section II.7, Corrections and Additions of the Original FEIR. Please also note that the Habitat Creation/Restoration Component of the Proposed Project has been completed, and the Riparian Corridor portion of that Component, if maintained as proposed by the RS-DEIR, links existing habitats (adjacent segments of the riparian corridor) that were previously fragmented and degraded. The Bluff Restoration element of that Component links existing stands of revegetated coastal sage scrub along the bluffs, and provides a continuous expanse of native upland habitat from Lincoln Boulevard east to Centinela.⁸⁹ The Proposed Project, therefore, would increase the native habitat within the region and connect other habitat patches. For more information, please refer to RS-DEIR Appendix D.iv.

With respect to the State-owned property, which is located between 0.5 and 1.1 miles from the Proposed Project site, the State is currently in the preliminary planning stages and is considering a variety of alternatives for its restoration, including maintaining portions of the property as upland habitat.⁹⁰ Once a preferred alternative has been identified, the State’s restoration proposals will undergo their own environmental review process.

COMMENT NO. 26-5

5) Leaving this area open space will also benefit current residents/workers at Phase I of Playa Vista. It will give the high gas amounts below ground more area to dissipate, making the area safer. Also, it will give more open space for the residents/surrounding community/school children to have sports. Currently, the Phase 1 playing fields are on a shared basis between the residents and the proposed school.

An educational native plant garden could be put there and land set aside for the indigenous Native Americans (who had all of their land taken away from them in the 1700's).

RESPONSE NO. 26-5

Refer to Response Nos. 26-1 and 26-2 above regarding the scope of the RS-DEIR and comments on project alternatives and methane gas. With respect to the comments

⁸⁹ Original DEIR, pp. 547-48.

⁹⁰ The draft alternatives may be found at:
<http://www.santamonicabay.org/smbay/ProgramsProjects/HabitatRestorationProject/BallonaWetlandsRestoration/BallonaDocuments/tabid/153/Default.aspx> (last visited on June 2, 2009).

regarding playing fields and an educational native plant garden, Section V.II.3.2 of the Original DEIR discussed a regional park alternative that was considered but rejected for a variety of reasons, including the fact it failed to meet the basic project objectives.

COMMENT NO. 26-6

6) Although Playa Capital has said that the 111 acre Phase 2 site is needed to complete the Phase 1 site, they argued and won in Court in 1994 against environmentalists who said that the massive Playa Vista project was being illegally piece-mealed in its approval process. Playa Capital argued that Phase 1 was a "stand alone" project, and did not need Phase 2 to be complete. Now they are saying that Phase 1 needs the shopping areas of Phase 2 to be complete. It cannot be both ways.

RESPONSE NO. 26-6

The RS-DEIR states in Section II.A.3.3.1.2 and Section II.A.3.3.1.4.1 that the "Proposed Project is based on a mixed-use concept with a range of related and complementary uses, both internally, and in conjunction with the Playa Vista First Phase Project" and that the Proposed Project would, "where appropriate, form linkages to transportation, development, and conservation aspects of the Playa Vista First Phase Project."⁹¹ The RS-DEIR also states in Section II.C.4.1.3, page II.C-59, that the removal or relocation of the Riparian Corridor could diminish the function and value of the entire habitat area, which includes the portions of the corridor on the Playa Vista First Phase Project site (both east and west of the Proposed Project).

However, these statements do not indicate that the Proposed Project *must* be built to complete the First Phase Project. The First Phase Project and the Proposed Project are separate and independent projects under CEQA. It should be noted that while the Proposed Project is not required to complete the First Phase Project, the Proposed Project is designed to be consistent with and provide linkages to the existing First Phase Project, including linking the riparian corridor, providing mixed-use and commercial opportunities for the existing residents of the First Phase Project site as well as other nearby residents, and providing additional housing opportunities for employees working in the First Phase Project and the surrounding jobs-rich communities.

COMMENT NO. 26-7

7. Finally, due to the major upzoning that was hidden from the public in the previous EIR, some of these issues and other issues may not have surfaced or been obvious previously. They should be allowed to be commented on at this time.

⁹¹ RS-DEIR, pp. II.A-30, II.A-33.

RESPONSE NO. 26-7

Please refer to Sections I.B. and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information." Also, pursuant to the Court of Appeal's decision and Superior Court Writ, the RS-DEIR provides a revised land use analysis which clearly states that the Proposed Project would constitute an upzoning of the property and analyzes the land use impacts associated with that proposed change in zoning.

COMMENT NO. 26-8

Attached is a photo showing the Ballona wetlands approximately 80 years ago. It can be seen that the ecosystem that supported California Gray Whales, halibut, and other marine/terrestrial life was much larger – approximately 2100 acres of wetlands and 6,000 acres of uplands. The destruction of this ecosystem is happening very fast – within one lifetime. It is critical that we save and clean up every section that is left.

RESPONSE NO. 26-8

The photo attached by the commentor does not include the Proposed Project site but instead depicts areas to the west of the Proposed Project site, including the Ballona Wetlands and what is now Playa del Rey, Marina del Rey, and Venice. Please refer to Response No. 26-4 above concerning biotic resources.

LETTER NO. 27

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LAW OFFICES OF SABRINA VENSKUS
Attorney for Ballona Wetlands Land Trust
171 Pier Avenue, Suite 204
Santa Monica, California 90405

COMMENT NO. 27-1

This letter is submitted by the Ballona Wetlands Land Trust (BWLTL). BWLTL was a commenter on the original Draft Environmental Impact Report for the above-referenced Village at Playa Vista project (hereinafter "Project"), as well as one of the successful petitioners/appellants in *City of Santa Monica, et al. v. City of Los Angeles, et al.*, (L.A.S.C., Case No., BS093502).

On January 29, 2009, the City of Los Angeles issued a "Notice of Completion and Availability of Recirculated Sections of Draft Environmental Impact Report No. ENV-2002-6129-EIR," ("Notice"). However, numerous interested parties that commented on the prior EIR on the Project did not receive this Notice. Additionally, the Notice is not available to the public on the planning department's website, www.lacity.org/pln, in either the Public Notices section or the Notice of Preparation section.

I am informed by Ms. Sylvia Schveri at BWLTL that she contacted numerous organizations and individuals who commented on the prior EIR and many informed her they did not receive the Notice. These parties include Heal the Bay, Sempra Energy Utilities, Natural Resources Defense Council (NRDC), Friends of Sunset Park, and Koreh LA. In addition, Ms. Marcia Hanscom of Ballona Institute and Wetlands Action Network (also a commenter on the prior EIR) informed me that neither she nor her organizations received the Notice. There are likely other interested parties who similarly failed to receive the Notice.

In failing to provide these interested organizations and individuals said Notice, the City has violated CEQA Guidelines, Section 15088.5, subdivision (f)(3), which provides:

As part of providing notice of recirculation as required by Public Resources Code Section 21092.1, the lead agency shall send a notice of recirculation to every agency, person, or organization that commented on the prior EIR.

Because the City failed to give proper notice of the RS-DEIR's completion and availability for review, BWLTL requests the City re-issue the Notice in accordance with CEQA Guidelines Section 15088.5 and further extend the public comment period on the RS-DEIR an additional 45 days from the date of Notice re-issuance in order to provide the public adequate time to review the RS-DEIR and comment thereupon.

The failure to extend the comment period will severely prejudice these parties from adequately reviewing and responding to the revised sections of the DEIR, thus preventing the public and decision makers from receiving vital input on the RS-DEIR. (See *Save our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99.) The revised EIR “must be subjected to the same ‘critical evaluation that occurs in the draft stage,’ so that the public is not denied an ‘opportunity to test, assess, and evaluate the data and make an informed judgment as to the validity of the conclusions to be drawn therefrom.’” (*Id.* at p. 131, quoting *Sutter Sensible Planning, Inc. v. Board of Supervisors* (1981) 122 Cal.App.3d 813, 822.)

Meaningful public review of the RS-DEIR can only occur with sufficient notice to the public and agencies of the RS-DEIR’s completion and availability, and sufficient time to draft comments after receipt of such notice. Please confirm in writing that the RS-DEIR Notice will be re-issued and the comment deadline extended 45 days.

Please contact me if I can be of assistance in supplying the Department of Planning a list names and contact information of interested parties.

RESPONSE NO. 27-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. For a discussion on the re-noticing of the availability of the RS-DEIR for public review and comment, please see Section I.D. of this Final RS-EIR.

LETTER NO. 28

Sabrina D. Venskus, Esq.
LAW OFFICES OF SABRINA VENSKUS
Attorney for Ballona Wetlands Land Trust
171 Pier Avenue, Suite 204
Santa Monica, California 90405

COMMENT NO. 28-1

We received your letter wherein you informed us that you are issuing a new Notice and extending the comment period to April 30, 2009. As requested, attached please find contact information for the groups who did not receive the January 29, 2009 Notice, as well as other interested parties and agencies who should receive the new Notice.

Thank you for your attention to this matter. Please contact me if I may be of any further assistance.

**LIST OF INTERESTED PARTIES WHO SHOULD RECEIVE NEW NOTICE OF
COMPLETION OF VILLAGE AT PLAYA VISTA RS-DEIR**

Organizations Named in Ballona Wetlands Land Trust's March 5, 2009 Letter

Wetlands Action Network
P.O. Box 1145
Malibu, CA 90265
Attn: Marcia Hanscom

Ballona Institute
322 Culver Blvd., Ste. 17
Playa del Rey, CA 90293

Friends of Sunset Park
P.O. Box 5823
Santa Monica CA 90409

Heal the Bay
1444 9th Street
Santa Monica, CA 90401
Attn: Kerstin James

Koreh LA
6505 Wilshire Boulevard, #900
Los Angeles, CA 90048
Attn: Elaine Albert

NRDC (National Resources Defense Council)
1314 Second Street
Santa Monica, CA 90401
Attn.: Damon Nagami

Southern California Gas Company
Sempra Energy Utilities
Mailbox: GT 16G3
555 West 5th Street
Los Angeles, CA 90013
Attn: James Chuang

Other Interested Groups/Individuals

CLEAN ~ Coastal Law Enforcement Action Network
322 Culver Blvd., Ste. 17
Playa del Rey, CA 90293

Sierra Club Ballona Wetlands Restoration Committee
322 Culver Blvd., Ste. 317
Playa del Rey, CA 90293

Sierra Club, Airport Marina Group
Joe Young
3435 Wilshire Blvd #320
Los Angeles, CA 90010-1904

Laura Silagi and/or David Ewing
Venice Community Coalition
1033 Nowita Pl.
Venice, CA 90291

Denny Schneider
Osage Neighborhood Association
7929 Breen Ave
Westchester, CA 90045-3357

Betsey Landis
California Native Plant Society, Santa Monica Chapter
3908 Mandeville Canyon Road
Los Angeles, CA 90049

David Barish
We Are Marina del Rey
PO Box 9096
Marina del Rey, CA 90295

Kathy Knight
1122 Oak Street
Santa Monica, CA 90405

Joe Geever
California Policy Coordinator
Surfrider Foundation
8117 W. Manchester Ave., #297
Playa del Rey, CA 90293

Dean Francois
Friends of the South Bay Bicycle Path
PO Box 808
Hermosa Beach, CA 90234

Agencies/Entities

Los Angeles Regional Water Quality Control Board
DTSC (Department of Toxic Substances Control)
OEHHA (Office of Environmental Health Hazard Assessment)
Native American Heritage Commission
SHPO (State Historic Preservation Office)
MTA (Metropolitan Transportation Authority)
CalTrans
City of Santa Monica
City of El Segundo
Culver City
City of Manhattan Beach
Department of Fish and Game
California Coastal Conservancy

Neighborhood Councils

Venice Neighborhood Council
PO Box 550
Venice, CA 90294

Mar Vista Community Council
P.O. Box 66871
Mar Vista, 90066

Neighborhood Council of Westchester/Playa del Rey
8726 S. Sepulveda Blvd. PMB A191
Westchester, CA 90045

Del Rey Homeowners and Neighbors Association and
Del Rey Neighborhood Council
PO Box 661450
Los Angeles, CA 90066

RESPONSE NO. 28-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. For a discussion on the re-noticing of the availability of the RS-DEIR for public review and comment, please see Section I.D. of this Final RS-EIR.

LETTER NO. 29

Emilee Moeller
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COMMENT NO. 29-1

Attached please find Ballona Wetlands Land Trust Comment Letter on the Village at Playa Vista RS-DEIR (Case No. ENV-2002-6129-EIR).

The comment letter includes numerous exhibits, amounting to hundreds of pages. As such, we are not able to email them as attachments along with the comment letter itself (the pdf files would be too large).

These exhibits, along with the original comment letter are being sent to you via U.S. Mail today.

The following comments on the Revised Draft Environmental Impact Report ("RS-DEIR" or "EIR") for the Village at Playa Vista are submitted by the Law Offices of Sabrina Venskus on behalf of our client, the Ballona Wetlands Land Trust (BWLT). Founded in 1994, BWLT is a non-profit community organization dedicated to the acquisition, restoration and preservation of the entire Ballona Wetlands ecosystem. BWLT was a commenter on the original Draft Environmental Impact Report for the above-referenced Village at Playa Vista project (hereinafter "Proposed Project" or "Phase II") as well as one of the successful petitioners/appellants in *City of Santa Monica, et al. v. City of Los Angeles, et al.*, (L.A.S.C., Case No., BS093502).

RESPONSE NO. 29-1

The comment provides introductory and background information about Ballona Wetlands Land Trust. The comment is noted and will be incorporated into the Final RS-EIR for review and consideration by the decision-makers. Responses to commentor's detailed comments are provided below.

COMMENT NO. 29-2

1. INTRODUCTION

It bears mentioning the context in which the Proposed Project is presented to the public and decision-makers. Playa Capital, L.L.C., the Proposed Project proponent requests a

significant up-zoning of the 111-acre parcel, variously known as Ballona Southeast, which is currently entitled for a maximum of 108,000 square feet of office/light industrial use. In other words, Playa Capital, L.L.C., requests an upzoning of **40 times what is allowable** under current zoning. **The Proposed Project, if approved, represents a \$145,600,000.00 *gift* in land value to the land owners¹ -- a Wall Street investment consortium whose majority owner is Goldman-Sachs.**

^{1.} *Exhibit A-3*

RESPONSE NO. 29-2

The financial implications attributable to the approval of land use entitlements are not relevant to the analysis of the project's environmental impacts, and therefore do not relate to the adequacy of the RS-DEIR. Refer to Section II.A.3.3. of the RS-DEIR for a complete discussion of the land use impacts of the Proposed Project in light of the requested entitlements, including the consistency of the proposed entitlements (including the requested upzoning) with existing City planning documents such as the General Plan.⁹²

Finally, the approval of development entitlements is not a "gift" under California law. Rather, the granting of land use entitlements through the discretionary review process is an exercise of the City's police power.⁹³

COMMENT NO. 29-3

Regrettably, despite the lengthy page count, the RS-DEIR is merely a *pro forma* documentation of effects of a proposed project already assumed to be approved. In summary, the City must revise its RS-DEIR to comply with CEQA and to provide the public and decision makers with adequate information regarding the true environmental impacts of the Proposed Project and propose alternatives and mitigation measures that would lessen those impacts.

The RS-DEIR appears to have addressed some of the issues required to be discussed by the Court of Appeals' opinion, as ordered by writ of mandate by the trial court in *City of Santa Monica, et al., v. City of Los Angeles, et al., (L.A.S.C., Case No., BS093502)*.² However, as discussed below, the RS-DEIR fails to satisfy the requirements of CEQA.³ The analysis of wastewater impacts is incomplete, overlooking adverse impacts on water quality. In addition, the RS-DEIR violates the court-ordered requirement to discuss and consider preservation in place according to CEQA Guidelines §15126.4. The RS-DEIR provides no real, good faith discussion of Proposed Project design options that would allow

⁹² See RS-DEIR, Section II.A.3.3.1.4.1.

⁹³ *Ehrlich v. City of Culver City (1996) 12 Cal.4th 854, 868-869.*

the archaeological resources excavated in violation of CEQA to be returned in their original place. With respect to land use impacts, the RS-DEIR fails to discuss the inconsistencies between the Proposed Project and the General Plan's Framework Element. Finally, the RS-DEIR section on Global Climate Change is inadequate as it fails to properly analyze greenhouse gas ("GHG") emissions.

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2. *Exhibit A-1, Court of Appeal Opinion, 2007 WL 2677035 (Cal.App.2 Dist.) [hereinafter "Opinion"]*
 3. *Despite BWLT's prior written request, the City inexplicably failed to post the Notice of Preparation on its website to inform the general public of the opportunity to comment on the RS-DEIR. (See Exhibit A-2)*

The RS-DEIR also completely ignores other potentially significant impacts, including impacts relating to water supply, and methane-related impacts, as well as fails to analyze environmentally superior alternatives. CEQA requires these issues be addressed due to changed circumstances and new information of substantial importance since the original 2004 EIR certification.

RESPONSE NO. 29-3

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of the decision-makers. Please refer to Sections I.B. and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information." Also, please see the responses to the comments below for detailed discussions of the various impact areas noted in this comment.

With respect to the comment regarding the Notice of Preparation not being posted on the City's website, the Notice of Completion and Availability for the RS-DEIR – which provides the public with notification regarding the opportunity to comment on the RS-DEIR – was posted on the City's website.⁹⁴ The Notice of Preparation for the Original DEIR was issued in 2002.

COMMENT NO. 29-4

CEQA requires that an EIR be recirculated for public comment and agency consultation whenever "significant new information" regarding a "substantial adverse environmental

⁹⁴ *Los Angeles City Planning website, Village at Playa Vista RS-DEIR, available at: http://cityplanning.lacity.org/eir/PlayaVista/DEIR_RS/index.htm (last visited June 23, 2009).*

effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative)." (Pub. Res. Code, § 21092.1; CEQA Guidelines, §15088.5.) Examples of circumstances requiring recirculation include, but are not limited to,:

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

BWLT's comments address archaeology, wastewater/water quality, water supply, safety/risk of upset (methane), climate change, land use, and feasible alternatives to the Proposed Project. BWLT respectfully requests the City direct Playa to revise its RS-DEIR in the manner discussed below and recirculate the DEIR for public review and comment. Only then can the public and decision-makers be assured that the environmental consequences of the Proposed Project and alternatives thereto are fully addressed and that the City is equipped to make a fully informed decision with respect to approval or disapproval of the Proposed Project as currently presented.

RESPONSE NO. 29-4

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of the decision-makers. Please refer to Sections I.B. and I.C of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information." Also, please see Responses to Comments below for detailed discussions of the various impact areas noted in this comment.

With respect to the comment requesting the City to direct the Applicant to revise its RS-DEIR, please note that the City, as the lead agency under CEQA, directs the preparation of an EIR for the Proposed Project and is responsible for the adequacy and objectivity of the RS-DEIR.⁹⁵

⁹⁵ *Cal. Pub. Res. Code Section 21100(a); State CEQA Guidelines Section 15084(e); Eureka Citizens for Responsible Government v. City of Eureka (2007) 147 Cal.App.4th 357, 369-70.*

COMMENT NO. 29-5**II. ARCHAEOLOGY***A. Introduction*

For many Native Americans, preservation of ancestral burial sites is an essential value for a group that "define[s] themselves through time and place as forever linked to ancestors, environment, and the earth."⁴ Most Native Americans believe that the spirit of an ancestor is released when their remains are uncovered and separated from sacred burial objects. The unreleased spirit of an ancestor remains at unrest until the skeletal remains are returned to the earth.⁵

"Native Americans approach [preservation] issues from cultural, religious, and historical perspectives that transcend the concern that scientific data will be lost...Most Native Americans desire that their ancestors' remains stay undisturbed...For many Native Americans, showing respect for the remains of ancestors is far more important than any scientific study of those remains."

The Gabrielino-Tongva Tribe in particular believes it is important for disturbed remains to be placed in their original resting place. As Anthony Morales, Tribal Chief, put it: "The ancestors that were covered in Phase II need to be reburied in their original place so they can continue their eternal rest. We are the voices of our ancestors. No archaeological or scientific theory can dictate our culture to us. It is very significant that this request be honored by the developed because it is very sacred, spiritual, and cultural."

⁴ Riley, "Straight Stealing": Towards an Indigenous System of Cultural Property Protection (2005) 80 Wash.L.Rev. 69, 115

⁵ Marsh, *Walking the Spirit Trail: Repatriation and Protection of Native American Remains and Sacred Cultural Items* (1992) 24 Ariz. L.Rev 79, 84.

RESPONSE NO. 29-5

The RS-DEIR, Section II.C, analyzed various options to restore the previously excavated archaeological resources to their former location in the Riparian Corridor.

The comment also refers to statements of Mr. Anthony Morales, Tribal Chief of the Gabrielino/Tongva San Gabriel Band of Mission Indians. While the City welcomes comments concerning the beliefs of Mr. Morales and his tribe (refer also to Comment Letter No. 38 for Mr. Morales' own comment letter), the City notes for clarification purposes that the Native American Heritage Commission (NAHC) designated Mr. Robert Dorame the Most Likely Descendant (MLD) of the Gabrielino/Tongva for the entire Playa Vista development, including the Proposed Project. In accordance with California Public

Resources Code Section 5097.98, the MLD has provided guidelines and made recommendations concerning the handling and reinterment of Native American human remains excavated at the Proposed Project site.⁹⁶

Most recently, the Applicant worked with Mr. Dorame and the NAHC on the reinterment of the Native American human remains and associated grave goods excavated from the First Phase Project. Mr. Dorame has requested that the Native American human remains found in the Proposed Project area be reinterred alongside those from the First Phase Project at the Ballona Discovery Center site adjacent to the Riparian Corridor in the western portion of the Playa Vista First Phase Project. For an additional discussion about the reinterment process, refer to Response Nos. 37-3 and 39-1.

COMMENT NO. 29-6

The project proponent, Playa Capital, L.L.C. (hereinafter project proponent" or "Playa") has stubbornly refused to comply with CEQA's preservation in place requirement throughout its history of treatment of Native American remains and cultural objects in Phase I and Phase II of the Playa Vista development. While the original draft EIR was being circulated on the Phase II project, Playa exhumed nearly 400 Native American human remains⁶ to make way for the adjacent Phase I project.

Playa's treatment of those ancestors created a public outcry (including dismay from some archaeologists) and demonstrated that the so-called "mitigation" of data recovery provided no safeguards to protect and preserve sacred Native burials and cemeteries. Playa's Phase I data recovery plan allowed the Project Proponent to dig up and store these human remains with impunity. Despite numerous requests from the public and the Native American Heritage Commission (NAHC), the city refused to require Playa to amend its similarly defective treatment plan for potential Phase II burials, nor even provide a discussion in the EIR of the possibility of preserving burials in place. The NAHC advocated a mitigation measure to preserve in place future discoveries in Phase II. Such a request was ignored and Phase II was approved with the same data recovery as used in Phase 1.

⁶ *The RS-DEIR apparently refers to these discoveries as "300 burial features" and fails to state plainly exactly how many intact human remains were exhumed. (RS-DEIR, at p. II-C-31 to 32.)*

⁹⁶ *Guidelines provided by Mr. Dorame are attached at RS-DEIR Appendix D.xii. Updated guidelines provided by Mr. Dorame in 2000 and 2003 are attached at RS-DEIR Appendix D.xi. Additional MLD guidelines updated in 2005 have been added to the Final RS-EIR as Appendix B.i.*

RESPONSE NO. 29-6

The commentor raises various contentions concerning the excavation of Native American and archaeological resources during the development of the First Phase Project. That work complied with all federal, state, and local laws and regulations. For additional information, refer to Original FEIR Comment Letter No. 14 for prior comments from and responses to the NAHC. All Native American human remains excavated from the First Phase Project site have been reinterred at the Ballona Discovery Center, with a ceremonial day held on December 13, 2008 in which Mr. Morales participated. Refer to Response No. 37-3.

The commentor also refers to two measures that can mitigate impacts to archaeological resources—preservation in place and data recovery. While preservation in place is the preferred mitigation measure under California law (refer to Response No. 29-9, below), it is not the exclusive measure for ensuring that a project's impacts to archaeological resources are mitigated to a less than significant level. State CEQA Guidelines Section 15126.4(b)(3) makes clear that when data recovery through excavation is the only feasible mitigation, a data recovery plan may be utilized to “adequately recover[] the scientifically consequential information from and about the historical resource.”⁹⁷ While the Court of Appeal required additional analysis of preservation in place, the Court of Appeal also upheld the City's finding that the data recovery plans applicable to the Proposed Project mitigated all impacts to a level below significance for CEQA purposes.⁹⁸ Also, Section 4.1 of the RS-DEIR fully analyzes various design options for the potential preservation in place or restoration of the previously recovered archaeological resources to their original locations.

With regard to the number of human burial features excavated in connection with the First Phase Project, and the three human burial features found at the Proposed Project, please refer to Response No. 29-15 below.

COMMENT NO. 29-7

After Petitioners in *City of Santa Monica, et al. v. City of Los Angeles, et al.* filed a petition for writ of mandate and request for preliminary injunction, challenging the Phase II EIR, Playa proceeded with its Phase II project. As litigation progressed, Petitioners learned of discoveries of human burials in Phase II, where Playa was excavating its Riparian Corridor. Petitioners filed a temporary restraining order as well as a request for the trial court to rule immediately on their request for preliminary injunction. The city and Playa vigorously opposed these requests by petitioners to cease disturbance of archaeological sites pending

⁹⁷ *State CEQA Guidelines Section 15126.4(B)(3)(C).*

⁹⁸ *RS-DEIR Appendix A.i, Court of Appeal Opinion, pp. 40-42.*

proper environmental review. After the trial court denied both requests, Petitioners sought a writ of supersedeas in the Court of Appeal. Playa and the city once again opposed this request, knowing that Playa had expeditiously removed human burials from the area during litigation. According to the RS-DEIR, by the time the Court of Appeal invalidated the EIR in 2007, Playa had progressed the project to such an extent that the archaeological sites were substantially impacted by the field work for the data recovery process.⁷

The effect of Playa's refusal to halt project activities impacting archaeological sites has been to perpetuate conflict with Native religious or cultural values and the disassociation between archaeological discoveries and their context. (See CEQA Guidelines, §15126.4, subd. (b)(3)(A).) Despite the fact that Playa was the cause of its own predicament (i.e., the disturbance of the archaeological sites without proper environmental review), Playa now claims that there is no such thing as preservation in place in this context and the RS-DEIR bases its faulty environmental review on that assumption. To add insult to injury, Playa's entire analysis piles on as many drawbacks to requiring preservation in place without mentioning (other than that it is court-ordered) the potential benefits, as recognized by CEQA. (See Guidelines, § 15126.4, subd. (b).)

⁷. See *Preliminary Report on Data Recovery within the Phase 2 Project Area at CA-LAN-62, Locus D, and CA-LAN-211H, Playa Vista, California, Appendix to RS-DEIR, at p.1, and 8-14 [describing excavation]*.

RESPONSE NO. 29-7

As acknowledged by the commentor, all of the requests for preliminary judicial relief made by the petitioners, including the commentor, in *City of Santa Monica, et al. v. City of Los Angeles, et al.* to enjoin the construction of the Riparian Corridor and corresponding removal of archaeological resources were denied by the courts. The Applicant proceeded with development of the Riparian Corridor and archaeological recovery work only after all federal, state, and local permits were issued. No work occurred once the Court of Appeal Opinion was issued. With regard to the analysis of the potential benefits of preservation in place, please refer to Response No. 29-10 below.

COMMENT NO. 29-8

B. Discussion

The RS-DEIR provides 65 pages of observations and analysis that is an apparent attempt to avoid properly addressing future mitigation measures and the option of placing exhumed Native American burials and cultural objects back in their original place. The entire analysis is constructed so as to provide justification for actions already taken in violation of CEQA. The RS-DEIR makes no real attempt to consider preservation in place. Instead, the RS-DEIR makes mere reference to the words preservation in place as if this were

enough to comply with CEQA Guidelines, §15126.4. The RS-DEIR improperly constructs a new, self-serving definition of preservation in place. However, this definition does not pass the common sense test, and its use in the RS-DEIR violates CEQA.

In summary, the RS-DEIR's Archaeological Resources section is inadequate in three main respects: 1) the analysis of preservation in place violates CEQA by concocting a narrow definition of "preservation in place"; 2) the analysis of potential ways to reconfigure the Proposed Project to achieve preservation in place violates CEQA because it is an *ad hoc* rationale for an outcome predetermined by the applicant; and 3) the RS-DEIR does not address or provide for future mitigation that accomplishes preservation in place, in violation of CEQA.

RESPONSE NO. 29-8

The commentor's disagreement with the analysis in the RS-DEIR of preserving in place the previously excavated archaeological resources is noted and will be incorporated into the Final RS-EIR for review and consideration of the decision-makers. A detailed discussion of the three main sources of disagreement identified by the commentor is provided in Response Nos. 29-9 through 29-13 below. It should be noted at the outset, however, that although the RS-DEIR confirms that "preservation in place" (as that term is used by archaeological experts and as set forth in the applicable CEQA Guidelines) cannot be achieved once the resource is removed from the context of its original location, the RS-DEIR continued its analysis by examining six different options for restoring the previously removed archaeological resources to a location that would approximate the original location of those resources. See also Response No. 29-9.

COMMENT NO. 29-9

1. Analysis of "preservation in place" violates CEQA.

CEQA requires the RS-DEIR to discuss and analyze the option of preserving in place archaeological resources, including the option of placing previously excavated archaeological resources back in their original place. (CEQA Guidelines, §15126.4, subd. (b)(3)(A).) This interpretation of "preservation in place" is based in part on the description of the policy behind the preservation requirement: only preservation in place "maintains the relationship between artifacts and the archaeological context" and "*may also avoid conflict with religious or cultural values of groups associated with the site.*" (CEQA Guidelines, § 15126.4, subd. (b)(3)(A) [emphasis added].)

The RS-DEIR creates a definition of "preservation in place" that *purposely excludes* the possibility of returning archaeological finds back into their original place.⁸ The RS-DEIR essentially claims there is no such thing as preservation in place here, where items have already been illegally removed.⁹ Curiously, while quoting Guidelines §15126.4(b)(3)(A) in support of this definition, the RS-DEIR excludes and ignores the portion which states that

preservation in place "may also avoid conflict with religious or cultural values of groups associated with the site."¹⁰

The RS-DEIR's analysis of preservation in place is thus based on a faulty and illegal definition. Because the definition of preservation in place underpins the entire analysis and conclusions in the RS-DEIR Section II.C, the entire section fails to provide the necessary analysis required by the Court. Moreover, the definition itself is evidence that the Playa never seriously considered the option of returning remains and funerary objects in their original place.¹¹

8. *RS-DEIR, at p. II.C-60; II.C-40.*

9. *Ibid.*

10. *RS-DEIR, at p. II. C-40.*

11. *Exhibit A-1, Opinion, at p. 40.*

RESPONSE NO. 29-9

Under CEQA, "preservation in place" is the preferred method for mitigating significant impacts to significant archaeological resources as that measure "maintains the relationship between artifacts and the archaeological context."⁹⁹ The additional provision in this CEQA Guideline cited by the commentor identifies one benefit that may occur if the aforementioned relationship is maintained (namely, "avoid[ing] conflict with religious or cultural values of groups associated with the site").¹⁰⁰

The RS-DEIR properly evaluated the preliminary question of whether the City and the Applicant have the ability to "preserve in place" the archaeological resources already removed from the Proposed Project site. The RS-DEIR addresses that question by first discussing the definition of "preservation in place" provided in the State CEQA Guidelines. As acknowledged by the commentor, State CEQA Guideline 15126.4(b)(3)(A) provides that preservation in place "maintains the relationship between artifacts and the archaeological context." As confirmed by expert opinion provided in the RS-DEIR, while resources may be returned to their original location, that relationship cannot be recreated once the archaeological resource is initially removed, since removal of the resource by definition changed the archeological context.¹⁰¹

⁹⁹ *State CEQA Guidelines Section 15126.4(b)(3)(A); Cal. Pub. Res. Code Section 21083.2.*

¹⁰⁰ *State CEQA Guidelines Section 15126.4(b)(3)(A).*

¹⁰¹ *Based on the opinion of archaeological experts, "once archaeological resources are removed from the place where they were discovered, the 'return' of those archaeological resources to their original location does not eliminate the changes to the archaeological resource that occurred by virtue of their removal." RS-DEIR, p. II.C-40.*

Maintaining that contextual relationship is evident in the examples of “preservation in place” provided in this CEQA Guideline: (1) planning construction to avoid archaeological sites; (2) incorporation archaeological sites within parks, greenspace, or other open space; (3) covering the archaeological sites with a layer of chemically stable soil before building tennis courts, parking lots, or similar facilities on the site; or (4) deeding the site into a permanent conservation easement.¹⁰² In each example, the archaeological resources are preserved in their original location by not excavating them in the first instance.¹⁰³ In contrast, once the resource is excavated, it is not possible to restore archaeological resources as if the original removal of the resources had never occurred.¹⁰⁴ The RS-DEIR notes that for the same reason, disturbed sites are usually not eligible for listing on the National Register of Historic Places.¹⁰⁵

With respect to the Court of Appeal Opinion referenced by the commentor, the Court of Appeal required consideration of “restoring archaeological resources to their prior resting places within the excavated corridor, or restoring those items to other suitable locations on the project site.”¹⁰⁶ The RS-DEIR examines this topic at length by examining six options (four in detail) for filling in and relocating the Riparian Corridor. Because the original locations of the archaeological resources have been removed, the RS-DEIR considers the feasibility of realigning the Riparian Corridor in order to restore the archaeological resources to their original three dimensional location by filling in the Riparian Corridor and re-establishing the elevations that existed prior to the construction of the Riparian Corridor. Those design options are reviewed in detail in Section II.C.4.1.1 of the RS-DEIR.

It appears that the commentor may also be requesting an analysis of the feasibility of placing the archaeological resources back to the exact location where they were discovered without realigning the Riparian Corridor. In that regard, the human burials cannot be returned to their original locations because the construction of the Riparian Corridor resulted in the excavation and removal of the original location of the burials. The area where the Riparian Corridor is now located on the Proposed Project site, including the portion of the site where the three human burial features were found, has been excavated and removed to create the Riparian Corridor’s channel.¹⁰⁷ As a result of that soil

¹⁰² *State CEQA Guidelines Section 15126.4(b)(3)(B).*

¹⁰³ *RS-DEIR, p. II.C-40.*

¹⁰⁴ *Comments Relating to Analysis of Archaeological Impacts in the Recirculated Sections of Draft Environmental Impact Report (RS-DEIR) for the Village at Playa Vista Project (Proposed Project), Statistical Research, Inc., July 16, 2009 (Appendix B.iii).*

¹⁰⁵ *RS-DEIR, p. II.C-41.*

¹⁰⁶ *RS-DEIR, Appendix A.i, Court of Appeal Opinion, p. 40.*

¹⁰⁷ *Comments Relating to Analysis of Archaeological Impacts in the Recirculated Sections of Draft Environmental Impact Report (RS-DEIR) for the Village at Playa Vista Project (Proposed Project), Statistical Research, Inc., July 16, 2009 (Appendix B.iii).*

excavation, the elevation of this area was lowered from 14.5 ft. above mean sea level (AMSL) to 8.0 ft. AMSL. The three human burial features were found at 9.51 ft., 10.17 ft. and 10.83 ft. AMSL. Consequently, the exact three-dimensional locations of the burials are now approximately 1.5 ft. to 2.8 ft. above the current surface of the Riparian Corridor itself. Figure 1 in Appendix B.iii illustrates the former burial locations would now be located in air or, during storm flows in the Riparian Corridor, in water.¹⁰⁸

Figure 1 in Appendix B.iii also illustrates the difficulty with restoring the human burials to the Riparian Corridor at their original north/south and east/west locations, but at a lower elevation, without relocating the Riparian Corridor. If the human burials were restored to below the current surface of the Riparian Corridor and the Riparian Corridor allowed to flow over them, the remains would deteriorate from wet subsurface conditions. The groundwater table is extremely close to the bottom of the Riparian Corridor and fluctuates over time with climatic conditions such as rainfall.¹⁰⁹ In fact, SRI encountered some difficulty performing their excavation work because of groundwater intrusion.¹¹⁰ Given that close proximity between the groundwater table and the water in the Riparian Corridor, restoration of the archaeological resources to this area at an elevation lower than their prior one would place them in water or in extremely wet soil. Consequently, should the resources be restored to this area of the Riparian Corridor with the Riparian Corridor in its current location, the resources would quickly deteriorate or even be transported away from the restoration site.¹¹¹

Filling the Riparian Corridor to raise the elevation of its bottom to provide more space for a burial location under the water while leaving the Riparian Corridor in its current

¹⁰⁸ *Id.* Additionally, it should be noted that the three burial features SRI identified at CA-LAN-211/H were not located together in a defined burial area but rather were scattered. See Figure 10 of SRI's September 2006 Preliminary Report on Data Recovery within the Phase 2 Project Area at CA-LAN-62, Locus D, and CA-LAN-211/H, attached in Appendix D.ii of the RS-DEIR to SRI's Assessment of Preservation in Place of Archaeological Resources (CA-LAN-62 Locus D and CA-LAN-211) in Proposed Village at Playa Vista Project. Isolated instances of human bones were found apart from the burials as well. Consequently, placing all of the human burials and isolated bones in a single resting location within the Riparian Corridor would not restore each archaeological resource to its exact prior resting place.

¹⁰⁹ *Habitat Mitigation and Monitoring Program (1995); Altschul, Jeffrey, H., et al., Playa Vista Archaeological and Historical Project, At the Base of the Bluff, Archaeological Inventory and Evaluation along Lower Centinela Creek, Marina del Rey, California, Statistical Research, Inc. Tucson, AZ, Redlands, CA, April 2003.*

¹¹⁰ *Van Galder, Sarah J., Benjamin R. Vargas, Jeffrey H. Altschul, John G. Douglass, Richard Ciolek-Torrello, and Donn R. Grenda, Preliminary Report on Data Recovery within the Phase 2 Project Area at CA-LAN-62, Locus D, and CA-LAN-211/H, Playa Vista, California, September 2006, attached to RS-DEIR Appendix D.ii.*

¹¹¹ *Comments Relating to Analysis of Archaeological Impacts in the Recirculated Sections of Draft Environmental Impact Report (RS-DEIR) for the Village at Playa Vista Project (Proposed Project), Statistical Research, Inc., July 16, 2009 (Appendix B.iii).*

location is infeasible.¹¹² The Riparian Corridor must maintain a downward slope from east to west so that water will flow through the Riparian Corridor to the Freshwater Marsh west of Lincoln Blvd. Currently, the elevation of the flow line of the Riparian Corridor at the eastern end is 11.70 ft. AMSL and 4.73 ft. AMSL at the western end.¹¹³ Placing the additional fill required to return the archaeological resources to their original elevations in their original locations (which would require the bottom of the Riparian Corridor to be at an elevation of approximately 11 ft. AMSL at the locations where the burials were encountered) would impede the flow of water at that point in the Riparian Corridor, which is currently approximately 8.0 ft. AMSL.¹¹⁴ It should also be noted that reducing the depth of the Riparian Corridor by fill and reburying the archaeological resources under the Riparian Corridor footprint would still subject the resources, and the soil surrounding them, to water intrusion from either the Riparian Corridor or the groundwater table.

All three burial features found in LAN-211/H showed significant signs of deterioration—two burial features were highly disturbed and the remaining one was only moderately preserved—and all three consisted mostly of fragmentary remains.¹¹⁵ In light of the fragility of these archaeological resources, the water and wet soil to which they would be exposed would negatively impact the resources.¹¹⁶ Measures (such as plastic wrapping) that might be considered to protect the resources in a wet subsurface condition would be inconsistent with the guidelines for handling Native American human remains provided by the MLD. Those guidelines call for natural cotton bags during storage and deerskin wrapping for reinternment.¹¹⁷ These coverings are not moisture resistant. In contrast, these coverings were able to be used for the reinternment at the Ballona

¹¹² *In addition, constructing the Riparian Corridor at a higher elevation as of 2002, would still have impacted the human burials. See id.*

¹¹³ *Refer to RS-DEIR Appendix D.i, Analysis for Alignments of the Riparian Corridor through the Village at Playa Vista to Preserve in Place Archaeological Resources, PSOMAS and Associates, April 2008, Exhibit 9.*

¹¹⁴ *See RS-DEIR Appendix D.ii, Douglass, John, Grenda, Donn and Vargas, Benjamin, Assessment of Preservation in Place of Archaeological Resources (CA-LAN- 62 Locus D and CA-LAN-211) in Proposed Village at Playa Vista Project, April 2008, Figure 13, p. 29.*

¹¹⁵ *Van Galder, Sarah J., Benjamin R. Vargas, Jeffrey H. Altschul, John G. Douglass, Richard Ciolek-Torrello, and Donn R. Grenda, Preliminary Report on Data Recovery within the Phase 2 Project Area at CA-LAN-62, Locus D, and CA-LAN-211/H, Playa Vista, California, September 2006, attached to RS-DEIR Appendix D.ii; Comments Relating to Analysis of Archaeological Impacts in the Recirculated Sections of Draft Environmental Impact Report (RS-DEIR) for the Village at Playa Vista Project (Proposed Project), Statistical Research, Inc., July 16, 2009 (Appendix B.iii).*

¹¹⁶ *RS-DEIR Section II.C.4.1; Comments Relating to Analysis of Archaeological Impacts in the Recirculated Sections of Draft Environmental Impact Report (RS-DEIR) for the Village at Playa Vista Project (Proposed Project), Statistical Research, Inc., July 16, 2009 (Appendix B.iii).*

¹¹⁷ *See RS-DEIR Appendix D.xi., Dorame, Robert, The Gabrielino Tongva Indians of California Tribal Council, Procedures for the Treatment and Disposition of Human Remains, Associated Grave Goods and Patrimonial Items at Gabrielino Tongva Ancestral Sites, p. 6 (2003 Guidelines).*

Discovery Center of the human remains found in the First Phase Playa Vista project since the elevation of that reinternment site was established at the MLD's request to ensure that the human remains will be above the groundwater even at periodic high levels (such as occur after rain events).¹¹⁸

For all of the above reasons, restoring the archaeological resources to their former locations in the Riparian Corridor without realigning the Riparian Corridor is not feasible.

COMMENT NO. 29-10

Furthermore, the required preservation in place discussion should "ensure that the decision makers and the public give adequate consideration to both the benefits of preservation in place and potential measures to achieve that preferred goal."¹² Here, the RS-DEIR fails to discuss **any benefits of preservation in place** because the RS-DEIR interprets "preservation in place" so as to make the public and decision makers believe there is no such thing. In fact, the RS-DEIR states that "preservation in place" of previously exhumed ancestors is "not possible."¹³ By changing the definition of "preservation in place" in violation of CEQA, the RS-DEIR excluded an entire discussion of the benefits of placing Native American ancestors and burial objects (in addition to cultural objects) back in place. It is clear from the RS-DEIR that preservation in place was never considered as the preferred alternative to data recovery.

The archeological impacts resulting from the excavation required by the Proposed Project are admittedly significant.¹⁴ Therefore, mitigation is required. (CEQA Guidelines, §15126.4.) Playa Capital L.L.C., has two main options: (1) preservation in place; or, if that is impossible, (2) data recovery.¹⁵ As to the preservation in place option, there are several options to "achieve **greater preservation in place**, including, for example, changing the course or depth of the riparian corridor and **restoring archaeological resources to their prior resting places** within the excavated corridor, or restoring those items to other suitable locations on the project site."¹⁶ The EIR must discuss, for example, "whether more archaeological resources could be preserved in place if the riparian corridor were redesigned to avoid the highest concentrations of archaeological resources or if other parts of the project were built at another location, or whether other measures might result in more preservation in place."¹⁷ Here, the RS-DEIR fails to adequately discuss potential measures to achieve the preferred goal of preservation in place, either with regard to previously excavated remains and artifacts as well as future undiscovered resources.

¹². *Exhibit A-1, Opinion, at p. 36*

¹³. *RS-DEIR, at p.II.C-60.*

¹⁴. *RS-DEIR, at p.*

¹¹⁸ *Comments Relating to Analysis of Archaeological Impacts in the Recirculated Sections of Draft Environmental Impact Report (RS-DEIR) for the Village at Playa Vista Project (Proposed Project), Statistical Research, Inc., July 16, 2009 (Appendix B.iii).*

15. *Ibid.*
16. *Exhibit A-1, Opinion, at p. 40 [emphasis added].*
17. *Exhibit A-1, Opinion, at p.36.*

RESPONSE NO. 29-10

In the Court of Appeal Opinion (which the commentor quotes in part in its comment), the Court of Appeal directed the City to examine the feasibility of redesigning the Riparian Corridor, whether by changing its depth or location, to avoid concentrations of archaeological resources, and/or achieve greater preservation in place. The Court of Appeal Opinion also discussed restoring archaeological resources to their prior resting places within the excavated Corridor or restoring those items to other suitable locations on the Proposed Project site, in recognition of the fact that resources had already been removed.¹¹⁹ Whether called “preservation in place” or “restoration,” the RS-DEIR examines four design options for relocating the Riparian Corridor in detail (and two other options were also considered, but the options were not found to be viable for preserving in place). That analysis demonstrates that greater preservation in place, i.e., not removing the resources, may have been achieved had the Riparian Corridor been built as discussed in those options rather than the present location of the Riparian Corridor, but no option would have resulted in no impacts to archaeological resources. That analysis also explains, however, that all location options would have been hydrologically less efficient and had adverse habitat effects in comparison to the existing location of the Riparian Corridor.¹²⁰ In recognition of the removal of the resources, the analysis goes on to discuss the potential for additional archaeological (and other environmental) impacts if the Riparian Corridor were filled so resources could be returned to their former places. Response No. 29-9 above discusses what appears to be the commentor’s suggestion to restore the archaeological resources without relocating the Riparian Corridor. With respect to measures aimed at preserving in place any archaeological resources potentially discovered in the future, refer to Response No. 29-13.

Also, the analysis in the RS-DEIR recognizes the benefits attributable to preservation in place, namely that it “maintains the relationship between artifacts and the archaeological context [and] may also avoid conflict with religious or cultural values of groups associated with the site.”¹²¹ To honor those religious and cultural values at this time, the MLD designated by the NAHC for Playa Vista, Mr. Dorame, has stated his preference that the Native American human remains and associated grave goods excavated everywhere at Playa Vista, including from CA-LAN-211/H at the Proposed

¹¹⁹ *RS-DEIR, Appendix A.i, Court of Appeal Opinion, p. 40.*

¹²⁰ *RS-DEIR, pp. II.C-51–II.C-55.*

¹²¹ *State CEQA Guidelines Section 15126.4(b)(3)(A).*

Project site, be reinterred together at the Ballona Discovery Center. Many members of the Gabrielino/Tongva community participated in the design of the Ballona Discovery Center, which includes elements honoring Native American religious and cultural values, includes a reinternment area designed to protect Native American reinternments from groundwater intrusion and future disturbance, and provides a respectful gathering place for Native American ceremonies and remembrances. Refer to Response No. 37-3 for further information about the design of the Ballona Discovery Center.

Finally, please refer to Response No. 29-14 regarding the amount of archaeological resources at the Proposed Project site that have been preserved in place, some of which would likely be disturbed (and the benefits of preservation in place of those resources lost) if the Riparian Corridor were relocated to restore the archaeological resources already removed to their former location.

COMMENT NO. 29-11

2. Analysis of locating corridor/reconfiguring the Proposed Project violates CEQA.

It is difficult to understand why, after extensive and protracted litigation on the subject, the EIR would analyze options for preservation in place primarily for 2002 conditions and not present-day scenarios. As such, the RS-DEIR is merely an *ad hoc* rationale.

The options addressed by the RS-DEIR with regard to 2002 conditions were all rejected by the RS-DEIR as infeasible, essentially with the statement that "Due to the condition of the Proposed Project property, it would not have been feasible to preserve the Archaeological Sites in place."¹⁸ This after-the-fact dismissal of preservation in place as an option is completely inconsistent with the original DEIR's conclusion that it was infeasible to preserve in place ***because the Riparian Corridor could not function.***¹⁹ There is no evidence that remediation would be required for every preservation in place option under CEQA Guidelines, §15126.4(b). For example, the RS-DEIR states that capping could not occur because the soil underneath the resources contained contamination and deteriorating infrastructure."²⁰ This ignores Appendix K of the Guidelines, which provides for capping after a site is recorded and that the capping is required to be done with chemically stable soil—i.e., the soil used for capping (as opposed to the underground soil) must be chemically stable. Appendix K of CEQA Guidelines, Section II.(3) (emphasis added) provides:

"Capping" or covering archaeological sites with a layer of soil before building tennis courts, parking lots, or similar facilities. Capping may be used where:

- a. The soils to be covered will not suffer serious compaction;
- b. The covering materials are not chemically active;
- c. The site is one in which the natural processes of deterioration have been effectively arrested; and

d. The site has been recorded.

^{18.} *RS-DEIR, at p. II.C-55.*

^{19.} *[Original] DEIR, at p. 1219.*

^{20.} *RS-DEIR, at p. II.C-55.*

RESPONSE NO. 29-11

The RS-DEIR examines the location of the Riparian Corridor and impacts to archaeological resources at three different time periods: 2008, reflecting current conditions; 2004, when the City certified the Original FEIR; and 2002, when the City issued the Notice of Preparation for the Original DEIR. The RS-DEIR evaluated the feasibility of preservation in place with 2008 conditions since, as noted above, the Court of Appeal found that the Riparian Corridor's course or depth might be able to be modified to achieve greater preservation in place.¹²² The RS-DEIR considers 2002 conditions in addition to 2008 conditions because CEQA requires that an EIR compare a project's impacts against existing site conditions at the time a local agency issues the Notice of Preparation for the project.¹²³ The NOP for the Original DEIR was issued in November 2002. In addition to complying with that aspect of CEQA, the RS-DEIR analyzes 2004 conditions since the Proposed Project site was the same in 2004 as it was in 2002 (undeveloped), and 2004 represents the time period when the City Council certified the Original FEIR. The RS-DEIR examines 2002 and 2004 conditions for an additional reason. Since the archaeological resources have already been removed from their prior locations, the RS-DEIR examines 2002 and 2004 conditions to more fully evaluate the Court's directives to consider "preserving" the archaeological resources removed from the Riparian Corridor area. Thus, the analysis of historical site conditions is not an after-the-fact rationale for not preserving in place the archaeological resources, but rather an attempt to provide a full picture of the constraints that would apply to efforts to preserve in place the archaeological resources at different time periods.

With respect to the comment about the functionality of the Riparian Corridor, the RS-DEIR concludes that the Riparian Corridor could not have been placed in such a way as to avoid all portions of the Archaeological Sites without compromising the functions of the Riparian Corridor."¹²⁴ This conclusion, and the analysis in support of it, is consistent with, and expands upon, the statement in the Original DEIR which stated that the Riparian Corridor "cannot be placed in such a way as to avoid all portions of these archaeological

¹²² *RS-DEIR, Appendix A.i, Court of Appeal Opinion, pp. 39-40.*

¹²³ *State CEQA Guidelines Section 15125(a).*

¹²⁴ *RS-DEIR, p. II.C-56; see also RS-DEIR, pp. II.C-42–II.C-55 (2002 conditions) and II.C-56–II.C-60 (2008 conditions).*

sites and still function as a hydraulic feature.”¹²⁵ For a detailed discussion of hydraulic concerns and other factors relevant to the location of the Riparian Corridor. See RS-DEIR, pp. II.C-42 through II.C-61.

The commentor also questions the accuracy of the statement in the RS-DEIR that preservation in place under 2002 conditions would have been infeasible due to the need to perform remediation of contaminated soil and excavation in the area of the discovered archaeological resources. Please note that the passage of the RS-DEIR referenced by commentor states in full: “As noted, the Proposed Project site in 2002 was contaminated and had deteriorating buildings, asphalt, and substructures. Any use of the Proposed Project site, whether for park or other uses, would have required remediation of contamination and removal of buildings, asphalt and substructures. Additionally, the Archaeological Sites could not have been covered with a ‘layer of chemically stable soil’ since the soil beneath contained contamination and deteriorating infrastructure.”¹²⁶ As the RS-DEIR explains, remediation of the site is one factor and removal of buildings, asphalt, and substructures would have also been required. Both activities would have adversely impacted archaeological resources in the Riparian Corridor area.¹²⁷ Soil and groundwater is contaminated in that area, and the Los Angeles Regional Water Quality Control Board has ordered remediation of that contamination.¹²⁸ For human health reasons, and to avoid the contamination percolating to the relatively shallow groundwater below, the contaminated soil had to be removed.¹²⁹ Refer to Figure 1 in CDM’s April 28, 2008 *Summary of Remedial Activities in Area D2 of Playa Vista Site*, RS-DEIR Technical Appendix D.iii for a diagram showing areas of contamination and historic structures in the Riparian Corridor area, and RS-DEIR Figures II.C-2, II.C-3, II.C-4, and II.C-5 for photographs showing various structures in the archaeological area over time.

Please also note that the comment incorrectly refers to State CEQA Guidelines Appendix K, which actually addresses the criteria established by the State Clearinghouse in the Office of Planning and Research for a shortened public review period for a negative declaration or EIR. California Public Resources Code Section 21083.2(b) and State CEQA Guidelines Section 15126.4(b)(3)(B)(3) set forth the provisions that enumerate capping as an example of preservation in place.

¹²⁵ *Original DEIR, p. 1219.*

¹²⁶ *RS-DEIR, p. II C-55.*

¹²⁷ *RS-DEIR, p. II.C-55.*

¹²⁸ *See RS-DEIR Appendix D.iii, Summary of Remedial Activities in Area D2 of Playa Vista Site, CDM, April 28, 2008.*

¹²⁹ *Id., p. 3.*

COMMENT NO. 29-12

Regarding present-day options, the RS-DEIR states three main excuses for why preservation in place is "not-possible":

Reason #1: The impacts have already occurred and federal law requires Playa to follow the Programmatic Agreement requiring curation of items previously excavated.

Reason #2: Filling the riparian corridor and replacing ancestors in their resting places would have additional impacts on other nearby archaeological resources.

Reason #3: Filling in the existing Riparian Corridor to pursue any of the options "would have both temporary and permanent adverse impacts on biological resources that currently exist within the Riparian Corridor ..."²¹

Reason #1 maybe dispensed with rather easily. First, CEQA requires a discussion of options to preserve in place both previously excavated remains and cultural objects and future discoveries. (See CEQA Guidelines, §15126.4.) Second, following federal law is no excuse when Playa proceeded in non-compliance of CEQA at its own risk. If the City, in exercising its discretion under CEQA, requires an alternative design as a condition of project approval, Playa can seek approval of the redesigned riparian corridor from the other permitting agencies. Thus, if the Programmatic Agreement must be amended to provide for a greater degree of preservation (i.e., reinternment of remains and funerary objects and preservation in the first instance for future discoveries), the City may require it. As such, it must have been discussed as a method for implementing a preservation in place scenario. Furthermore, the RS-DEIR itself acknowledges that the Programmatic Agreement and federal requirements allow for reinternment of remains and funerary objects.²² There is no discussion of the option of returning ***even these particular items*** back in place.

The RS-DEIR does not fully explain, under Reason #2 regarding impacts to other portions of the preserved Archaeological Sites, whether mitigation could be provided. Furthermore, the RS-DEIR's continual citation of runoff over archaeological sites as an unavoidable problem under any option for moving the Riparian Corridor ignores techniques that may be used to divert water or isolate its effects from the sites.

Finally, regarding Reason # 3, impacts on biological resources, the RS-DEIR does not explain: (1) how or why these potential impacts make preservation in place impossible or infeasible; or (2) how or why these potential impacts can or cannot be mitigated.

²¹. RS-DEIR, at p. II.C-60.

²². RS-DEIR, at p. II.C-57 to 58.

RESPONSE NO. 29-12

The commentor misstates the factors identified in the RS-DEIR supporting the conclusion that preservation in place or restoration of the archaeological resources (including human remains and associated grave goods) already excavated from the Proposed Project site is not feasible.

The RS-DEIR analyzed in detail four possible options for relocating the boundaries of the Riparian Corridor to avoid the archaeological sites (and two others in less detail).¹³⁰ For environmental and technological reasons analyzed in the RS-DEIR, it would not have been feasible to utilize one of these options to preserve the archaeological resources in place.¹³¹ Refer to Response No. 29-11 regarding preservation in place given the necessity of infrastructure removal and remediation activities.

Moreover, the first two options considered by the RS-DEIR are infeasible due to the negative hydrologic effects attributable to those options. In Option 1, storm water runoff from the eastern, First Phase Project portion of the riparian corridor and from the Westchester Bluffs would flow over the archaeological sites and would not meet City requirements for stormwater collection and routing.¹³² In Option 2, storm water from the Westchester Bluffs outside the implemented drainage structures (such as sheet flow off of the Bluffs from storm events) would flow into the archaeological sites, resulting in ponding which might impact the archaeological sites.¹³³ While Options 3 and 4 are viable from hydraulic engineering standpoint, they are less hydraulically efficient, and still would subject the archaeological areas to ponding and erosion from Bluff run-off stormwater flows.¹³⁴ Drainage structures to manage these flows would necessarily disrupt the archaeological areas because in order to direct bluff flow into the Riparian Corridor, it would be necessary for the drainage structures to be built on and across the archaeological sites.¹³⁵

With respect to the comment concerning the Programmatic Agreement, the RS-DEIR did not state that relocation of the Riparian Corridor is infeasible due to the requirements of the Programmatic Agreement. Rather, the RS-DEIR (pp. II.C-35, II.C-57-

¹³⁰ RS-DEIR, p. II.C-43.

¹³¹ RS-DEIR Section II.C.4.1.

¹³² RS-DEIR, p. II.C-50.

¹³³ Douglass, John G., Donn R. Grenda, and Benjamin R. Vargas, *Assessment of Preservation in Place of Archaeological Resources (CA-LAN-62 Locus D and CA-LAN-211) in Proposed Village at Playa Vista Project, April 2008, p. 22.*

¹³⁴ *Id.*

¹³⁵ See RS-DEIR Appendix D.i, *Analysis of Alignments of the Riparian Corridor Through the Village at Playa Vista to Preserve in Place Archaeological Resources, PSOMAS and Associates, April 2008, pp. 10–13 and Exhibits 6 and 7 thereto.*

58) discusses prior and current compliance with the Programmatic Agreement regarding curation of materials other than human remains and associated grave goods that have already been excavated. Refer to Response No. 29-9 regarding reintering human remains and grave goods. The RS-DEIR also identifies the various mitigation measures in the Programmatic Agreement that would apply to any future discovery of archaeological resources.

The commentor also raises the potential for mitigation for any archaeological resources that may be discovered if the Riparian Corridor were relocated. As analyzed in the RS-DEIR and explained in SRI's Technical Report (see Tech App. D.ii. p. 18), relocating or redesigning the Riparian Corridor may have impacts on other archaeological resources currently located near the Riparian Corridor should the Riparian Corridor's walls or floor need to be altered.¹³⁶ To the extent that any additional archaeological resources are discovered in that filling and relocation activity, while preservation in place is the preferred mitigation measure under CEQA, if preservation in place were infeasible, the impacts could be mitigated with a data recovery program. Refer to Response No. 29-6.

The commentor also raises a question concerning the analysis in the RS-DEIR about the impacts on biological resources associated with restoring the archaeological resources to a location in the existing Riparian Corridor.¹³⁷ Those impacts would occur because the redesign or relocation of the 6.7-acre Riparian Corridor would not only disturb the existing habitat and biological resources at the Proposed Project site¹³⁸ but also disconnect the larger, 25-acre riparian corridor (including the east and west portions from the First Phase Project) and the resulting ecosystem that has been created at the whole of the Playa Vista site.¹³⁹ The biological impact attributable to relocating the Riparian Corridor is assessed in detail in Technical Appendix D.iv, which concludes that all of the options for relocating the Riparian Corridor in the Proposed Project area have less biological value than the current Riparian Corridor configuration.

¹³⁶ RS-DEIR, p. II.C-58; RS-DEIR Appendix D.ii, *Assessment of Preservation in Place of Archaeological Resources (CA-LAN-62 Locust D and CA-LAN-211) in Proposed Village at Playa Vista Project*, Statistical Research, Inc., April 2008, p. 18.

¹³⁷ RS-DEIR, pp. II.C-56–II.C-57.

¹³⁸ See RS-DEIR Appendix D.iv, *The Village at Playa Vista Riparian Corridor Biological Resources Report*, PSOMAS, April 2008, for a thorough discussion of the existing biological and ecological conditions at the Proposed Project site.

¹³⁹ RS-DEIR, p. II.C-59.

COMMENT NO. 29-13**3. The RS-DEIR avoids the required discussion of preservation in place with regard to potential future archaeological discoveries.**

The RS-DEIR states that "[i]f the Proposed is approved, the mitigation measures [adopted in 2004 and vacated in 2007] would be readopted and would be implemented with further work undertaken in connection with any future work on the Proposed Project."²³ However, it is precisely those "mitigation measures" that the Court struck down as they do not provide an option for preservation in place. The ATPs prepared for Playa Vista Phase II do not identify any options for avoiding, minimizing, or mitigating adverse effects on CA LAN-62 and CA LAN-211/H. Data recovery was the only proposed option, yet data recovery is defined by the Federal government as an **adverse effect** in the National Historic Preservation Act (NHPA), Section 106, 800.5 (a)(1-2). Data recovery, itself an adverse effect as defined by Federal standards of preservation, is defined as the only alternative in the 1991 ATP²⁴ and the later 2003 ATP²⁵.

Mitigation measures for any future discoveries must include preservation in place.

The RS-DEIR provides no discussion of preservation in place with regard to future discoveries. It fails to acknowledge ways to achieve greater preservation in place via its federal requirements. For example, the programmatic agreement may be amended to include additional options for the mitigation such as preservation in place for archaeological sites CA LAN-62 and CA LAN-211/H or any future discoveries. According to the NHPA, Section 106, 800.6 (c) pertaining to the resolution of adverse effects, "the signatories to a memorandum of agreement may amend it." The RS-DEIR does not discuss the option of amending the Programmatic Agreement to include preservation in place as a preferred alternative to data recovery upon future discoveries. Instead, the RS-DEIR requires the same mitigation (data recovery) that has been used in the past and that does not meet the requirements of CEQA Guidelines §15126.4(b)(3).

²³. *RS-DEIR, at p. II.C-62.*

²⁴. *RS-DEIR, Appendix D. ix at p. 4-7.*

²⁵. *RS-DEIR, Appendix D.viii, at p. 249.*

RESPONSE NO. 29-13

With respect to the comment concerning the Court of Appeal opinion, please note that while the Court of Appeal required additional analysis of preservation in place, the Court of Appeal also upheld the City's finding that the data recovery plan applicable to the Proposed Project mitigated all impacts to a level below significance for CEQA purposes.¹⁴⁰

¹⁴⁰ *RS-DEIR Appendix A.i, Court of Appeal Opinion, pp. 40-42.*

With respect to future development of the Proposed Project (if approved by the City), there are two possibilities for discovering additional Native American remains or other archaeological resources. One such scenario involves the discovery of additional remains at the known archaeological sites (CA LAN-62 Locus D and CA LAN-211/H), which is not expected, as discussed below. The second scenario involves the discovery of archaeological resources at undiscovered sites within the Proposed Project area.

With regard to CA-LAN-62 Locus D and CA-LAN-211/H, it is unlikely that there will be any future discoveries of archaeological resources if the Proposed Project proceeds as proposed.¹⁴¹ These two archaeological sites do not extend north of Bluff Creek Drive. With respect to areas south of Bluff Creek Drive, the Riparian Corridor has been completed. Unless it were to be relocated as a result of the City's consideration of preservation in place or restoration of the human remains, development of the Proposed Project is not expected to involve additional subsurface excavation at these known archaeological sites. Additionally, it should be noted that there are four to eleven feet of fill on the portions of CA-LAN-211/H adjacent to the Riparian Corridor, so that surface activities are not expected to result in any disturbance of archaeological sites there.¹⁴²

With respect to the second scenario, as noted in the RS-DEIR, it is unlikely that archaeological resources will be encountered in the balance of the Proposed Project for a number of reasons. First, the archaeological surveys conducted to date have not located any archaeological sites in this area of the Proposed Project site. Second, the excavation and mass grading for the Proposed Project has been completed and no significant archaeological resources have been recovered. However, to assure that any archaeological resources that may be discovered are protected, the RS-DEIR proposes re-adoption of mitigation measures for future construction work. Mitigation Measure P(2)-3 provides that historic resources "*shall be avoided or unavoidable disturbance mitigated through data recovery, documentation, analysis, and curation.*"¹⁴³ In addition to that measure, the Proposed Project's MMRP would also require that if previously unknown resources are discovered, work must be halted while the U.S. Army Corps of Engineers and the California State Historic Preservation Officer (SHPO) assess the resource and offer recommendations for its treatment pursuant to the Programmatic Agreement. The Programmatic Agreement requires a new ATP for a new significant archaeological site, should any be discovered.¹⁴⁴ Under applicable federal law, treatment would include

¹⁴¹ See RS-DEIR, pp. II.C-37–II.C-38.

¹⁴² See also RS-DEIR, p. III-5, mitigation measure P(2)-4.

¹⁴³ RS-DEIR, p. III-4 (*emphasis added*); see also RS-DEIR, p. III-5, mitigation measure P(2)-6.

¹⁴⁴ See RS-DEIR Appendix D.vi, Programmatic Agreement paragraphs 3, 5; RS-DEIR, p. III-5, mitigation measure P(2)-6.

preservation in place when feasible.¹⁴⁵ Mitigation Measure P(2)-6 provides for notification of the City when significant archaeological resources are discovered, and implementation of a treatment plan. At the time of the development of a new ATP, Mitigation Measure P(2)-3, which names avoidance of historic resources as the first preference, ensures that the new ATP would be consistent with California Public Resources Code Section 21083.2 and State CEQA Guidelines Section 15126.4.

COMMENT NO. 29-14

4. Other issues.

a. The RS-DEIR misstates the level of previous preservation in place.

The EIR misstates levels of disturbance to the archaeological sites from their construction. It is stated in section II C-42 that "approximately 72 percent of CA LAN-62 Locus D and 68% of CA LAN 211/H were preserved in place under fill or left undisturbed," Figure II. C-7 "Historic and Recent Disturbance to Archaeological Zones" states that 28% of LAN 62 is cut area, 46% is fill area, and 26% is untouched - making **74%** of the site cut or filled. In the case of LAN 211, Figure II.C-7 states that 32% has been cut, 62% percent filled, and only 6% untouched - making **94%** of the site cut or filled.

According to Playa Vista's archaeological consultants Statistical Research Inc., filling requires that "existing grade will be grubbed and ripped prior to filling". Assuming grubbing and ripping is part of the fill process, "nearly all portions of LAN 211-H will be severely impacted or destroyed."²⁶ The depth of impact to LAN 211-H was estimated by the consultants to range from 3 to 20 feet across the site.²⁷ Procedures at CA LAN-62 would have been similar to those at LAN 211-H. Hence, Playa Vista's claim that 72% of CA LAN-62 and 68% of 211/H is preserved in place is false, with percentages of **26%** and **6%** approaching greater accuracy. These impacts must be fully disclosed and discussed in the EIR in terms of the overall preservation in place options.

^{26.} *RS-DEIR, Appendix D.viii, "At the Base of the Bluff", at p. 249.*

^{27.} *Ibid., p. 251.*

¹⁴⁵ *Comments Relating to Analysis of Archaeological Impacts in the Recirculated Sections of Draft Environmental Impact Report (RS-DEIR) for the Village at Playa Vista Project (Proposed Project), Statistical Research, Inc., July 16, 2009 (Appendix B.iii); see also U.S. Secretary of the Interior, Standards and Guidelines for Federal Agency Historic Preservation Programs Pursuant to the National Historic Preservation Act, 63 FR 20496, April 24, 1998, Standard 6, Guideline (a) ["to the extent feasible, as a part of its property management program, the agency should endeavor . . . to maintain significant archeological sites and landscapes in their undisturbed condition."], and Guideline (c) [providing for excavation and data recovery when "it is not feasible to avoid and protect significant archeological resources."]*

RESPONSE NO. 29-14

It should first be noted that the commentor misquotes the Base of the Bluff report.¹⁴⁶ That report does not state that “nearly all portions of LAN 211-H will be severely impacted or destroyed.” The report, after reviewing several assumptions utilized to estimate the construction requirements in the Riparian Corridor, states, “[u]nder these assumptions, nearly all portions of LAN-211/H *in the riparian corridor* will be severely impacted or completely destroyed.”¹⁴⁷ The comment fails to include the entirety of the discussion in the report, which states that construction “is not proposed for those portions [of LAN-211/H] outside the riparian corridor, primarily the northeast section of the site. In fact, deposition in this part of the site, though rare, should be spared from adverse effects of the development.”¹⁴⁸ It also should be noted that the At the Base of the Bluffs report was prepared in 2003, before construction in the Riparian Corridor in the Proposed Project.

With respect to the level of disturbance of archaeological sites, Figure 7 of the *Assessment of Preservation in Place of Archaeological Resources (CA-LAN- 62 Locus D and CA-LAN-211) in Proposed Village at Playa Vista Project* (Douglass, John, Grenda, Donn and Vargas, Benjamin, April 2008) sets forth the approximate percentages of actual cut area, fill area, and untouched area within the boundaries of CA-LAN-62 Locus D and CA-LAN-211/H, as known in 2002 and 2004. This report reflects the actual construction work within CA-LAN-62 Locus D and CA-LAN-211/H. As detailed in Appendix Dii:

approximately 46 percent of the aerial extant of LAN-62 Locus D and approximately 62 percent of the aerial extant of LAN-211 remained covered in fill, rather than removed during construction of the Riparian Corridor. In addition, approximately 26 percent of the aerial extant of LAN 62 and 6 percent of the aerial extant of LAN-211 were not graded at all. Given the likely depth of the Sites, the total volume of the Sites retained intact is probably significant higher (that is, only the upper surface of the Sites was removed by construction). As a result, approximately 72 percent of LAN-62 and 68 percent of LAN-211 remain preserved in place under fill or left undisturbed¹⁴⁹

Fill areas for CA-LAN-62 Locus D and CA-LAN-211 are located to the south of the Riparian Corridor, below and on the Westchester Bluffs. Very minimal disturbance was required for the clearing of that area in order to plant the new vegetation for that habitat. In

¹⁴⁶ RS-DEIR Appendix D.viii, Altschul, Jeffrey, H., et al., *Playa Vista Archaeological and Historical Project, At the Base of the Bluff, Archaeological Inventory and Evaluation along Lower Centinela Creek, Marina del Rey, California*. Statistical Research, Inc. Tucson, AZ, Redlands, CA, April 2003.

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*, p. 249.

¹⁴⁹ RS-DEIR Appendix D.ii, *Assessment of Preservation in Place of Archaeological Resources (CA-LAN-62 Locus D and CA-LAN-211) in Proposed Village at Playa Vista Project*, Statistical Research, Inc., April 2008, p. 15.

addition, portions of CA-LAN-211 north of the Riparian Corridor are now covered by four to eleven feet of fill.

Accordingly, the technical report supports the statement in the RS-DEIR that “approximately 72 percent of LAN-62 and 68 percent of LAN-211 remain preserved in place under fill or left undisturbed.”¹⁵⁰ It should also be noted that in Response No. 29-11, the commentor notes that capping (i.e., filling) may achieve preservation in place. To the extent that both cut and filled areas are disregarded, as suggested by the commentor, the untouched areas are 26 percent in LAN 62 and 6 percent in LAN-211, as explained in Appendix D.ii of the RS-DEIR.¹⁵¹

COMMENT NO. 29-15

b. The RS-DEIR must provide up-to-date data recovery information.

Public participation is an essential part of CEQA, members of the public hold a "privileged position" in the process, which reflects both "a belief that citizens make important contributions to environmental protection...and notions of democratic decision-making (Concerned Citizens of Costa Mesa, Inc. V. 32nd District Agricultural Association (1986) 42 Cal.3d 929, 936.)

"The EIR process also informs the public of the basis for environmentally significant decisions by public officials and thereby promotes accountability and informed self-government."²⁸ Similarly, "[A] paramount consideration is the right of the public to be informed in such a way that it can intelligently weigh the environmental consequences of any contemplated action and have an appropriate voice in the formulation of a decision." (Environmental Planning and Information Council v. County of El Dorado (1982) 131 Cal.App. 3d 350,354.) 'An EIR must include detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.' " (Irritated Residents, supra, 107 Cal.App.4th at p. 1390, 133 Cal.Rptr.2d 718.)

Playa must be more forthcoming in the EIR with information about prior field work and data recovery. The RS-DEIR apparently refers to the exhumed ancestors in Phase I as "300 burial features" and fails to state plainly exactly how many intact human remains were exhumed.²⁹ The EIR must provide this information to the public to obtain a complete picture of the status of the archaeological treatment at the development, since the treatment plans for Phase I and Phase II are interconnected, as well as to provide government accountability. (See Laurel Heights Improvement Assn' v. Regents of the University of

¹⁵⁰ RS-DEIR, p. II.C-42.

¹⁵¹ RS-DEIR Appendix D.ii, Assessment of Preservation in Place of Archaeological Resources (CA-LAN-62 Locus D and CA-LAN-211) in Proposed Village at Playa Vista Project, Statistical Research, Inc., April 2008, p. 15.

California (1988) 47 Cal.3d 376, at p. 392 and *Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 935-936.) Furthermore, CEQA Guidelines, §15126.4(b)(3)(C) requires that studies from any data recovery be deposited with the California Historical Resources Regional Information Center.

The RS-DEIR states that "all data recovery work at the Proposed Project has been completed."³⁰ The Programmatic Agreement requires public disclosure of data reports produced pursuant to the data recovery plan. While the RS-DEIR does provide a preliminary report on data recovery in Phase II, it does not provide any final data recovery reports,³¹ on either Phase I or Phase II. There is no explanation in the RS-DEIR why the Phase II report(s) are not included. Furthermore, the excavations in Phase I impacted the work plans for data recovery in Phase II, and as such, must be provided to the public in order to fully assess the significant impacts to these resources (including cumulative impacts) and the adequacy of any proposed mitigation.

^{28.} *Exhibit A-i, Opinion, at p. 13, citing Laure! Heights Improvement Assn' v. Regents of the University of California* (1988) 47 Ca1.3d 376, at p. 392 and *Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 CaL3d 929. 935~936.)

^{29.} "RS-DEIR, at p. II.C-31 to 32.

^{30.} "RS-DEIR, at p. II.C-37.

^{31.} "The preliminary report (at App. D.ii.), states that fieldwork for Phase II was completed in 2005, nearly four years ago.

RESPONSE NO. 29-15

The comment's discussion of the importance of public participation is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

The comment seeks clarification concerning the number of burial features¹⁵² excavated in connection with the First Phase Project. Statistical Research, Inc. (SRI), the archaeologists and osteologists for the First Phase Project and the Proposed Project, exhumed a total of 386 Native American burial features from the entire Playa Vista site (including three from LAN-211/H at the Proposed Project site, discussed in more detail below).¹⁵³ The overwhelming majority of the Native American burial features and human

¹⁵² A feature is "the non-portable physical expression of past human behavior. In the case of a burial feature, this would contain the purposefully placed human remains and associated grave goods of one or more individuals." RS-DEIR, p. II.C-32, fn. 48.

¹⁵³ *Comments Relating to Analysis of Archaeological Impacts in the Recirculated Sections of Draft Environmental Impact Report (RS-DEIR) for the Village at Playa Vista Project (Proposed Project), Statistical Research, Inc., July 16, 2009 (Appendix B.iii); Letter from George Mihlsten, Latham & Watkins LLP, to Anthony Madrigal, NAHC, re: Playa Vista Project, Los Angeles, CA, September 5, 2008.*

remains originated from a defined burial area in the western portion of CA-LAN-62/H, located in the First Phase Project site.

According to SRI, a burial feature is generally characterized by the presence of a “primary” individual. Due to erosion, decomposition, animal and historic activity disturbance, and the intertwined nature of the LAN-62 burial area itself (with burials found within other burials), the exact number of individuals included in the 386 burial features will never be known. However, SRI’s expert osteological team determined that the range of individuals is between 396 (if counted by femur bones as suggested by SRI) and 243 individuals (if counted by complete or partial crania). Counting the number of individuals that appear to be the main impetus for the creation of the burial feature, rather than utilizing femur or crania counts, would result in 313 primary individuals. Of the 386 burial features, three were found at CA-LAN-211/H. SRI has determined that each burial feature in CA-LAN-211/H contained one individual person.¹⁵⁴

Most importantly, unlike the situation in the First Phase Project, no concentrated burial area was found in the Proposed Project site. The archaeological resources found in the Proposed Project area were far less numerous than those found in the First Phase Project. The Proposed Project site contains two known archaeological areas: CA-LAN-62 Locus D and CA-LAN-211/H. The deposit at CA-LAN-62 Locus D was very sparse, and consisted of three features – one refuse pit and two areas of artifact concentration. No human burial features or instances of isolated human remains were found at CA-LAN-62 Locus D. The archaeological deposit at CA-LAN-211/H contained three human burial features (each comprised of one person), along with some isolated human remains (which may be related to the burials). The burial features and human remains found at CA-LAN-211/H were scattered (unlike the burials found in the far western portion of the First Phase Project area, which were concentrated in a relatively compact burial area). The overwhelming majority of archaeological features found at CA-LAN-211/H (47 of 50 total features) were non-burial features, containing hearths, fire affected rock, and artifacts such as shell, animal bone, and stone tools. As discussed in the RS-DEIR at page II.C-42, portions of CA-LAN-62 Locus D and CA-LAN-211/H were left intact after the Riparian Corridor construction in the Proposed Project area was complete, and are expected to remain undisturbed if the Proposed Project is built out as proposed in the RS-DEIR and the Riparian Corridor is not relocated.

While the Proposed Project’s data recovery work has been completed, the analysis of that work and the final archaeological report is currently in process. That final report will

¹⁵⁴ *Comments Relating to Analysis of Archaeological Impacts in the Recirculated Sections of Draft Environmental Impact Report (RS-DEIR) for the Village at Playa Vista Project (Proposed Project), Statistical Research, Inc., July 16, 2009 (Appendix B.iii).*

be multiple volumes and will encompass the entire Playa Vista site (beyond just CA-LAN-62 Locus D and CA-LAN-211). It will be submitted to the California Historical Resources Information Center (CHRIS) once it is complete.

At this time, as the comment notes, the RS-DEIR provides the public with completed preliminary reports such as the Preliminary Report on Data Recovery within the Phase 2 Project Area at CA-LAN-62, Locus D, and CA-LAN-211/H,¹⁵⁵ attached in RS-DEIR Technical Appendix D.ii to Statistical Research, Inc.'s *Assessment of Preservation in Place of Archaeological Resources (CA-LAN- 62 Locus D and CA-LAN-211) in Proposed Village at Playa Vista Project*, and the April 2003 *At the Base of the Bluff* report, both of which have been deposited at the CHRIS.¹⁵⁶ The *Preliminary Report on Data Recovery within the Phase 1 Project Area at CA-LAN-62, Playa Vista, California* has also been deposited at the CHRIS, along with other documents.

With respect to the comment about the Proposed Project's cumulative impacts on archaeological resources, please note that the First Phase Project is a related project to the Proposed Project for purposes of the RS-DEIR's cumulative impacts analysis. The RS-DEIR states that "[a]lthough each project must develop adequate mitigation measures to substantially lessen or avoid impacts on an individual basis, the incidental loss of all project-study area archaeological resources may constitute a significant cumulative impact."¹⁵⁷ As discussed at length in the RS-DEIR, the Proposed Project's contribution to that potentially significant cumulative impact has been mitigated to the extent feasible.

COMMENT NO. 29-16

III. WASTEWATER/WATER QUALITY

A. Introduction/Overview

CEQA requires the RS-DEIR to use updated, accurate information in order to fully inform decision makers and the public of the environmental consequences of the Proposed Project. (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193 ("An accurate, stable and finite project description is the Sine qua non of an informative and legally sufficient EIR"))

¹⁵⁵ Van Galder, Sarah J., Benjamin R. Vargas, Jeffrey H. Altschul, John G. Douglass, Richard Ciolek-Torrello, and Donn R. Grenda, *Preliminary Report on Data Recovery within the Phase 2 Project Area at CA-LAN-62, Locus D, and CA-LAN-211/H, Playa Vista, California, September 2006, attached to RS-DEIR Appendix D.ii.*

¹⁵⁶ RS-DEIR Appendix D.viii, Altschul, Jeffrey, H., et al., *Playa Vista Archaeological and Historical Project, At the Base of the Bluff, Archaeological Inventory and Evaluation along Lower Centinela Creek, Marina del Rey, California. Statistical Research, Inc. Tucson, AZ, Redlands, CA, April 2003.*

¹⁵⁷ RS-DEIR, pp. II.C-64 – II.C-65.

An EIR must fully analyze a project's impacts on wastewater treatment capacity and also on water quality related to its discharge. (See *Santa Clarita Organization for Planning the Environment v. County of Los Angeles* (2003) 106 Cal.App.4th 715, 723 and *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412 (*Vineyard Area Citizens*.) Although the RS-DEIR commendably provides more detail than the original EIR, it ultimately fails to undertake an adequate analysis of how much wastewater treatment the city can actually deliver given past, present and future growth. Since the answer to this question invariably bears on the Proposed Project's potential impacts, its omission renders the EIR inadequate as an informational document. In addition, the RS-DEIR ignores the obvious future impacts to water quality due to increased wastewater discharge from the project, both individually and cumulatively.

RESPONSE NO. 29-16

The comment provides introductory statements. The comment is noted and will be incorporated in the Final RS-EIR for review and consideration by the decision-makers. Responses to commentor's detailed comments are provided below.

COMMENT NO. 29-17

B. Sewer Capacity

Although the Court opinion did not specifically state that impacts to *sewer lines* be addressed, it did state that impacts due to wastewater be addressed. Since sewer line capacity is relevant here (especially with respect to sewage spills in the area due to stormwater and sewage overflow³²), it must be properly addressed in the EIR.

The RS-DEIR does not address the Proposed Project's flow in relation to Ballona creek sewage spills.³³ The RS-DEIR left out an analysis of wet-weather events entirely, which prevents the public and decision makers from addressing the ultimate impacts from the Proposed Project's flows, since both wet-weather flows and dry-weather flows make up the total flow from the Proposed Project. This information is vital given the proximity of the Proposed Project to the Santa Monica Bay and Ballona Creek, an area of confluence that is integral to the health and safety of the city's beaches.³⁴

^{32.} See Exhibit B-1, "L.A. Admits Sewer Spills", *Los Angeles Times*, April 23, 2003. <http://articles.latimes.com/2003/apr/23/local/me-sewer23>.

^{33.} See, e.g., Exhibit B-2, Public notice of Aug. 06 beach closure due to Ballona Creek sewage spill: <http://lapublichealth.org/docs/beachclosure02142007.pdf>

^{34.} *Ibid.*

RESPONSE NO. 29-17

The commentor is correct that the Court of Appeal did not find any error in the Original FEIR with regard to analysis of sewer lines. Nonetheless, for ease of reference, the RS-DEIR's wastewater analysis includes an analysis of sewer line capacity, including an update regarding the capacity of the City's wastewater collection system to accommodate wastewater flows generated by the Proposed Project. Thus, the RS-DEIR does analyze the capacity of wastewater collection systems and sewer capacity relevant to the Proposed Project. See for example, RS-DEIR sections II.B.2.2.2, and II.B.3.4.1.

The commentor refers to wet weather events. In the City of Los Angeles, the sewer collection system and storm drain system are separate systems. The vast majority of stormwater is conveyed through the storm drain system, which includes the streets and their curbs, catch basins, underground storm drain pipes and culverts, and major open channels that convey stormwater directly to the ocean. The potential impacts of the Proposed Project on the storm drain system was addressed in Section IV.C.(1), Hydrology, of the Original DEIR, and Section II.5, Corrections and Additions, of the Original FEIR.

During wet weather events, some stormwater enters the sewer system through maintenance hole covers (referred to as "inflow"), as well as from elevated groundwater levels that seep into the sewer system through cracks in sewers and maintenance holes (referred to as "infiltration") as a result of storm events. Such additional flow is anticipated in the sizing of sewers by reserving a portion of the sewer's capacity for stormwater that enters through inflow or infiltration. Peak dry weather flow (PDWF) is the basis for selecting sewer pipe size.¹⁵⁸ As stated in the RS-DEIR, according to the Los Angeles CEQA Threshold Guideline, a sewer's capacity is considered constrained if the depth of the PDWF is equal to or greater than three-quarters of the sewer's diameter.¹⁵⁹ The remaining capacity (one-quarter of the sewer's diameter) is available for stormwater which enters the collection system during Peak Wet Weather Flow (PWWF).¹⁶⁰

As discussed in the RS-DEIR on pages II.B-25 and II.B-26 and shown in Table II.B-7 of the RS-DEIR, the projected future wastewater flows within the sewer collection system infrastructure serving the Proposed Project are well under the available capacity of those sewer pipes. Accordingly, the sewer lines' ability to convey PWWF flows during wet weather events would not be constrained, on either a Project-specific or cumulative basis.

¹⁵⁸ RS-DEIR, p. II.B-11 & fn. 20.

¹⁵⁹ City of Los Angeles CEQA Thresholds Guide, p. M.2-4. As noted in Table II.B-7 of the RS-DEIR, the ¾-depth design flow capacity constraint applies to "gravity" sewers only; force main sewers which convey wastewater under pressure, such as the 36" force main from the Ballona Creek Pump Station to the NCOS, are constructed to be air- and water-tight, such that inflow and infiltration do not occur.

¹⁶⁰ Psomas & Associates, June 17, 2009 (Appendix A.i).

Finally, with respect to sewage spills generally, see Response No. 41-7.

COMMENT NO. 29-18

Furthermore, it is evident from other EIRs for projects proposed within the city that the City's overall practice of assessing sewer capacity and wastewater treatment capacity remains an ad hoc process of reviewing capacity only after projects are approved. This is impermissible (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412 (*Vineyard Area Citizens*)) and compromises the integrity of any capacity analysis, direct or cumulative, that is put forth for public review on any project proposed for consideration and approval.

RESPONSE NO. 29-18

The City's process of assessing sewer capacity is discussed in comments received from the West Los Angeles Bureau of Engineering, Comment Letter No. 1. As discussed therein, in addition to the City's review of the capacity of the wastewater collection system during the environmental review process, the City undergoes an additional process that allows for a final review of the wastewater collection system capacity needed to accommodate a project in connection with the permitting of the project's connection to the City's sewer system. In the case of the Proposed Project, the Bureau of Engineering already has performed this additional detailed evaluation of the capacity of the local and regional wastewater collection system to be used by the Proposed Project, and determined that it had adequate capacity. With respect to the comment about wastewater treatment capacity, please see Response Nos. 29-20 through 29-28 below.

COMMENT NO. 29-19

Finally, the RS-DEIR also states that the 42-inch Marine Interceptor Sewer has already been constructed and connected to the Proposed Project's sewer lines.³⁵ The RS-DEIR must also disclose whether or not this sewer was constructed outside project boundary lines in anticipation of the project's approval. In other words, did the City construct off-site sewer infrastructure in order to accommodate the Proposed Project's anticipated flow? If so, such construction should be considered part of the Proposed Project as a whole and the impacts addressed.

³⁵ *RS-DEIR, at p. 34.*

RESPONSE NO. 29-19

According to the City of Los Angeles Bureau of Engineering, the 42-inch Marina Interceptor Sewer was constructed to divert wastewater flows to the Ballona Creek Pumping Station so that the Marina Pump Station could be decommissioned. The Marina

Interceptor Sewer conveys wastewater from an extensive sewershed area which includes development to the north of Jefferson Boulevard, some areas to the north of Ballona Creek, the Playa Vista project (both the adjacent First Phase Project, as well as the Proposed Project), and some areas to the south and west of the Playa Vista project. The environmental impacts of the Marina Interceptor Sewer were addressed in the EIR for the First Phase Project for Playa Vista, certified by the City of Los Angeles in September 1993. Plans for the Marina Interceptor Sewer were approved in 1997, and construction was completed in 2002.¹⁶¹

COMMENT NO. 29-20

C. Wastewater Treatment Capacity

The California Supreme Court held that an EIR's failure to analyze direct, indirect and cumulative environmental impacts related to supplying water to a development project is legal error. (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435 (*Vineyard Area Citizens*)). Relying upon the Supreme Court's reasoning, the California Court of Appeal held that the City of Los Angeles must include in its EIR on the Proposed Project an analysis of direct, indirect and cumulative impacts related to treating wastewater of this large development project.³⁶

The RS-DEIR provides an incomplete picture of wastewater treatment capacity. Based upon a review of the current RS-DEIR and other city documents, it is impossible to determine whether in fact Hyperion Treatment System has sufficient long-term capacity for the Proposed Project and related projects.

³⁶ *Exhibit A-1, Opinion, at p. 80.*

RESPONSE NO. 29-20

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. The comment is an introductory statement; more detailed comments and responses follow in Response Nos. 29-21 through 29-28.

COMMENT NO. 29-21

1. The RS-DEIR's capacity calculations are flawed

¹⁶¹ *Personal Communication, Rachel Bass, Civil Engineering Associate, City of Los Angeles Department of Public Works, Bureau of Engineering, with Daniel Lee, P.E., Psomas, May 18, 2009.*

There are several areas in which the RS-DEIR's analysis of capacity is flawed; including an improper disclosure of Hyperion Treatment Plant ("HTP" or "Hyperion") capacity, a failure to disclose the city's method of tracking remaining capacity, and a failure to properly calculate remaining capacity.

First, RS-DEIR states that Hyperion has a "design" treatment capacity of 450 mgd³⁷, when in fact the City has reported that HTP is not operating at design capacity and would require plant enhancements in order to do so:

Design/construction of secondary clarifiers at Hyperion to provide operational performance at 450 mgd: The existing secondary clarifiers at Hyperion are performing below their rated capacity of 450 mgd. Staff is currently investigating ways to optimize the existing secondary clarifiers to get them operating up to 450 mgd. If these options prove to be unsuccessful, then new secondary clarifiers will be needed to provide operational performance at 450 mgd."³⁸

Future plans include possibly converting the balance, or a part thereof, of the remaining oxygen reactors to the anaerobic selector design. The City has prepared an Integrated Resource Plan (IRP), dated December 2006, which gives consideration to the option of implementing additional clarification capacity in two distinct stages; ***an additional 100 mgd to bring the capacity in line with projected plant flows of up to 450 mgd***, and a further 50 mgd to accommodate the estimated plant ultimate influent flow of 500 mgd.

Based on the selected alternative presented in the IRP, the additional clarifiers have been categorized as "proceed if triggered". This means that design and construction of additional clarifiers will only be done if certain circumstances occur. These triggers include: population growth, specific increases in influent flow and groundwater and/or regulatory issues."³⁹

^{37.} RS-DEIR, at p. II.B-13 [emphasis added].

^{38.} Exhibit B-3, IRP Work Paper. At p. 15 [noting Hyperion capacity without improvements].

^{39.} Exhibit B-4, Bureau of Engineering TOS 15, at p. 2.

RESPONSE NO. 29-21

The HTP was designed and constructed to provide 450 mgd of secondary level treatment, as is reflected in its NPDES permit. This means that the facilities were sufficiently sized to allow the treatment process to treat 450 mgd of influent sewage to meet the water quality requirements for the discharged effluent as specified in the permit. This takes into account the amount of influent sewage flow and its anticipated quality characteristics (typically biochemical oxygen demand and suspended solids), and is primarily driven by providing adequate detention time in the secondary process facilities

(aeration basins and secondary clarifiers) to achieve the target effluent water quality. These key treatment parameters for the HTP are measured daily and compliance is determined relative to weekly and monthly averages.

In the IRP, it was reported that there have been operational limitations in the secondary clarifiers that could potentially reduce the operational capacity of this unit process. These limitations are functions of operational process modifications, and do not reflect any inherent inadequacies of the secondary clarifier facilities. However, even accounting for such current operational limitations, the treatment capacity is more than adequate to accommodate existing flows.¹⁶² The adopted IRP and its certified Final EIR included the implementation of 100 mgd of additional secondary clarifier capacity, should it be needed to accommodate future flows, to restore the design capacity of HTP to 450 mgd.¹⁶³ As noted by the commentor, these additional clarifiers have been categorized as “proceed if triggered” projects, meaning that their design and construction will be conducted only if circumstances warrant. The triggers associated with the design and construction of these additional secondary clarifiers are primarily related to current plant operations that have been effectively reducing the treatment capacity of the secondary clarifiers. To regain the lost capacity of the secondary clarifiers, the City has been undertaking studies to optimize their performance. As noted in Exhibit B-4 of the comment letter (i.e., *Task Order Solicitation (TOS) 15 Hyperion Treatment Plant (HTP) Ultimate Build-out of Secondary Treatment*), the City is conducting a testing program to enhance secondary clarifier performance and improve effluent quality. Some operational adjustments have been tested, including the use of polymer, and other operational as well as structural modifications have been suggested as part of the work being conducted under TOS 15.

The effectiveness of the process optimization studies is currently monitored and will continue to be tracked as one of the factors that would trigger the need for the additional secondary clarifiers. Projects are triggered when the projected flows are expected to reach and exceed the capacity of a given facility, in this case, the secondary clarifiers. Projected wastewater flows, which are primarily a function of population, are compared to the capacity of the facility. When these flows approach the capacity, a project need is triggered and the design and construction is planned so that there is sufficient time to conduct these activities prior to the realization of the projected flow increases. Since the secondary clarifiers have been approved through the IRP EIR, no further environmental review or agency approvals should be needed to implement this “go if triggered” project, if or when needed.¹⁶⁴

¹⁶² Memorandum in Support of Playa Vista EIR Responses, CH2MHill, July 10, 2009 (Appendix A.iv).

¹⁶³ IRP Draft EIR, Section 2.2.1.2, p. 2-13.

¹⁶⁴ See Final EIR, IRP Facilities Plan; Memorandum in Support of Playa Vista EIR Responses, CH2MHill, July 10, 2009 (Appendix A.iv).

COMMENT NO. 29-22

In fact, a 2009 report suggests that Hyperion has a capacity of 413 mgd, with a maximum daily flow of 409 mgd, for a potential balance of 4 mgd remaining capacity.⁴⁰ Another recent report suggests a maximum daily flow average of 416 mgd, 3 mgd over the 413 mgd capacity stated in the 2009 report.⁴¹ Because it is unclear what the actual, operational (as opposed to "design") capacity, the RS-DEIR must provide evidence of the actual current treatment capacity at HTP.⁴²

^{40.} *Exhibit B-5, Hyperion Report, 2009.*

^{41.} *Exhibit B-6, December, 2008 Monthly Performance Report, Hyperion Treatment Plant.*

^{42.} *Appendix C.ii of the RS-DEIR, Table 5 lists HTP as a "rated" capacity of 450 mgd. The footnote there does not explain what this means, nor whether HTP has demonstrated this full capacity since the publication of the IRP.*

RESPONSE NO. 29-22

There is no mention of a 413 mgd capacity in the "2009 Hyperion Report" attached by the commentor as Exhibit B-5. See Response No. 29-21 above regarding the treatment capacity of Hyperion. The commentor also cites a maximum daily flow¹⁶⁵ (for January 2009) of 409 mgd from the report attached by the commentor as Exhibit B-5, and a maximum daily flow (for December 2008) of 416 mgd from the report attached by the commentor as Exhibit B-6. These figures represent the instantaneous maximum flow recorded at the plant during periods of high indoor water usage, typically in the early morning and early evening hours, and are not comparable to treatment capacity. Because flows coming into the plant over the rest of the day are substantially lower than these instantaneous maximum flows, sufficient capacity exists in the large tanks at HTP in which the wastewater treatment process occurs to absorb the instantaneous maximum flows. These maximum daily flows, therefore, are readily accommodated by HTP.¹⁶⁶

A comparison of the monthly average of the average flows for each day – the amount of flow that is being treated, on average, over the course of each day during the month – provides a more meaningful assessment of flows in relation to treatment capacity.¹⁶⁷ As indicated in the December 2008 and January 2009 reports attached by the commentor as Exhibits B-6 and B-5, the monthly averages for December 2008 and January 2009 were 310 mgd and 305 mgd, respectively, and are well within the 450 mgd treatment capacity of the HTP.

¹⁶⁵ *The term maximum daily flow refers to the actual measured flows entering the treatment plant. Flows are measured during both dry and wet weather conditions, and no distinction is made between the two conditions in the HTP Monitoring Reports.*

¹⁶⁶ *Memorandum in Support of Playa Vista EIR Responses, CH2MHill, July 10, 2009 (Appendix A.iv).*

¹⁶⁷ *Id.*

COMMENT NO. 29-23

Second, the RS-DEIR makes a false comparison between its average dry weather flows (0.47 mgd) to the remaining HTP capacity during *peak* flows, making its contribution appear substantially lower than if it had properly compared its peak flow (1.53 mgd).⁴³

^{43.} *RS-DEIR, at p.II.B-17.*

RESPONSE NO. 29-23

As discussed Response No. 29-22 above, treatment capacity is measured in terms of average dry weather flows rather than peak dry weather flows. Notwithstanding, the RS-DEIR also explains in Table II.B-9 and the related Technical Memorandum attached as Appendix C.ii, that even if the analysis is conducted with the peak flow of 1.53 mgd, the Proposed Project's projected wastewater flows are well within the Hyperion treatment system's effective treatment capacity.¹⁶⁸

COMMENT NO. 29-24

In addition, the RS-DEIR fails to disclose the Proposed Project's wet-weather flows (as opposed to merely peak day dry weather flows).⁴⁴ This omission renders the RS-DEIR's capacity analysis incomplete because HTP must handle both dry weather and wet-weather flows.⁴⁵ The RS-DEIR must address stormwater flows (i.e., wet weather flows) from the Proposed Project and how those flows impact HTP's capacity and discharge into Santa Monica Bay. The city is consistently allocating treatment capacity that was meant in part for stormwater-how is Hyperion going to deal with stormwater flows in addition to the increasing waste loading? This question was left unanswered in the RS-DEIR. As such there is no substantial evidence to support the conclusion that "Since the Proposed Project's wastewater will not contribute to a capacity shortfall at Hyperion Treatment Plant even during peak flow months, the Proposed Project will not cause a significant impact, individually or cumulatively to the City's wastewater treatment systems."⁴⁶

^{44.} *RS-DEIR, at p. II.B-17 and p. II.B-11, nt. 20 [definition of peak wet weather flows].*

^{45.} *RS-DEIR, at p. II.B-13.*

^{46.} *RS-DEIR, at p. II.B-29.*

¹⁶⁸ *RS-DEIR, p. II.B-29, Table II.B-9, fn. c.*

RESPONSE NO. 29-24

The commentor incorrectly states that the City allocates treatment capacity at Hyperion that was meant in part for stormwater. The City's wastewater system is separate from its stormwater system. The storm drain systems within southern California are referred to as municipal separate storm sewer systems (MS4). As the name of the system indicates, storm drains (which convey flows from rain storms as well as dry weather urban runoff) are separate and distinct from the sanitary sewer system (which collects and conveys municipal sewage).

The storm drain system includes the streets and their curbs, catch basins, underground storm drain pipes and culverts, and major open channels that convey stormwater directly to the ocean. In contrast, the wastewater system contains flow from household plumbing (toilets, showers, sinks, and washing machines) and permitted industrial discharges and conveys these flows through a network of sanitary sewers to the City's wastewater treatment plants. The treated sewage, or plant effluent, is ultimately discharged to the ocean.

Wastewater treatment plants are designed to achieve specific effluent water quality that is usually based on discharge permit (NPDES) requirements. This is referred to as "**Treatment Capacity**". As stated in Section II.B of the RS-DEIR, HTP has a dry weather average design treatment capacity of 450 mgd¹⁶⁹.

Treatment plants must also have the "**Hydraulic Capacity**" to accommodate wet weather flow that results from storm water that enters the sanitary sewer system through maintenance hole covers (referred to as "inflow"), as well as from elevated groundwater levels that seep into the sewer system through cracks in sewers and maintenance holes (referred to as "infiltration"). This inflow and infiltration combine with the wastewater in the sanitary system.¹⁷⁰ This resultant wet weather flow must be hydraulically conveyed to and through the wastewater treatment plant to avoid sewer backup and resulting spills. As discussed in the RS-DEIR, HTP's NPDES Permit states that HTP has a wet weather peak hydraulic capacity of approximately 850 mgd. Moreover, due to facility improvements made at HTP, its actual hydraulic capacity currently exceeds 1,000 mgd, well above what is needed.¹⁷¹

¹⁶⁹ RS-DEIR, p. II.B-13.

¹⁷⁰ Psomas & Associates, Letter, June 17, 2009 (Appendix A.i).

¹⁷¹ 2006 IRP Facilities Plan, pp. 7-34, 7-37 ("The maximum historic flow observed at HTP has been 870 mgd during the 1998 El Nino storms, and there was still reserve capacity in the EPP pumps at this flow level. This would suggest that the HTP effluent disposal system has sufficient pumping capacity to handling the maximum flows anticipated at HTP under existing conditions.").

As discussed in the RS-DEIR, these wet weather flows still receive secondary treatment.¹⁷² These flows are retained in the secondary treatment processes for less time than average dry weather flows. However, the characteristics of the wet weather flows treated at the plant differ from those of the average dry weather flows due to the mixing of inflow and infiltration with wastewater, which dilutes the wastewater and lowers the water temperature. The treatment conditions for wet weather flows is thus different than it is for dry weather flows and the shorter detention time through the process tanks is not expected to compromise the plant's ability to meet the discharge criteria.¹⁷³

COMMENT NO. 29-25

Furthermore, the RS-DEIR describes the Sewer Allocation Ordinance without ever explaining how or if it was used to determine sufficient capacity for this project.⁴⁷ It states that 1.725 mgd (1,725,000 gpd) per year is allocated to priority projects, which would, if applicable, be almost totally consumed by the Proposed Project's peak flow of 1.53 mgd.⁴⁸ The Proposed Project's average day dry weather flow (.47 mgd) would comprise approximately 20% of the monthly allotment for non-priority projects (239,583 gpd).⁴⁹ Nevertheless, the RS-DEIR fails to explain how the Ordinance applies to the Proposed Project.

^{47.} *RS-DEIR, at p. II.B-5.*

^{48.} *Ibid.*

^{49.} *Ibid.*

RESPONSE NO. 29-25

The Sewer Allocation Ordinance is explained in detail on page II.B-5 of the RS-DEIR. The primary reason this ordinance was adopted was to temporarily limit connections to the sewer system (and, therefore, the treatment system) to restrict wastewater flow increases while upgrades to expand Hyperion to full secondary treatment process were being built.¹⁷⁴ These upgrades have been completed.¹⁷⁵ As shown on page II.B-12 of the RS-DEIR, Hyperion currently has a treatment capacity of 450 mgd; for the years 2005, 2006, and 2007, measured average dry weather flows at Hyperion were approximately 355 mgd, 346 mgd, and 324 mgd, respectively. While the Sewer Allocation

¹⁷² *RS-DEIR p. II.B-13.*

¹⁷³ *Memorandum in Support of Playa Vista EIR Responses, CH2MHill, July 10, 2009 (Appendix A.iv).*

¹⁷⁴ *IRP Draft EIR, p. 4-3.*

¹⁷⁵ *RS-DEIR, p. II.B-37.*

Ordinance remains in effect, there are currently no restrictions on sewer connections, because Hyperion has sufficient treatment capacity.¹⁷⁶

COMMENT NO. 29-26

The RS-DEIR goes on to state that the city's "tracking of actual wastewater flows indicates that actual flows are substantially less than the projections in the 2006 IRP."⁵⁰ However, the RS-DEIR fails to identify the method the city is currently using to track project-related wastewater flows, nor provide the tracking data to support this statement.⁵¹ If the City is currently tracking remaining treatment capacity according to the Sewer Allocation Ordinance or some other method, the EIR must disclose and explain the city's methodology. (See *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515.) Moreover, despite the RS-DEIR's statement that "[a] substantial amount of the projected unused treatment capacity identified in Tables II.B-7 and II.B-8 is anticipated to be available at the [HTP] given the current unused capacity...", the RS-DEIR provides no evidence that actual flows would continue to be less than projected.

⁵⁰. RS-DEIR, at p. II.B-17.

⁵¹. RS-DEIR, at p. II.B-17.

RESPONSE NO. 29-26

The City conducts monitoring of the amount and quality of influent flows to, and effluent flows from, Hyperion. Those flows are tested for the constituents prescribed by the Regional Water Quality Control Board in the NPDES Permit. Testing and analysis is conducted on a daily, weekly, and monthly basis. The tests results are provided in the Monthly and Annual Monitoring Reports that are submitted to the Regional Water Quality Control Board, with copies to the Los Angeles County Department of Public Health. The commentor has attached several excerpts of these reports to her comments as Exhibits B-6, B-11 and B-12.

It also should be noted there is a typographical error in the RS-DEIR's statement that "[a] substantial amount of the projected unused treatment capacity identified in Tables II.B-7 and II.B-8 is anticipated to be available at the [HTP] given the current unused capacity...." This statement should have referred to Tables II.B-8 and II.B-9. See the Corrections and Additions section of this document. The data projected in these two tables and analysis presented on pages II.B-28 through II.B-30 indicate that the Proposed

¹⁷⁶ Draft EIR, IRP Facilities Plan, p. 4-3.

Project's additional wastewater flows would result in a less than significant impact given the projected unused capacity within the Hyperion Service Area.

As shown in Figure II.B-3 of the RS-DEIR, actual wastewater flows within the Hyperion Service Area are lower than the 2006 IRP projected they would be, due in part to the fact that the 2006 IRP did not update wastewater per capita projections to account for the recent implementation of various water efficiency measures such as low flow toilets.¹⁷⁷ The wastewater treatment capacity analysis in the RS-DEIR used the 2006 IRP per capita rates to estimate the future flows in the entire Hyperion Service Area (81 gallons per capita per day, gpcd, for residential users, and 24 gallons per employee per day (gped) for commercial users). Currently, the City is using slightly lower per capita rates (78 gpcd and 23 gpcd, respectively), and the City has reported that even these latter values are as much as 20 percent higher than the flows they are currently experiencing in the wastewater system.¹⁷⁸

COMMENT NO. 29-27

On the other hand, there is evidence that the city is not in fact tracking capacity as it is approving development after development) consistently reducing the remaining treatment capacity at HTP. Aside from the question of what plant upgrades are needed to achieve HTP's "design" capacity; or what is HTP's current operating capacity (which could be as low as 345 mgd⁵²), the RS-DEIR does not take into account the fact that the City is in the process of approving many other residential and commercial projects that contribute to the wastewater treatment requirements of the City. These projects' flows are not factored into what the city terms the "remaining capacity" of the HTP. For instance, the Wetherly Project's EIR represents HTP's "remaining capacity" at 88 mgd, with the project in that case representing 0.4 percent of the "remaining capacity."⁵³ Another recent EIR estimates that the Metro-Universal project is expected to add another .331 mgd, which exceeds the monthly allotment of .2 mgd for "non-priority projects."⁵⁴ The EIR for the Lexington project (which would add 786 more residential units), includes no analysis of additional sewage discharge into the Hyperion Treatment System. The Paseo Plaza Hollywood EIR estimates that that Project plus related projects would result in an increase in wastewater discharge of 1.14 mgd.⁵⁵ The 959 Seward Project estimates cumulative wastewater generation of 1.66 mgd.⁵⁶ The city has typically used the same or similar "remaining capacity" for numerous EIRs.⁵⁷ The present RS-DEIR does not appear to take into consideration the reduction in HTP capacity caused by the "unrelated" projects such as those described above.

¹⁷⁷ RS-DEIR, p. II.B-18.

¹⁷⁸ Personal Communication, Fernando Gonzalez, Wastewater Engineering Services Division, City of Los Angeles Bureau of Sanitation, May 13, 2009.

The City appears to be using potentially inflated numbers for HTP's "remaining capacity" in its environmental analysis for each and every project EIR, without taking into account the aggregate amount of available treatment capacity. Applying the City's reasoning and using that math, never will a cumulative impact result, regardless of how many individual project EIRs the City of Los Angeles prepares and approves in a given year, even though each project incrementally reduces total remaining HTP capacity. Taking into consideration just the projects identified above, (which comprise only a few of the publicly-available EIRs on the City's website⁵⁸), in conjunction with the proposed project, HTP capacity will be reduced by close to 4 million gallons per day. To put it in context, 4 mgd comprises 80% of the Los Angeles Sewer Allocation Ordinance's annual limit of 5 mgd and over 5 % of the so-called 81 mgd "remaining capacity" for 2020 depicted in the RS-DEIR.⁵⁹ In light of the fact that Hyperion may not be currently operating at design capacity and the City has yet to disclose at what capacity Hyperion is currently operating, the RS-DEIR must be revised to reflect a true accounting of cumulative wastewater impacts.

^{52.} See Exhibit B-3, at p. 15.

^{53.} Exhibit B-7, *The Wetherly Project, Draft Environmental Impact Report*, at p. IV.M-21.

^{54.} Exhibit B-8, *Metro Universal DEIR*, at p. IV.J-59.

^{55.} Exhibit B-9, *Paseo Plaza Hollywood DEIR*, at p. IV.M-7.

^{56.} Exhibit B-10, *959 Seward DEIR*, at p. IV.L-3.

^{57.} Exhibits B-7 through B-10 [ranging from 88 mgd to 100 mgd remaining capacity].

^{58.} See Exhibit B-13 [list of EIRs].

^{59.} RS-DEIR, at p. II.B-28, Table II.B-8.

RESPONSE NO. 29-27

With respect to the comments regarding tracking capacity, please refer to Response No. 29-26, above. With respect to the comments regarding Hyperion's current treatment capacity, please refer to Response No. 29-21, above. With respect to the comments regarding the Sewer Allocation Ordinance, as discussed in Response to No. 29-25 above, there are currently no restrictions on sewer connections, because Hyperion has sufficient treatment capacity.

As stated on page II.B-35 of the RS-DEIR, the analysis of cumulative impacts on wastewater treatment in the RS-DEIR modeled the projected growth within the entire 515-square mile Hyperion Service Area, and the wastewater attributable to that projected growth. The analysis considered the wastewater flow associated with the future growth projections developed by the official regional planning authority (Southern California Association of Governments, SCAG), and then compares that amount of future wastewater flow against treatment capacity at HTP. The analysis does not rely on a "related projects

list” for its cumulative impacts examination, but rather considers projected growth for the entire sewer service area. Accordingly, the aggregate amount of treatment capacity and future increase in uses of that capacity is considered in the RS-DEIR’s cumulative impacts analysis.

COMMENT NO. 29-28

Compounding the information gap is the fact that the EIR does not refer to any Annual Report on Growth and Infrastructure indicating that there is sufficient wastewater infrastructure and capacity for the project in combination with other users or with present or future projects. As such, the public does not know whether wastewater treatment capacity and demand is adequately assessed and therefore whether a project’s incremental impacts are cumulatively considerable.

RESPONSE NO. 29-28

Refer to Response No. 29-27 for a description of the methodology used in the RS-DEIR’s wastewater analysis to account for wastewater flows associated with future growth in the HTP service area. Refer to Response No. 29-44 for a discussion of the provision in the City’s General Plan concerning the Annual Report on Growth and Infrastructure.

COMMENT NO. 29-29

D. Water Quality Impacts Due to Increased Wastewater Flows Into Santa Monica Bay

The RS-DEIR concludes that impacts to Santa Monica Bay’s water quality from the Proposed Project’s wastewater discharge are less than significant because HTP will comply with its Clean Water Act NPDES permit.⁶⁰

The RS-DEIR states, “Types of potential effects on the Bay from discharge of treated wastewater from the [HTP] ... are regulated by the NPDES permit.”⁶¹ By limiting potentially significant impacts to only those currently regulated under HTP’s temporary NPDES permit, the RS-DEIR omits a discussion of significant water quality impacts because HTP’s discharges cause significant degradation outside permit limitations. (See 33 U.S.C. §1365(a); 40 CFR §122.41(a).))

^{60.} RS-DEIR, at p. II.B-44.

^{61.} RS-DEIR, at p. II.B-43.

RESPONSE NO. 29-29

The commentor misstates the methodology used in the RS-DEIR to analyze the significance of cumulative water quality impacts to the Santa Monica Bay. As stated on II.B-23, the RS-DEIR states that cumulative water quality impacts to the Santa Monica Bay would be significant if the discharge of Proposed Project's treated wastewater "would (i) result in pollution, contamination, or nuisance as those terms are defined in Water Code Section 13050 or (ii) result in a violation of applicable regulatory standards, including those provided in the NPDES permit for Hyperion Treatment Plant."

With respect to the NPDES permit, the RS-DEIR, *Technical Report on Cumulative Wastewater Impacts* (MBC and Flow Science, 2008, attached as Appendix C.iii of the RS-DEIR), and the NPDES Permit itself (Appendix C.iv of the RS-DEIR) contain a detailed description of the regulatory background and permitting process for the issuance of HTP's NPDES permit. This process considered a broad set of constituents, with discharge limits and performance goals established in the approved NPDES permit for those constituents that the Regional Board determined to have a reasonable potential to cause or contribute to an excursion above any State water quality standard. As such, in issuing the NPDES permit, the Regional Board considered all known pollutants that could be discharged by HTP that could cause or have reasonable potential to cause or contribute to an excursion above any State water quality standard.¹⁷⁹ Please also note that with respect to the Water Code standard, the RS-DEIR's analysis examines factors other than the permit limits, including impacts to aquatic resources and public health.¹⁸⁰ The RS-DEIR found potential impacts to be less than significant.

COMMENT NO. 29-30

The Proposed Project's 1.53 mgd contribution to HTP's wastewater effluent stream is significant and must be mitigated to a level of insignificance. The treated and untreated discharge through HTP's 5-mile outfall represents a serious impact on-water quality in the Santa Monica Bay. Although the majority of the discharge appears to be treated in accordance with an NPDES permit, there have been significant permit violations in the past.⁶²

^{62.} *Exhibit B-11, HTP NPDES Permit Reports.*

¹⁷⁹ *RS-DEIR Appendix C.iv, NPDES Permit, paragraph 50, p. 18.*

¹⁸⁰ *RS-DEIR, pp. II.B-40 – II.B-44; see also RS-DEIR Appendix C.iii, Technical Report on Cumulative Wastewater Impacts, MBC Applied Environmental Sciences and Flow Science, Inc., December 4, 2008, p. 52.*

RESPONSE NO. 29-30

The commentor has not provided any criteria for asserting that the Proposed Project's contribution to HTP's wastewater effluent stream is significant. The impacts of the Proposed Project's contribution were comprehensively and quantitatively evaluated in the RS-DEIR and *Technical Report* based on the significance thresholds stated at page II.B-23 of the RS-DEIR.

The commentor has attached the Hyperion Treatment Plant 2006 Annual Monitoring Report, which includes a "Summary of Non-Compliance." The summary contains 5 instances of non-compliance over the course of 2006, one of which is a diversion of wastewater discharge from the 5-mile outfall to the 1-mile outfall that was separately approved by the Regional Board. Pursuant to the NPDES permit, violations that occur trigger a review of plant processes and actions intended to minimize future exceedances. For instance, an exceedance of the effluent toxicity limitation requires the implementation of accelerated toxicity testing that consists of six additional tests, approximately every two weeks, over a 12-week period. If all the results of these tests are in compliance with the toxicity limitation, regular monthly testing may resume. If the results of any two of the six tests (any two tests in a 12-week period) exceed the limitation, a Toxicity Reduction Evaluation is required. If this evaluation indicates the source of toxicity (e.g., a temporary plant upset, etc.), then HTP may return to the regular testing frequency. If not, further actions must be taken to investigate and identify the cause of toxicity, mitigate the impact of the discharge and prevent the recurrence of toxicity, and a schedule for these actions is required.¹⁸¹

While permit violations such as those referenced by the commentor have occurred, as the commentor notes, the HTP operates within the limits of its permit the vast majority of the time. HTP's 2007 Annual Monitoring Report states "For calendar year 2007, HTP effluent was in compliance with limitations for all effluent constituents."¹⁸² No occurrences of non-compliance were noted for 2007. HTP's 2008 Annual Monitoring Report states "For calendar year 2008, HTP effluent was in compliance with limitations for all effluent constituents except for one Acute Toxicity exceedance of 3.0 TU_a on March 11, 2008."¹⁸³ This exceedance is discussed further in Response No. 29-31 below.

¹⁸¹ *Monitoring and Reporting Program No. 1492 for the City of Los Angeles (Hyperion Treatment Plant), Order No. R4-2005-0020, pp. T-31 – T-32.*

¹⁸² *Hyperion Treatment Plant, Annual Monitoring Report (2007), p. 1-1.*

¹⁸³ *Hyperion Treatment Plant, Annual Monitoring Report (2008), p. 1-2.*

COMMENT NO. 29-31

In addition, recent Regional Water Board monitoring reports show high levels of ammonia, a substance not treatable under HTP's secondary treatment system, nor required to be treated by the NPDES permit.⁶³

⁶³ *Exhibit B-12, HTP NPDES Reports excerpts.*

RESPONSE NO. 29-31

As noted in the most recent NPDES permit for the HTP, the Regional Board staff evaluated monitoring data from HTP to determine if discharges from the HTP had the "reasonable potential" to cause or contribute to exceedances of water quality objectives, including those for ammonia, in the receiving water. The Regional Board's analysis found that, based on historic HTP monitoring data, discharges from the 5-mile outfall did not have the reasonable potential to exceed Ocean Plan objectives for ammonia.¹⁸⁴ Thus, the NPDES Permit does not contain enforceable effluent limitations for ammonia for discharges from the 5-mile outfall. However, because the Regional Board and USEPA have determined that HTP discharge has a reasonable potential to exceed the Ocean Plan objective for acute toxicity related to effluent ammonia concentrations, the current NPDES Permit includes an effluent limit of 2.8 TU_a for acute toxicity.¹⁸⁵

Regional Board staff also determined that discharges from the 1-mile outfall have a reasonable potential to exceed Ocean Plan objectives for ammonia, and thus the current Permit includes effluent limitations for ammonia in discharges from the 1-mile outfall. However, as discussed in the RS-DEIR, the 1-mile outfall is utilized only in emergency circumstances.¹⁸⁶

The Regional Board staff included in the NPDES Permit performance goals concerning ammonia for discharges from the 5-mile outfall. Those performance goals, which are based on treatment plant performance from January 2003 through June 2004, are non-enforceable goals and are not derived from or related to Ocean Plan objectives for ammonia. The only NPDES Permit limitation for discharges from the 5-mile outfall related to ammonia is the acute toxicity limit discussed above.

The commentor has attached several monthly monitoring reports for the HTP NPDES Permit, which document HTP's exceedance of its effluent ammonia performance goals during the period from November 2007 through August 2008 (with no exceedance

¹⁸⁴ *RS-DEIR Appendix C.iv, NPDES Permit, p. 33, fn. 9.*

¹⁸⁵ *Id., p. 21, Finding 56.*

¹⁸⁶ *RS-DEIR, p. II.B.13 & fn. 33.*

noted for February 2008). However, except for a single exceedance of the acute toxicity limit in March 2008, the HTP has been in compliance with the permit's effluent limitations for acute toxicity. This exceedance initiated a requirement for accelerated testing (as discussed above in Response No. 29-30), which continued until July 2008. The accelerated testing requirements met the NPDES Permit compliance, and regular required monthly compliance monitoring resumed in August 2008.¹⁸⁷ Those 2008 test results confirm that exceedance of the performance goals for ammonia has not generally resulted in an increase in the acute toxicity of the effluent.

Please also note that the HTP has established an Ammonia Reduction Plan and Task Force to better understand the source of the ammonia observed in the effluent and reduce these levels. After reviewing influent and effluent ammonia data for the last 15 years, the Task Force believes the most important factor leading to the high effluent concentration is higher loading to the plant.¹⁸⁸

The Proposed Project is not expected to produce a significant impact with respect to an exceedance of the NPDES Permit's acute toxicity limit due to concentrations of ammonia in the effluent discharged to the ocean. Currently, the average toxicity limit in the discharged effluent is 2.2 TU_a, while the permit limit is 2.8 TU_a. With respect to future flows, acute toxicity results based on recent data (February 2007 to March 2009) were not correlated with discharge flows, which ranged from 275 to 311 MGD (million gallons per day). Accordingly, increases in the amount of effluent do not necessarily lead to increases in acute toxicity.¹⁸⁹ Therefore, the Proposed Project is expected to have a less than significant impact on the ocean environment attributable to ammonia in its wastewater.¹⁹⁰

COMMENT NO. 29-32

Furthermore, HTP's NPDES permit's dilution ratio applies only to some pollutants.⁶⁴ Thus, relying on HTP's permit requirements for a finding of no significant impact is inappropriate for a number of reasons, including for the reason such an approach ignores the notorious threat posed by emerging contaminants, for which there is evidence showing potentially significant harm to biota in the Santa Monica Bay.

According to the U.S. Geological Survey (USGS) "'Emerging contaminants' can be broadly defined as any synthetic or naturally occurring chemical or any microorganism that is not commonly monitored in the environment but has the potential to enter the environment and cause known or suspected adverse ecological and(or) human health effects."⁶⁵ Such

¹⁸⁷ *Hyperion Treatment Plant, Monthly Monitoring Report, July 2008, p. 1.*

¹⁸⁸ *Hyperion Treatment Plant, Monthly Monitoring Report, August 2008, p. 1.*

¹⁸⁹ *Analysis of Hyperion Treatment Plant (HTP) Acute Toxicity Results, Flow Science, Inc., June 29, 2009 (Appendix A.iii).*

¹⁹⁰ *Note that the Proposed Project's wastewater flow is <0.2 percent of current HTP flows.*

contaminants are often unregulated as there are potentially thousands of emerging contaminants or "contaminants of emerging concern" ("CECs") in wastewater and they are found in such low concentrations that analytical methods with adequate detection limits are frequently unavailable. Hyperion's current NPDES permit does not address contaminants of emerging concern (CECs). These constituents are often found in treated wastewater because they are continually input, are sometimes recalcitrant, and require high level treatment methods for removal.⁶⁶

CECs exist in the environment in small amounts, but even these small amounts can have significant effects on beneficial uses. Studies suggest that a number of these substances pose a threat to human health, marine ecosystems, and other wildlife. For instance, research suggests that pharmaceuticals and personal care products (PPCPs) are very important contributors to toxicity in wastewater⁶⁷. In addition, the synergistic effects of multiple contaminants on beneficial uses are only beginning to be explored. Significant amounts of PPCPs enter the environment from various inputs, including wastewater treatment plants that treat residential, commercial, and/or industrial wastewater⁶⁸. Numerous studies have shown detrimental impacts of PPCPs on wildlife. For example, studies have shown that certain synthetic musks found in fragrances (commonly found in perfumes, shampoos, and lotions) have been found to cause mutation in lab rats⁶⁹, and to inhibit the toxin defense system of certain marine mussels⁷⁰. Studies performed in California have demonstrated evidence of exposure and effects of emerging contaminants on marine life on a local basis. According to study performed by the Pacific Estuarine Ecosystem Indicator Research Consortium (PEEIR), reproductive abnormalities and endocrine disruption is evident in longjawed mudsucker (*Gillichthys mirabilis*), a salt marsh fish considered a sentinel species, at five wetland sites along California's coast where runoff and sewage treatment effluent are discharged⁷¹.

Studies in southern California have revealed hormone alterations, and reproductive abnormalities in coastal flatfish near treatment plant outfalls due to exposure to emerging contaminants. Gender ratios of the hornyhead turbot (*Pleuronichthys verticalis*) showed a trend toward masculinization at the Orange County Sanitation District outfall.⁷² Furthermore, endocrine disruption was potentially evident at this site as male fish were shown to have equivalent concentrations of blood egg yolk protein as those observed in female fish⁷³. These are merely a few examples of the studied impacts of emerging contaminants on the environment. There are a multitude of concerns, given existing research demonstrates how marine life is already being impacted by these contaminants. Human health may be at risk as we directly consume affected species, irrigate crops with water containing harmful levels of PPCPs, perpetuate environmental bacteria developing a resistance to antibiotics that make their way into waterways, or even drink water containing traces of these constituents. Research is currently underway near Hyperion's outfall to determine the extent to which emerging contaminants impact certain species in Santa Monica Bay.⁷⁴ One study⁷⁵ states:

It is well documented that many California coastal environments are contaminated, such as along industrialized or developed shorelines, in ports and marinas, and in regions around outfalls of publicly owned treatment works (POTWs), among others.

However, it is poorly understood to what extent are existing contaminants -many with continuing inflows into the environment impacting the biota. In the Southern California Bight (SCB), over one billion gallons of treated wastewater (effluent) are released each day into coastal waters. Such effluents are known to contain contaminants classified as endocrine disrupting compounds (EDCs). The Endocrine Disruptor Screening and Testing Advisory Committee (EDSTAC) of the US EPA defined an EDC as an "exogenous chemical substance or mixture that alters the structure or function(s) of the endocrine system and - causes adverse effects at the level of the organism, its progeny, populations, or subpopulations of organisms, based on scientific principles, data, weight-of-evidence, and the precautionary principle" (EDSTAC, 1998). Putative or demonstrated EDCs include (but are not limited to) organochlorine pesticides, polychlorinated biphenyls (PCBs), surfactants, plasticizers, polycyclic aromatic hydrocarbons (PAHs), DDT and metabolites, active steroid hormones and their mimics, and a large variety of pharmaceuticals.

Hyperion treats water only up to the secondary treatment stage, at which point CECs remain in the waste stream. Because this Proposed Project consists of 2,600 residential units, multiple office and industrial spaces, the amount of CECs contributed to the wastewater stream are likely to be significant.

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- ^{64.} *RS-DEIR, at p. II.B-42, [stating NPDES permit limitations for "major pollutants of concern"]*.
- ^{65.} *Exhibit B-14, U.S. Geological Survey (USGS) Toxic Substances Hydrology Program. Research Project-Emerging Contaminants. Last Modified 10 Oct. 2008 < <http://toxics.usgs.gov/regional/emc/>> Accessed Nov. 5, 2008.*
- ^{66.} *Ibid.*
- ^{67.} *Exhibit B-15, Munoz, 1. et al. (2008) Ranking potential impacts of priority and emerging pollutants in urban wastewater through life cycle impact assessment posted Science Direct. Oct. 2008.*
- ^{68.} *Exhibit B-21, Daughton, T. (1999). Pharmaceuticals and personal care products in the environment: agents of subtle change? Environmental Health Perspectives. December 1999, Vol. 107.*
- ^{69.} *Ibid.*
- ^{70.} *Exhibit B-16, Luckenbach, Epel (2005). Nitromusk and Polycyclic Musk Compounds as Long-Term Inhibitors of Cellular Xenobiotic Defense Systems Mediated by Multidrug Transporters. Environmental Health Perspectives. Jan 2005. Vol. 113, No.1, p. 17-24.*
- ^{71.} *Exhibit B-17, PEEIR; Pacific Estuarine Ecosystem Indicator Research Consortium. Reproductive Impairment of a Salt Marsh Fish as an Indicator of Pollutant Effects Brochure. http://www.bml.ucdavis.edu/PEEIR/Brochures/Fish_Reproductive_Impairment.pdf Accessed Nov. 5, 2008.*
- ^{72.} *Exhibit B-18, Rempel, M. et al. (2006) Evaluation of relationships between reproductive metrics, gender and vitellogenin expression in demersal flatfish collected near the*

municipal wastewater outfall of Orange County, California, USA. Aquatic toxicology 2006, vol. 77, no.3, pp. 241-249.

73. *Exhibit B-19, Schlenk, D. (2006). Environmental Monitoring and Assessment of Environmental Estrogens in Marine. UC Marine Council. Coastal Environmental Quality Initiative.*
74. *Exhibit B-20, Kelley, Kevin M. and Jesus A. Reyes. HTP Special Study 2009-10 Characterization of the Environmental Endocrine- Disruption Effects on Male Estrogen Levels and Testicular Estrogen-producing Genes in Hornyhead Turbot from the CLAEMD Outfall Monitoring Program Study Area.*
75. *Exhibit B-20, Kelley, Kevin M. and Jesus A. Reyes. HTP Special Study 2009-1 0 Characterization of the Environmental Endocrine Disruption Effects on Male Estrogen Levels and Testicular Estrogen-producing Genes in Hornyhead Turbot from the CLAEMD Outfall Monitoring Program Study Area, attached as Exhibit.*

RESPONSE NO. 29-32

The commentor is correct that the HTP NPDES Permit dilution ratio applies only to some pollutants. For example, NPDES Permit establishes technology based standards for constituents listed in Table A of the Ocean Plan, as authorized under the Clean Water Act. In addition, please note that the analysis provided in the RS-DEIR and Technical Report did not simply rely on compliance with permit requirements for a finding of no significant impact. See Response No. 29-29 above.

The issue of emerging contaminants (ECs) was addressed in Section 2.2.4 of Appendix C.iii of the RS-DEIR. As discussed therein and below, no applicable regulatory standards are currently available for either effluent or receiving water for ECs, and the HTP NPDES permit does not include any such limitations. As discussed in Appendix A.ii to this Final RS-EIR and summarized below, the Federal and State regulatory agencies charged with addressing ECs in wastewater have identified a number of studies that must be completed before an appropriate regulatory standard can be adopted, and it is unknown if and when that might occur.¹⁹¹

Concentrations of ECs are not currently regulated in either surface waters or in drinking waters pursuant to the Clean Water Act (CWA), the Safe Drinking Water Act (SDWA), or other regulations.¹⁹² In testimony to the U.S. Congress in September 2008, the U.S. EPA indicated that current scientific information regarding the effects of ECs on

¹⁹¹ *Status of Regulatory Standards for Emerging Contaminants (ECs), Flow Science, Inc., June 26, 2009 (Appendix A.ii).*

¹⁹² *33 U.S.C. section 1251 et seq. (1972) (Clean Water Act) and 42 U.S.C. section 300f et seq. (1971) (Safe Water Drinking Act).*

humans and aquatic life is inadequate.¹⁹³ The EPA is pursuing a number of research activities to better assess the sources of ECs in water, is assessing ECs (along with other contaminants) for potential drinking water regulation under the SDWA, and has begun the process of considering aquatic life criteria under the CWA. In order to determine appropriate protective levels of ECs for regulatory purposes, the EPA is currently working on a study¹⁹⁴ that will detail the technical issues and recommendations that may serve as a basis for modifying EPA's existing methodology for establishing aquatic life criteria for ECs. At the present time, Federal agencies are conducting research into areas relevant to the setting of standards for ECs.¹⁹⁵

State regulatory agencies are also taking steps to perform the necessary research and studies to develop standards for ECs in wastewater. The State Board, in collaboration with the California Department of Public Health (CDPH), asked the Southern California Coastal Water Research Project (SCCWRP) to convene a scientific advisory panel in 2009 to guide future actions relating to ECs in recycled water. In addition, the LARWQCB is a member agency of the SCCWRP, which is undertaking research related to the analysis and effects of ECs in southern California waters. The State has recognized that knowledge of the impact of ECs on human health and environment is incomplete and regulating most ECs will require additional research work and development of analytical test methods.

Based on the above information and the information detailed in Appendix A.ii to this Final RS-EIR, it is too speculative for the City to further evaluate the Proposed Project's impacts to water quality attributable to ECs from the Proposed Project's wastewater treated at HTP.

COMMENT NO. 29-33

At the least, the City needs to conduct CEQA analysis for Hyperion's effluent to the Bay, either in individual project EIRs or its IRP. Since the IRP EIR is devoid of such analysis, the City must require this analysis in project-specific EIRs, such as the one at issue here. It cannot simply continue facilitating increased effluent into the Bay with blinders on. An NPDES permit does not supplant or discharge the requirement to conduct CEQA review with respect to cumulative impacts on the Bay.

¹⁹³ U.S. EPA, *Testimony regarding ECs, September 18., 2008, available at: www.epa.gov/ocir/hearings/testimony/110_2007_2008/2008_0918_bhg.pdf.*

¹⁹⁴ U.S. EPA, 2008, <http://www.epa.gov/waterscience/criteria/aqlife/cec.html>.

¹⁹⁵ *Status of Regulatory Standards for Emerging Contaminants (ECs)*, Flow Science, Inc., June 26, 2009 (Appendix A.ii).

RESPONSE NO. 29-33

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration by the decision-makers. The RS-DEIR does not rely on either any other individual project's EIR or the City's IRP to analyze the potential cumulative impact of the Proposed Project's effluent to Santa Monica Bay, nor does it rely solely on compliance with NPDES permit requirements for a finding of no significant impact. See Response Nos. 29-27 and 29-29 regarding the analytic framework used in the RS-DEIR.

COMMENT NO. 29-34**IV. WATER SUPPLY**

The City of Los Angeles obtains its water supply primarily from local groundwater basins, the Los Angeles Aqueducts and purchases from the Metropolitan Water District of Southern California (MWD). Additional water supply comes from recycling wastewater for reuse. Approximately 85 percent of the City's current water supply comes from imported sources.⁷⁶

⁷⁶ *Exhibit C-1, Westchester Community Plan Update DEIR, at p. 4.41*

RESPONSE NO. 29-34

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

COMMENT NO. 29-35

The RS-DEIR must address whether sufficient water supply is available for the Proposed Project and the impacts from supplying that water. (*Vineyard Area Citizens, supra.*)

RESPONSE NO. 29-35

The Original FEIR included a water supply analysis and Water Supply Assessment (WSA) which concluded that a sufficient water supply will be available for the Proposed Project under drought and normal year conditions.¹⁹⁶ A detailed analysis of the Proposed Project's water supply impacts was included in Section IV.N.(1), Utilities, Water Consumption of the Original DEIR and Section II.24, Corrections and Additions of the Original FEIR. No party litigated the Original FEIR's water supply analysis or WSA. The

¹⁹⁶ *Original DEIR Appendix N-1b, Los Angeles Department of Water and Power Water Supply Assessment for the Village at Playa Vista, July 28, 2003, p. 17.*

water supply analysis is outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information." As discussed in Response Nos. 29-34 through 29-41, the commentor offers no "significant new information" with respect to potential water supply impacts within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5.

By way of background, pursuant to sections 10910 through 10915 of the California Water Code, the Proposed Project received a WSA from the Los Angeles Department of Water and Power (LADWP) on October 25, 2003. (It should be noted that the analysis in the WSA was conservative because, among other reasons, it was based on population projections prepared by the Southern California Association of Governments (SCAG) as of 1998, and those forecasts have substantially lowered by SCAG as of 2004.)¹⁹⁷ The WSA and the Proposed Project's water demand have been accounted for in LADWP's most recent Urban Water Management Plan (UWMP), dated 2005. See Response No. 29-36. The WSA and the 2005 UWMP remain valid.

COMMENT NO. 29-36

Since the Original Draft EIR came out in 2003, there have been significant developments presenting challenges to the City's ability to obtain an adequate water supply.

As aptly stated by Los Angeles Department of Water and Power's (LADWP) CEO and general manager David Nahai, "There are no more rivers to tap or aqueducts to build from hundreds of miles away."⁷⁷ Governor Schwarzenegger recently called the drought a "crisis" and in February, 2009, declared a state of emergency.⁷⁸ Given the finite water resources available, the 8-year drought described as "most critical drought in the State's modern history,"⁷⁹ groundwater contamination, and the recent federal court decision that curtailed water deliveries from northern California due to environmental factors in the Sacramento-San Joaquin Delta, and other circumstances, such as the low Sierra Nevada snow-pack,⁸⁰ and the impacts of global warming, the RS-DEIR is deficient for failing to provide an updated assessment of the availability of water for the Proposed Project both individually and cumulatively.

As the Second District Court of Appeals has stated: "An environmental impact report for a housing development must contain a thorough analysis that reasonably informs the reader of the amount of water available." (*Santa Clarita Organization for Planning the Environmental County of Los Angeles* (2003) 106 Cal.App.4th 715,717.)

¹⁹⁷ Specifically, the 2000 UWMP forecast a 25 percent increase in water demand in its service area by 2020, corresponding to an estimated water demand of 800,000 afy by 2020. However in the 2005 UWMP, LADWP projected demand only to reach 776,000 afy by 2030 (ten years after the 2020 projection date). LADWP, 2005 Urban Water Management Plan.

The City must require a new water supply assessment for the Proposed Project under SB 610. The Proposed Project's July 28, 2003 water supply assessment ("WSA") is now stale.

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- ^{77.} *Exhibit C-2, LADWP Article, at <http://www.ladwpnews.com/go/doc/1475/241803/>.*
- ^{78.} *Exhibit C-3, Governor Press Release, at <http://gov.ca.gov/index.php?/pressrelease/9796/>.*
- ^{79.} *Exhibit C-4, 2009 IEA Survey of DWP [excerpts], found at http://www.lacity.org/ctr/auditsJ2008_DWP_IEA_Survcy.pdf, at p. 4-188.*
- ^{80.} *Exhibit C-5, L.A. Times Article, at <http://www.latimes.com/news/local/la-me-snowpack30-2009jan30,0,2609116.story>.*

RESPONSE NO. 29-36

Please refer to Response No. 29-35 above regarding the scope of the RS-DEIR and comments concerning water supply. Water Code sections 10910 through 10915 (also known as SB 610) do not provide that a WSA becomes “stale” simply due to the passage of time. Instead, the governing statute (commonly known as SB 610) requires water supply assessments to examine water supplies over a twenty-year horizon under various conditions (e.g, varying drought conditions). The analysis in the Original FEIR and the WSA complied with those Water Code requirements. The WSA includes a description of the total projected water supplies available in normal, single-dry, and multiple-dry years through 2020.¹⁹⁸ The WSA also determined that the total projected water demand from the Proposed Project can be met during normal, single-dry, and multiple-dry water years through the year 2020.¹⁹⁹

LADWP also considered all WSAs allocated before the Proposed Project in its long-term planning.²⁰⁰ Additionally, LADWP accounted for the water allocation to the Proposed Project in its WSAs issued after the WSA for the Proposed Project and before the 2005 UWMP.²⁰¹ Further, the 2005 Urban Water Management Plan accounts for the water allocation in the WSA for the Proposed Project in addition to projected future demand. The 2005 Urban Water Management Plan states that “[a]s of 2005, LADWP [was] requested to

¹⁹⁸ *Original DEIR Appendix N-1b, Los Angeles Department of Water and Power Water Supply Assessment for the Village at Playa Vista, July 28, 2003, p. 16.*

¹⁹⁹ *Id.*, p. 17.

²⁰⁰ *Id.*, Appendix C.

²⁰¹ *For example, the USC Health Sciences Campus (No. 24), Ponte Vista at San Pedro (No. 26), the Herald Examiner (No. 27), and University Gateway (No. 28) DWP Water Supply Assessment Worksheets all list the Village at Playa Vista Project as number 15.*

develop over 25 water supply assessments.”²⁰² The Proposed Project is included in those over 25 water supply assessments which were considered in the 2005 UWMP.

The 2005 UWMP also details various initiatives by state and federal agencies that are “working on balancing the competing needs and developing options to provide a long-term solution to the various Bay-Delta problems.”²⁰³ As detailed in Appendix D.iv, those initiatives and other actions are underway by federal, state, and regional agencies to ensure water supply reliability.²⁰⁴ At the local level, to continue to ensure an adequate and reliable water for the City, LADWP is working on promoting water conservation and developing alternative water supply options, including acquiring water through water transfers, enhancing local groundwater basin production, managing urban runoff and beneficially reusing it, and increasing use of reclaimed water.²⁰⁵

In addition, to the 2005 UWMP, the City and LADWP issued a Water Supply Action Plan (Action Plan) on May 18, 2008 entitled “Securing L.A.’s Water Supply,” which serves as a blueprint for creating sustainable sources of water for the future of Los Angeles to reduce dependence on imported supplies.²⁰⁶ The Action Plan takes into account the realities of climate change and the recent drought, which have resulted in reduced imported water supplies. In light of various programs and projects being pursued by local, regional, and state water agencies to increase overall water supplies, the Action Plan concludes that LADWP’s supplies will remain reliable.²⁰⁷ Moreover, in June 2009, LADWP reconfirmed in its most recent water supply assessment that it has adequate water supplies to serve the water demands identified in the 2005 UWMP, including projected water demand growth.²⁰⁸

COMMENT NO. 29-37

The city must determine whether the water demand associated with the project was included as part of the most recently adopted Urban Water Management Plan (“UWMP”).

²⁰² LADWP, *2005 Urban Water Management Plan*, pp. ES-15, 6-18.

²⁰³ LADWP, *2005 Urban Water Management Plan*, p. 3-33.

²⁰⁴ *Report on Playa Vista WSA, Ron Gastelum, July 7, 2009 (Appendix D.iv)*.

²⁰⁵ LADWP, *2005 Urban Water Management Plan*, pp. 2-3 – 2-13, 5-1 – 5-14.

²⁰⁶ *Mayor Antonio Villaraigosa and LADWP, Securing L.A.’s Water Supply, May 2008. The plan is an aggressive multi-pronged approach that includes: investments in state-of-the-art technology; a combination of rebates and incentives; increased enforcement and expansion of the prohibited uses of water, the installation of smart sprinklers, efficient washers and urinals; and long-term measures such as expansion of water recycling and investment in cleaning up the local groundwater supply. Id., p. 1.*

²⁰⁷ *Id.*

²⁰⁸ LADWP, *Water Supply Assessment for the Village at Westfield Topanga, June 5, 2009, p. 5.*

(Wat. Code, § 10910, subd. (c)(2).) The 2003 WSA relied on the 2000 UWMP, which predates the most recent UWMP (2005).⁸¹

⁸¹. *Original DEIR, App., WSA.*

RESPONSE NO. 29-37

Please refer to Response No. 29-35 above regarding the scope of the RS-DEIR and comments offering no significant new information. Additionally, see Response No. 29-36 above for a discussion of the inclusion of the water demand associated with the Proposed Project in the 2005 UWMP.

COMMENT NO. 29-38

More importantly, circumstances have drastically changed since the March, 2003 MWD report on water supplies relied upon in the 2003 WSA. The recent three year cumulative water deficit is so large there is only a 15 percent chance that California will replenish its water supply this year.⁸² The Department of Water Resources (DWR) recently stated, "A survey of California's water scene yields an assessment of existing crises."⁸³

MWD had at the time of the original DEIR more than 2 million acre feet in storage.⁸⁴ MWD is now reporting that as of January, 2009, its reserves are approaching a "depleting" stage at 1,770,00 A/F and expects further reductions from the Delta.⁸⁵ The MWD's water supply alert is at condition 2, which requires "extraordinary conservation."

The MWD describes the changed conditions as follows:⁸⁶

A federal court has curtailed water deliveries from northern California due to environmental factors in the Sacramento-San Joaquin Delta. And, after a record dry spring that dramatically curtailed snow runoff from the Sierra Nevada mountains, Governor Schwarzenegger declared an official statewide drought on June 4, 2008.

Following the Governor's action, the Metropolitan board of directors issued a Water Supply Alert on June 10 for its six-county service area, urging local jurisdictions to adopt and implement water conservation ordinances and to significantly increase efforts and programs to conserve water.

The Colorado River, the other major source of imported supplies for Metropolitan, has experienced drought conditions for eight of the last nine years.

Since the drought in the late 1980s and early 1990s, Metropolitan enacted a plan to improve water supplies during dry conditions. The Integrated Resources Plan called for increasing Metropolitan's ability to store wet-year surplus supplies from the Colorado River and Northern California's Sacramento-San Joaquin Delta.

The goal has been to increase reserves. As of 2007, enough water in reserve was available to help Metropolitan withstand up to three successive dry years.

Worsening environmental conditions in the Sacramento-San Joaquin Delta now challenge Metropolitan's ability to replenish reserves in wet years. Prolonged dry conditions in California have reduced available supplies.

Metropolitan has tapped its reserves to maintain deliveries to its 26 member agencies. But the reserves are not unlimited. With water uncertainties facing Southern California, the challenge ahead is to lower demand and stretch our reserve supplies as much as possible.

The reliability of supplies for current and future users, as-well as the natural environment impacted by deliveries from the Metropolitan Water District are both currently threatened by a severe water shortage. Over half of Los Angeles' supply of water comes from MWD, which may be drastically reducing its delivery.⁸⁷ The Los Angeles City Mayor's Office stated on February 9, 2009:

Facing a third straight dry year and court-imposed limits on imported water, California faces significant water shortages this year. Statewide reservoir levels are their lowest since the 1976-78 drought and currently stand at only one-third of capacity. The Metropolitan Water District of Southern California (MWD), the source of more than half of the City's water, has estimated that if statewide water conditions do not improve they will need to cut deliveries by 15 to 25 percent.⁸⁸

^{82.} *Exhibit C-3, at p.2 [emphasis added].*

^{83.} *Exhibit C-6, DWR Water Plan Update (2009), Chapter 4, California's Water Today, at p. 4-6.*

^{84.} *Original DEIR, App., Water Supply Assessment (WSA), at p. 11.*

^{85.} *See Exhibit C-7, MWD Water Alert, at*
<http://www.mwdh2o.com/mwdh2o/pages/yourwater/WaterAlert/levels.html>.

^{86.} *Exhibit C-8, MWD press release, at*
<http://www.mwdh2o.com/mwdh2o/pages/yourwater/WaterAlert/>.

^{87.} *Exhibit C-9, L.A. Mayor Press Release, at p. 1.*

^{88.} *Ibid.*

RESPONSE NO. 29-38

Please refer to Response No. 29-35 above regarding the scope of the RS-DEIR concerning water supply. The comment refers to the Metropolitan Water District. MWD provides water supplies to its member agencies, which include LADWP, on a wholesale basis. The MWD commented on the RS-DEIR for the Proposed Project and determined that the Proposed Project is not of a size to be regionally significant to the MWD. See

Comment Letter No. 17. In its comment letter, MWD also recommends use of water efficient fixtures, drought tolerant landscaping, and reclaimed water, all of which would be implemented by the Proposed Project. Refer to Response Nos. 17-1 and 29-39.

With respect to MWD, please note that MWD has engaged in long-term planning to accommodate potential limits on water supply for many years. The basic strategy in the MWD's Integrated Resources Plan (IRP) process (originally adopted in 1996) was to develop supplies that exceed demand in order to provide a buffer to help address unexpected changes to local demand.²⁰⁹ With the adoption of the IRP process, MWD's supply portfolio has moved from one that relied heavily on imported core water supplies in the early 1990s to one in which less than one-third of the region's core supplies are imported today.²¹⁰ The trend on relying less on imported supplies is expected to continue.²¹¹

At the state level, the state and its Department of Water Resources (DWR) have implemented various initiatives to adapt and plan to assure a reliable water supply in the state. That mitigation includes adjustments to operation of the Delta Cross Channel to introduce more water into the western Delta to reduce the conflict between the delta smelt and pumping,²¹² a barrier pilot project in the San Joaquin River intended to protect the delta smelt while reducing water supply costs,²¹³ and plans for a dual conveyance system in the Bay Delta to restore the Delta ecosystem while also delivering Sacramento River water to South Delta state and federal pumps.²¹⁴

In addition, in response to Governor Schwarzenegger's 2009 Executive Order concerning drought conditions in the state, DWR has introduced other initiatives and activities, including, but not limited to, the expediting of \$108 million in 2009 for water management projects to assist regions in dealing with drought conditions; a partnership with other water management agencies to develop a comprehensive plan to permanently

²⁰⁹ MWD, *Integrated Resources Plan (IRP) Update, IRP Frequently Asked Questions*, available at: <http://www.mwdh2o.com/mwdh2o/pages/yourwater/irp/FAQs.html>; see also DWR, *California Water Plan Update 2009, Public Review Draft, Volume 1 The Strategic Plan, Chapter 5 Managing an Uncertain Future*, pp. 5-10.

²¹⁰ MWD, *The IRP Fact Sheet*, p. 4, available at: http://www.mwdh2o.com/mwdh2o/pages/yourwater/irp/IRP_At_A_Glance.pdf.

²¹¹ MWD, *Integrated Water Resources Plan, Summary Report, June 2008*, available at: http://www.sdcwa.org/board/documents/2008_07_24/IW.pdf.

²¹² *Letter from Ron Gastelum, Report on Playa Vista WSA, July 7, 2009 (Appendix D.iv)*.

²¹³ *Id.*

²¹⁴ *Blue Ribbon Task Force, Delta Vision Strategic Plan, October 2008; Id.*

reduce per-capita water use 20 percent by 2020;²¹⁵ a public water education campaign to encourage greater water conservation; and an effort in coordination with other state agencies to finalize dual plumbing standards.²¹⁶

Finally, please note that, in its most recent WSA, the LADWP has stated that the City's current water shortage is consistent with historical multiple dry year water cycles accounted for in LADWP's 2005 UWMP.²¹⁷ Accordingly, LADWP concluded that it has adequate water supplies to meet the water demand identified in the 2005 UWMP, including projected water demand growth.

COMMENT NO. 29-39

The RS-DEIR discloses that the Proposed Project's projected water consumption equals .503 million gallons per day⁸⁹ (or 746 acre feet annually⁹⁰), and cumulative total water consumption equals 4.807 million gallons per day,⁹¹ yet there is no discussion of how or why this additional consumption/demand does or does not cause significant impacts given the above described circumstances.

The EIR must include a current assessment and analysis of water supply for the project and the project's impacts on the availability of future water supply. (*Vineyard Area Citizens*, supra, at p. 434; Wat.Code, §10911, subd. (b).) Assessments must accompany any environmental review for projects, as defined in Water Code section 10912, that will demand the amount of water roughly equivalent to 500 dwelling units.

^{89.} [Original] DEIR, at p. 1089, Table 163

^{90.} RS-DEIR, App. WSA, at p. 2

^{91.} RS-DEIR, at p.1098, Table 169.

RESPONSE NO. 29-39

Please refer to Response No. 29-35 above regarding the scope of the RS-DEIR concerning water supply. As discussed above in Response No. 29-36, the Proposed

²¹⁵ On April 30, 2009, the Draft 20x2020 Water Conservation Plan was released. The 20x2020 Plan sets forth a road map to maximize the state's urban water efficiency and conservation opportunities between 2009 and 2020, and beyond. The 20x2020 Plan was developed through the collaborative effort of a team of federal and state agencies, including the DWR, the State Water Resources Control Board (SWRCB), California Energy Commission (CEC), Department of Public Health, California Public Utilities Commission (CPUC), California Air Resources Board (CARB), and the US Bureau of Reclamation. Draft 20x2020 Water Conservation Plan, April 30, 2009.

²¹⁶ California's Drought: Water Conditions & Strategies to Reduce Impacts, Report to the Governor, March 30, 2009.

²¹⁷ LADWP, Water Supply Assessment for the Village at Westfield Topanga, June 5, 2009, p. 5.

Project received a WSA from LADWP and the 2005 UWMP includes the projected water use by the Proposed Project. The Proposed Project has complied Water Code sections 10910 through 10915 and CEQA. For further discussion, see Response Nos. 29-35 and 29-36.

Further, the amount of the Proposed Project's water usage estimated in the WSA did not account for the Proposed Project's water conservation programs. In addition to committing to 100 percent use of reclaimed water to irrigate landscaped open space, the Proposed Project integrates numerous other water conservation measures as project design features, including ultra low-flow toilets, low-flow showerheads, low-flow fixtures, and water saving appliances. Other water conservation requirements established for the Proposed Project include the installation of Energy Star-related dishwaters and washing machines and, in office, retail, and other public buildings, water faucet fixtures with activators that automatically shut off the flow of water when not in use. Native or drought-tolerant landscaping will be planted and the irrigation systems will include efficiency features such as timers, moisture probes, and spray limiters, as practical and appropriate.²¹⁸

COMMENT NO. 29-40

Finally, as addressed in more detail below, global climate change should be considered in assessing water supply in California. The impact of climate change on California's water supply has already been acknowledged.⁹² California Department of Water Resources (DWR) prepared a July 2006 report entitled "Progress on Incorporating Climate Change into Management of California's Water Resources,"⁹³ which found that climate change may have a significant effect on California's future water resources and demand. This report also examined the potential impacts of selected climate change scenarios on operations of the State Water Project and Central Valley Project, Delta water quality, flood management and evapotranspiration. Potential issues include a reduction of Sierra snowpack and seasonal water storage. As the supply of water is intertwined with regional environmental issues,⁹⁴ the RS-DEIR must address the potential impacts of supplying water needed for the Proposed Project.

^{92.} *Exhibit C-12, DWR Climate Change Report.*

^{93.} *Exhibit C-10.*

²¹⁸ *Original DEIR Appendix N-1b, Los Angeles Department of Water and Power Water Supply Assessment for the Village at Playa Vista (July 28, 2003); Refer to Appendix E.ii of the RS-DEIR for the Residential Sustainable Performance Guidelines and Section IV-N(1), Water Consumption, of the Original DEIR for the applicable mitigation measures. For additional information about the water supply analysis, see Section IV-N(1), Water Consumption, of the Original DEIR and Responses to Comment 30-99 through 30-104 of the Original FEIR.*

- ⁹⁴. *Exhibit C-11, LADWP Article, "Future of Water," found at [http://www.ladwp.com/ladwp/c,s/ladw\[001620.jsp](http://www.ladwp.com/ladwp/c,s/ladw[001620.jsp).*

RESPONSE NO. 29-40

Please refer to Response No. 29-35 above regarding the scope of the RS-DEIR concerning water supply. Additionally, as discussed above in Response No. 29-38 and evidenced by the comment's reference to the DWR's July 2006 report, "Progress on Incorporating Climate Change into Management of California's Water Resources," federal, state, and local water planners have taken and continue to take various steps to adapt to changing conditions to assure that sufficient water is available. The DWR, the MWD, and LADWP all have been considering and planning for drought conditions including water supply limitations due to global climate change.²¹⁹ These water agencies have considered drought and other issues that impact water supply (such as climate change) in their long-term planning, which includes the Proposed Project's water demand, and the City has concluded that it will be able to provide water to the Proposed Project.

COMMENT NO. 29-41

In sum, for the reasons stated above, the city cannot approve the Proposed Project without a new, detailed water supply assessment and must address the potential environmental impacts of providing this water. (See *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 434 ("The ultimate question under CEQA, moreover, is not whether an EIR establishes -a likely source of water, but whether it adequately addresses the reasonably foreseeable impacts of supplying water to the project."))

RESPONSE NO. 29-41

Please refer to Response No. 29-35 above regarding the scope of the RS-DEIR and comments concerning water supply. As discussed in Response Nos. 29-35 through 29-40 above, the Proposed Project's Water Supply Assessment remains valid and the commentor does not provide significant new information concerning the water demand of the Proposed Project or the ability of LADWP to meet that water demand.

²¹⁹ See for example, LADWP, *2005 Urban Water Management Plan*, pp. ES-9, 3-33, 6-1--6-2; MWD, *The Regional Urban Water Management Plan*, November 2005, pp. II-15-II-17, II-21-II-23; MWD, *Annual Progress Report to the California State Legislature: Achievements in Conservation, Recycling and Groundwater Recharge*, February 2008; Mayor Antonio Villaraigosa and LADWP, *Securing L.A.'s Water Supply*, May 2008, p. 8; DWR, *Progress on Incorporating Climate Change into Management of California's Water Resources*, July 2006; DWR, *Memorandum to California Air Resources Board, regarding Assembly Bill 32 Early Actions*, June 19, 2007; *California Urban Water Agencies, Climate Change and Urban Water Resources: Investing in Reliability*, December 2007.

COMMENT NO. 29-42**V. SAFETY/RISK OF UPSET: METHANE**

New information of substantial importance showing the Project's mitigation measures do not reduce the methane hazard to a level of insignificance has come to light since the initial EIR was certified in 2004.

Video footage of methane gas entering existing building areas at Phase I was presented to the City of Los Angeles Department of Building and Safety in 2005, approximately one year after the City approved the initial Phase 2 EIR. Subsequently, NBC Television broadcast a series of news stories named "Burning Questions" that called into question the efficacy of the Phase I mitigation measures. These news stories included testimony from City and other Governmental officials suggesting that the methane mitigation measures that were implemented at Phase I either were not fully implemented because there was no enforcement mechanism requiring Playa Capital, L.L.C., to implement them, or the mitigation measures in some respects and in some locations demonstrably did not reduce methane hazard to a level of insignificance. Members of the public, including this author, submitted this video evidence in the form of declarations and accompanying DVDs into the administrative record via the City Attorney's office.⁹⁵

⁹⁵ *Because this evidence is already in the administrative record for this matter, BWLT is not providing additional copies of the DVD and declarations with these comments. Should the City require another copy of the DVD and declarations, BWLT will provide them upon the City's request. The request should be made to the undersigned.*

RESPONSE NO. 29-42

The methane analysis of the Proposed Project, which was upheld by the Court of Appeal Opinion, is outside the scope of the RS-DEIR. Please refer to Sections I.B and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR and the standards for recirculation of a draft EIR due to "significant new information." The methane analysis contained in Section IV.I, Safety/Risk of Upset, of the Original DEIR and Section 11.13, Corrections and Additions of the Original FEIR, and Topical Response TR-12 of the Original FEIR included detailed analysis of methane impacts.²²⁰ The commentor offers no "significant new information" with respect to methane impacts within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5.

As an initial matter, as indicated in the comment itself, the video footage, news stories, testimony, and other items referred in the comment include allegations related to

²²⁰ *See RS-DEIR Appendix A.i, Court of Appeal Opinion, pp. 57-71.*

the efficacy of First Phase Project methane mitigation measures and the enforcement of those measures. However, the methane mitigation implemented in the First Phase Project, known as the “Playa Vista Phase I Methane Mitigation Guidelines” apply only to the First Phase Project.²²¹ The City refined its requirements and developed the “Village at Playa Vista Building Methane Mitigation Guidelines” in 2003 and then the “Citywide Methane Ordinance” in 2004.²²² The mitigation measure requiring the Methane Safety Systems for the Proposed Project provided that LADBS (in consultation with LAFD) has the authority to select one of the two applicable standards for the Proposed Project.²²³ Although the two protocols are similar in certain aspects, after consulting with LAFD and methane consulting engineers, LADBS has determined that the “Citywide Methane Ordinance” provides a greater level of safety because it more clearly defines the mitigation applications and promotes the use of the most reliable mitigation method, natural ventilation.²²⁴ Thus, LADBS has opted that the “Citywide Methane Ordinance” be used for the Village at Playa Vista Project and LAFD has supported the determination.²²⁵ In addition, when the requirements in the Los Angeles Citywide Methane Ordinance are compared to nearby California jurisdictions that are in or near oil fields, the City’s requirements are more conservative and protective than the requirements in numerous southern California jurisdictions (i.e., Los Angeles County, Orange County, San Diego County, City of Huntington Beach, City of Santa Fe Springs, and California State Department of Toxic Substances).²²⁶ Finally, with respect to the resolution of the concerns described by the commentor regarding methane mitigation measures for the First Phase Project, see Response No. 29-43.

²²¹ *City of Los Angeles Inter-departmental Correspondence, from Los Angeles Fire Department, Department of Building and Safety, and City Planning to Council Chairs of Audits and Governmental Efficiency Committee and Planning and Land Use Committee regarding Status Report on Controller’s (1) Review of the City’s Oversight of Playa Vista Phase I Development and (2) Evaluation of Department’s Initial Joint Response, October 25, 2007, p. 3.*

²²² *Id.*

²²³ *See Original MMRP, Measure I-12.*

²²⁴ *City of Los Angeles Inter-departmental Correspondence, from Los Angeles Fire Department, Department of Building and Safety, and City Planning to Council Chairs of Audits and Governmental Efficiency Committee and Planning and Land Use Committee regarding Status Report on Controller’s (1) Review of the City’s Oversight of Playa Vista Phase I Development and (2) Evaluation of Department’s Initial Joint Response, October 25, 2007, p. 3.*

²²⁵ *Id.*

²²⁶ *City of Los Angeles Inter-departmental Correspondence, from Los Angeles Fire Department, Department of Building and Safety, and City Planning to Council Member Bill Rosendahl regarding Response to Questions Dated December 17, 2007 Regarding the Playa Vista Project (April 21, 2008), p. 9; see also id., p. 9 [“It is abundantly evident that the methane mitigation standards [in the Citywide Methane Ordinance] developed and enforced by the City of Los Angeles are much more highly sophisticated and provide a higher-level of safeguards as compared to other surrounding jurisdictions....”].*

COMMENT NO. 29-43

It is rather disturbing that the RS-DEIR for the Proposed Project does not include a discussion and analysis of the methane issues given the evidence in the record. Clearly the new information represented by the evidence was significant enough for the City's Controller to commission an audit of the Playa Vista development methane mitigation measures in 2007 and recommend changes to the Playa Vista Methane, Mitigation and Monitoring Plan specifically with respect to the Proposed Project (see discussion below). The new EIR should include a discussion and analysis of the Project's impacts with respect to methane hazards and proposed mitigation measures in light of the new information showing significant effects not known prior to the 2004 EIR certification.

The Los Angeles City Controller's June 2007 Audit on the Playa Vista Developments methane mitigation program call into question the feasibility, effectiveness and enforceability of the methane mitigation measures relied upon in the initial Phase 2 EIR for a finding of no significant impact.⁹⁶ A joint response to the Controller was submitted by the Director of City Planning, Chief of the Fire Department and General Manager of the Department of Building & Safety in July 2007 promising some improvements and acknowledging the Controller's findings.⁹⁷ A subsequent letter sent by the Controller evaluating the joint response articulated the need for immediate action, stating:

"I accept some of the planned actions. Your response, however, does not recognize the seriousness of the issues identified and the urgency needed to resolve them and affect change prior to the start of Phase II."⁹⁸

This new information should be included as part of the CEQA environmental review and the City Controller's recommendations for enforceable mitigation measures implemented as part of the conditions of approval and mitigation monitoring plan for the Project.

^{96.} *Exhibit D-1*

^{97.} *Exhibit D-2*

^{98.} *Exhibit D-3*

RESPONSE NO. 29-43

Please refer to Response No. 29-42 above regarding the scope of the RS-DEIR and concerning methane impacts. As discussed above in Response No. 29-42, the mitigation measures applicable to the First Phase Project differ from those that apply to the Proposed Project. The June 5, 2007 report released by the Office of the Controller titled "City's Oversight of Playa Vista Phase I Development" ("2007 Controller Audit") consists of a

“review of the City’s oversight responsibilities for the Playa Vista Phase I Residential Development Project.”²²⁷

Specifically, the 2007 Controller Audit performed in June 5, 2007 to which the commentor refers reviewed the City’s oversight and record-keeping responsibilities with respect to methane mitigation of the First Phase Project. To the extent the Controller’s audit addressed the Proposed Project (called Phase II therein), it was geared to reinforcing record-keeping and coordination functions. In response, the Los Angeles Department of Building and Safety and the Los Angeles Fire Department entered into a Memorandum of Understanding on October 17, 2007, which clearly establishes the roles, responsibilities and coordination for LAFD and LADBS for conducting the required plan reviews, inspections, and testing of the methane mitigation systems for both the First Phase Project and, if approved, the Proposed Project.²²⁸ At the same time, the departments created a new sign-off matrix designed to specify oversight responsibilities and to record acceptances from applicable regulatory agencies prior to the issuance of a Temporary Certificate of Occupancy or a Certificate of Occupancy.²²⁹ These actions were detailed in a joint status report from the Department of City Planning, LAFD, and LADBS to the 2007 Controller Audit, which concluded that “[a]ll three departments [Departments of City Planning, LAFD and LADBS] are confident that with the implementation of the recommendations detailed in the report, coupled with the high-level safeguards provided by the two methane mitigation standards [(the Citywide Methane Ordinance for the Proposed Project and the Playa Vista Phase I Methane Mitigation Guidelines at the First Phase of Playa Vista)], the residents of Playa Vista and the City at large can be assured of a safe and healthy environment.”²³⁰ This joint status report from the City departments was reviewed in an extensive hearing at the Audit and Governmental Efficiency Committee on December 5, 2007,²³¹ as well as at a City Council hearing on February 6, 2008. The Chief Deputy City Controller, who represented the City Controller at this City Council hearing, stated that the Controller was satisfied with the department’s response.²³² Notably the

²²⁷ *City of Los Angeles Inter-departmental Correspondence, from Los Angeles Fire Department, Department of Building and Safety, and City Planning to Council Chairs of Audits and Governmental Efficiency Committee and Planning and Land Use Committee regarding Status Report on Controller’s (1) Review of the City’s Oversight of Playa Vista Phase I Development and (2) Evaluation of Department’s Initial Joint Response, October 25, 2007, p. 3.*

²²⁸ *Id.*, p. 2.

²²⁹ *Id.*, p. 4.

²³⁰ *Id.*, p. 9.

²³¹ *Audits and Governmental Efficiency Committee, in re: Planning and Land Use Management Committee: Playa Vista – Phase I Residential Development Project; Methane Mitigation System, Reporter’s transcript of Audiotaped Proceedings, December 5, 2007.*

²³² *City Council Meeting, in re: Regular Meeting of the City of Los Angeles, California, City Council, Audits and Governmental Efficiency Committee Report relative to the Controller’s Report on the City’s oversight of Playa Vista Phase I Development and related matters, Agenda Item No. 5, Reporter’s*

Controller's letter quoted by commentor was dated August 7, 2008, which pre-dates the work and hearings described above.

COMMENT NO. 29-44

VI. LAND USE

The City is charged under the California Government Code with preparing, updating and implementing a "General Plan", which governs all land use approvals within the City. As the Los Angeles Planning and Zoning Code's introduction states,

The [Planning Department] is charged with the responsibility of preparing, maintaining and implementing a General Plan for the development of the City. The General Plan consists of the Framework Element, which provides overall guidance for the future of the City, various other citywide elements including the state-mandated elements such as the Transportation, Open Space and the Land Use among others. The Land Use Element is largely made up of the community plans that fall for a range of allowable land uses and intensities of uses as well as other matters relating to the use of land unique to each of the City's many communities." (Los Angeles Municipal Code, Chapter 1, General Planning Information).

In order to determine whether City infrastructure and services (such as wastewater treatment, water supply and transportation infrastructure) are meeting the City's current and near-future population growth's needs (and thus whether and how development should be approved), the City's General Plan, Framework Element (hereinafter "'Framework Element,") requires the City to analyze: (1) population projections provided by Southern California Association of Governments ("SCAG"); and (2) the City's own actual monitoring of the City's population growth, infrastructure and services to gauge the appropriateness of the estimates and provide for their modification over time, so that actual growth can be accommodated when and if it should occur. (Framework Element, Executive Summary, at p. 2.)

The Framework Element, Executive Summary states: "A system for the annual monitoring of growth, infrastructure, and services, used as the basis to guide future capital investments and development decisions, [will be] used as a mechanism to gauge the appropriateness of the estimates and provide for their modification over time," (Framework Element, Executive Summary, at p. 2.) As such, the Framework Element requires the City to systematically monitor its actual population growth (as opposed to merely "projected" population growth as reported by SCAG), sufficiency of City infrastructure and services, and periodic reporting of the data collected as a result of said monitoring. The data is then to be reported to the City decision makers, (including the City Council) for the express purpose of informing all development decisions within the City. This monitoring and data collection tells the City whether population growth is outpacing infrastructure and services,

Transcript of Videotaped Proceedings, February 6, 2008.

and whether development approvals should be focused, limited or delayed based on the City's ability or inability to timely accommodate its population growth with the necessary infrastructure and services required to support residents, workers, and business owners.

The city's monitoring and data collection duties are outlined in Items P42, P43, and P44 of the Framework Element. The City has failed to fully perform its duties to monitor and report on population growth and infrastructure and services as required by the City's own General Plan; The City's failure to perform the required monitoring and reporting while still continuing to approve massive development at break-neck speed (including the Proposed Project), threatens the health, safety and welfare of the residents, workers and business owners of Los Angeles.

The last published Annual Report on Growth and Infrastructure was in 2000. Without the required monitoring and reporting, City decision makers cannot know whether the population growth facilitated by the sheer enormity of development approved within the last 10 years and continuing is overburdening or will likely overburden current infrastructure capacity and services delivery, Without the required monitoring and reporting, neither can City decision makers determine whether planned infrastructure capacity and services delivery will come online in time to accommodate the inevitable near-term increase in population that will result from development already approved but not yet built.

State law requires that, because the general plan is the "constitution" for the City's future Development, any decision affecting land use and development must be consistent with the General Plan. (See *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 570- 71.) A project must be compatible with and not frustrate the general plan's goals and objectives. (*Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 378.) **The proposed project is inconsistent with the General Plan because it would undermine the attainment of the Framework Element's goals and policies that require the City be fully informed of the demand and supply of infrastructure and population figures prior to making any land use decisions.**

Any development project approved in the absence of growth and infrastructure monitoring and reporting is not compatible with the Framework Element objective that such monitoring and reporting inform land use decisions. The Framework Element recognizes that restrictions on development must occur if the Framework Element is not implemented via monitoring: "the linkage between future growth and services will occur through the implementation of a monitoring program that provides information regarding 'real' demands and service levels in order to guide public decisions regarding infrastructure and service investments. Successful application of this system would mitigate the need to restrict development to ensure adequate level of service." (Framework Element, at p. 9-1.)

Despite the City's failure to perform the mandatory duties set forth in Framework Elements P42, P43, and P44, to prepare annual reports, establish monitoring and collect data intended to" inform the General Plan's implementation, the City continues to approve development, such as the proposed project, in favor of up zoning land, thereby increasing population growth and density.

The City has issued millions of construction permits for new buildings since the last published Annual Report in 2000. In the second quarter of fiscal year 2008 alone, the city issued 1,981,509 construction permits for new buildings. (See City of LA website for construction permit reporting.) Approvals of zoning ordinances, specific plan amendments, general plan amendments, development agreements, and tentative subdivision maps, any and all of which vest applicants with a property right to develop their land, while the duties mandated by the General Plan's Framework; Element remain unperformed, are *per se* inconsistent with the General Plan.

Thus, the proposed project cannot be approved prior to the performance of the city's duties under P42, P43, and P44 of the Framework Element. If approved, it would be void *ab initio*. (*Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531.) At the very least, the Project's inconsistency with the General Plan must be discussed in the RS-DEIR.

RESPONSE NO. 29-44

The commentor states concerns regarding the attainment of the General Plan's Framework Element and the Proposed Project's demand on infrastructure and public services. Please note that this environmental review process for the Proposed Project provides local decision-makers with the information the commentor claims is lacking. The Original FEIR, the RS-DEIR, and this Final RS-EIR prepared in connection with the Proposed Project, provide the City with the relevant information regarding existing and future infrastructure capabilities and deficiencies at both project-specific and cumulative levels.²³³ Further, pursuant to CEQA, lead agencies consult with local agencies such as LADWP, Los Angeles City Fire Department, Los Angeles Police Department, Los Angeles Department of Parks and Recreation, and others, to obtain information regarding infrastructure, including total and remaining capacity and possible future deficiencies.²³⁴ Such information regarding infrastructure capacity was incorporated into the Proposed Project's EIR analysis, which will inform the City's decision as to whether to approve the Proposed Project.

Further, the question of whether the City complies with the discretionary policies in its General Plan Framework Element does not affect the evaluation of the Proposed Project's potential environmental impacts. Project-specific approvals have been judicially upheld despite a project opponent's contention that a city's general plan is inadequate since such a dispute over a particular planning policy is separate and distinct from the environmental impacts associated with the project at issue.²³⁵

²³³ See for example, Original DEIR, Sections IV.K(1), Traffic and Circulation, IV.L, Public Services, IV.M, Energy, and IV.N, Utilities; Original FEIR, Sections II.15 and II.18-II.26, Corrections and Additions; RS-DEIR, Section II.B, Utilities: Wastewater.

²³⁴ See CEQA Guideline Section 15086.

²³⁵ See *Bownds v. City of Glendale* (1980) 113 Cal.App.3d 875, 882-883 (rejecting petitioner's argument

In addition, the City's interpretation of its Framework Element is entitled to significant weight. Courts accord substantial deference to a local governmental agency's determination that an action is consistent with its own general plan, recognizing that the body which adopted the general plan policies has unique competence to interpret those policies²³⁶ and how to apply them.²³⁷ The Framework Element also specifically states that implementation of any particular City-wide monitoring program is always contingent on the availability of funding.²³⁸ Accordingly, the City's decision to continue processing entitlement applications is entitled to deference, particularly where an individual development project's environmental analysis provides discussions regarding impacts to utilities, public services, and infrastructure in the City.

Finally, although litigation raising allegations similar to those made in this comment letter is pending in the Los Angeles Superior Court, that litigation does not involve the Proposed Project, and there has been no judicial determination in that litigation that the City's actions violate the General Plan Framework Element.

COMMENT NO. 29-45

VII. GLOBAL CLIMATE CHANGE

A. Introduction

The debate at this point in time is not whether climate change is happening or how it is happening, but whether we as a society can reverse the trend in time. In order to meet state and local objectives, we must *reverse* the trend of climate change and to reduce greenhouse gas emissions to a small fraction of the present levels.

The Project as proposed will have an adverse effect on the city and state's ability to reverse current trends of global warming and, as addressed below, will result in a significant increase in greenhouse gas emissions.

In summary, the RS-DEIR erroneously concludes that the Proposed Project's impacts are not significant and fails to provide full disclosure of all impacts and impose enforceable mitigation measures.

that because the general plan was "inadequate," all project approvals adopted thereafter should be vacated).

²³⁶ *Eureka Citizens for Responsible Government v. City of Eureka* (2007) 147 Cal.App.4th 357, 373.

²³⁷ *Save Our Peninsula Comm. v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 142.

²³⁸ *City of Los Angeles General Plan Framework Element, Executive Summary, Implementation Programs. The Framework Element may be found at: <http://cityplanning.lacity.org/cwd/framwk/chapters/00/00.htm> (last visited on June 5, 2009).*

RESPONSE NO. 29-45

The commentor's opinions regarding the impacts of the Proposed Project on climate change are noted and will be incorporated into the Final RS-EIR for consideration by the decision-makers. As discussed further in the RS-DEIR and the responses below, California's Global Warming Solutions Act of 2006 (Assembly Bill 32, also known as AB 32), which was enacted to reduce greenhouse gas (GHG) emissions to address global climate change, requires the California Air Resources Board (CARB) to reduce statewide GHG emissions to the equivalent of those in 1990 by 2020 (a reduction of approximately 25 to 30 percent from forecast emission levels).²³⁹ For further discussion, see RS-DEIR p. II.D-6 to D-7. In order to accomplish that objective, CARB adopted the "Scoping Plan," which is a comprehensive plan that details GHG emissions reductions from each sector in California that are necessary to reach AB 32's reduction targets.²⁴⁰ Specifically, "[r]educing [GHG] emissions to 1990 levels means cutting approximately 30 percent from business-as-usual emissions levels projected for 2020, or about 15 percent from today's levels."²⁴¹ To meet this goal, per capita GHG emissions must be reduced from approximately 14 tons of carbon dioxide equivalent per California resident to approximately 10 tons per person by 2020.²⁴²

The RS-DEIR provides a comprehensive discussion of the evolving regulatory environment governing climate change, fully discloses the Proposed Project's potential impacts on climate change, and imposes enforceable mitigation measures. As discussed in the RS-DEIR, the state and local governments have adopted a number of goals, strategies, and control measures in various state and local guidance and regulations to reduce per capita GHG emissions and mitigate and reduce the City of Los Angeles and the State of California's impacts on global climate change (for example, AB 32 and associated guidance, the 2006 CAT Report and associated updates, OPR guidance regarding emissions, and the LA Green Plan). The measures detailed in these plans will promote individuals living and working in more energy and water efficient development projects, reducing the per capita GHG emissions for those individuals. For example, according to one recent study, "whole-house energy use in new homes built in 2006 decreased by 25% compared to homes built in 1990, despite the fact that the average square footage increased from 2,160 to 2,488 during that time."²⁴³

As detailed in the RS-DEIR, the Proposed Project includes numerous sustainability strategies and thus is consistent with the guidance and regulations adopted to reduce GHG emissions. Specifically, the Proposed Project is a mixed-use, urban infill, low impact development which provides a substantial amount of housing in a jobs rich subregion and

²³⁹ Cal. Health & Safety Code Section 38500 et seq.

²⁴⁰ See RS-DEIR, II.D-6 & fn. 17.

²⁴¹ See CARB Scoping Plan, December 12, 2008, p. ES-1.

²⁴² See *id.*

²⁴³ See ConSol, *Carbon Footprint of Single-Family Residential New Construction* ("ConSol Report"), May 2008, p. 3.

includes numerous environmental and energy and water saving sustainability measures such as 100 percent use of reclaimed water for irrigation of open space, compact development with an average housing density of 38 units per net acre, extensive use of native and drought resistant vegetation, over a 90 percent construction waste diversion and recycling rate, and promotion of alternative transportation modes through various strategies such as the installation of electric vehicle charging stations, the provisions of over 200 transit passes monthly to encourage the use of public transport, the purchase of five CNG-powered buses for the City of Culver City, and the expansion of an internal shuttle system to provide connections to key destinations within the surrounding community (using low emissions vehicles).²⁴⁴

The Proposed Project's sustainability measures would support buildings constructed within the Proposed Project in attaining certification as Leadership in Energy and Environmental Design (LEED).²⁴⁵

Finally, the RS-DEIR details the Proposed Project's various sustainability measures in the climate change analysis (see RS-DEIR pp., II.D.35-56) and, contrary to the commentor's assertion, will integrate these measures into the Complete MMRP for the Proposed Project.²⁴⁶ Therefore, these measures will be enforceable mitigation measures under CEQA.²⁴⁷

COMMENT NO. 29-46

B. Analysis of significant impacts

The RS-DEIR states that the Proposed Project will add 41,825 metric tons per year of carbon dioxide equivalent GHGs.⁹⁹ The RS-DEIR then concludes that project impacts would not be significant.¹⁰⁰

This conclusion is erroneous because the Proposed Project's GHG emissions are significant under any potential threshold of significance (including the one employed by the RS-DEIR).

^{99.} RS-DEIR, at p. II.D-32.

^{100.} RS-DEIR, at p. II.D-47.

²⁴⁴ See RS-DEIR, pp. II.D-33—II.D-56, Appendix E.ii, *The Village at Playa Vista Residential & Mixed Use Sustainable Guidelines*.

²⁴⁵ RS-DEIR, p. II.D-41.

²⁴⁶ RS-DEIR, pp. III-6 – III-9; see *Executive Summary Section I.E.* for more discussion of the Complete MMRP.

²⁴⁷ See *Cal. Pub. Res. Code Section 21081.6; CEQA Guidelines §15097(g)*.

RESPONSE NO. 29-46

As an initial matter, it should be noted that the RS-DEIR's quantification of GHG emissions from the Proposed Project overestimates such emissions. First, the analysis uses standard energy and water generation factors and does not take credit for many of the energy and water saving sustainability measures to be implemented with the Proposed Project.²⁴⁸ See Response No. 29-45. Second, the GHG emissions rates described in the RS-DEIR overstate the Proposed Project's GHG emissions because they do not consider the implementation of numerous local, state, and federal developments that will reduce GHG emissions. For example, on May 19, 2009, President Obama announced the formation of a new national rule that will apply much more stringent mileage and GHG emissions standards to new vehicles. These new standards will reduce GHG emissions related to automobiles and trucks by 900 million metric tons through 2016, the equivalent of shutting 194 coal-fired power plants or taking 177 million cars off the road.²⁴⁹ With respect to the City's evaluation of the significance of the Proposed Project's emission of GHGs, see Response No. 29-47, below.

COMMENT NO. 29-47

Potential thresholds of significance for GHG emissions under CAPCOA (California Air Pollution Control Officers Association), CARB (California Air Resources Board), the State OPR (Office of Planning and Research) and air district resources include (a) a numerical-standard; (b) zero threshold: i.e., any additional emission is significant; (c) percentage reduction from business as usual; and (d) the project would conflict or interfere with GHG reduction plans.

In this case, a zero threshold should have been applied because any additional emission is significant in order to meet the goals set out in AB 32 and LA Green Plan. Nevertheless, the project's impacts are significant under all non-numerical thresholds:

-Zero Threshold: the Proposed Project is adding GHGs, so it exceeds the zero threshold.

-Percentage reduction from business as usual: the Proposed Project does not reduce its contribution by 30% of business as usual (to meet AB 32 goals).

-Conflict with GHG reduction plans: the Proposed Project would interfere with the GHG reduction plans in that it would increase GHG load significantly.

RESPONSE NO. 29-47

None of the groups listed in the comment have issued any guidance or regulation requiring the City, as a lead agency under CEQA, to favor one of the four potential significance thresholds listed by the commentator over the other options listed (or over other

²⁴⁸ *Original DEIR, pp. 1062, 1089 (Table 163); see also Mestre Greve, p. 19 (Table 5).*

²⁴⁹ *U.S. Orders Stricter Fuel Goals for Autos, Wall Street Journal, May 19, 2009.*

potential thresholds of significance) for purposes of a CEQA analysis. To the contrary, the City has the discretion under CEQA to select an appropriate threshold to evaluate the significance of the Proposed Project's contribution to global climate change.²⁵⁰ Proposed amendments to the CEQA Guidelines to address the analysis and mitigation of the potential effects of GHG emissions, which were prepared by OPR pursuant to SB 97, transmitted to the Natural Resource Agency on April 13, 2009, and issued for public comment by the Resource Agency on July 6, 2009 confirm the City's discretion. The proposed Guideline Section 15064.4 states that "the determination of the significance of greenhouse gas emissions calls for a careful judgment by the lead agency consistent with the provisions in Section 15064."²⁵¹ Existing CEQA Guideline Section 15064(b) (which is not proposed to be modified by the Resource Agency)²⁵² confirms that the selection of a significance threshold calls for "careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data. An ironclad definition of significant effect is not always possible because the significance of an activity may vary with the setting."²⁵³ In light of this discretion, proposed Guideline 15064.4(a)(1) and (2) provide that the "lead agency shall have discretion to determine, in the context of a particular project," whether to "use a model or methodology to quantify greenhouse gas emissions resulting from a project" or "rely on a qualitative analysis or performance based standards."²⁵⁴

None of the existing CEQA Guidelines, the amendments proposed by the Resources Agency, or other applicable law mandate a specific significance threshold for an analysis under CEQA of the Proposed Project's contribution to global climate change. The commentor refers to a potential significance threshold authored by CAPCOA. CAPCOA, the California Air Pollution Control Officers, is a trade association, not a governmental agency. CAPCOA released a white paper in January 2008 that discusses various methodologies which can be used to assess GHG emissions from proposed projects under CEQA (under SB 97).²⁵⁵ CAPCOA was not charged by any federal, state, or local agency with drafting any regulation or guidance regarding evaluating GHG emissions under CEQA. Instead, as detailed in the "Disclaimer" on the inside cover, the trade association prepared

²⁵⁰ CEQA Guideline Sections 15064(b), 15064.7.

²⁵¹ Natural Resources Agency, CEQA Guidelines Sections Proposed To Be Added Or Amended section 15064.4(a), available at http://www.opr.ca.gov/ceqa/pdfs/PA_CEQA_Guidelines.pdf (July 6, 2009) (proposed CEQA Guidelines); see also California Natural Resources Agency, Initial Statement of Reasons for Regulatory Action (July 2009) (Initial Statement).

²⁵² See Proposed CEQA Guideline Section 15064.

²⁵³ CEQA Guideline Section 15064.

²⁵⁴ Proposed CEQA Guidelines [see for example, Proposed Guideline Section 15064.4 titled "Determining the Significance of Impacts from Greenhouse Gas Emissions"].

²⁵⁵ CAPCOA, CEQA & Climate Change (January 2008), available at: <http://www.capcoa.org/CEQA/CAPCOA%20White%20Paper.pdf>.

the white paper “as a resource, not a guidance document.”²⁵⁶ The white paper outlines three possible approaches for agencies to develop a significance threshold: no numeric threshold option, a zero quantitative threshold option, and a non-zero quantitative threshold option, but the paper makes clear that it discusses the approaches “without endorsing any one over the others.”²⁵⁷

The RS-DEIR and these responses to comments consider the most recent guidance issued by CARB to implement AB 32, as well as the recent guidance proposed by the Resource Agency to implement SB 97. CARB is the agency charged with drafting regulations to implement AB 32 (under AB 32), while OPR is charged with developing proposed changes to the CEQA Guidelines for the feasible mitigation of GHG emissions or the effects of GHG emissions (under SB 97).²⁵⁸ Neither agency’s guidance, however, mandates or suggests a particular threshold of significance. Additionally, no such significance threshold has been developed by any other agency relevant to the Proposed Project. For example, as discussed in the RS-DEIR, the South Coast Air Quality Management District (SCAQMD) has developed a threshold of significance applicable only to industrial projects for which it is a lead agency. The Proposed Project is not an industrial project, however, and the City, not the SCAQMD, is the lead agency for the Proposed Project.²⁵⁹ Accordingly, the City is not required to apply a “zero emissions” or any other quantitative significance threshold. No state or local regulation or guidance relevant to the Proposed Project has adopted a zero threshold (or any quantitative threshold).²⁶⁰

In the absence of any adopted thresholds, the City formulated and applied a threshold of significance for evaluating the cumulative impacts of the Proposed Project associated with global climate change. The City determined that in light of the existing scientific and factual data, guidance, and plans from various state and local agencies, the most appropriate threshold for determining significance for the Proposed Project’s potential impacts on global climate change is a qualitative threshold. Specifically, the City formulated a qualitative threshold based on consistency with the goals, strategies, and

²⁵⁶ *Id.*, Disclaimer [“It is not intended, and should not be interpreted, to dictate the manner in which the air district or lead agency chooses to address [GHG] emissions in the context of its review of projects under CEQA.”].

²⁵⁷ *Id.*, pp. 13, 21.

²⁵⁸ See for example, RS-DEIR, pp. II.D-17 – II.D-19; see also Cal. Pub. Res. Code Section 21083.05(a).

²⁵⁹ See RS-DEIR, p. II.D-19 & fn. 59.

²⁶⁰ See OPR Technical Advisory, *CEQA and Climate Change: Addressing Climate Change Through California Environmental Quality Act (CEQA) Review*, June 19, 2008, p. 6 [“Although climate change is ultimately a cumulative impact, not every individual project that emits GHGs must necessarily be found to contribute to a significant cumulative impact on the environment.”]; Initial Statement, p. 20 [“Notably, the proposed section 15064.4(b)(1) is not intended to imply a zero net emissions threshold of significance. As explained in greater detail in the discussion of cumulative impacts below, there is no ‘one molecule rule’ in CEQA.”].

control measures of the major State and local plans and guidance documents adopted to address global climate change. Most notably, the significance threshold used in the RS-DEIR requires evaluation of the Proposed Project's consistency with AB 32. As described in the RS-DEIR, the State Legislature enacted AB 32 in order to reduce the State's GHG emissions to 1990 levels by the year 2020. As confirmed by OPR, the Legislature selected that level of GHG emissions reduction in order to avoid significant adverse impacts on State resources that may be caused by increased global warming.²⁶¹ Accordingly, the City incorporated consistency with AB 32 and its performance based standard into the significance threshold used to evaluate the Proposed Project's environmental impacts attributable to its GHG emissions.

The City's significance threshold also examines consistency with plans and guidance associated with the implementation of AB 32. In that regard, the California Air Resources Board (CARB) (the lead agency tasked with implementing AB 32) prepared the *Scoping Plan* as a blueprint to "lower the state's greenhouse gas emissions to meet AB 32's 2020 limit."²⁶² The foundation of the *Scoping Plan's* strategy is a set of measures that will cut the [GHG] emission by nearly 30 percent by the year 2020 as compared to business as usual and put California on a course for much deeper reductions in the long term."²⁶³ "The plan provides a 'margin of safety,' that is, additional reductions beyond those in the draft plan to account for measures in uncapped sectors that do not, or may not, achieve the estimated reduction of [GHG] emissions in this plan. Along with the certainty provided by the cap, this will ensure that the 2020 target is met."²⁶⁴ "Meeting the goals of AB 32 will require a coordinated set of strategies to reduce emissions throughout the economy. . . . The comprehensive approach in the plan reflects a balance among these and other important factors and will help to ensure that California meets its [GHG] reduction targets in a way that promotes and rewards innovation, is consistent with and helps to foster economic growth, and delivers improvements to the environment and public health."²⁶⁵

To implement these reductions, the *Scoping Plan* lists solutions including "adopting 21st century land use planning and development practices" for new development.²⁶⁶ The *Scoping Plan* does not suggest a development moratorium or a zero significance threshold. To the contrary, it encourages the construction of energy, water, and waste efficient projects sited "close to public transportation and services" which provide "amenities that

²⁶¹ OPR Technical Advisory, p. 3.

²⁶² CARB, *Scoping Plan*, December 12, 2008, p. ES-1.

²⁶³ *Id.*, p. 9.

²⁶⁴ *Id.*, p. ES-4.

²⁶⁵ *Id.*, p. ES-7.

²⁶⁶ *Id.*, p. ES-2.

encourage walking and cycling” and otherwise reduce transportation related GHG emissions.²⁶⁷ Thus, CARB’s *Scoping Plan* encourages the development of projects that include measures similar to those of the Proposed Project. For further discussion of the consistency of the Proposed Project with the measures in the *Scoping Plan*, see RS-DEIR II.D-46 to II.D-47 and Corrections and Additions II.B.2.d.

In addition to consistency with AB 32 and associated guidance, the City’s significance threshold also requires an evaluation of the Proposed Project’s consistency with other State and local plans and guidance deigned to reduce GHG emissions. Accordingly, the RS-DEIR analyzes the Proposed Project’s consistency with the 2006 Climate Action Team Report and 2007 update,²⁶⁸ guidance from the Governor’s Office of Planning and Research regarding GHG emissions, and the City of Los Angeles’ *LA Green Plan*.²⁶⁹ Thus, by evaluating the significance of the Proposed Project’s potential impact on global climate change against major state-wide and local plans aimed at reducing such impacts, the City can adequately determine the significance of the Proposed Project’s GHG emissions.²⁷⁰

The Quantitative AB 32 Consistency Assessment for the Village at Playa Vista Development prepared by Environ (Environ Report), contained in Appendix C.iii, further demonstrates that the Proposed Project would be consistent with the goals of AB 32. To reach AB 32’s goal of reducing GHG emissions to 1990 levels by 2020, statewide GHG emissions must be reduced by 28.4 percent below CARB’s 2020 “business as usual” projections for California.²⁷¹ “Business as usual” is used by CARB to establish GHG reduction targets for the State of California.²⁷² CARB defines business as usual as “the emissions that would be expected to occur in the absence of any GHG reduction actions.”²⁷³ In summary, CARB calculates “business as usual” by applying the California 2006 regulatory framework and projecting to the year 2020 in light of population growth and other factors.

²⁶⁷ *Id.*, pp. 22-23, 32, 34; see also Appendix C, p. C-2.

²⁶⁸ Please note that the 2007 updated CAT report contained minor revisions that do not affect the analysis in the RS-DEIR; refer to Analysis of Project Consistency with 2007 CAT Update Report Greenhouse Gas Emission Reduction Strategies (Appendix C.iii) of this Final RS-EIR.

²⁶⁹ RS-DEIR, p. II.D-21.

²⁷⁰ Please note that the analysis of global climate change in the RS-DEIR does not rely on CEQA Guidelines Section 15064(h)(3) because, at this time, there is no relevant preexisting plan which meets the criteria in that Guideline.

²⁷¹ *Scoping Plan*, p. 11-12.

²⁷² See *id.*

²⁷³ See *id.*, p. F-3.

Similarly, the Environ Report projects future GHG emissions for the Proposed Project assuming conditions at the time that the State enacted AB 32 in 2006. The Environ Report compares those projections to future GHG emissions with the Proposed Project's sustainability features in addition to GHG reductions associated with other Scoping Plan measures detailed above. The Environ Report demonstrates GHG emissions reductions resulting from the sustainability features included in the Proposed Project and compliance with measures detailed in the Scoping Plan (such as State mandates to increase renewable energy usage and improve fuel efficiency standards) represent a 30 percent reduction from business as usual, exceeding the 28.4 percent goal in the Scoping Plan. This supports the RS-DEIR's conclusion that the Proposed Project is consistent with AB 32 and the Scoping Plan.

COMMENT NO. 29-48

LA Green Plan's stated goal is to reduce emissions to 35% below 1990 levels by 2030.¹⁰¹ This is a bold, ambitious goal. There is no way this goal can be met with business as usual practices, which this project represents.

¹⁰¹. *Exhibit E-I, LA Green plan, http://www.lacity.org/ead/EADWeb-AQD/GreenLA_CAP_2007.pdf.*

RESPONSE NO. 29-48

As discussed above, in Response No. 29-45, the Proposed Project is a mixed-use, urban infill, low impact development community, designed with sustainability as a core value. The Playa Vista project, inclusive of the adjacent First Phase Project and the Proposed Project, is a recognized leader in the field of sustainable development.²⁷⁴ As discussed extensively in the RS-DEIR's climate change section and in Response No. 29-45 above, numerous features that are the associated with smart growth and livable communities have been incorporated into the Proposed Project through its land use plan, promotion of alternative travel modes, energy conservation, water conservation, and solid waste reduction.²⁷⁵ As discussed in the RS-DEIR,²⁷⁶ these project features and the

²⁷⁴ *A sampling of such recognitions include the 1999 Ahwahnee Award of Honor by the Local Government Commission, the American Institute of Architects, California Council, and the California Chapter of the American Planning Association, the 2006 Award of Merit from the California Chapter of the American Planning Association for the Village at Playa Vista Residential and Mixed-Use Design Guidelines, and the Honor Award in the Westside Urban Forum's Westside Prize for its Residential Sustainable Guidelines developed for the First Phase Project. The Playa Vista First Phase Project has also been featured in various articles and books regarding its commitment to its sustainable design and development. See, e.g., "L.A.'s Westside Story," *Planning Magazine*, authored by Richard Willson; "The New Urbanism," authored by Peter Katz; and "Sustainable Infill," *Urban Land Magazine* (May 2003), authored by Douglas R. Porter, Edward J. Blakely and Alexander E. Kalamaros.*

²⁷⁵ *RS-DEIR, p. II.D-21—II.D-27.*

²⁷⁶ *RS-DEIR, p. II.D-44—II.D-45.*

Proposed Project as a whole are consistent with the *LA Green Plan* and associated goals, strategies, and control measures relevant to the Proposed Project.²⁷⁷

As discussed above, the Proposed Project's commitments extend beyond existing regulations and routine practices by, for example, using 100 percent reclaimed water for landscape irrigation, over a 90 percent construction waste diversion and recycling rate, qualification as EPA ENERGY STAR homes, and promoting alternative transportation modes.²⁷⁸ For more information see Response Nos. 29-45 and 29-47.

COMMENT NO. 29-49

Similarly, the goal of AB 32 is to reduce statewide emissions to 1990 levels by 2020, a 15% decrease from current levels, and 30% reduction from 2020 levels on current trajectory. The long term goal of AB 32 is to provide a further reduction of 80% from 1990 levels by 2050. Thus, to achieve these goals, ***any addition of GHGs should be considered significant*** and mitigation required.

RESPONSE NO. 29-49

As an initial matter, AB 32 itself does not set a GHG emissions goal beyond 2020, nor does it set a significance threshold of zero GHG emissions under CEQA.²⁷⁹ To the contrary, as discussed above in Response No. 29-47, the Scoping Plan and other planning documents contemplate development that includes the types of sustainability features present in the Proposed Project.²⁸⁰ As explained in the RS-DEIR, these project features and the Proposed Project as a whole are consistent with the goals, strategies, and control measures of AB 32 and any associated guidance.²⁸¹ For more discussion concerning the appropriate use of AB 32 and associated plans and guidance in the significance threshold used in the RS-DEIR, see Response Nos. 29-45, 29-47, and 29-48 above.

Also, the commentator's suggestion that the emission of any GHG by a proposed project must be considered significant under CEQA is contrary to the approach outlined in the Resource Agency's proposed amendments to the CEQA Guidelines concerning the

²⁷⁷ Please note that the *LA Green Plan* seeks to achieve its stated goal of reducing emissions to 35% below 1990 levels by 2030 primarily through actions to be implemented by the City in its own operations, such as increasing the amount of renewable energy provided by LADWP, improving the energy efficiency of all City departments and City-owned buildings, converting City fleet vehicles, refuse collection trucks, street sweepers and buses to alternative fuel vehicles, and "greening" the Port of Los Angeles and the four airports operated by the City (including Los Angeles International Airport and LA/Ontario International Airport). In addition, the *LA Green Plan* contains several policies applicable to private development, but does not set any specific GHG emission targets for such development. See, generally, City of Los Angeles, *Green LA, An Action Plan to Lead the Nation in Fighting Global Warming (LA Green Plan)*, Section V, pages 17 to 26.

²⁷⁸ Original DEIR, Appendix M-1.

²⁷⁹ See Cal. Health & Safety Code Section 38500 et seq.

²⁸⁰ See Response 28-10B.

²⁸¹ RS-DEIR, pp. II.D-44-II.D-45.

evaluation of a project's GHG emissions. The Resources Agency's commentary to those proposed amendments clearly state that they are "not intended to imply a zero net emissions threshold of significance. As explained in greater detail in the discussion of cumulative impacts below, there is no 'one molecule rule' in CEQA."²⁸²

Instead, the proposed amendments to the CEQA Guidelines confirm the lead agency's discretion in formulating an appropriate significance threshold (refer to Response No. 29-47) and list certain methodologies that a lead agency may use to analyze the significance of a project's GHG emissions. Proposed Guideline Section 15064.4(a)(1) and (2) provide that a lead agency may choose to quantify a project's GHG emissions through modeling **or** employ a qualitative analysis. The RS-DEIR quantifies the Proposed Project's GHG emissions and evaluates the significance of those emissions by determining the Proposed Project's consistency with legislative and regulatory plans designed to mitigate environmental impacts associated with GHG emissions.

COMMENT NO. 29-50

Some lead agencies have explicitly determined that any increase in GHG above existing levels is a significant impact under CEQA because the legislature has determined that California's current greenhouse gas baseline is so high that it requires significant reductions, and any additional emissions will exacerbate existing conditions. Thus, any source, even a small one, would be considered significant.

Considering these goals, only *de minimus* project additions of GHGs should be considered potentially insignificant. A massive development, adding 2600 housing units, requiring .503 mgd of water, consuming 99.3 acres of open space, and requiring over 5200 residents to travel by car to their jobs does not meet this test, not to mention methane and lifecycle of materials issues ignored by the RS-DEIR.

RESPONSE NO. 29-50

The commentor's opinion is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. As explained in the RS-DEIR, no established significance threshold for GHG emissions exist relevant to the Proposed Project. For more discussion, see Response Nos. 29-46 through 29-49 above.

As discussed in Response No. 29-49, a "zero net emission" significance threshold as suggested by the commentor runs contrary to CEQA. Such a threshold would, in effect, result in a ban against new development, which is not contemplated by AB 32 and associated guidance (namely, the Scoping Plan). Instead, the Scoping Plan, as well as other state and local GHG reduction plans, encourage new development projects that incorporate land use planning and building practices that result in reduced per capita GHG emissions by lowering the per capita rate of GHG emissions relative to existing conditions. (See Responses. 29-45 and 29-47.) The Resources Agency's proposed amendments to

²⁸² *Initial Statement, p. 20.*

the CEQA Guidelines suggest that a lead agency, in determining the significance of a proposed project's impact on global climate change, take into account the project's effect in reducing the rate of GHG emissions against existing conditions even if the new project would, itself, emit GHGs.²⁸³

As discussed in RS-DEIR Section II.D and Response No. 29-45, the Proposed Project will implement various sustainability measures acknowledged by various GHG reduction plans to lower the per capita GHG emissions and thereby reduce GHG emissions. For example, with respect to the comment regarding car travel and transportation-related GHG emissions, which is one of the largest sources of GHG emissions, the Proposed Project is a mixed use community that brings housing to a job-rich area,²⁸⁴ would decrease dependency on the automobile, encourage pedestrian activity and alternative transportation modes, make efficient use of land and infrastructure, and reduce energy consumption.²⁸⁵ Such a mixed-use community would provide employment opportunities and retail amenities located near residential housing. Thus, as an urban infill, mixed-use project, the Proposed Project is designed to reduce the number and length of vehicle trips compared to the trips and emissions that would occur if the Proposed Project's uses were sited at different locations, and thereby reduce vehicle-related GHG emissions. As detailed in the Environ Report (Appendix C.iii), the Proposed Project is projected to reduce GHG emissions by at least 30 percent from business as usual. For more information see Response No. 29-47. The 30 percent reduction associated with the Proposed Project's sustainability features exceeds the 28.4 percent goal in the Scoping Plan, supporting the RS-DEIR's conclusion that the Proposed Project would be consistent with AB 32 and the Scoping Plan.

With respect to methane, the RS-DEIR discussed the Proposed Project's impact on climate change associated with methane.²⁸⁶ For additional discussion of emissions of naturally occurring methane from the Proposed Project, see Response No. 29-60 below.

With respect to the lifecycle of materials,²⁸⁷ as discussed in the RS-DEIR, the City does not calculate "lifecycle" emissions associated with construction of the Proposed

²⁸³ See *Proposed CEQA Guideline Section 15064.4(b)(1); Initial Statement*, pp. 20-23.

²⁸⁴ *RS-DEIR*, pp. II.D-35-II.D-56.

²⁸⁵ *Original DEIR, Project Description, Statement of Objectives*, pp. 171-74.

²⁸⁶ See for example, *RS-DEIR*, pp. II.D-29-II.D-32 & fn.72; *RS-DEIR Appendix E.i, Climate Change Emissions for the Village at Playa Vista, City of Los Angeles, Mestre Greve Associates, December 4, 2008*, pp. 16, 20 & fn. 17.

²⁸⁷ See for example, *RS-DEIR*, p. II-D.19; see also *CEQA Guidelines Section 15145; Los Angeles Unified School District v. City of Los Angeles (1997) 58 Cal.App.4th 1019; Alliance of Small Emitters/Metals Industry v. South Coast Air Quality Management District (1997) 60 Cal.App.4th 55.*

Project because the information needed to characterize GHG emissions from manufacture, transport, and end-of-life of construction materials would be speculative at the CEQA analysis level.²⁸⁸ A lifecycle analysis for GHG emissions has not been required nor recommended by any governmental agency or organization. For example, the California Climate Action Registry's General Reporting Protocol Version 3.0 (2008) (which as discussed in the RS-DEIR is a protocol recommended for business to use in assessing GHG emissions associated with the business) does not require or recommend conducting a lifecycle analysis for GHG emissions.²⁸⁹ Similarly, the OPR's proposed CEQA Guidelines conveyed to the Resources Agency on April 13, 2009, do not recommend or require a lifecycle GHG emissions analysis.²⁹⁰ OPR's letter transmitting proposed changes to the Guidelines states that the change to one of the Guidelines is "necessary to avoid an implication that a 'life-cycle' analysis is required."²⁹¹ Similarly, the California Natural Resources Agency proposed amendments to Appendix F to the CEQA Guidelines in response to SB 97 to remove the term "lifecycle" because "requiring such an analysis may not be consistent with CEQA."²⁹²

COMMENT NO. 29-51

Nevertheless, the RS-DEIR adopts a threshold where the Proposed Project would cause a significant impact if it is inconsistent with goals and policies of applicable GHG regulations, including those under AB 32 and the LA Green Plan.¹⁰² The RS-DEIR then concludes that the Proposed Project is consistent with GHG reduction policies, for a variety of reasons, including project design features. However, this conclusion is completely contradicted by the evidence. (Again, if the regulatory goals are to reduce emissions drastically, then any amount of GHG addition would be significant.) Here, the city proposes to approve an addition of 41,825 metric tons per year of carbon dioxide equivalent GHGs.¹⁰³

^{102.} RS-DEIR, at p. II.D-21.

^{103.} RS-DEIR, at p. II.D-32.

²⁸⁸ See RS-DEIR, p. II.D-19 (citing CAPCOA White Paper, p.65).

²⁸⁹ RS-DEIR, p. II.D-18. See also California Climate Action Registry, General Reporting Protocol Version 3.1, January 2009, available at: http://www.climateregistry.org/resources/docs/protocols/grp/GRP_3.1_January2009.pdf.

²⁹⁰ Proposed SB97 CEQA Guideline Amendments Transmitted to the Natural Resources Agency on April 13, 2009, available at: <http://opr.ca.gov/index.php?a=ceqa/index.html>.

²⁹¹ OPR letter to Natural Resources Agency, April 13, 2009, available at: <http://opr.ca.gov/index.php?a=ceqa/index.html>, p. 2.

²⁹² Initial Statement, Section on Appendix F.

RESPONSE NO. 29-51

As discussed above in Response No. 29-47, the City need not adopt any numeric threshold of significance (it may adopt a qualitative or performance threshold). Additionally, as discussed in Response No. 29-46, the quantification of the projected GHG emissions from the Proposed Project does not take into account most of the sustainability measures associated with the Proposed Project. As discussed in Response No. 29-45, the Proposed Project is designed to create a more sustainable lifestyle resulting in significant reductions in GHG emissions compared to existing homes and lifestyles. For further discussion, see Response Nos. 29-45 through 29-50 above.

COMMENT NO. 29-52

In addition, the city in its environmental review of other projects listed on its website,¹⁰⁴ is proposing to approve other projects in a similar fashion, adding significant amounts of carbon dioxide equivalent GHGs. The majority of these EIRs provide the same faulty analysis, making it clear that the city has no intention of following the goals and policies as set out in AB 32 and the LA Green Plan. It is numerically impossible for the city to drastically cut emissions while at the same time approving projects at break-neck speed and employing a "business as usual" approach.

^{104.} See, e.g., Exhibit B-13, at DEIR website at <http://cityplanning.lacity.org/eir/TocDeir.htm> and FEIR website at <http://cityplanning.lacity.org/eir/TocFeir.htm>.

RESPONSE NO. 29-52

The commentor's opinion is noted and will be incorporated into the Final RS-EIR for review and consideration of the decision-makers. For a discussion of the City's analytic methodology and consistency with AB 32 and the LA Green Plan, see Response Nos. 29-45 through 29-50 above. With respect to the commentor's assertion that it is numerically impossible for the City to cut GHG emissions while approving new projects, please see Response No. 29-45 above.

COMMENT NO. 29-53

The RS-DEIR also states that the project would contribute "a very small amount to the overall climate change issue,"¹⁰⁵ The present EIR must assess the cumulative impacts of the project in combination with other sources. (See *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692.) The RS-DEIR gives too much weight to the statement that "not every individual project that emits GHGs must necessarily be found to contribute to a significant cumulative impact on the environment."¹⁰⁶ Not only have the courts rejected the notion that an individual project's impact is not cumulatively significant "because it is so small that it would make only a de minimus contribution to the problem as

a whole," agencies have reiterated the notion that any increase in GHG should be considered a significant impact under CEQA.¹⁰⁷

^{105.} RS-DEIR, at p. II.D.-33.

^{106.} RS-DEIR, at pp. II.D-20.

^{107.} See *Marin Countywide Plan Update DEIR, 2007*; *San Diego Ass'n of Governments Regional Transportation Plan DEIR, 2007*.

RESPONSE NO. 29-53

The RS-DEIR explains that global climate change “is by definition a cumulative impact as GHG emissions do not have a localized impact, [but] impact the globe as a whole.”²⁹³ Furthermore, the RS-DEIR notes that “[a]ll of the emissions reduction strategies which are detailed in the 2006 CAT Report, the *Green LA Action Plan*, OPR Guidance, and the AB 32 Scoping Plan involve strategies to assist in the reduction of GHG emissions on a state or regional basis As such, any analysis of the Proposed Project’s impacts on global climate change is by definition a cumulative analysis.”²⁹⁴

The RS-DEIR assesses the Proposed Project’s cumulative impact on global climate change in accordance with CEQA. The RS-DEIR provides information concerning the existing level of GHG emissions at State, national, and global levels.²⁹⁵ The RS-DEIR also provides a quantification of the Proposed Project’s contribution to GHG emissions.²⁹⁶ Further, CARB, the expert state agency, already has prepared projections concerning the level of GHG emissions for the year 2020²⁹⁷ an approach suggested in the Resource Agency’s proposed amendments to the CEQA Guidelines.

Furthermore, the RS-DEIR does not rely on the fact that the Proposed Project will contribute a small amount of GHG relative to California, United States, or global GHG emissions for its significance conclusion.²⁹⁸ Instead, the RS-DEIR and this Final RS-EIR conclude that the Proposed Project will not have a significant impact on global climate change because the Proposed Project’s design features and other measures are consistent with the applicable state and local initiatives that address global climate change, including AB 32 and associated guidance (e.g. CARB’s Scoping Plan), the 2006 Climate Action Team Report and 2007 update, guidance from the Governor’s Office of Planning and Research regarding GHG emissions, and the City of Los Angeles’ *LA Green Plan*.²⁹⁹

²⁹³ RS-DEIR, p. II.D-63.

²⁹⁴ RS-DEIR, p. II.D-63.

²⁹⁵ RS-DEIR, p. II.D-14 through 15.

²⁹⁶ RS-DEIR, Section 3.2.2.2.

²⁹⁷ *Scoping Plan*, p. F-3, see also *Corrections and Additions*, Section II.B.2.d.1.

²⁹⁸ RS-DEIR, p. II.D-47.

²⁹⁹ RS-DEIR, p. II.D-47.

Those design features and other measures will be included in the Complete MMRP and will be enforceable. See Response No. 29-45.

COMMENT NO. 29-54

Furthermore, the RS-DEIR 'derives its percentage contribution of projected GHG emissions from a comparison of its emissions in 2010 to California's, the United States' and the World's 2004 emissions.¹⁰⁸ It is unclear as to why the RS-DEIR uses 2004 to compare its project's 2010 emissions.

^{108.} RS-DEIR, at p. II.D-33, Table II.D-7.

RESPONSE NO. 29-54

The RS-DEIR analysis includes statistics about 2004 emissions in California, the United States, and the world because that was the data available in the most recent October 16, 2006 report from the United Nations Framework Convention on Climate Change. For more information, see Response Nos. 29-45 through 29-53.

COMMENT NO. 29-55

The RS-DEIR fails to provide the required significant impact analysis, drawing the impermissible conclusion that "Since no numeric thresholds exist to assess the GHG emissions of the Proposed Project, the quantitative analysis does not indicate a significant impact."¹⁰⁹ Similarly, the RS-DEIR bases its method of determining significant impacts on the reasoning that "no air agency or municipality [has] yet established project level significance thresholds for GHG emissions"¹¹⁰ The lack of a numeric threshold does not justify a finding of no significant impact. A lead agency must still meaningfully attempt to quantify a particular impact and determine whether a particular impact is significant, even absent any adopted thresholds or methodologies. (See *Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners* (2001) 91 Cal.App.4th 1344, 1370-71.)

^{109.} RS-DEIR, at p. II.D-63.

^{110.} RS-DEIR II.D-19.

RESPONSE NO. 29-55

As discussed in Comment and Response No. 29-46, the RS-DEIR's analysis did quantify emissions from the Proposed Project.³⁰⁰ The RS-DEIR and Response Nos. 29-45 and 29-47 explain that a numeric significance threshold is not required and describe the

³⁰⁰ See RS-DEIR, pp. II.D-28–II.D.34.

City's significance threshold.³⁰¹ The RS-DEIR and this Final RS-EIR analyze the Proposed Project's impacts against that threshold at length, including extensive discussion of consistency with AB 32 and associated guidance (e.g. CARB's Scoping Plan), the 2006 CAT Report and 2007 update, OPR Guidance, and the LA Green Action Plan.³⁰² For more information see Response Nos. 29-45 through 29-49 and 29-53.

COMMENT NO. 29-56

The RS-DEIR states that the project is "consistent" with the state and local plans in their general "goals, strategies, and control measures."¹¹¹ However, it seems rather miraculous that a massive-scale residential project designed in the mid-1990s is completely consistent with each and every recent policy, objective, and standard of GHG reductions sufficient to deem project impacts insignificant.¹¹² The RS-DEIR's analysis of consistency with the LA Green Plan is flawed in that it does not account for the fact that the Proposed Project contributes, as opposed to reduces, GHG emissions.

^{111.} RS-DEIR II.D-24.

^{112.} See RS-DEIR, at pp. II.D-34 to 44.

RESPONSE NO. 29-56

It is unclear to what the commentor's assertion about "a massive-scale residential project designed in the 1990s" refers. To the extent the comment is directed toward the former Playa Vista Master Plan, please note that the Proposed Project, as discussed in Section II.A.1.1 of the RS-DEIR has evolved from and is different from the former Master Plan. The Proposed Project is a mixed-use, urban infill project situated in a jobs-rich area. The Notice of Preparation for the Proposed Project was issued in 2002. In addition, while the Original FEIR issued in 2004 included numerous sustainability measures, the RS-DEIR adds additional measures in the global climate change section in light of various governmental policies, see RS-DEIR pp. II.D.-61 – II.D-62. With respect to the LA Green Action Plan and the fact that the City is not required to adopt a quantitative threshold, or a zero threshold, see Response Nos. 29-47 through 29-49.

COMMENT NO. 29-57

The net effect of the Proposed Project needs to be taken into account. For example, the RS-DEIR claims it would promote the objective of open space,¹¹³ but the Proposed Project would actually allow development of the largest privately owned undeveloped tract of land in the city's jurisdiction. In other words, it is misleading at best to say that the Proposed Project will "provide open space" when in fact it will develop over open space.¹¹⁴

³⁰¹ See RS-DEIR, pp. II.D-19–II.D.21.

³⁰² See RS-DEIR, pp. II.D-34-II.D-47.

¹¹³ *RS-DEIR, at p. II.D- 45.*

¹¹⁴ *RS-DEIR, at p. II.D-45.*

RESPONSE NO. 29-57

The RS-DEIR's statement that the Proposed Project will provide open space for the public to enjoy is accurate. As an initial matter, the area on which the Proposed Project is to be located is not public open space. The Proposed Project site is a former industrial site which has been graded and contains infrastructure such as streets and utility lines. If approved the Proposed Project includes 11.4 acres of parks and 11.7 acres of Riparian Corridor and bluff face habitat. As stated on page II.D-45 of the RS-DEIR, approximately 800 trees would be planted in the parks and the streetscapes of the Proposed Project. The Proposed Project's parks, bike paths, and walkways would be open to the general public.

COMMENT NO. 29-58

Furthermore, there is no support for the RS-DEIR's statement that the Proposed Project would facilitate the LA Green Plan's goal of locating residential neighborhoods next to employment sources—the mere fact that the Proposed Project is close to two arterials that allow residents to travel to their jobs outside of the area of the project provides no evidence to support the city's conclusion. The EIR must provide data and studies in support of this allegation. In addition, the EIR compares its jobs to housing ratio to the standards in an outdated SCAG guideline.¹¹⁵

¹¹⁵ *RS-DEIR II.D-24.*

RESPONSE NO. 29-58

As stated in the RS-DEIR, the Proposed Project is based on a mixed-use concept that will “provide a balance of jobs and housing The Proposed Project's land use mix also would provide mutually supportive employment, housing, recreation, commercial, and community-serving activities as to meet a range of needs internally to the Proposed Project.”³⁰³ Further, the Proposed Project is located in an area that is “currently jobs rich.”³⁰⁴ The Proposed Project would also be located adjacent to the employment generating uses under development in the Playa Vista First Phase Project, which is

³⁰³ *RS-DEIR, p. II.A-30.*

³⁰⁴ *RS-DEIR, pp. II.A-32–II.A-33, and fn. 25.*

estimated to create 8,668 jobs.³⁰⁵ Residents of the Proposed Project who work in the adjacent First Phase Project would have many transportation alternatives to choose from, including walking or bicycling to work, or using the Expanded Shuttle System,³⁰⁶ and would not have to travel on adjacent arterials to the site.

As for the comment about the RS-DEIR's application of SCAG's guidelines, see Comment and Response No. 15-1 through 15-8 for a discussion of the Proposed Project's consistency with SCAG's Regional Transportation Plan Goals and Compass Growth Visioning, Principles. Also see RS-DEIR p. II.A-8 for a discussion of the role of the 1996 Regional Comprehensive Plan and Guide, as the operative document for CEQA and planning purposes.

COMMENT NO. 29-59

Likewise, the RS-DEIR fails to, but must, fully disclose and analyze the GEG emissions from the Proposed Project's off-site improvements and life-cycle of materials (i.e., materials used to build the Proposed Project). All GHG emissions occurring from the development and operation of the project must be taken into account in order to sufficiently analyze the Proposed Project's impact to climate change. Contrary to the RS-DEIR's representations, the California Air Pollution Control Officers Association (CAPCOA) report cited does not support the EIR's conclusion that CEQA does not require consideration of GHG emissions from the Proposed Project's manufacture, transport, and end-of-life of construction materials. An EIR must inventory all possible sources of GHG emissions, direct and indirect, that a project will produce during all of its phases.¹¹⁶

This inventorying includes GHG emissions produced from the manufacture and transport of building materials. To conduct such an analysis, the RS-DEIR should use tools that organizations such as the CARB, CCAR, CEC, USEPA, IPCC, and others have developed to assist in measuring a project's GHG emissions in all of its phases. Private businesses do this as a matter of course in this day and age. There is no reason why Playa and its developers cannot perform the same analysis.

Finally, excluding from its analysis GHG emissions, direct and indirect, that occur prior to the build out of the project undermines the determination of significance. Courts and agencies have been clear that CEQA requires agencies to disclose in an EIR, their project's contributions to any significant environmental problem. (See *Kings County, supra.*)

³⁰⁵ RS-DEIR, pp. II.A-35–II.A-36; II.D-24.

³⁰⁶ RS-DEIR, p. II.D-25.

¹¹⁶ *Exhibit E-2, Letter from Edmund G. Brown, Jr., Attorney General, Office of the Attorney General, State of California, to Nancy Fong, Community Development Director, City of Diamond Bar, Notice of Preparation of Draft Program Environmental Impact Report for Aera Master Planned Community, 14, April 2008. March 2009.*
http://ag.ca.gov/globalwarming/pdf/comments_Aera.pdf. pp. 2.

RESPONSE NO. 29-59

The RS-DEIR's GHG analysis assesses projected direct and indirect GHG emissions from construction and operation of the Proposed Project. GHG emissions related to off-site improvements also were included in the RS-DEIR's analysis of construction-related GHG emissions.³⁰⁷ The analysis, conducted by Mestre Greve, uses widely accepted modeling tools such as URBEMISv.9.2.4 and CARB's EMFAC2007 emission factors to quantify projected GHG emissions from these direct and indirect sources.³⁰⁸ This analysis does not attempt to quantify lifecycle emissions associated with the Proposed Project's manufacture, transport, and end-of-life construction materials, as the City concluded that such an analysis would be too speculative at this time.³⁰⁹ As discussed further in Venskus Response No. 29-50 above, analysis of such lifecycle emissions is neither required nor recommended by relevant guidance documents.

COMMENT NO. 29-60

The RS-DEIR must also quantify the GHG emissions that will be produced by the Project with respect to methane venting required by the methane mitigation measures. If the project site is left undeveloped and maintained in a natural state, or made into treatment wetlands, then methane venting is unnecessary (see correspondence between LADBS and Dr. Victor Jones of ETI, Inc., explaining that without venting the underlying methane into the atmosphere a "dangerous condition" exists to Project residents and workers). Because methane venting is necessary to make the Proposed Project safe for human habitation, methane vented must be considered in the Project's GHG emissions evaluation since methane gas is a greenhouse gas. Since the Phase I Project has operated with methane vent risers and the Phase I Methane, Mitigation and Monitoring Program purportedly tracks the levels of methane that are released into the atmosphere, it should be relatively simple to extrapolate the Phase I methane emissions to arrive at an estimation for Phase II methane emissions.

³⁰⁷ RS-DEIR, pp. II.D-60–II.D-61.

³⁰⁸ See RS-DEIR, pp. II.D-28–II.D-32.

³⁰⁹ RS-DEIR, p. II.D-19. See also CEQA Guidelines Section 15145.

RESPONSE NO. 29-60

Development of the Proposed Project site and use of methane mitigation systems would not significantly impact the overall rate at which methane would naturally be released into the atmosphere.³¹⁰ In accordance with the requirements by the City of Los Angeles, all future buildings on the Proposed Project site require the installation of a methane mitigation system(s) that would consist of, among other items, a barrier between the building and the underlying soils and a vent system(s) beneath the barrier and/or within the building to serve as a preferential pathway for subsurface soil gases to vent to the atmosphere through vent stacks that extend above the building rooflines. The vent stacks would merely redirect the final stage of methane migration to the atmosphere which would otherwise be released during the natural migration of this gas to the surface.³¹¹ The methane mitigation systems would not significantly influence the rate of methane formation in the subsurface and thus would not impact the overall rate that methane would naturally percolate to the surface and be released to the atmosphere.³¹² Thus, the Proposed Project does not result in any change in the release of naturally occurring methane from the Proposed Project site.

COMMENT NO. 29-61*C. Failure to require enforceable mitigation measures*

The RS-DEIR's failure to make a significance determination has "serious and practical consequences."¹¹⁷ Under CEQA, a project proponent is required to mitigate all significant impacts to the extent feasible. If an EIR fails to find that impacts from GHG emissions are significant, the EIR is not required to propose any enforceable mitigation measures for those impacts.¹¹⁸ Thus, because the RS-DEIR failed to identify significant impacts, the city failed to require enforceable mitigation. The city cannot rely on The RS-DEIR claims that project design features are sufficient to meet the requirements under GHG reduction requirements and CEQA without determining what GHG reductions or increases would result from these design features. However, many of the proposed design features only aim to either encourage, support, or study the feasibility of making changes, or merely describe the project design. These design features do not count as adequate mitigation "because there is no certainty that the policies will be implemented."¹¹⁹ ***Because the project's impacts are significant, the EIR must commit to specific, enforceable mitigation measures.***

³¹⁰ *Potential Influence of the Proposed Playa Vista Village Development Project on the Rate of Naturally-Occurring Methane Emissions from the Site, CDM, July 9, 2009, p. 2 (Appendix C.ii).*

³¹¹ *Id.*

³¹² *Id.*

¹¹⁷ *Exhibit B-3, Letter from Edmund G. Brown, Jr., Attorney General, Office- of the Attorney General, State of California, to Tom Pace, City of Sacramento Planning Department, New City Hall, Draft. Update to General Plan, 5, November 2008. March 2009. [http://ag.ca.gov/globalwarming/pdf/ comments_Sac_GP_Update.pdf](http://ag.ca.gov/globalwarming/pdf/comments_Sac_GP_Update.pdf). pp. 3.*

¹¹⁸ *Ibid.*

¹¹⁹ *Ibid.*

RESPONSE NO. 29-61

Contrary to the commentor's assertion, the RS-DEIR reaches a significance determination. The RS-DEIR concludes that the Proposed Project's impact on global climate change would not be significant on a project- or cumulative level because the Proposed Project complies with the applicable agency plans and guidance.³¹³ All the design features and mitigation measures cited to in the RS-DEIR's analysis of climate change are enforceable mitigation measures and will be included in the Complete MMRP.³¹⁴

COMMENT NO. 29-62

D. Sea Level Rise, Potential Impacts, and City Liability

Incremental effects that seem insignificant at the time of a project's development have been recognized as having the potential to become severe, some even life threatening. Section II.D. on global Climate change fails to address the anticipated rise in sea-levels due to global climate change, which will inundate the Proposed Project area and cause severe environmental and fiscal damage. A recent scientific report concludes that the Proposed Project area will be underwater and recommends prohibiting further development and protecting the existing wetlands, among other things, to avoid additional impact of the sea-level rise. To approve the Proposed Project with knowledge of this anticipated impact would be irresponsible and would unfairly impact future taxpayers. At the very least, the impact of the Proposed Project in light of anticipated rising sea levels must be assessed.

California's interagency Climate Action Team (CAT) commissioned as many as 40 reports on the impact of global climate change. One notable report prepared by the Pacific Institute for CAT is entitled "The Impacts of Sea-Level Rise on the California Coast." (hereafter the "Report").¹²⁰ The Report is under peer review to be finalized next month and then CAT will present it to the Governor. This Report includes maps showing the areas impacted by a sea-level rise of 55 inches, a conservative estimate. The map covering the Proposed Project area shows it underwater.

³¹³ *RS-DEIR at II.D-47, II.D-61, and II.D-63.*

³¹⁴ *See Cal. Pub. Res. Code Section 21081.6; CEQA Guidelines Section 15097(g). For a discussion of the Complete MMRP see Section I.E. of this Final RS-EIR.*

At pages 85-88 of the Report, the Pacific Institute recommends prohibiting development on natural lands adjacent to wetlands at risk (p. 87) and limiting future development in areas at risk of rising seas, among other things. **"Future development should be limited in areas that are at risk from rising seas.** In regions at risk that are not yet heavily developed, local communities and coastal planning agencies have the opportunity to limit development and reduce future threats to life and property. Policies that maintain such low-lying areas will help to accommodate rising seas. In addition to insurance policies, discussed above, such policies may include local ordinances, statewide coastal development policies, **and explicit purchases of land for conservation purposes. This is often the least expensive option for currently undeveloped areas.**" (p.87, emphasis added) The Report even recommends that phased abandonment of existing structures be considered (pp.87-88) and any protective structures considered, must be allowed only under a "no adverse impact" scenario. **"Coastal managers should consider adopting the principles of "No Adverse Impact" when designing and permitting flood protection, beach nourishment, and other coastal protection projects.** Current coastal protection projects are often done with no regard for how they will affect adjacent portions of the coast. According to the Association of State Floodplain Managers: 'Over the past 50 years a system has developed through which local and individual accountability has been supplanted by federal programs for flood control, disaster assistance, and tax incentives that encourage and subsidize floodplain occupation and development.' We recommend that coastal managers consider adopting a policy similar to "No Adverse Impact" where the 'actions of one property owner are not allowed to adversely affect the rights of other property owners' (ASFM 2008)." (p.88, emphasis added) How can the Proposed Project be allowed even with mitigating measures when others may be asked to abandon their property? Wouldn't any mitigating structure designed to protect the Proposed Project area necessarily adversely impact surrounding areas?

"Immediate action is needed. It will cost significantly less to combat climate change than it will to maintain a business-as-usual approach," said Linda Adams, secretary for environmental protection, according to a Los Angeles Times article published on March 12, 2009, under the headline "California Panel Urges 'Immediate Action' to Protect Against Rising Sea Levels."¹²¹ The same Article quotes Michael Woo, a Los Angeles Planning Commissioner and Urban Planning Professor at USC as saying, "The rising sea level could be California's version of Hurricane Katrina.... Taxpayers and insurance ratepayers might question their responsibility to help homeowners and businesses which knowingly build in high-risk coastal areas." Further reported in the Article is a quote from Dan Cayan, a researcher at the Scripps Institute of Oceanography and lead scientist on the state's action plan. "The 55-inch estimate in the report is 'probably conservative... As temperature climbs, melting is going to proceed at a greater pace. It is not necessarily going to proceed linearly, in the same proportions as it did in the past, because melting begets more melting.'" Additionally, the Article quotes Mary Nichols, a chairwoman of the ARB, which is charged with implementing a statewide plan to cut greenhouse gas emissions. She said of the Report, "The recommendations are sensible: Defend what is worth protecting, move what can reasonably be moved, try to **avoid doing further harm**, consult affected communities, prepare to respond to emergencies." (Emphasis added).

While the subject Report became available after the RS-DEIR was released for public review and comment, coastal sea level impacts due to global climate change have been predicted for several years. The March 2006 California Environmental Protection Agency Climate Action Team Report to the Governor, concluded at that time that a "[g]lobal sea level rise is projected to range from 4 to 33 inches during the 2000 to 2100 period."¹²² The fact that the prediction has risen from 4-33 inches to a conservative estimate of 55 inches in a few years suggests that the estimates will continue to increase as more melting begets more melting and more is known about global climate change. This simply cannot be ignored and must be addressed in the RS-DEIR.

The RS-DEIR should address the potential for liability due to sea level rise as it must have learned from other government's costly mistakes in approving projects threatened by potential hazards.¹²³

^{120.} *Exhibit E-4, Report, at www.climatechange.ca.gov/climate_action_team/reports or www.pacinst.org/reports/sea_level_rise).*

^{121.} *Exhibit B-5, L.A. Times Article, at www.latimes.com/news/local/la-me-global-warming-searise-12-2009mar12.0.2741152.story.*

^{122.} *Exhibit E-6, 2006 Report Attached, at pp. 31-31. See also, www.climatechange.ca.gov/Climate_action_team/reports).*

^{123.} *See, e.g., Exhibit B-1, La Conchita Landslide Paper, at http://www.sabo-int.org/case/la-conchita_mudslide.pdf*

RESPONSE NO. 29-62

As an initial matter, it should be noted that the map referred to by the commentor does not show the Proposed Project site under water. Rather, it shows the Proposed Project site at risk of inundation in a 100-year storm event. Moreover, as discussed further below, the commentor overstates that risk.

The expert report submitted by Mestre Greve Associates (Mestre Greve Report) explains why the Proposed Project would not be subject to inundation due to climate change-driven sea level rise at any time.³¹⁵ A number of the Proposed Project site's physical attributes will prevent inundation because (1) the Proposed Project is located more than 2 miles from the shoreline, which will prevent wave action from affecting the Proposed Project; (2) the Proposed Project is separated from the ocean by high ground, including mid-20 foot high pad elevations found in the First Phase Project to the west, lower to upper 20 foot high pad elevations for the commercial uses to the north, and 100 foot high bluffs to the south; and (3) the Proposed Project itself would be constructed on pads with finished floor elevations ranging from 25 to 28 feet above sea level. In sum, the ocean will have no path to reach the Proposed Project. Accordingly, it would not be inundated, even assuming

³¹⁵ *Village at Playa – Sea Level Rise, Mestre Greve Associates, May 27, 2009 (Appendix C.i).*

the level of sea level rise assumed in the California Climate Change Center document (CCCC Report).³¹⁶

Further, the Mestre Greve Report explains that the analysis in the draft sea level report prepared by the CCCC Report and cited by the commentor is itself flawed when applied to the Proposed Project.³¹⁷ As noted by the Mestre Greve Report, the CCCC Report (1) uses worst case sea level rise assumptions that substantially differ from those used by the Nobel-prize winning Intergovernmental Panel on Climate Change; (2) does not accurately consider the topography of the Proposed Project site; (3) makes incorrect assumptions that improperly alter the sea level rise projections upward; and (4) the document remains in draft form while it undergoes peer review.³¹⁸ The Mestre Greve Report also explains that the CCCC is not a state agency, nor does the CCCC Report reflect the views of the state agencies that provided funding.³¹⁹ The CCCC Report itself states that it "shall not be used to assess actual coastal hazards" ³²⁰

COMMENT NO. 29-63

The Final EIR should address the following issues:¹²⁴

1. The RS-DEIR must study and then address the need to keep this land as wetlands for anticipated impacts from sea-level rises due to global climate change.
2. The RS-DEIR must study the direct and indirect, as well as long-term, environmental impacts and costs to protect or relocate the Proposed Project if developed and the sea-levels rise as anticipated.
3. The RS-DEIR must study and address the following question: If the Proposed Project is developed with measures to protect against the impact of sea-level rises on it, what are the environmental impacts on neighboring areas? The threshold for assessing the impact of later protecting the Proposed Project or allowing the Proposed Project with mitigating measures should be reviewed under a "no adverse impact" scenario as recommended by the CAT Report.

¹²⁴. *CEQA requires a good faith effort at full disclosure. (Cal. Code Regs., tit. 14, § 15151.) The lead agency must "use its best efforts to find out and disclose all that it reasonably can." (Id, § 15144.) Full disclosure of a project's environmental impacts promotes a fundamental purpose of CEQA: to "inform the public and responsible officials of the environmental*

³¹⁶ *Id.*

³¹⁷ *Id.*

³¹⁸ *Id*; see also California Natural Resources Agency, 2009 California Climate Adaptation Strategy, Discussion Draft, pp. 18-19, 38 [applying sea level rise estimate of 1.4 meters].

³¹⁹ *Village at Playa – Sea Level Rise, Mestre Greve Associates, May 27, 2009 (Appendix C.i).*

³²⁰ *Id.*

consequences of their decisions before they are made." (Laurel Heights Improvement Assn. of San Francisco v. Regents of the Univ. Cal. (1993) 6 Cal4th 1112, 1123.)

RESPONSE NO. 29-63

The Final RS-EIR need not study any of the issues suggested by the commentor because the Proposed Project is not at risk of inundation due to climate change-driven sea level rise. See Response No. 29-62.

COMMENT NO. 29-64

VIII. PROJECT ALTERNATIVES

CEQA requires that an EIR be recirculated for public comment and agency consultation whenever there is "significant new information added to the EIR" before certification. According to CEQA, the term "information" can include changes in the project of environmental setting as well as additional data or other information. Such information may include "a feasible project alternative or mitigation measure considerably different from others previously analyzed" which "would clearly lessen the environmental impacts of the project." (CEQA Guidelines, § 15088.5.)

Furthermore, since the circulation of the original draft EIR "significant new information" has arisen in data and information relating to the City of Los Angeles' Integrated Resource Plan (IRP) for water quality, funding opportunities due to the American Recovery and Reinvestment Act, lowered land values, and targeted Green Jobs programs.

With all this in mind, the Ballona Wetlands Land Trust proposes a project alternative that was overlooked in the City's RS-DEIR, an alternative that offers substantial mitigation for Playa Vista's environmental impacts and also furthers the goals of the City's IRP and Green Jobs programs.

RESPONSE NO. 29-64

The comment provides introductory statements. The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of the decision-makers. Responses to commentor's detailed comments are provided below.

COMMENT NO. 29-65*A. Project Alternative: a Natural Treatment Wetland***1. Overview**

A natural treatment wetland in the Phase II area represents an environmentally friendly regional strategy to reduce pollution in Santa Monica Bay. The 111 acres-located at the current proposed site for development of Playa Vista Phase II comprise the last remaining viable site for a natural treatment system of significant capacity in the lower Ballona watershed.

Natural treatment wetlands are designed and constructed to improve water quality by taking advantage of natural processes that occur in wetlands. They have been constructed "in hundreds of successful programs in the United States, including in Southern California, and have been cited as preferable options by the City and County of Los Angeles as well as the Regional Board. The EPA states "the treatment of wastewater or stormwater by constructed wetlands can be a low-cost, low-energy process requiring minimal operational attention." Located in close proximity to Centinela and Ballona Creeks, a constructed Natural Treatment Wetland at this site could draw upon existing storm drain infrastructure.

The construction of a natural treatment wetland on the Phase II land would help bring Los Angeles into compliance with existing environmental regulations, and conform perfectly with the City's Integrated Resources Program (IRP) currently being implemented to treat urban runoff using a variety of methods.

As historical wetlands adjacent to permanently preserved Ballona Wetlands Ecological Reserve, this location provides an ideal opportunity for the establishment of a "green corridor", an aesthetically pleasing and ecologically sound alternative to further development. Constructed treatment wetlands would serve dual function as needed park space in a city with the lowest ratio of open space per capita of any large city in the U.S. In addition, jobs provided by the construction of a natural treatment wetland would train disadvantaged Los Angeles residents for a career in the new green economy.¹²⁵

¹²⁵ *Exhibit F-1, "Natural treatment wetlands at Ballona Southeast: a better solution for urban runoff in the Ballona watershed," Ballona Wetlands Land trust, 2008.*

RESPONSE NO. 29-65

The commentor states concerns about the analysis of alternatives to the Proposed Project. Those matters are outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR,

and the standards for recirculation of a draft EIR due to “significant new information.” The alternatives analysis contained in Section VII of the Original DEIR, and Section II.33 of the Original FEIR, included analysis of several alternative uses. The commentor offers no “significant new information” with respect to the alternatives analysis within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5.

The suggestion that the Proposed Project site be turned into a treatment wetlands was previously made by commentors and rejected by the City in connection with the Original FEIR for a variety of reasons, including the fact that it failed to meet nearly all of the project objectives.³²¹ The City’s rejection of the suggestion that the Proposed Project site be acquired and transformed into a treatment wetlands, as well as the Original FEIR’s analysis in that regard, were upheld by the Court of Appeal, which specifically noted that development of a treatment wetlands could not be considered a “practical result of the project’s non-approval” since no available funding could be identified for use in acquiring the site for that purpose.³²² In addition, at the 2004 City Council hearings on the Original FEIR, City staff also explained that a treatment wetlands at the Proposed Project site was not favored by the City.³²³ Specifically, as the City was formulating its Integrated Resources Plan (a plan that considers strategies for the City to manage water resources in an integrated way), the City’s Bureau of Sanitation concluded that placing a treatment wetland in one place at the end of Ballona Creek would be inappropriate because to effectively manage the stormwater runoff and meet TMDLs in Ballona Creek, storm water must be treated “closer to the source” prior to entering into Ballona Creek instead of “all the way downstream” at the end of the creek in the Ballona Wetlands.³²⁴

Further, it should be noted that to the extent the commentor refers to potential impacts on biotic resources, parks space, or water quality, those matters are outside the scope of the RS-DEIR. Please refer to Section I.B and I.C. of this Final RS-EIR, Executive Summary for a discussion of the scope of the RS-DEIR. Detailed analyses of the Proposed Project’s impacts on biotic resources were included in Section IV.D, Biotic Resources, of the Original DEIR, and Section II.7, Corrections and Additions of the Original FEIR. A detailed analysis of the Proposed Project’s water quality impacts was included in Section IV.C(2), Water Quality, of the Original DEIR, and Section II.6, Corrections and Additions of the Original FEIR. A detailed analysis of the Proposed Project’s impacts on

³²¹ *Original DEIR, p. 1263; Original FEIR, p. 1037, Response 235-24.*

³²² *RS-DEIR Appendix A.i, Court of Appeal Opinion, p. 88, citing State CEQA Guidelines Section 15126.6(e)(3)(B).*

³²³ *In re: Playa Vista Company, LLC – Vesting Tentative Tract No. 60110-1A, Agenda Item No. 6, 12200 West Jefferson Boulevard, Reporter’s Transcript of Videotaped Proceedings, September 22, 2004, p. 90:1-5.*

³²⁴ *Id., pp. 89:17-25–90:1-5.*

Parks and Recreation was included in Section IV.L(4), Parks and Recreation, of the Original DEIR, and Section II.21, Corrections and Additions of the Original FEIR. It should be noted that the Proposed Project includes 11.4 acres of parks that will be open to the general public and 11.7 acres of Riparian Corridor habitat and bluff face restoration on a site that is currently a graded former industrial site with backbone infrastructure improvements. Additionally, the comment's reference to job creation in a green economy not an environmental issue, but an economic issue. Nonetheless, for more information regarding the number of jobs that will be created by the Proposed Project, see Response No. 7-6.

Finally, note that the Proposed Project incorporates numerous stormwater management measures. For example, the Proposed Project includes the 6.7 acre Riparian Corridor, which completes the larger 25 acre riparian corridor. The riparian corridor is part of a larger 51 acre Freshwater Wetlands system, including the Freshwater Marsh on the west side of Lincoln Boulevard. The Freshwater Wetlands System is a comprehensive system intended to naturally cleanse urban runoff from the adjacent Playa Vista First Phase Project and the Proposed Project as well as off-site tributary areas, while providing habitat enhancement in the area. The Proposed Project also includes, among other items, stormwater treatment planter boxes at downspouts on the perimeter of buildings and catch basin inserts to improve the water quality of the run-off from the Proposed Project.³²⁵

COMMENT NO. 29-66

2. Advantages

a. Compliance with Environmental Regulations

Impairments to the water quality of Ballona Creek are numerous. A 2002 assessment of Ballona Creek found 16 contaminants, including metals, toxic chemicals, and bacterial and viral pathogens.

The Clean Water Act ("CWA") requires the establishment of limits on the amount of pollutants that can be discharged to Santa Monica Bay. Section 303(d)(I)(A) of the CWA requires each state to identify those waters that are not achieving water quality standards, and requires states to implement limits on pollutants for these waters, called Total Maximum Daily Loads or "TMDLs."

The Los Angeles Regional Water Quality Control Board, vested with the responsibility of enforcing the federal Clean Water Act in the Los Angeles region, is in process of establishing TMDLs to address all water quality impairments. To date, TMDLs have been

³²⁵ Original DEIR, p. 45.

established for trash, copper, lead, selenium, zinc, and bacteria. These regulations require reductions of as much as 70 percent in measured effluent pollutant content.

Meeting the TMDL goals and avoiding liability will require major pollution abatement efforts by the City of Los Angeles. Already the City of Los Angeles has been directed by California's Regional Water Quality Control Board to make drastic improvements in the quality of runoff entering the Santa Monica Bay. Failure to comply is grounds for severe financial liabilities. On March 4, 2008, the Regional Water Quality Control Board issued violation notices to 20 cities and Los Angeles County. The Regional Board is requiring municipal violators to provide documentation of the causes of the violations, and detailed descriptions of remedial actions already attempted and planned for the future. Cities and counties face fines of \$10,000 a day per violation per pollutant for noncompliance¹²⁶.

Treatment wetlands have proven effective in treating municipal wastewater (sewage), agricultural wastewater and runoff, industrial wastewater, and storm water runoff from urban, suburban and rural areas. Treatment wetlands treat contaminants through processes such as sedimentation, filtration, adsorption, volatilization, and bacterial degradation.

¹²⁶ *Exhibit F-2, California Regional Water Quality Control Board Violation Notice and Exhibit F-3, Order to City of Los Angeles, March 4, 2008.*

RESPONSE NO. 29-66

To the extent the commentor refers to potential impacts on water quality or a treatment wetland alternative, those matters are outside the scope of the RS-DEIR. See Response No. 29-65 above for a discussion of the scope of the RS-DEIR. For further information concerning the Proposed Project's impacts on water quality and TMDLs for the Ballona Creek Estuary, refer to Response No. 41-3. Additionally, mitigation measures to reduce or avoid water quality impacts due to stormwater runoff were addressed in the Original FEIR.³²⁶ Additionally, the Proposed Project must comply with all applicable regulations concerning stormwater runoff, including regulations approved by the Board of Public Works.

COMMENT NO. 29-67

b. Consistent with City of Los Angeles' IRP Program

³²⁶ *Original MMRP, water resources mitigation measures, Section C, mitigation measures C.(1)-1 through C.(1)-4, C.(2)-1 through C.(2)-5.*

The City of Los Angeles has initiated an Integrated Resources Program ("IRP") that outlines a plan for catching and treating urban runoff as mandated by the Clean Water Act. The plan calls for an integrated approach to the treatment of polluted run-off, including source reduction ("non structural BMPs", or Best Management Practices) and structural BMPs, which include bio-retention and filtration areas of all sizes. Natural treatment wetlands have been identified as ideal regional components of the IRP Plan, dovetailing with smaller scale natural treatment areas and mechanical treatment facilities to comprise a comprehensive solution for the treatment of the City of Los Angeles' wet and dry weather water runoff¹²⁷.

¹²⁷. *Exhibit F-4, "Integrated Resources Plan (IRP): A New Strategy for LA's Water Infrastructure" Fact Sheet City of Los Angeles, January 2006.*

RESPONSE NO. 29-67

Please refer to Response No. 29-65 above regarding the scope of the RS-DEIR and comments concerning treatment wetlands and storm runoff. Additionally, as discussed in Response No. 29-65, the suggestion that the Proposed Project site be turned into a treatment wetlands was previously made by commentors and rejected by the City in the Original FEIR.³²⁷

COMMENT NO. 29-68

Indeed, maps developed by the Watershed Protection Division and their project consultants, CDM, showed the Phase II land to be a regional "priority catchment" site: an area seen as an opportunity as a treatment area due to its size, current land use, and proximity to storm drains.¹²⁸

¹²⁸. *Exhibit F-5, Los Angeles County-Wide Structural BMP Prioritization Methodology, Ballona Creek Watershed Demonstration Updated Summary Report. County of Los Angeles Department of Public Works, Heal the Bay, and City of Los Angeles Bureau of Sanitation; prepared by Geosyntec Consultants, June 2006, pp. 16, 20.*

RESPONSE NO. 29-68

Please refer to Response No. 29-65 above regarding the scope of the RS-DEIR and comments concerning treatment wetlands and stormwater runoff. The commentor does not accurately describe the maps developed by the Watershed Protection Division. The

³²⁷ *Original DEIR, p. 1263; Original FEIR, p. 1037, Response 235-24.*

Proposed Project site was not identified as a regional “priority catchment site” in the figure attached to the commentor’s letter as Exhibit F-5 (Figure 9 from the Los Angeles County-Wide Structural BMP Prioritization Methodology, Ballona Creek Watershed Demonstration Updated Summary Report, titled “High Regional BMP Scoring Catchments plus Nodal CPIs”).³²⁸ Rather, the figure identifies the area west of Lincoln Boulevard and north of Jefferson Boulevard, which are outside the boundaries of the Proposed Project site.

COMMENT NO. 29-69

c. More Economical and Environmentally Sound than Mechanical Treatment Facilities

The construction of a treatment wetland is a far more economical approach than new mechanical treatment plant construction, existing mechanical treatment plant enhancements, or additions. Construction and operational costs are relatively low, and auxiliary benefits to the value of local communities are high. Even when factoring the cost of acquisition of property, a large-capacity treatment wetland is a regional solution that ultimately pays for itself in the long run, saving billions of taxpayer dollars over the alternative. A 2006 study by the Los Angeles Department of Public Works assessing strategies for treatment of polluted runoff found that a centralized greenway system consisting of detention basins and constructed treatment wetlands was by far the most affordable option. A citywide greenway system was estimated to cost around \$26 million, compared to two scenarios with greater mechanical components at \$47 million and \$53 million, respectively.¹²⁹

Mechanical treatment plants are also energy-intensive, producing greenhouse gas emissions, and rate a poor investment at a time when energy costs are escalating. A treatment wetland at Ballona Southeast could serve as a keystone of Mayor Antonio Villaraigosa's stated intent to transform Los Angeles into "the greenest big city in America," an alternative to energy-intensive, greenhouse gas-emitting mechanical treatment plants.

¹²⁹ *Exhibit F-6, Los Angeles Department of Public Works. "Greater Los Angeles County Integrated Regional Water Management Plan (IRWMP)." PowerPoint presentation. Los Angeles, California, August 2006.*

RESPONSE NO. 29-69

³²⁸ *County of Los Angeles, Department of Public Works, Heal the Bay, City of Los Angeles – Bureau of Sanitation, prepared by GeoSyntec Consultants, Los Angeles County-Wide Structural BMP Prioritization Methodology, Ballona Creek Watershed Demonstration – Updated Summary Report, June 1, 2006.*

Please refer to Response No. 29-65 above regarding the scope of the RS-DEIR and comments concerning treatment wetlands. As an initial matter, it is not clear to which area the commentor refers with the statement regarding “Ballona Southeast.” This is not a term generally used by the Applicant or the City to describe the Proposed Project area or any area in the region of the Proposed Project. Additionally, as discussed above in Response No. 29-65, the suggestion that the Proposed Project site be turned into a treatment wetland was previously made by commentors and rejected by the City in the Original FEIR for a variety of reasons. Finally, as discussed above in Response No. 29-68, the 2006 study does not identify the Proposed Project site as a high regional BMP opportunity.

COMMENT NO. 29-70

d. Numerous Targeted Funding Sources Available

City, state, federal, and non-profit funding is available for public acquisition of some or all of the Phase II land and to construct a natural treatment wetland project. Despite the state of the economy, the arrival of funds from the American Recovery and Reinvestment Act (H.R. 1, Titles IV and VII), better known as ‘the stimulus bill’, to many state and federal agencies makes this an opportune time for funding a project with such positive environmental and economic goals.¹³⁰

¹³⁰. “*The American Recovery and Reinvestment Act of 2009*”. *H.R.I., Sec. VII. United States Congress*.

RESPONSE NO. 29-70

Please refer to Response No. 29-65 above regarding the scope of the RS-DEIR and comments offering no significant new information. Additionally, as discussed in Response No. 29-65, the suggestion that the Proposed Project site be turned into a treatment wetlands was previously made by commentors and rejected by the City in the Original FEIR.³²⁹ Further, the commentor’s proposal to use federal funds made available to California through the American Recovery and Reinvestment Act (ARRA, otherwise known as H.R. 1) would not make the treatment wetland alternative meet more of the Proposed Project’s objectives. Additionally, ARRA funds would not be available to purchase the Proposed Project site to convert it into a treatment wetland because the funds cannot be used to purchase land or easements.³³⁰ Any projects funded by ARRA must be “shovel-

³²⁹ *Original DEIR, p. 1263; Original FEIR, p. 1037, Response 235-24.*

³³⁰ *ARRA, Title VII, pp. 55-56; State Water Resources Control Board (SWRCB), Clean Water State Revolving Fund (CWSRF) Program American Recovery and Reinvestment Act (ARRA) Frequently Asked Questions, p. 1, available at: http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/docs/economic_recovery_faqs.pdf.*

ready,” such that the project will quickly be able to utilize the loan funds in order to directly spur the economy.³³¹ As no CEQA environmental analysis has been done to study the conversion of the Proposed Project site into a treatment wetland and no permits have been acquired to allow such a project to be constructed, the commentor’s proposal is not “shovel-ready.” California’s receipt of ARRA funds, therefore, could not serve as a source of funding for the commentor’s proposed treatment wetland alternative.

COMMENT NO. 29-71

Additionally, City funding is available through Proposition O. In November 2004, voters of the City of Los Angeles passed the Proposition O - Clean Water Bond, authorizing \$500 million of general obligation bonds for projects addressing pollution in the City's rivers, lakes, and beaches: The funding source is intended to enable the City of Los Angeles to meet Federal Clean Water Act requirements. Proposition O funding is currently supporting similar projects that protect water quality, provide flood or habitat protection, increase water conservation, and create open space. Currently, Prop O is funding the land purchase and construction of the 9-acre South Los Angeles Wetlands Park (estimated project cost: \$25,000,000). Prop O funding has also been approved for land acquisition for two parks along the Los Angeles River with significant storm water purification or retention elements: the 254 acre Albion Dairy Park (\$5,000,000 allocation approved to date) and the 100-acre Taylor Yard Park project (\$25,000,000 approved to date).¹³¹

¹³¹. *Exhibit F-7. "Proposition O - Clean Water Bond Program March 2009 Monthly Report."* City of Los Angeles Bureau of Engineering. pp. 5, 11, 14-15.

RESPONSE NO. 29-71

Please refer to Response No. 29-65 above regarding the scope of the RS-DEIR and comments concerning treatment wetlands. Additionally, as discussed in Response No. 29-65, the suggestion that the Proposed Project site be turned into a treatment wetlands was previously made by commentors and rejected by the City in the Original FEIR.³³² Further, with respect to the suggestion that Proposition O money be used to fund development of a treatment wetlands at Playa Vista, please note that all \$500 million in Proposition O funds are either funded, or have been set aside for other projects.³³³

³³¹ See SWRCB, CWSRF Factsheet (March 2009), available at: http://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2009/rs2009_0027.pdf. To access the remaining loan funds financing agreements must be executed by September 1, 2009, complete approval of the award request by January 1, 2010, and executed construction contracts by February 1, 2010. *Id.*

³³² Original DEIR, p. 1263; Original FEIR, p. 1037, Response 235-24.

³³³ See Proposition O – Clean Water Bond Program, June 2009 Monthly Report, p. 14 “Project Funding Summary.” The Monthly Report may be found at: <http://www.lapropro.org/sitefiles/docs/MonthlyReport-June2009.pdf> (last visited July 30, 2009).

COMMENT NO. 29-72

State funding is currently available through the Clean Water State Revolving Fund (CWSRF) Program, with increased opportunities in this category due to an injection from the federal stimulus package. The CWSRF Loan Program provides low-interest loans for the implementation of non-point source (storm water runoff) treatment projects. The CWSRF recently received \$280 million from the federal stimulus package, creating increased opportunities for funding through this source.¹³²

Federal funding for similar projects is also increasingly available from the Environmental Protection Agency through the Clean Water Act Section 319 (h-i), which targets non-point source management programs led by state agencies.¹³³ Federal funding for coastal habitat restoration projects has also been made available through the National Oceanic and Atmospheric Organization (NOAA) under the federal stimulus bill. Awarded projects must achieve significant ecological benefits and maximize job creation or preservation - both criteria met by the proposed natural treatment wetlands project.¹³⁴

¹³² *Exhibit F-8. "American Recovery and Reinvestment Act Funds CWSRF Fact Sheet," California State Water Resources Control Board, March 2009.*

¹³³ *Federal Clean Water Act, 33 U.S.C. et seq., Section 319, pp. 173-80.*

¹³⁴ *Exhibit F-9, "NOAA Seeks Proposals That Will Restore Coastal Habitat, Create Jobs, Stimulate Economy." NOAA News, March 23, 2009.*
http://www.noaanews.noaa.gov/stories2009/20090323_proposals.html

RESPONSE NO. 29-72

Please refer to Response No. 29-65 above regarding the scope of the RS-DEIR and comments concerning treatment wetlands.

Additionally, as discussed in Response No. 29-65, the suggestion that the Proposed Project site be turned into a treatment wetlands was previously made by commentors and rejected by the City.³³⁴ The commentor's proposal to use federal funds would not make the treatment wetland alternative meet most of the Proposed Project's objectives. Additionally, half of the \$280 million in federal ARRA funds, made available to California through California's Clean Water State Revolving Fund (CWSRF) will be allocated to wastewater projects for low income communities and to projects that lost previously committed water grant funding, the commentor's proposed treatment wetland will not qualify for these funds. The remaining loan funds must be accessed within very short time deadlines (with deadlines in the September 2009 to February 2010 timeframe) that require "shovel-ready"

³³⁴ *Original DEIR, p. 1263; Original FEIR, p. 1037, Response 235-24.*

projects to stimulate the economy.³³⁵ Additionally, ARRA funds cannot be used to purchase land or easements.³³⁶ CWSRF funds, therefore, could not serve as a source of funding for the commentor's proposed treatment wetland alternative, and commentor's proposal offers no significant new information.

Furthermore, California's share of federal Clean Water Act Section 319(h) grant funds are not a likely funding source. Section 319(h) grants are distributed yearly by the State Water Resources Control Board Nonpoint Source Program. Approximately \$4.5 to \$5 million in grant funding is available each year, of which a project can apply for grants between \$250,000 and \$1,000,000. The application period for Section 319(h) grants for the current year closed on February 17, 2009, and late applications are not accepted.³³⁷ This funding source is highly competitive. The 2008 Full Proposal Invite Backlist of organizations that passed the SWRCB's internal screening of concept proposals included twenty different organizations seeking over \$12 million in combined project funding requests (approximately 2.5 times the available funding).³³⁸

Finally, although the National Oceanic and Atmospheric Administration (NOAA) did seek applications to fund "shovel ready" coastal habitat restoration projects utilizing ARRA funds through April 6, 2009,³³⁹ that funding opportunity is now closed. Also, as noted above in Response No. 29-70, the project is not "shovel ready" and ARRA funds cannot be used to purchase land or easements.³⁴⁰

³³⁵ See SWRCB, CWSRF Factsheet (March 2009), available at: http://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2009/rs2009_0027.pdf. To access the remaining loan funds financing agreements must be executed by September 1, 2009, complete approval of the award request by January 1, 2010, and executed construction contracts by February 1, 2010. Id.

³³⁶ ARRA, Title VII, pp. 55-56; State Water Resources Control Board (SWRCB), Clean Water State Revolving Fund (CWSRF) Program American Recovery and Reinvestment Act (ARRA) Frequently Asked Questions, p. 1, available at: http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/docs/economic_recovery_faqs.pdf.

³³⁷ SWRCB, Solicitation Notice, Federal Clean Water Act Section 319 Nonpoint Source Implementation Grant Program, available at: http://www.waterboards.ca.gov/water_issues/programs/grants_loans/319h/docs/2008_319hnps_fullproposal_solicitationnotice.pdf.

³³⁸ See SWRCB, 2008 319(h) NPS Grant Program Full Proposal Invite Back List, available at: http://www.waterboards.ca.gov/water_issues/programs/grants_loans/319h/docs/full_proposal_invite_back_list.pdf.

³³⁹ NOAA Fisheries: Restoration Center website, <http://www.nmfs.noaa.gov/habitat/recovery/>.

³⁴⁰ ARRA, Title VII, at pp. 55-56; State Water Resources Control Board (SWRCB), Clean Water State Revolving Fund (CWSRF) Program American Recovery and Reinvestment Act (ARRA) Frequently Asked Questions, p. 1, available at: http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/docs/economic_recovery_faqs.pdf.

COMMENT NO. 29-73*e. Lowered Land Values*

Real estate values have plummeted locally and nationally due to the subprime market crisis, which took palpable effect in early 2008 and continues to negatively impact the economy. In Los Angeles County, the median home price has fallen 34% since March 2008 and the median price for condos has fallen 21%.¹³⁵ Nationwide sales of new single-family homes were down 31% in March 2009 from a year ago.¹³⁶ Unfinished projects and vacancies plague developers: by the end of the 3rd quarter of 2008, 102 detached subdivisions in Los Angeles County had 608 homes for sale and 3,257 undeveloped lots.¹³⁷

Vacancy rates have been on the rise in office and industrial markets as well, with Los Angeles County office vacancy rates climbing from 9.7% to 11 % in the 4th quarter of 2008, setting a new record in annual vacancy rates. Industrial vacancies climbed from 1.5% to 2.2% over the same time period.¹³⁸ In addition, the greatest part of these vacancies were located in West Los Angeles and Downtown, indicating particular market weakness in terms of commercial and industrial space within the project's region.¹³⁹

Lowered demand across the board negatively affects land values. A recent study of the British land market found that developable urban land values outside of London had fallen 33% on average over 2008. Land values within London fell 10% in value, and land in suburban London fell 15%.¹⁴⁰

It is safe to say that the value of the Phase II land is significantly less in 2009 than it was throughout the project's development, and that this lower valuation constitutes important new information. Were the land to be evaluated again for sale in today's market, it would likely be priced within reach of local government utilizing funding sources described above. The potential acquisition of the 111 acres is more possible than ever, and should be considered at this point in assessing the treatment wetlands alternative.

¹³⁵ *Exhibit F-10, Southern California Home Resale Activity in L.A. Times Sunday Edition Charts - Data for March 2009. DQnews.com: <http://www.dqnews.com/Charts/Monthly-Charts/LA-TimeswCharts/ZIPLAT.aspx>*

¹³⁶ *Exhibit F-II, "New Residential Sales in March." U.S. Census Bureau News Joint Release, U.S. Department Housing and Urban Development, April 24, 2009, p. 1.*

¹³⁷ *Exhibit F-12, "Lots of Lots," Los Angeles Business Journal, January 26 -February 1, 2009.*

¹³⁸ *Exhibit F-13, Los Angeles County Office and Industrial Market Data, Los Angeles Business Journal, January 26 -February 1, 2009.*

¹³⁹ *Exhibit F-14, "Is Anybody Home? Offices Empty Out, Setting Q4 Record. Westside and Downtown are Hit Hardest," Los Angeles Business Journal, January 26 -February 1, 2009.*

¹⁴⁰ *Exhibit F-15, "New study finds value for developable land off more than 30 percent in many areas of U.K.," New York Times, February 24, 2009.*

RESPONSE NO. 29-73

Please refer to Response No. 29-65 above regarding the scope of the RS-DEIR and comments concerning treatment wetlands.³⁴¹

Additionally, as discussed in Response No. 29-65, the suggestion that the Proposed Project site be turned into a treatment wetlands was previously made by commentors and rejected by the City in the Original FEIR.³⁴² The current economic crisis and any associated changes in land values do not make the treatment wetland alternative meet more of the Proposed Project's objectives. Additionally, as noted by the commentor, both the State of California and the City are being impacted heavily by the current economic crisis, so government funds are not readily available for purchase of property or the creation of a treatment wetland on the Proposed Project site.³⁴³ Both the state and the City have substantial budget deficits. Additionally, please note that while the State of California acquired over 500 acres west of Lincoln Boulevard in the 2003 create the Ballona Wetlands Restoration Project, work on that project has been stopped due to the state budget crisis.³⁴⁴

COMMENT NO. 29-74*f. Provides Needed Green Space and Green Jobs*

Los Angeles has devoted less land to parks than all other major American cities, with only 3% of its land used for parks (as opposed to 17% in New York and 9% in Boston). Only one third of children in Los Angeles have immediate access to a park.¹⁴¹ Recognizing the key role public green space plays in the life of cities, Mayor Villaraigosa pledged in 2005 to "create an emerald necklace of parks along the [Los Angeles] river, and dot our neighborhoods with new emeralds - neighborhood parks."¹⁴² The effort and investment put

³⁴¹ Original DEIR, p. 1263; Original FEIR, p. 1037, Response 235-24.

³⁴² Original DEIR, p. 1263; Original FEIR, p. 1037, Response 235-24.

³⁴³ See, e.g., Michael Rothfeld & Patrick McGreevy, *Schwarzenegger Sends Lawmakers \$5 Billion in Proposed Cuts*, L.A. Times, May 27, 2009, available at: <http://www.latimes.com/news/la-me-budget27-2009may27,0,7444475.story?track=rss>; Martin Zimmerman, Marc Lifsher & Andrea Chang, *California Budget Crisis Could Bring Lasting Economic Harm*, L.A. Times, May 23, 2009, available at: <http://www.latimes.com/business/la-fi-cal-econ23-2009may23,0,1242793.story>; Phil Willon, *L.A. City Council OKs Job Cuts and Unpaid Leave*, L.A. Times, May 18, 2009, available at: <http://articles.latimes.com/2009/may/19/local/me-labudget19>; Patrick J. McDonnell, *Villaraigosa's Deficit-Reduction Plans Anger Labor*, L.A. Times, May 18, 2009, available at: <http://articles.latimes.com/2009/may/18/local/me-unions18>.

³⁴⁴ *Ballona Wetlands Restoration Project*, website, available at: <http://www.santamonicabay.org/smbay/ProgramsProjects/HabitatRestorationProject/BallonaWetlandsRestoration/tabid/149/Default.aspx> (last visited June 24, 2009) ["On December 18, 2008, the State of California issued a stop work order for all bond-funded projects due to the budget crisis. Restoration and public access improvements at the Ballona Wetlands were affected by this order and most work on this project has been suspended until further notice."].

into the Los Angeles River Revitalization Master Plan by the City of Los Angeles is evidence that the development of public green space is increasingly a policy priority.¹⁴³

In tandem with the provision of needed green space, the construction of a natural treatment wetland would provide green jobs, or jobs tied to the development of environmentally beneficial projects. National and local governments have recently acted in favor of supporting the provision of green jobs. The Green Jobs Act ("New Direction for Energy Independence, National Security, and Consumer Protection Act") (H.R. 3221, Title I), passed by Congress in August 2007 authorizes up to \$125 million in funding to establish job training programs in green industries such as energy efficient buildings and construction, renewable electric power, energy efficient vehicles, and biofuels development. In April 2009, the Los Angeles City Council signed a "green ordinance", which calls for the green retrofit of city buildings, as well as career training and placement for local, low-income and underemployed workers.¹⁴⁵ Jobs generated by the construction of natural treatment wetlands would benefit the economic health of the greater Los Angeles community, and training for those jobs would likely be underwritten by the legislation and programs described above.

^{141.} *Exhibit F-16, "Parks and Wreck; L.A.'s Fight for Public Green Space," LA Weekly, July 16, 2008.*

^{142.} *Ibid.*

^{143.} *Exhibit F-17, "The Los Angeles River Revitalization Master Plan". City of Los Angeles, May 2007.*

RESPONSE NO. 29-74

Please refer to Response No. 29-65 above regarding the scope of the RS-DEIR and comments concerning treatment wetlands.³⁴⁵

It should be noted that the Proposed Project will provide 11.4 acres of parks and 11.7-acres of Riparian Corridor and restored bluff face habitat. For more information about the Proposed Project's potential impacts on Parks and Recreation, see Section IV.L(4) of the Original DEIR, and Section II.21, Corrections and Additions of the Original FEIR. Additionally, as discussed in the RS-DEIR Section II.D and Response No. 29-45 the Proposed Project, which is a mixed-use, urban infill project, includes numerous sustainability measures.

COMMENT NO. 29-75

3. Summary

³⁴⁵ *Original DEIR, p. 1263; Original FEIR, p. 1037, Response 235-24.*

The natural treatment wetlands project alternative would benefit the Los Angeles community in numerous ways, providing low cost water treatment, green space, and green jobs. The project is consistent with the City's current water infrastructure program, and its construction could draw from numerous funding sources targeted to projects of this nature. The economic and social advantages provided by natural treatment wetlands have generated great interest, and proposal has received strong public support to date.¹⁴⁶ Rather than adding more development and density to the last remaining natural wetlands in Los Angeles, the project alternative preserves open space, adds to quality of life, and benefits both the neighborhood and the region. In examination of this RS-DEIR, decision makers should understand that issues at hand such as wastewater, land use, and global climate change are connected to and addressed by this project alternative. It is within their power to determine if natural treatment wetlands on the Phase II land will be considered as an option, and it is hoped they will now take this opportunity to consider it seriously.

¹⁴⁴. *Over 800 community members signed a petitions and sign-on letters in favor of the natural treatment wetlands alternative in 2008. See attached sign-on letter, Exhibit F-20.*

RESPONSE NO. 29-75

The comment is a summary statement of the commentor's views. It is noted and will be incorporated into the Final RS-EIR for review and consideration by the decision-makers. Responses to the particular points addressed in the summary are provided in connection with the specific comments and responses above. It should also be noted that although commentor refers to the Proposed Project site as the "last remaining natural wetlands in Los Angeles," the Proposed Project site is a former industrial site located approximately two miles inland from the Santa Monica Bay and is surrounded by existing development to the north, south, and west, and the land to the east of the Proposed Project is approved for office and commercial uses and is currently under construction. Moreover, the State of California owns approximately 550 acres of land west of Lincoln Boulevard and north of Ballona Creek, formerly known as Areas A, B, and C of the former Playa Vista Master Plan which has been permanently designated as open space and is managed as an Ecological Reserve. These 550 acres are between 0.5 miles and 1.1 miles away from the Proposed Project site.

COMMENT NO. 29-76

IX. CONCLUSION

BWLT respectfully requests the City direct Playa to revise its RS-DEIR in the manner discussed above and recirculate the DEIR for public review and comment. Only then can the public and decision-makers be assured that the environmental consequences of the

Proposed Project and alternative thereto are fully addressed and that the City is equipped to make a fully informed decision with respect to approval or disapproval of the Proposed Project as currently presented.

RESPONSE NO. 29-76

The comment provides concluding remarks. The comment is noted and will be incorporated into the Final RS-EIR for review and consideration by the decision-makers.

COMMENT NO. 29-77

Attachments to Comment Letter No. 29.

RESPONSE NO. 29-77

Please note that this comment letter included attachments. The full letter and associated attachments can be located at Appendix F to this Final RS-EIR.

LETTER NO. 30

Carol E. Schatz
President & CEO
Central City Association of Los Angeles
626 Wilshire Blvd, Suite 200
Los Angeles, CA 90017

COMMENT NO. 30-1

Established in 1924, Central City Association (CCA) is L.A.'s premier business advocacy association whose 450 members employ over 350,000 people in the Los Angeles region. On behalf of CCA, I offer this letter in support of The Village at Playa Vista. The three issues identified for further analysis by the court have been adequately addressed in the recirculated sections of the environmental impact report (Case No. ENV-2002-6I 29-EIR). There is no reason to delay construction any longer.

The Village is an important project for the City, providing thousands of jobs, hundreds of units of new housing, and considerable tax revenue. These are significant benefits at a time when unemployment is rising and real estate development is at a standstill.

Beyond the direct economic benefits, The Village is a stunning model for smart growth in Los Angeles. The project will transform an old industrial site into a vibrant mixed-use development that includes housing, shopping, entertainment, and jobs. The project also provides for long overdue transportation improvements, including public transit enhancements that extend throughout the West L.A. region.

For these reasons, we support the City Council's recertification of the EIR for the Village and reapproval of the land use entitlements and related approvals.

RESPONSE NO. 30-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 31

Marcia Hanscom
Managing Director
CLEAN ~ Coastal Law Enforcement Action Network
322 Culver Blvd., #317
Playa del Rey, CA 90293
wetlandact@earthlink.net

COMMENT NO. 31-1

I understand that you are responsible at the City for planning issues re: Playa Vista Phase 2. We were not notified of the new EIR documents, and would like to be able to access those documents. Can you please let me know if there is a way to obtain a hard copy of these documents? And also possibly an internet link? And please include us on your list of organizations for all notifications related to Playa Vista.

Thank you.

RESPONSE NO. 31-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. For a discussion on the re-noticing of the availability of the RS-DEIR for public review and comment, please see Section I.D. of this Final RS-EIR.

LETTER NO. 32

Marcia Hanscom
Managing Director
CLEAN ~ Coastal Law Enforcement Action Network
322 Culver Blvd., #317
Playa del Rey, CA 90293
wetlandact@earthlink.net

COMMENT NO. 32-1

Please accept these comments related to the Phase 2 Playa Vista project. The comments are on behalf of CLEAN, Ballona Institute and Wetlands Defense Fund. Also attached are two photographs of a flock of Canada Goose feeding on the proposed Phase 2 Playa Vista site this last winter.

I am sending you under a subsequent email message one more photograph attachment of an Osprey eating a fish on the Phase 2 site. (I can only send three attachments at a time in this program.)

Thank you very much.

RESPONSE NO. 32-1

This comment serves as an introduction. Please note that with respect to the photos, the City cannot speak to the accuracy of the photos attached. Also, please note that the Proposed Project includes a Habitat Creation/Restoration Component, which already has been completed. As noted in RS-DEIR Appendix D.iv and Section IV.D of the Original DEIR, one of the purposes of the Habitat Creation/Restoration Component of the Proposed Project is to enhance habitat for plant and animal species in the area.³⁴⁶ Mass grading for the Urban Development Component of the Proposed Project has been completed and some infrastructure, such as roads and utility lines, has been constructed.³⁴⁷

COMMENT NO. 32-2

On behalf of CLEAN (Coastal Law Enforcement Action Network), Wetlands Defense Fund and the Ballona Institute, thank you for the opportunity to comment on the recirculated draft EIR for Playa Vista's Phase 2, which they call "The Village."

³⁴⁶ See also RS-DEIR, pp. II.C-32, II.C-58 – II.C-59.

³⁴⁷ See RS-DEIR, p. II.C-32.

We appreciate the efforts the City has made to comply with the California Environmental Quality Act (CEQA), however we believe in order to comply fully with CEQA, the City is required to circulate a complete new Environmental Impact Report, based on the fact that circumstances have changed significantly and significant new information has come forth since the initial EIR was completed, circulated and approved. Such changed circumstances and new information include the following:

RESPONSE NO. 32-2

The comments in this letter relate to matters outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information." As discussed in more detail with respect to particular comments below, the commentor offers no "significant new information" within the meaning of CEQA Section 21092.1 and CEQA Guidelines Section 15088.5.

COMMENT NO. 32-3

1. **ECOLOGICAL RESERVE:** More than 500 acres of the Ballona Wetlands ecosystem were designated by the State of California as "Ecological Reserve" lands. Nothing in the original EIR discussed the potential impacts of The Village, its attendant traffic, air quality, diminishment of open space, and other impacts on this newly created Ecological Reserve. These impacts must be discussed and mitigated, according to CEQA.

As you know, Public Resources Code Section 21092.1; 14 CCR 15088.5 requires that a new EIR be recirculated for public comment and agency consultation whenever there is "significant new information" regarding a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative.) There are numerous agencies contemplating and involved with restoration of the Ballona Wetlands Ecological Reserve, and these agencies, including the California Dept. of Fish & Game, California Coastal Commission, State Coastal Conservancy, California State Parks Department, US Fish & Wildlife Service, US Army Corps of Engineers, National Marine Fisheries Service and the US Environmental Protection Agency should be notified and in receipt of a complete EIR for the entire Phase 2 project. Jefferson Boulevard, which runs directly through the Ecological Reserve is also directly adjacent to the Phase 2 "Village" proposed site, and traffic and other impacts from the proposed development will clearly impact this new Ecological Reserve.

RESPONSE NO. 32-3

Please refer to Response No. 32-2 above regarding the scope of the RS-DEIR and comments offering no significant new information. The ecological reserve designation does not apply to the Proposed Project site. The ecological reserve designation applies to

approximately 550 acres west of Lincoln Boulevard and north of Ballona Creek, formerly known as Areas A, B, and C of the Former Playa Vista Master Plan Area. These areas are located approximately 1.1 miles, 0.5 mile, and 0.75 mile from the Proposed Project, respectively. The ecological reserve designation does not change the character of the designated property; rather, it provides management rules that are intended to protect habitat in the designated reserve. The analyses in the Original DEIR contemplated that the areas designated as an ecological reserve would be held by the state for open space uses. These areas were treated as a Significant Ecological Area in the Original FEIR for purposes of analyzing impacts of the Proposed Project.³⁴⁸

With respect to the particular environmental impacts on the property designated as an ecological reserve noted by commentor, a detailed analysis of the Proposed Project's traffic impacts was included in Section IV.K.(1), Traffic and Circulation, of the Original DEIR, Section II.15, Corrections and Additions of the Original FEIR, and Topical Responses TR-1 through TR-10 of the Original FEIR. For further discussion regarding potential traffic impacts associated with the Proposed Project, see Response Nos. 7-14 through 7-20. A detailed analysis of the Proposed Project's potential impacts on Air Quality and Biotic Resources was included in Sections IV.B and IV.D of the Original DEIR, and Sections II.4 and II.7, Corrections and Additions of the Original FEIR. See also Response Nos. 43-26, 43-34, 43-35, and 43-42 in the Original FEIR.

Finally, the notice of the availability of the RS-DEIR for public review and comment was sent to all agencies listed by the commentor. No comments were received from any of these agencies. For further discussion of noticing of the availability of the RS-DEIR for public review and comment, please see Section I.D of this Final RS-EIR, Executive Summary.

COMMENT NO. 32-4

2. WILDLIFE IMPACTS Wildlife impacts must be discussed and mitigated, especially related to the Ecological Reserve. We have reviewed photographs (see attached) showing the American Osprey (which is a rare bird species protected by the Migratory Bird Treaty Act) and Canada Goose (also a bird protected by the Migratory Bird Treaty Act) feeding **DIRECTLY ON THE PHASE 2** site -- these photos were taken within the last year by Ballona naturalist Jonathan Coffin and are attached to this letter. In spite of this evidence of birds still using this part of the Ballona Wetlands historical floodplain, there is no discussion of mitigation for Phase 2 impacts, some impacts of which were already inflicted upon the wildlife when native willows and other habitat were removed by Playa Vista prior to an injunction being placed on the property, and some impacts of which are yet to come, as evidenced by wildlife still using the site for foraging. Mitigation for these and other wildlife

³⁴⁸ See *Original DEIR*, p. 540.

impacts must be discussed and implemented if this project is to be approved lawfully under CEQA.

RESPONSE NO. 32-4

Please refer to Response No. 32-2 above regarding the scope of the RS-DEIR and comments offering no significant new information.

A detailed analysis of the Proposed Project's potential impacts on Biotic Resources also was included in Section IV.D of the Original DEIR and Section II.7, Corrections and Additions of the Original FEIR. The analysis concluded that the Habitat Creation/Restoration Component of the Proposed Project is expected to establish higher quality, more diverse breeding and foraging habitat than previously occurred on-site, and that with implementation of mitigation measures proposed therein (including a measure to protect any nesting birds protected under the Migratory Bird Treaty Act (MBTA) during earthmoving activities on the Proposed Project site), all potential impacts on biotic resources would be less than significant.

Osprey and Canadian Geese are not listed as endangered or threatened under the federal or State Endangered Species Acts.³⁴⁹ They are not listed as either a Bird of Conservation Concern by U.S. Fish and Wildlife Service or as a Bird Species of Special Concern by the California Department of Fish and Game.³⁵⁰ No Osprey or Canadian geese nests have been located on the Proposed Project site.³⁵¹

COMMENT NO. 32-5

3. PLAYA DEL REY PARKING Due to the Ecological Reserve now enforcing laws previously not enforced when the land was in private hands, parking impacts to businesses in Playa del Rey already being felt and will likely be increased by The Village and its future inhabitants. These impacts must be discussed and mitigated for in order to comply with CEQA.

³⁴⁹ Cal. Dep't of Fish & Game, *State and Federally Listed Endangered and Threatened Animals of California* (Feb. 2009), available at: <http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/TEAnimals.pdf>; U.S. Fish & Wildlife Serv., *Species Reports: Birds* (June 2009), available at: http://ecos.fws.gov/tess_public/SpeciesReport.do?groups=B&listingType=L&mapstatus=1.

³⁵⁰ U.S. Fish & Wildlife Serv., *Birds of Conservation Concern* (Dec. 2008), available at: http://library.fws.gov/Bird_Publications/BCC2008.pdf; Cal. Dep't of Fish & Game, *California Bird Species of Special Concern, Table 1* (Apr. 2008), available at: http://www.dfg.ca.gov/wildlife/nongame/ssc/docs/Table1_FIN.pdf.

³⁵¹ Cooper Ecological Monitoring, Inc., *Letter, June 12, 2009* (Appendix D.i).

RESPONSE NO. 32-5

The commentor states concerns about parking impacts to businesses in Playa del Rey resulting from designation of lands outside of the Proposed Project site by the State of California. This issue is outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR. Parking impacts resulting from the State's management of the ecological reserve, and any mitigation required for the state's actions, are separate and independent from the Proposed Project. It should be noted, however, that mitigation measures included within Section IV.K.(1), Traffic and Circulation, of the Original DEIR, Section II.15, Corrections and Additions of the Original FEIR would include an Expanded Shuttle System which would provide enhanced transit service to key destinations – such as Playa del Rey – for project residents, visitors, employees, and the surrounding community, and would correspondingly reduce parking demands.

COMMENT NO. 32-6

4. **SEA-LEVEL RISE:** Due to Global Warming and Climate Change, new Sea Level Rise and Inundation maps were recently releases by the State of California. These maps show The Village and other areas to the west of The Village at high risk for inundation due to climate change predictions. Impacts to the surrounding areas, residents, businesses and transportation corridors, as well as the Ecological Reserve, must be analyzed, disclosed and commented on by relevant agencies and the public and considered for mitigation or alternative project potentials. This is significant new information which triggers the requirement for a new EIR.

RESPONSE NO. 32-6

While the commentor states concerns related to the potential risk of sea level rise to impact the Proposed Project, areas to the west of the Proposed Project and surrounding areas, it is not clear to which maps the commentor refers. If the commentor is referring to the sea level rise and inundation maps recently released in a draft report issued by the California Climate Change Center, which is not a state agency, please see Response No. 29-62. The Mestre Greve report cited in that response analyzes the CCC report and the issues of sea level rise with respect to the Proposed Project, and concludes that “the CCC report does not support a conclusion that sea level rise would negatively impact the Proposed Project site, and there is substantial evidence that confirms that no such impact would occur.”³⁵²

³⁵² *Memorandum on Village at Playa Vista – Sea Level Rise, Mestre Greve Associates, July 1, 2009 (Appendix C.i).*

The Proposed Project's potential impacts on Global Climate Change are analyzed in Section II.D of the RS-DEIR. The analysis concludes that the Proposed Project's impacts on Global Climate Change would not be significant, either on a project-specific or cumulative basis. As a result, the Proposed Project will not have a significant impact on sea level rise.

COMMENT NO. 32-7

5. **SURROUNDING DEVELOPMENT:** Numerous other development projects, some not contemplated when Phase 2 was originally conceived and analyzed, have been built or approved since this time. It is crucial that these developments and a comprehensive cumulative impact review be completed and analyzed and then commented on by the public and the appropriate agencies in order for CEQA to be complied with.

RESPONSE NO. 32-7

Cumulative impacts were analyzed in both the RS-DEIR and the Original FEIR. That analysis discussed the cumulative impacts associated with future growth generally by analyzing a list of applicable related projects (up to 96 projects), and it also included an ambient growth factor to account for additional development. For more information see Response No. 7-20. Since the commentor does not identify specific projects or impacts, the commentor has not provided any significant new information regarding cumulative impacts. For additional discussion regarding the cumulative impact discussion in the RS-DEIR, see pages II.A-61, II.B-35-B44, II.C-64-C65, and II.D-63, and for more discussion with respect to cumulative impacts regarding wastewater, see Response No. 29-27.

COMMENT NO. 32-8

We appreciate your attention to these important issues which we think make the recirculated EIR deficient and not in compliance with the California Environmental Quality Act (CEQA.)

RESPONSE NO. 32-8

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of the decision-makers.

COMMENT NO. 32-9

Attachments to Comment Letter No. 32.

RESPONSE NO. 32-9

See Response Nos. 32-1 and 32-4. The full letter and associated attachment can be located at Appendix F to this Final RS-EIR.

COMMENT NO. 32-10

Here is the photo I said I would attach in another email. It is a photo of an American Osprey eating a fish (likely a Striped Mullet) on the Phase 2 Playa Vista proposed project site. The fish would have been caught in the Ballona Creek Estuary, and this area was needed by the Osprey to have its dinner.

RESPONSE NO. 32-10

See Response Nos. 32-1 and 32-4. The full letter and associated attachment can be located at Appendix F to this Final RS-EIR.

LETTER NO. 33

Elizabeth Zamora
President
Del Rey Homeowners and Neighbors Association
Post Office Box 661450
Los Angeles 90066

COMMENT NO. 33-1

Del Rey is the neighborhood directly across Jefferson Blvd. from the Proposed Project, and yet the Proposed Project was reviewed in connection with the Westchester/Playa del Rey Community Plan. The Proposed Project should have been considered in light of the Palms/Mar Vista/Del Rey Community Plan because our area is much more directly affected than the communities on the plateau above the Proposed Project. People living and working in The Village will have to drive through Del Rey to get to the 405 and 90 freeway onramps and to reach the stores in Del Rey, Culver City, Marina del Rey and Westchester/Playa del Rey. The revised environmental impact report (R-EIR) wrongly concludes that the Proposed Project would not have a significant impact on land use compatibility. It would most definitely "disrupt, divide or isolate" our existing community.

RESPONSE NO. 33-1

Consistent with the State CEQA Guidelines and the City of Los Angeles CEQA Thresholds Guide, the RS-DEIR evaluates the Proposed Project's consistency with the Westchester/Playa del Rey Community Plan because the Proposed Project site is located within the boundaries of that Community Plan.³⁵³ The Proposed Project site is not located within the boundaries of the Palms/Mar Vista/Del Rey Community Plan, and, therefore, the Palms/Mar Vista/Del Rey Community Plan does not govern the development of the Proposed Project.

Further, the Proposed Project would not physically "disrupt, divide or isolate" the Del Rey (or any other) neighborhood. The RS-DEIR fully analyzed the Proposed Project's compatibility with the neighborhoods surrounding the Proposed Project site as well as the larger region, and determined that the Proposed Project would not disrupt, divide, or isolate existing developments to the north or alter the general character of the adjacent development.³⁵⁴ In particular, it should be noted that the existing office, commercial, and apartment uses along Jefferson Boulevard would serve as a buffer separating the Proposed Project site from the adjacent neighborhoods, including the light industrial and

³⁵³ See RS-DEIR, pp. II.A-23–II.A-24; L.A. CEQA Thresholds Guide, Section H.2., p. H.1-2.

³⁵⁴ See RS-DEIR, pp. II.A-52, II.A-54.

residential neighborhoods in Del Rey to the north of the Proposed Project site.³⁵⁵ Accordingly, the RS-DEIR concluded that the Proposed Project would not cause a significant impact on land use compatibility.³⁵⁶

To the extent that the commentator suggests concerns that the Proposed Project's traffic impacts would "disrupt, divide, or isolate" the Del Rey Community, a detailed analysis of the Proposed Project's traffic impacts was included in Section IV.K.(1), Traffic and Circulation, of the Original DEIR, Section II.15, Corrections and Additions of the Original FEIR, and Topical Responses TR-1 through TR-10 of the Original FEIR. As explained in the Original FEIR, all potentially significant traffic impacts associated with the Proposed Project, including those in Del Rey, would be mitigated to a less-than-significant level.³⁵⁷

COMMENT NO. 33-2

The R-EIR, page I-3, states that the Specific Plan for The Village was originally adopted back in 1986. On September 13, 2007, the appellate court correctly pointed out that if the Proposed Project were allowed, Playa Vista would be able to add the following development that was not contemplated by the Specific Plan:

- 66,950 sq. ft. of office and light industrial
- 2600 dwelling units
- 150,000 sq. ft. of retail
- 40,000 sq. ft. of community serving uses.

Under the Specific Plan, The Village should only be entitled to build 108,050 square feet of office and light industrial space.¹ That would be in addition to the four large office buildings, the Clippers training center and other buildings currently under construction in Phase III of the Playa Vista property.

¹ *To provide some perspective, the current redevelopment of the nearby Fox Hills Mall includes the addition of a 156,000 square foot Target anchor store.*

RESPONSE NO. 33-2

The comment correctly notes that under the existing Area D Specific Plan, entitlements remain for only 108,050 square feet of office and light industrial uses within

³⁵⁵ See RS-DEIR, pp. II.A-34, II.A-54.

³⁵⁶ See RS-DEIR, p. II.A-54; see also RS-DEIR, p. II.A-24, fn. 22 (concerning secondary impacts).

³⁵⁷ Original DEIR, pp. 929-930, and 932; Original FEIR, pp. 113-115; RS-DEIR, p. II.A-24.

the M(PV) zone. Development of what the commentor refers to as “Phase III” is a separate project that is not part of the Proposed Project analyzed in the RS-DEIR. Rather, what the commentor calls “Phase III” is known as the “Campus at Playa Vista” and is the eastern portion of the Playa Vista First Phase project. The impacts and mitigation measures associated with the adjacent First Phase Project were addressed in a separate EIR (EIR No. 90-0200-SUB(C)(CUZ)(CUB), State Clearinghouse No. 90010510), certified by the City of Los Angeles in September 1993, and Mitigated Negative Declaration/Addendum to the EIR, certified by the City of Los Angeles in December 1995. In addition, the entire Playa Vista First Phase project, including the development referenced in the comment, was accounted for in the cumulative impact analyses in the Original FEIR and RS-DEIR.³⁵⁸

COMMENT NO. 33-3

Before any of Playa Vista had been built (early 1990s), there were no signal lights on Jefferson Boulevard between Lincoln Boulevard and Inglewood Boulevard (1.6 miles); now there are seven. There are now 10 traffic signals in the two miles of Jefferson Blvd. between Lincoln Blvd. and the 405 freeway onramp, and at least one additional signal at Grosvenor Blvd. is anticipated. There is no reason to allow additional development outside the scope of the original Specific Plan. It flies in the face of reason for the R-EIR to conclude that development of the Proposed Project "is not anticipated to alter the general land use patterns and relationships in the Proposed Project vicinity." (R-EIR 1-21)

RESPONSE NO. 33-3

As fully analyzed in the RS-DEIR, the area surrounding the site of the Proposed Project is largely developed. The broader West Los Angeles region is predominantly developed and the basic land use character and distribution patterns are largely established. In particular, existing development along Jefferson Boulevard includes a range of commercial, office, and multi-family residential uses in low and mid-rise buildings. The Proposed Project has been designed to fit in with that existing developed setting, including the Playa Vista First Phase development, which includes surrounding residential and commercial uses ranging up to six stories in height.

COMMENT NO. 33-4

Furthermore, the Court of Appeal correctly pointed out that if The Village were only developed to the extent contemplated by the Specific Plan, there would be office space on Jefferson Blvd. and undeveloped land, instead of residences, below the Westchester Bluffs. That land could be used to help the City of Los Angeles to implement its Standard Urban Storm Water Mitigation Plan for the Ballona Watershed in compliance with State Water Resources Control Board Order WQ 2000-11. Not only that, but if the City were to

³⁵⁸ See *Original DEIR*, p. 195; *RS-DEIR*, pp. II.A-61, II.B-35 – II.B-44, II.C-64 - II.C-65, and II.D-63.

be given an easement over the property, the land could be used to help create the hoped-for Green Corridor from the Baldwin Hills to Santa Monica Bay.² For the City of Los Angeles as a whole, that would be a far better land use than the generation of additional wastewater from residences and businesses.

-
2. *It should be noted that the R-EIR contains contradictory statements as to total amounts of acreage in the Proposed Project (99.3 acres or 111.0 acres) and how much parkland/open space will be included in the Proposed Project (11.7(11.4 + 0.4=11.8 acres), or 17 acres) (p. I-18).*

RESPONSE NO. 33-4

The commentor states a suggestion regarding a potential alternative to the Proposed Project. That matter is outside the scope of the RS-DEIR. Please refer to Sections 1.B. and 1.C of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" warranting a revised alternatives analysis within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5. The alternatives analysis contained in Section VII of the Original DEIR and Section II.33 of the Original FEIR included analyses of several alternative uses. In particular, Alternative 2 analyzed in the Original FEIR included development in accordance with the existing entitlements on the Proposed Project site, including the development of office uses along Jefferson Boulevard. Please see Response Nos. 25-3, 29-64 through 29-74, and 59-9 for a further discussion regarding the Original FEIR's analysis of project alternatives.

As to footnote 2 of the comment, the RS-DEIR's calculation of the total acreage in the Proposed Project and its components is consistent and accurate. As shown in Table II.A-2 of the RS-DEIR, the total project area is 111.0 acres, consisting of the 99.3-acre Urban Development Component and the 11.7-acre Habitat Creation/Restoration Component.³⁵⁹ The 99.3-acre Urban Development Component includes 87.5 acres of urban development, 11.4 acres of parks, and 0.4 acres of passive open space.³⁶⁰ As discussed in footnote c of that Table, the passive open space is located along the south side of Bluff Creek Drive, just to the north of the Habitat Creation/Restoration Component; it

³⁵⁹ RS-DEIR, p. II.A-25.

³⁶⁰ *Id.*

is neither included in the parks acreage, nor the habitat acreage.³⁶¹ The 11.7-acre Habitat Creation/Restoration Component consists of the 6.7-acre Riparian Corridor and 5.0 acres of bluff restoration.³⁶²

COMMENT NO. 33-5

The City of Los Angeles should refuse to adopt the R-EIR and limit development of The Village to the terms of the 1986 Specific Plan.

RESPONSE NO. 33-5

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

³⁶¹ *Id.*

³⁶² *Id.*

LETTER NO. 34

Otella Wruck
Friends of Ballona Wetlands
7740 Manchester Ave., Suite 210
Playa del Rey, CA 90293

COMMENT NO. 34-1

The Friends of Ballona Wetlands (FBW) is a non-profit 501(c)(3) membership organization with more than 6,000 individuals participating in our education and restoration programs each year. We represent the single largest group of stakeholders involved in the Ballona Wetlands Restoration Project. FBW has been dedicated to protecting and restoring the Ballona Wetlands for over 30 years with the help of more than 60,000 volunteers. Our mission is to champion the restoration and protection of the Ballona Wetlands. As part of this mission we were instrumental in protecting the Ballona Wetlands from development through designation of the Wetlands as a State Ecological Reserve. We also negotiated with Playa Vista to establish the Freshwater Wetlands system, which consists of the Riparian Corridor and Freshwater Marsh.

Our comments on the Recirculated DEIR (RS-DEIR) are confined to issues pertaining to the Freshwater Wetlands. As discussed in Section II.C (Archaeology) of the RS-DEIR, the Riparian Corridor component of the Freshwater Wetlands has already been completed in its entirety, including the Village section. FBW understands that archaeological resources were encountered during construction of the Corridor, and that these resources were evaluated and treated respectfully under all applicable federal, state, and local regulations. However, a lawsuit by Playa Vista opponents challenging adequacy of the original DEIR for The Village ultimately reached the California Court of Appeals, and at the direction of the Court, led to a narrow set of issues to be re-evaluated in the form of the RS-DEIR.

One of the issues to be addressed in the RS-DEIR was whether a full range of options for preserving the archaeological resources in place had been adequately evaluated. The Archaeology section of the RS-DEIR, and supporting biological analysis of the Corridor by Psomas contained in Appendix D.iv, attempts to address this deficiency by discussing four options, all of which would impact the Corridor as it exists today. These options range from moving the Village section of the Corridor to the north, away from the bluff, to enclosing part of all of the Village section of the Corridor within a concrete box culvert. The RS-DEIR points out that all of these options would have exacerbated impacts of runoff from the bluffs on archaeological resources adjacent to the Corridor. In brief, the RS-DEIR analysis indicates that under watershed conditions as they exist today, options for moving or re-configuring the Village section of the Corridor would have significant biological impacts with no benefit to archaeological resources. We concur with the overall conclusions of the RS-DEIR analysis; i.e. regardless of its artificial construction, the biological functions and values of the Corridor are significant. We would like to see opportunities for managing the

riparian corridor as a daylighted stream rather than as purely a flood control conveyance addressed by the City. We would also like to see that the final requirements not preclude future opportunities to construct a walking bridge over the riparian corridor. In conclusion, we therefore see no benefit to re-locating the Corridor or disturbing the thriving bird community associated with it. Furthermore, we believe this section of the RS-DEIR complies with the requirements of CEQA and the direction of the Court, and should be approved by the City.

Thank you for your consideration of these comments.

RESPONSE NO. 34-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 35

Ron Bottorff
Chairman
Friends of the Santa Clara River
660 Randy Drive
Newbury Park, California 91320-3036

COMMENT NO. 35-1

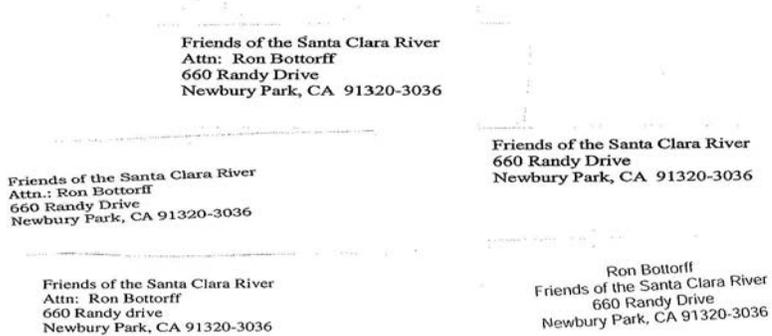
YOU MAY REMOVE OUR ORGANIZATION FROM YOUR MAILING LIST FOR THE PLAYA VISTA PROJECT. I RECENTLY RECEIVED 5 COPIES OF THE NOTICE OF COMPLETION OF THE DRAFT EIR.

BELOW, FOR YOUR ASSISTANCE, ARE THE 5 LABELS.

RESPONSE NO. 35-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. For a discussion on the re-noticing of the availability of the RS-DEIR for public review and comment, please see Section I.D. of this Final RS-EIR.

COMMENT NO. 35-2



RESPONSE NO. 35-2

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. For a discussion on the re-noticing of the availability of the RS-DEIR for public review and comment, please see Section I.D. of this Final RS-EIR.

LETTER NO. 36

Zina Josephs, President
Kathy Knight, Past President
Friends of Sunset Park
P.O. Box 5823
Santa Monica, CA 90409

COMMENT NO. 36-1

The Board of Directors of Friends of Sunset Park, a city-recognized neighborhood organization in Santa Monica, has the following comments on the Playa Vista Phase 2 RS-DEIR:

Issue - **ENVIRONMENTAL CONCERNS:**

1. The situation with our oceans continues to deteriorate, and we have only 5% of our coastal wetland ecosystems left in California. We think that a better alternative is to save this part of the Ballona ecosystem as open space. It could be restored for the Pacific Flyway migratory birds and other wetland wildlife. It could also be used as open space for Playa Vista residents and others in the community.
2. Alternative use of this land should be explored. For example, Ballona Creek is the worst polluter of Santa Monica Bay. The acquisition of this land for an urban runoff treatment area should be explored. A Native Plant Garden would be another possibility. Also, limited development, such as a grocery store for Playa Vista residents, could be built along Jefferson Blvd., with the rest left as open space. This alternative would greatly reduce the traffic impacts on Sunset Park.

RESPONSE NO. 36-1

The commentor offers no “significant new information” with respect to potential traffic impacts or alternatives within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5. A detailed analysis of alternative uses of the Proposed Project site, including a habitat restoration alternative, were considered in Section VII, Alternatives, of the Original DEIR and Section II.33, Corrections and Additions of the Original FEIR. For further information regarding the alternative use of the Proposed Project site, refer to Response Nos. 25-3, 29-65 through 29-75, and 59-9. A detailed analysis of the Proposed Project’s traffic impacts was included in Section IV.K.(1), Traffic and Circulation, of the Original DEIR, Section II.15, Corrections and Additions of the Original FEIR, and Topical Responses TR-1 through TR-10 of the Original FEIR. For further discussion regarding potential traffic impacts associated with the Proposed Project, see Response Nos. 7-14 through 7-20.

Further, as discussed on pages II.A-20 through II.A-23 of the RS-DEIR, the Proposed Project is not located on “the last remaining section of open coastal land.” Rather, it is located approximately two miles inland from the Santa Monica Bay, and is not included within the Coastal Zone. It is surrounded by existing development to the north, west, and south, and the land to the east of the Proposed Project is approved for office and commercial uses and is currently under construction.

COMMENT NO. 36-2

Issue - TRAFFIC

1. It appears that the large up-zoning in this parcel of land from agricultural/industrial to high density residential/retail/commercial will greatly increase the traffic impact on Sunset Park and the Westside. It will double the number of intersections at gridlock (from 4 to 8). This will put a great pressure on traffic to cut through residential streets, thereby endangering the lives of residents, their families, and their pets.
2. It appears that collector streets, which are only to be used for local neighborhood traffic are being used to handle Playa Vista traffic, so that the main intersections can show less impact from the Playa Vista traffic. This is a violation of LA City General and Community Plan policies.

RESPONSE NO. 36-2

The commentor states concerns about impacts associated with traffic for the Proposed Project. Those matters are outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City’s obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to “significant new information.”

The commentor offers no “significant new information” with respect to potential traffic impacts within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5. A detailed analysis of the Proposed Project’s traffic impacts was included in Section IV.K.(1), Traffic and Circulation, of the Original DEIR, Section II.15, Corrections and Additions of the Original FEIR, and Topical Responses TR-1 through TR-10 of the Original FEIR. For further discussion regarding potential traffic impacts associated with the Proposed Project, see Response Nos. 7-14 through 7-20.

COMMENT NO. 36-3Issue - **AIR TRAFFIC**

1. Private or Chartered Airplane Traffic: The types of businesses that Playa Vista developers are seeking (such as the entertainment industry) are more likely to fly in private/ chartered jets rather than using commercial airlines. Since LAX is discouraging corporate/private jets from using LAX so that they can increase runway space for the larger commercial jets, it appears that the building of Playa Vista (both Phase 1 and Phase 2) will increase jet traffic at Santa Monica Airport.
2. What is the estimated increase of jet travel at Santa Monica Airport from Playa Vista Phases I & II, separately and combined? Further, what will the impacts be on noise and air quality for Santa Monica? (It should be noted that the City of Santa Monica and a neighborhood organization, Friends of Sunset Park, requested such a study in 1995 but, even at this late date, one has not been conducted.)
3. Have there been any studies of the impacts of private or chartered airplane traffic upon Santa Monica or its neighborhoods? If yes, what were the findings and recommended mitigations. If not studied, why not?
4. Helicopter Traffic: What is the estimated impact on number of flights, noise and air pollution on Santa Monica from the 2 grand-fathered helicopter pads (i.e., unlimited flights allowed) at Playa Vista?

Thank you for consideration of these important issues.

RESPONSE NO. 36-3

The commentor states concerns about impacts associated with air traffic for the Proposed Project which are identical to those comments made by the commentor on the Original DEIR. Those matters are outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

By definition this comment does not offer any "significant new information" with respect to potential air traffic impacts within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5 because this comment is identical to the commentor's comment on the Original DEIR. See Original FEIR Response Nos. 22-45, 22-46, and 34-7.

COMMENT NO. 36-4

P.S. We incorporate by reference our original comment letter of December 2003 and the City's comments to it.

RESPONSE NO. 36-4

Comment is noted and will be incorporated into the RS-FEIR for review and consideration of the decision-makers. All comments on the Original DEIR and responses to those comments are included in the Original FEIR. The entire Original FEIR (except for those sections superseded by the RS-DEIR, see RS-DEIR Executive Summary I.A. and Final RS-EIR Section I.E.) will be incorporated into the Complete FEIR which will be presented to the City Council as part of its consideration of the Proposed Project. See Sections I.A. and I.B. for more information regarding the contents of the Final RS-EIR and the Complete FEIR.

LETTER NO. 37

Sam Dunlap – Tribal Secretary
Gabrielino Tongva Nation
Post Office Box 86908
Los Angeles, CA 90086

COMMENT NO. 37-1

This letter is in response to your request for public comment regarding the proposed Village at Playa Vista project. Since the proposed project area is within the traditional tribal territory of the Gabrielino Tongva Nation, it is my responsibility to respond with the concern that the project as described may have the potential to create an adverse impact to the cultural resources of our tribe.

RESPONSE NO. 37-1

The commentor's reference to the potential for archaeological resources to be found at the Proposed Project site is noted and will be incorporated into the Final RS-EIR for review and consideration of the decision-makers. Impacts to archaeological resources associated with the Proposed Project were extensively analyzed in Section II.C. of the RS-DEIR.

COMMENT NO. 37-2

The proposed project area has shown that significant archaeological deposits and Native American burials are present.

RESPONSE NO. 37-2

As discussed in the RS-DEIR, archaeological resources were expected to be found, and were found, in portions of the Proposed Project site which include CA-LAN-62 Locus D and CA-LAN-211/H. Parts of both archaeological sites are intact, while other portions had been disturbed by the Hughes Aircraft Company's development of the 1940's and related industrial uses thereafter. As explained in the RS-DEIR, the Proposed Project's professional archaeologists, Statistical Research Inc., undertook data recovery work in the Proposed Project site consistent with the Programmatic Agreement and the relevant Archaeological Treatment Plans in the fall of 2005. The archaeological deposit at CA-LAN-62 Locus D was very sparse in the Proposed Project area, and consisted of three features – one refuse pit and two areas of artifact concentration. No human burial features or instances of isolated human remains were found at CA-LAN-62 Locus D. The archaeological deposit at CA-LAN-211/H was found to contain three human burial features, along with some isolated human remains (which may be related to the burials). The burial

features and human remains found at CA-LAN-211/H were scattered (unlike the burials found in the far western portion of the Playa Vista First Phase Project site that were concentrated in a relatively compact burial area).³⁶³ The overwhelming majority of archaeological features found at CA-LAN-211/H (47 of 50 total features) were non-burial features, containing hearths, fire affected rock, and artifacts such as shell, animal bone and stone tools. Portions of CA-LAN-62 Locus D and CA-LAN-211/H were left intact after the data recovery and Riparian Corridor construction in the Proposed Project area, and are expected to remain undisturbed if the Proposed Project is built out as proposed in the RS-DEIR and the Riparian Corridor is not relocated.

COMMENT NO. 37-3

Let us pray that **non-Indian influences** that have pushed their agenda upon this project through **threat of future litigation** will not impede the progress of returning **all of our ancestors** to mother earth.

RESPONSE NO. 37-3

The Archaeological Treatment Plan for CA-LAN-211/H (where the small number of human remains found in the Proposed Project area were located) provides that if human remains are discovered, the Gabrielino-Tongva Most Likely Descendant (MLD) appointed by the Native American Heritage Commission will be contacted and the human remains and associated grave goods will be handled in accordance with California Health and Safety Code Section 7050.5 and California Public Resources Code Section 5097.98. Please refer to RS-DEIR Technical Appendix D.viii, pages 272-79, for the ATP. The MLD designated by the NAHC, Mr. Robert Dorame, has provided guidelines regarding handling of human remains (see RS-DEIR Technical Appendix D.xi, D.xii, and Final RS-EIR Technical Appendix B.i), and Mr. Dorame has been integrally involved in the effort to reinter the human remains excavated at Playa Vista.

Working with Mr. Dorame, the NAHC, Los Angeles City Councilman Bill Rosendahl, and Proposed Project archaeologists Statistical Research, Inc., the Applicant established a Native American reinterment area at the Ballona Discovery Center site, a 1.7-acre site in the western portion of the Playa Vista First Phase Project located immediately adjacent to the Riparian Corridor. The MLD has requested that all Native American human remains found anywhere at Playa Vista, including those found in the Proposed Project area, be reinterred at the Ballona Discovery Center reinterment area, which has been designed to

³⁶³ *Comments Relating to Analysis of Archaeological Impacts in the Recirculated Sections of Draft Environmental Impact Report (RS-DEIR) for the Village at Playa Vista Project (Proposed Project), Statistical Research, Inc., July 16, 2009 (Appendix B.i).*

protect the archaeological resources.³⁶⁴ The Ballona Discovery Center is planned as a “museum without walls” that will focus on the natural and cultural history of the Ballona wetlands and its native peoples. In addition to the reinterment area, the Ballona Discovery Center will also include an open air gathering place for outdoor performances and educational programs, a “watershed walk” with interpretive elements illustrating the path water travels through the water cycle, and other elements representing and honoring Gabrielino-Tongva culture and links to the natural environment.³⁶⁵

Reinterment of all human remains, other than the small number found in the Proposed Project site, was completed at the Ballona Discovery Center in December 2008, culminating with a reinterment ceremonial day in which numerous Gabrielino-Tongva tribal groups, including members from the commenter’s tribal group, as well as City Councilman Rosendahl and other interested individuals participated.³⁶⁶ In accordance with the MLD’s stated preference, that reinterment area was constructed with a feature that would permit the human remains found at the Proposed Project site to be reinterred in the same area as the Playa Vista First Phase human remains without disturbing the First Phase Project reinterments.

It is unclear what the commentor is referencing with respect to the “threat of future litigation.” The City is aware that counsel for petitioners Ballona Wetlands Land Trust, the Surfrider Foundation and Anthony Morales in the *City of Santa Monica v. City of Los Angeles* case opposed the inclusion of the human remains found in the Proposed Project in the 2008 reinterment. The human remains found at the Proposed Project site were not reinterred in December 2008, and remain in secure storage at Playa Vista.

COMMENT NO. 37-4

I recommend that an archaeological and Native American monitoring component be a necessary mitigation measure during any additional construction phases of the proposed project. I also request that consideration be given that the Native American monitors be selected from the Gabrielino Tongva Nation.

³⁶⁴ *The design of the reinterment area is described in further detail in Appendix B.iii, Comments Relating to Analysis of Archaeological Impacts in the Recirculated Sections of Draft Environmental Impact Report (RS-DEIR) for the Village at Playa Village Project (Proposed Project), Statistical Research, Inc., July 16, 2009, of this Final RS-EIR.*

³⁶⁵ *Id.*

³⁶⁶ *See Walker, Gary, “Native American reburial ceremony at Playa Vista,” The Argonaut, December 11, 2008, available at: http://www.argonautnewspaper.com/articles/2008/12/11/news_-_features/top_stories/1pv.txt*

RESPONSE NO. 37-4

The Mitigation Measures proposed in the RS-DEIR do include archaeological and Native American monitoring components. Please refer to Response No. 12-4. Please note that the City does not select or hire the Native American monitors (the Applicant does) and the City does not require that the Gabrielino Native American monitors be from a particular tribal group. The City understands from the Applicant that it has utilized a rotation of monitors from various Gabrielino-Tongva groups at the Proposed Project site and for the First Phase Project.

COMMENT NO. 37-5

I look forward to corresponding with you on cultural resource issues and matters of environmental compliance. Please include me on all future notifications regarding this project.

RESPONSE NO. 37-5

Mr. Dunlap and the Gabrielino-Tongva Nation are included on the mailing list for communications concerning the Proposed Project.

LETTER NO. 38

Felicia Sheerman, Tribal Councilwoman
Gabrielino-Tongva Tribe
501 Santa Monica Blvd., Ste. 500
Santa Monica, CA 90401-2490

COMMENT NO. 38-1

The above referenced project is in a highly sensitive cultural area and the project can have potentially significant impacts to archaeological resources, paleontological resources and burial sites.

RESPONSE NO. 38-1

The commentor's reference to the potential for archaeological resources and burial sites to be found at the Proposed Project site is noted and will be incorporated into the Final RS-EIR for review and consideration of the decision-makers. Impacts to such resources were extensively analyzed in Section II.C. of the RS-DEIR.

The commentor also states a concern about paleontological resources. That matter is outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" with respect to paleontological resources within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5. A detailed analysis of the Proposed Project's paleontological impacts was included in Section IV.P.(1), Paleontological Resources, of the Original DEIR.

COMMENT NO. 38-2

Due to the fact it is our concern that the City of Los Angeles appoints Native American Monitors from the largest faction of the Tribe to represent this project.

We are the largest faction of the Gabrielino-Tongva Tribe, with over 85% of descendants of the historic Gabrielino Tribe. We have approximately 1,600 members and the next largest faction has less than 150 members. A membership Table is enclosed to help guide you through the various factions of the Tribe.

We strongly recommend the City of Los Angeles hire Native American monitors approved by our faction. The contact information for the six approved six monitors is enclosed. Their work is arranged through our administrative headquarters which is staffed fulltime.

RESPONSE NO. 38-2

The mitigation monitoring proposed in the RS-DEIR do include archaeological and Native American monitoring components. The City does not select or hire the Native American monitors that monitor the subsurface archaeological excavations at Playa Vista (the Applicant does), and the City does not require that the Gabrielino-Tongva Native American monitors be from a particular tribal group. Please refer to Response No. 37-4 and Response No. 12-4 for additional information regarding Native American monitors.

COMMENT NO. 38-3

The Tribe has had continuing problems in the past with Native American monitors that are not approved by the Tribe, including Anthony Morales, San Dunlap & Robert Dorame. Native American Monitoring projects under the supervision of monitors not approved by our Tribe have been delayed, have caused controversy, and have lead to difficult inter- and intra-tribal relationships. In particular, the above stated individuals and other Most Likely Descendants misrepresent our Tribe by failing to consult with our Tribe on sensitive archaeological finds and reburial issues. These controversies have been extremely painful for our elders who were not invited to participate in reburials for our ancestors.

RESPONSE NO. 38-3

The City is aware that there are numerous groups within the Gabrielino-Tongva community with a diversity of views. With respect to the selection of Native American monitors (which are not selected by the City) please refer to Response No. 38–2. With respect to the Most Likely Descendant (MLD), the California Native American Heritage Commission (NAHC), not the City, is responsible for appointing the MLD pursuant to the California Public Resources Code. Under California Public Resources Code Section 5097.98, the MLD may, with the landowners' permission, inspect the site of a discovery of Native American human remains and make recommendations to the landowner for the treatment or disposition with appropriate dignity of the human remains and any associated grave goods. The NAHC has appointed Mr. Robert Dorame to serve as the MLD for the entire Playa Vista development, including the Proposed Project, and Mr. Dorame has been serving in that capacity since the first human remains were found at Playa Vista in 2000.

In accordance with state law, Mr. Dorame and representatives from the Applicant, the NAHC and the Proposed Project archaeologists (Statistical Research, Inc.) worked together to achieve the reinterment of the Native American human remains and associated

grave goods found in the Playa Vista First Phase Project, which was completed in December 2008. A reinterment ceremonial day was held on December 13, 2008 in which the various groups of Gabrielino-Tongva, including the group to which the commentor belongs, were invited to participate.

COMMENT NO. 38-4

Please also see the attached most updated NA Contact List from the Native American Heritage Commission. We're requesting the City of Newport Beach in making the ethical choice in selecting a Native American Monitor/MLD for your project.

RESPONSE NO. 38-4

The Native American contact list attached to the commentor's letter states on its face that it is "only applicable ... for the proposed Telecommunications Facility Project No. IE25736-A located in the City of Walnut, Los Angeles County, California." The project noted on the contact list attached to the comment letter is not the Proposed Project. A contact list for the Proposed Project was sent to the City by the NAHC with a letter dated February 13, 2009. Refer to Comment Letter No. 12, Attachment. The City notified persons on that list of the completion and availability of the RS-DEIR, and will add the commenter to future notices.

Please refer to Response Nos. 38-2 and 38-3 above regarding the selection of the MLD and Native American monitors.

COMMENT NO. 38-5

Attachment to Comment Letter No. 38.

RESPONSE NO. 38-5

The full letter and associated attachment can be located at Appendix F to this Final RS-EIR.

COMMENT NO. 38-6

The attachment is a list of, and contact information for, Native American Monitors and the Most Likely Descendant affiliated with the Gabrieleno-Tongva Tribe.

RESPONSE NO. 38-6

See Response Nos. 38-3 and 38-4, above. The full letter and associated attachment can be located at Appendix F to this Final RS-EIR.

COMMENT NO. 38-7

Attachment to Comment Letter No. 38.

RESPONSE NO. 38-7

See Response No. 38-4 above. The full letter and associated attachment can be located at Appendix F to this Final RS-EIR.

LETTER NO. 39

Chief Red Blood Anthony Morales
Tribal Chief & Chairman
Gabrieleno/Tongva San Gabriel Band of Mission Indians
P.O. Box 693
San Gabriel, CA 91778-0693

COMMENT NO. 39-1

My name is Anthony Morales, Tribal Chief and Chairman of the Gabrieleno/Tongva San Gabriel Band of Mission Indians. We are the descendants of the ancestry that founded Los Angeles and the ancestors of the Village of Sa'angna-Playa Vista.

The ancestors that were uncovered in Phase II need to be reburied in their original place so they can continue their eternal rest. We are the voices of our ancestors. No archaeological or scientific theory can dictate our culture to us. It is very significant that this request be honored by the developer because it is very sacred, spiritual and cultural.

RESPONSE NO. 39-1

The commentor's introductory remarks are noted. While the City welcomes the comments from Mr. Morales, the City notes for clarification purposes that the Native American Heritage Commission designated Mr. Robert Dorame the Most Likely Descendant (MLD) of the Gabrielino-Tongva for the entire Playa Vista development, including the Proposed Project. In accordance with California Public Resources Code Section 5097.98, the MLD has provided guidelines and made recommendations concerning the handling of the Native American human remains excavated at the Proposed Project site. Those recommendations include reintering all Native American human remains found anywhere at Playa Vista, including those found in the Proposed Project area, at the Ballona Discovery Center site adjacent to the Riparian Corridor in the western portion of the Playa Vista First Phase Project.

While all human remains from the First Phase Project have been reinterred at the Ballona Discovery Center, the small number of remains found at the Proposed Project site have not yet been reinterred. For more information on this issue, refer to Response No. 37-3.

COMMENT NO. 39-2

The developer claims that the Riparian Corridor in this proposed area where the ancestors were uncovered would have drastic impacts if altered. This is just an excuse because in the theory of hydrology water follows its own course. The developer caused all this destruction in Phase II by racing against the clock while the court case was pending.

RESPONSE NO. 39-2

With regard to the archaeological resources discovered at the Proposed Project site and the feasibility of preserving in place or restoring those resources to their original locations, the RS-DEIR, Section II.C, examines four design options in detail (and six design options total) for relocating the Riparian Corridor in the Proposed Project area and restoring the archaeological resources, which were removed during construction of the Riparian Corridor, to their original location. That analysis includes a discussion of the potential impacts of the four options. Additional information on this issue is provided in Response Nos. 29-7 through 29-13.

With respect to the construction of the Riparian Corridor, the Applicant performed that work only after all necessary government approvals and permits were issued. Additional information on this issue is provided in Response No. 29-7.

COMMENT NO. 39-3

As for the Programmatic Agreement, we claim that it was illegally extended from 2001 to 2011 because it required consultation and the signatures of the concurring parties of which we are, and we never agreed or signed any agreement.

RESPONSE NO. 39-3

In 2001, the Programmatic Agreement was extended until 2011. When the extension was being considered, the U.S. Army Corps of Engineers notified five Gabrielino-Tongva groups, including the Gabrielino-Tongva Tribal Council (Chief Anthony Morales), of the proposed extension. Only one Gabrielino-Tongva group replied (the Gabrielino-Tongva Indians of California). No objections to the extension were received, and the Programmatic Agreement was extended to October 22, 2011.

Although the Army Corps sought input from the Gabrielino-Tongva organizations and did not receive any objections to the extension, it should be noted that participation and consent from Gabrielino-Tongva organizations was not required to extend the Programmatic Agreement. The sole parties to the Programmatic Agreement are the Army Corps, the California State Historic Preservation Officer, and the Advisory Council on

Historic Preservation. Those parties all participated in the consultation to extend the Programmatic Agreement. Please also refer to Response No. 12-8.

Finally, Mr. Morales's view on the legality of the Programmatic Agreement's extension was raised by petitioners, including Mr. Morales, in the *City of Santa Monica, et al. v. City of Los Angeles, et al.* case, and the City's recognition of the Programmatic Agreement extension was upheld in that litigation.³⁶⁷

³⁶⁷ *Superior Court Opinion, consolidated cases of City of Santa Monica v. City of Los Angeles (BS093502) and Ballona Ecosystem Education Project v. City of Los Angeles (BS093507) (January 10, 2006), p. 36.*

LETTER NO. 40

Patricia McPherson
President
Grassroots Coalition
11934 W. Washington Blvd., Suite 101
Los Angeles, CA 90066

COMMENT NO. 40-1

CEQA, at its very heart, is an informational process. One of the basic purposes of CEQA is to "Inform governmental decisionmakers and the public about the potential significant environmental effects of proposed activities," (Guidelines 15002(a)(1).) One of the goals of an environmental impact report (EIR) is to "demonstrate to an apprehensive citizenry that the agency has in fact analyzed and considered the ecological implications of its action." (No Oil v. Los Angeles (1974) 13 Cal. 3d 68, 86.) Thus, "(CEQA) must be open to the public, premised upon a full and meaningful disclosure of the scope, purposes, and effect of a consistently described project." (County of Inyo v. City of L.A. (1984) 160 Cal. App. 3d 1178, 1185.)

In keeping with the informational nature of CEQA, the Public Resources Code mandates:

Information relevant to the significant effects of a project, alternatives, and mitigation measures which substantially reduce the effects shall be made available as soon as possible by lead agencies, other public agencies, and interested persons and organizations. (Pub. Res. Code 21003.l(b).)

CEQA cannot accomplish its purpose if either the process or final document fails to disclose relevant information regarding significant impacts. In keeping with the informational purpose of CEQA, the Public Resources Code states that noncompliance with the informational disclosure provisions of CEQA may constitute a prejudicial abuse of discretion, regardless of whether noncompliance would have changed the lead agency's decision.

(N)oncompliance with the information disclosure provisions of this division which precludes relevant information from being presented to the public agency, or noncompliance with substantive requirements of this division, may constitute a prejudicial abuse of discretion within the meaning of Sections 21168 and 21168.5, regardless of whether a different outcome would have resulted if the public agency had complied with those provisions. (Pub. Res. Code 21005)

It is the belief of Grassroots Coalition that throughout the City of Los Angeles' (City) oversight, of the Playa Vista "EIR"(s) (roughly 20 years) and so-called environmental

studies, there has been a predominate pattern of prejudicial abuse of its discretion. This abuse of discretion has occurred through the City's deliberate and calculated failure to disclose relevant data and information; failure to seek out and/or gather relevant information -thus hiding behind its failure to investigate and disclose; failure to abide by its own codes and legitimate procedures; failure to implement and abide by CEQ A and State laws and; failure to provide accountability for its actions. The following queries, comments and evidentiary exhibits are provided to demonstrate this prejudicial abuse of discretion and failure to act in good faith under CEQA and other legal violations in the State of California.

RESPONSE NO. 40-1

The comment is noted and will be incorporated into the Final RS-EIR for the review and consideration of the decision-makers. This comment also serves as an introduction. More detailed discussion follows in the comments and responses below.

COMMENT NO. 40-2

Playa Vista Phase 2 environmental issues are inextricably linked to the environmental issues of Playa Vista Phase 1

The Phase 2 EIR relies heavily, if not entirely, upon "approvals" for environmental issues and mitigation measures applied to Phase I (EIR and environmental studies). Within Phase I approvals and ongoing litigation lies the start of the City's failures to be truthful, candid and forthright; act in good faith; provide full disclosure, provide accountability and; abide by its own codes, regulations and laws.

The following queries, comments and evidentiary exhibits (see listing) apply to Playa Vista Phase 2 directly via the City's application of Phase I environmental mitigation assessments and conclusions used as support for Phase 2 environmental mitigation assessments and conclusions. The exhibits, include new information and provide data support for environmental issues that have not been resolved and/or addressed as required under CEQA that pertain directly to environmental issues of Phase 2 and to Phase 2 via Phase 1 environmental issues and conclusions cited by the City in the Phase 2 EIR.

Because Playa Vista Phase 1 and 2 are inexorably linked, both must be utilized for any meaningful CEQA cumulative analysis of the Playa Vista development site. It is imperative under CEQA for the City to respond to the issues that are provided herein and, for the City to provide, as required under CEQA, the inclusion/ specific citation to, any and all data support for City comments and/or conclusions.

RESPONSE NO. 40-2

The commentor refers to undefined environmental issues concerning the First Phase Project. As a general matter, the First Phase Project and the Proposed Project are separate projects with independent environmental review pursuant to separate Environmental Impact Reports. The Original FEIR analyzes the Proposed Project and includes the First Phase Project as a “related project” under CEQA. Please refer to Sections 1.B. and 1.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City’s obligation to respond to comments outside of the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to “significant new information.”

COMMENT NO. 40-3

Due to the voluminous nature of documents that are already in the possession of the City and City Attorney pertaining to the Playa Vista site, it would be too great a financial burden for GC and/or ETINA to re-supply all of these relevant documents to the City of LA for purposes of response to the Phase 2 Draft EIR.

Therefore, for purposes of a CEQA record for the Phase 2 EIR, Grassroots Coalition herein incorporates by reference, various sets of documents that are in the possession of the City of LA via the City Attorney and City Controller's Office. GC incorporates by reference both the Superior Court and Appellate Court proceedings (record including but not limited to the briefs and transcripts (inclusive of the 2001 CLA Report & Directives and Phase 1 EIR) in ETINA vs City of Los Angeles/Playa Capital LLC as well as any and all documents that are part of the 2007 Chief Legislative Analyst's Report (CLA 2007). The CLA 2007 and ETINA v City of LA et al documents directly pertain to any and all cumulative analysis of oilfield gas mitigation/dewatering (wastewater issues) of Phase 1 and 2 and, provide Department of Sanitation documents specifically pertaining to Phase 2 and Phase 1 both independently and cumulatively for proper CEQA disclosure and evaluation. GC also incorporates by reference the full City Controller's 2005 Performance Audit of the Los Angeles Department of Building and Safety (LADBS); 2007 Audit of the City of LA’s Oversight of the Playa Vista Gas Safety Systems, including any and all LA City Department/LA City Controller letters, memos pertaining to same.

The documents cited for inclusion into a Phase 2 DEIR response record are key data and information that pertain to critical health and safety mitigation feasibility and accountability under CEQA regulations. The data includes wastewater issues as an integral part of the necessary gas mitigation measures of Playa Vista. The Phase 2 EIR fails to include/reference or discuss the documents referenced above. GC herein provides some of the documents referenced above as exhibits within this DEIR Phase 2 response.

RESPONSE NO. 40-3

The documents commentor attached to its comments will be incorporated into the Final RS-EIR. With respect to specific issues raised in subsequent comments related to the documents attached by commentor, please refer to the subsequent comments and responses for the detailed discussion. With respect to documents not attached to the comments, the comment is noted and will be incorporated into the Final RS-EIR for the review and consideration of the decision-makers.

COMMENT NO. 40-4**CURRENT LEGAL ACTION AND PLAYA VISTA PHASE 2**

ETINA v City of Los Angeles/ Playa Capital LLC is in process of going before the Appellate Court where ETINA won its case against the City in 2005. Key issues in the appeal revolve around the City's failure to perform CEQA as ordered by the Appellate Court, failure to actually vacate the approval of the methane mitigation systems as ordered pending a CEQA review of the dewatering/methane mitigation issues and prejudicial abuse of discretion. According to LA City Public Record Act responses to GC from the City Departments- LADBS, LAFD and the Department of Sanitation were never notified by the City that the Appeals Court had ordered the vacating of the methane mitigation measures for Phase 1. The Phase 1 methane mitigation/dewatering issues pertain to Phase 2 as well and must therefore be resolved prior to reliance of "no significant environmental impact" conclusion is made for both Phase 1 and 2.

The same Appellate justices ruling over ETINA v City of LA Playa Capital LLC, reversed the LA City/ Playa Capital LLC Superior Court lawsuit victory against multiple Phase 2 plaintiffs, including Ballona Education and EcoSystem Project, and halted any further development activities upon Phase 2 pending the outcome of a new EIR. Thus, as the two lawsuits have overlapping issues-namely dewatering/wastewater and oilfield gas mitigation- that must be adequately and prudently reviewed, the City attempts to simply avoid the issues by way of creating a disappearing act through non-disclosure and provides instead sweeping conclusions regarding dewatering without providing any substantial evidence.

RESPONSE NO. 40-4

Commentor refers to the Appellate Court ruling in *Environmentalism Through Inspiration and Non-Violent Action v. City of Los Angeles* (ETINA), and potential impacts of groundwater dewatering associated with methane mitigation systems in the First Phase Project. The potential impacts of methane gas and groundwater dewatering associated with methane mitigation systems are outside the scope of the RS-DEIR. Please refer to Sections 1.B and 1.C of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside of the scope of

the RS-DEIR, and the standards for recirculation of a draft EIR due to “significant new information.”

The commentor offers no “significant new information” with respect to potential methane gas impacts within the meaning of Public Resources Code Section 21092.1 and State CEQA Guidelines Section 15088.5. A detailed analysis of the Proposed Project and cumulative impacts related to methane gas was included in the Original FEIR. Please refer to Section IV.I, Safety/Risk of Upset, of the Original DEIR; Section II.13, Corrections and Additions, and Topical Response TR-12 of the Original FEIR. In addition, an analysis of the Proposed Project and cumulative impacts related to construction and operational groundwater dewatering was included in the Original FEIR. Please refer to Section IV.A, Earth, Section IV.C.(1), Hydrology, and Section IV.I, Safety/Risk of Upset, of the Original DEIR; Sections II.3 and II.13, Corrections and Additions, of the Original FEIR; Original DEIR, Technical Appendix D-6, Group Delta Consultants, Inc, “Evaluation of Subsidence Due to Lowering of Groundwater, Village at Playa Vista, Playa Vista Development, Playa Vista Project,” April 15, 2003; and Original DEIR, Technical Appendix F-1, Camp Dresser & McKee, Psomas, and GeoSyntec Consultants, “Water Resources Technical Report for the Village at Playa Vista, Volumes I-III,” August 2003.

Concerns regarding the adequacy of the methane mitigation measures were raised by the commentor and responded to in the Original FEIR. Please refer to Comment Letter No. 35 of the Original FEIR. In the Superior Court case challenging the Original FEIR for the Proposed Project, the Court was also asked to consider information related to the analysis of potential dewatering impacts for the First Phase Project and the 2005 Appellate Court decision in the ETINA case referenced by commentor. In its January 10, 2006 Statement of Decision concerning the Original FEIR, the Superior Court found that:

“Insofar as *ETINA* is considered relevant to the methane issues in this case factually, it is notable that the record here included extensive references to the developers’ intent to use dewatering as part of the methane mitigation in Phase II ... so here informed consideration had been given to the benefits and detriments of dewatering. ...

... Respondent fully addressed and considered this issue on the record and addressed feasible mitigation efforts pursuant to the advise of specialists in the relevant area, providing the public and the decision-makers with all the relevant information and allowing the decision-makers to make an informed decision.”³⁶⁸

³⁶⁸ *January 10, 2006 Superior Court Opinion, consolidated cases of City of Santa Monica v. City of Los Angeles (BS093502) and Ballona Ecosystem Education Project v. City of Los Angeles (BS093507), pp. 40-41.*

The Appellate Court upheld the Original FEIR analysis of the methane mitigation systems.³⁶⁹

Commentor's reference to the Court of Appeal and groundwater dewatering in the ETINA case refers not to the Proposed Project but rather to the First Phase Project. By way of background, in February 2006, in response to an appellate court decision, the Superior Court issued a peremptory writ of mandate requiring the City to consider whether further environmental review of the dewatering associated with the First Phase Project's methane mitigation measures was necessary. In response to the writ of mandate, an extensive analysis of potential methane dewatering impacts in the First Phase Project was conducted by Group Delta Consultants and Camp, Dresser & McKee (CDM). Group Delta found that the dewatering would not cause settlement or subsidence and concluded that "the estimated settlement due to dewatering does not meet the threshold for significant geologic hazard since the estimated settlement will not result in substantial damage to structures or infrastructure or expose people to substantial risk of injury."³⁷⁰ CDM modeled the groundwater conditions at Playa Vista and found that the "operation of the methane system dewatering will not result in a significant impact on groundwater level or groundwater quality."³⁷¹ The City retained Geocon Inland Empire, Inc and Fugro West, Inc, independent scientific consulting firms, to evaluate the Group Delta and CDM reports. The studies considered potential impacts of dewatering levels over time and historic high groundwater conditions, and included sensitivity analyses on the model assumptions to test groundwater impacts under various conditions. After extensive review and public hearings, the City found that the slight amount of water involved in dewatering would not cause any adverse environmental effects. The Regional Water Quality Control Board also reviewed the studies and concurred that dewatering would not impact the existing groundwater plume. The Superior Court upheld the City's analysis of groundwater dewatering in the ETINA case.³⁷²

These conclusions of the studies for the First Phase Project are consistent with the conclusions in the Original FEIR. Accordingly, commentor offers no "significant new information" under CEQA regarding methane mitigation impacts.

³⁶⁹ *RS-DEIR Appendix A.i, Court of Appeal Opinion, pp. 57-71.*

³⁷⁰ *Group Delta Consultants, Evaluation of Settlement Due to Lowering of Groundwater, Phase I Development Area, Playa Vista, Los Angeles, California, November 23, 2005, p. 1.*

³⁷¹ *Camp, Dresser & McKee, Evaluation of Potential Effects of Dewatering Associated with Methane Mitigation Systems at Playa Vista Phase 1 Development, November 23, 2005, p. 3.*

³⁷² *See Environmentalism Through Inspiration and Non-Violent Action v. City of Los Angeles, et al. (LA Superior Court Case No. BS073182), Superior Court Order Granting Respondents' Motion for an Order Overruling Objections to Return to Writ of Mandate and for an Order Discharging the Writ of Entering Judgment, November 10, 2008.*

COMMENT NO. 40-5**DEWATERING/WASTEWATER- New Information**

The following section from Petitioners' ETINA And GC's Additional Objections To Return To Writ serves to comment upon both Phase I preudicial abuse of discretion as well as continued abuse regarding the Phase 2 EIR since Phase 2 relies upon conclusions (including dewatering/wasterwater issues) rendered by the City regarding Phase 1 and any cumulative analysis of Phase 2 which must include Phase 1.

"The Lead Agency shall not knowingly release a deficient document hoping that public comments will correct defects in the documents." (Guidelines 15020)

To date there have been no State EPA agencies to "peer review ("peer review" as defined by EPA agencies under Health & Safety Codes) any dewatering or wastewater issues associated with the Playa Vista site Phase 1 and no state or federal agency to provide involvement in any CEQA review of these issues for Phase 1. Thus, no cumulative analysis is possible of Phase 2 and Phase 1 without having verifiable data under CEQA.

RESPONSE NO. 40-5

Commentor refers to objections raised by it in the ETINA litigation related to the First Phase Project. The potential impacts of groundwater dewatering associated with methane mitigation systems in the First Phase Project are outside of the scope of the RS-DEIR. Please refer to Response No. 40-4 above regarding the scope of the RS-DEIR and analysis of potential dewatering impacts.

Commentor's objections to the purported lack of a "peer review" based on the Health & Safety Code were rejected by the Superior Court in the ETINA case. In rejecting commentor's objections, the Superior Court noted that the Regional Water Quality Control Board was never intended by the City to provide a peer review. The City consulted with the Regional Water Quality Control Board to shape the studies, and the Regional Water Quality Control Board reviewed and ultimately concurred in the conclusions.³⁷³ The City's peer reviewers were Geocon Inland Empire, Inc. and Fugro West Inc. Please also refer to Response No. 62-4 for an additional discussion of the review of the First Phase Project's dewatering studies by the Regional Water Quality Control Board. Further, please note that the Original DEIR for the Proposed Project was reviewed and commented on by various state and federal agencies, including the Regional Water Quality Control Board and the Cal-EPA, Department of Toxic Substances Control.

³⁷³ See *id.*, fn 10.

COMMENT NO. 40-6

The City's refusal to undertake CEQA review regarding Playa Vista Phase I is revealed by the City Attorney, Rocky Delgadillo letter to City Council 3/17/06 Co. File # 05-2696 The letter provides his interpretation and directions on how to respond to the Appellate Court Order in 2005 in ETINA V City of LA:

"You must now take action to comply with the Writ, a copy of which is attached. The Writ directs the City Council:

'immediately upon receipt of this Writ to vacate your approval of the methane mitigation measures for the Playa Vista First Phase Project for the purpose of determining whether a subsequent EIR or a supplemental EIR is required with respect to groundwater dewatering, and proceed accordingly as required by CEQA.'

..... By adopting the language below, you will have complied with the first direction of the Writ.

ftnote1

ACTION REQUIRED:

City Council hereby VACATES 'the approval of the methane mitigation measures for the Playa Vista First Phase Project for the purpose of determining whether a subsequent EIR or a supplemental EIR is required with respect to groundwater dewatering.'

...

Footnote 1-

The second requirement, i.e. 'determining whether a subsequent EIR or a supplemental EIR is required with respect to groundwatering, and proceeding accordingly as required by CEQA' will occur after the studies contemplated by your January 11, 2006, motion are completed. Staff will report back to you at that time with the results of the studies and with recommendations for your actions with respect to CEQA."

RESPONSE NO. 40-6

The comment refers to the ETINA litigation related to the First Phase Project. The potential impacts of groundwater dewatering associated with methane mitigation systems in the First Phase Project are outside of the scope of the RS-DEIR. Please refer to Response No. 40-4 above regarding the scope of the RS-DEIR and analysis of potential methane gas and dewatering impacts.

COMMENT NO. 40-7

Also, "It is the City's duty, not the public's to do the proper environmental investigation. (Save Our Peninsula, supra, 87 Cal. App. 4h at 122; Sundstrom v. County of Mendocino (1988) 202 Cal. App. 3d 296, 311.) The City violated the information disclosure provisions of CEQA by not producing records from the Department of Sanitation for the City Council and the public to review."

The documents and reports provided herein are GC Public Record Act request responses from the Department of Sanitation, the lead City department for wastewater oversight and documents from the Los Angeles Regional Water Quality Control Board. (permanent groundwater methane dewatering permits are provided in attachment ETINA And GC Opposition To Respondents and RPI's Motion To Overrule Objections To The Return To Writ) These documents are critical for understanding dewatering and wastewater issues and overall groundwater issues and as such, are key to any and all dewatering evaluations regarding gas mitigation systems as well as overall and cumulative wastewater impacts and cumulative groundwater environmental impacts. **The documents referenced and provided herein, have not been disclosed or discussed in the Phase 2 EIR.** These documents provide the only actual site dewatering information that GC has existing thus far. **The City has attempted to keep these documents out of the Phase 1 litigation record (ETINA v City of LA et al) and its failure to discuss or produce these documents for the Phase 2 DEIR indicates that the City chooses to not disclose this critical information and chooses instead to attempt to rely upon the overly narrowed scope and landscape used in the Playa Capital LLC (dewatering) modeling report and its assertions within the Phase 2 DEIR that no long term dewatering will be required for the Phase 2 area.**

RESPONSE NO. 40-7

Potential methane gas and dewatering impacts are outside of the scope of the RS-DEIR. Please refer to Response No. 40-4 above regarding the scope of the RS-DEIR and analysis of potential methane gas and dewatering impacts.

In addition, the Original FEIR specifically refers to the existence of and need for groundwater discharge permits issued by the Regional Water Quality Control Board and the Department of Public Works. Please refer to Section IV.A, Earth, Section IV.C.(1), Hydrology, and Section IV.I, Safety/Risk of Upset, of the Original DEIR; Sections II.3 and II.13, Corrections and Additions, of the Original FEIR; Original DEIR, Technical Appendix D-6, Group Delta Consultants, Inc, *Evaluation of Subsidence Due to Lowering of Groundwater, Village at Playa Vista, Playa Vista Development, Playa Vista Project*, April 15, 2003; and Original DEIR, Technical Appendix F-1, Camp Dresser & McKee, Psomas, and GeoSyntec Consultants, *Water Resources Technical Report for the Village at Playa Vista, Volumes I-III*, August 2003. As stated in the Original FEIR, the discharge from the dewatering system will be subject to the water quality requirements included in the applicable National Pollutant Discharge Elimination System (NPDES) permit issued by the

Regional Water Quality Control Board or Industrial Waste Discharge Permit issued by the Department of Public Works. Please refer to Response No. 35-25 of the Original FEIR, at page 1159. As stated in Section IV.C.(2), Water Quality, of the Original DEIR, adverse impacts from dewatering are not anticipated because “the maximum flow of the dewatering pipes is very low and their radius of influence on the groundwater unit is limited.”

Further, commentor raised the issue of the discharge volumes permitted under the Department of Sanitation permits in commentor’s objections to the analysis of potential impacts from dewatering in the First Phase Project in the ETINA case. The scientific experts provided a detailed explanation of the methodology and assumptions used in conducting the modeling of the potential impacts from dewatering. The Superior Court denied the commentor’s claim noting that the models considered groundwater dewatering levels over time, including the potential effects from dewatering rates with historic high groundwater conditions and sensitivity analyses.³⁷⁴ For further discussion of the Department of Sanitation permits, please see Response No. 40-8.

COMMENT NO. 40-8

Re: CLA Report 2007 and why it should not be relied upon for Phase 2 impact analysis.

(Excerpts from ETINA And GC's Opposition To Respondents and RPI's Motion To Overrule Objections To The Return To Writ)

"8. Playa Vista and the City Failed to Use Actual Data to Determine Whether the Dewatering Would Have a Significant Impact.

The Peer Reviewers' modeling was based on data provided solely by Playa Vista, which has a substantial economic interest in avoiding CEQA review. No independent data was collected or used for the 'peer reviewers'. The actual data was not independently verifiable because such data was theoretically provided to the public in a binary electronic form. Unfortunately, no one but Playa Vista and allegedly the City's peer reviewer were able to open the electronic data. Such data was not provided in a hard copy to the public. The City cannot rely solely on Playa Vista, a party with a vested interest in the project to supply data. (Save Our Peninsula Com. V. Monterey County Board of Supervisors (2001)87 Cal. App. 4th 99,121.)

Furthermore, actual data from the Department of Sanitation demonstrates that the modeling was off by 400%. Playa Vista claimed that their model estimated only 16,000 gallons a day were being pumped from the site (3RR530) However, actual estimates from the industrial waste water permits from the Department of Sanitation permits approximately 72,000 gallons a day. In addition, the CDM report analyzed five buildings.(3RR 538)

³⁷⁴ See *id.*, p. 8, fn 8.

Actual maps of the industrial discharge permits show numerous buildings requiring dewatering. Not only does this new information demonstrate that the City has been constructing dewatering systems in violation of the writ, but it demonstrates that the dewatering study was completely inaccurate and does not constitute substantial evidence. (See *Save Our Peninsula*, supra, 87 Cal. App. 4th 99,121, 'the impacts of the project must be measured against real conditions on the ground. ')"

RESPONSE NO. 40-8

The commentor refers to analyses of the potential impacts of groundwater dewatering associated with methane mitigation systems for the First Phase Project. Potential dewatering impacts are outside of the scope of the RS-DEIR. Please refer to Response No. 40-4 above regarding the scope of the RS-DEIR and analysis of potential methane gas and dewatering impacts. In addition, the petitioners in the *ETINA* case, which included commentor, also objected in that case that the City's consultants relied on modeling data, rather than actual data, in assessing the potential impacts of dewatering. The Superior Court found that "Petitioner's insistence on one type of data, rather than an equally competent and reliable methodology, is without merit" and noted that modeling data is frequently used in analyses and that "[a]ctual data is neither required nor preferred."³⁷⁵ The Superior Court further noted that commentor's argument about permit volumes was based on misreading the data.³⁷⁶

COMMENT NO. 40-9

The dewatering (wastewater) issues are critical to the safe performance of the gas safety systems for Phase 2 and Phase 1 as well as key to the overall (cumulative) water-table function of Ballona Wetlands and adherence to the Porter-Cologne Act. The waters under Playa Vista are classified as a potential drinking water source. Degradation of the water via dewatering and causing further saltwater intrusion or altering the recharge rate of the aquifer would be contrary to current protective laws. Potential subsidence is also a critical issue.

RESPONSE NO. 40-9

Potential methane gas and dewatering impacts are outside of the scope of the RS-DEIR. Please refer to Response No. 40-4 above regarding the scope of the RS-DEIR and analysis of potential methane gas and dewatering impacts. In addition, the Original FEIR specifically addresses the potential impacts to potable water levels, groundwater recharge and subsidence from dewatering and finds these impacts to be less than significant. Please refer to Section IV.A, Earth, and Section IV.C.(1), Hydrology, of the Original DEIR;

³⁷⁵ *Id.*, pp. 11-12.

³⁷⁶ *Id.*, p. 9, fn. 9.

Original DEIR, Technical Appendix F-1: Camp Dresser & McKee, Psomas, and GeoSyntec Consultants, *Water Resources Technical Report for the Village at Playa Vista, Volumes I-III*, August 2003 and Original DEIR, Technical Appendix D-6, Group Delta Consultants, Inc, *Evaluation of Subsidence Due to Lowering of Groundwater, Village at Playa Vista, Playa Vista Development, Playa Vista Project*, April 15, 2003.

COMMENT NO. 40-10

Example of studies required by the City of Los Angeles but the City subsequently fails to perform:

2001- City Council approval of the 2001 CLA Report and Directives cites,

"The hydrogeologic study will ensure that groundwater withdrawal will be less than the recharge rate of the aquifer. " (AR 1184)

This study has still not been performed, therefore it is still unclear whether such a goal can be satisfied. (Sacramento Old City Assoc. v City Council of Sacramento 229 Cal App 3d 1011, 1028-1029 (1991))

Instead, the City in the CLA 2007- (the City's designed study in response to the Appeal Court;s Order) provides in a footnote from Nov. 23, 2005, page 2-

"The City of Los Angeles CEQA threshold criteria included consideration of project components that would 'result in demonstrable and sustained reduction in groundwater recharge capacity '; however, this criterion was not considered in this report since potential impacts to groundwater recharge capacity are the result of surface development features. The methane system dewatering will not influence the groundwater recharge capacity."

Thus, the City avoids not only a prudent CEQA evaluation of the site but additionally evades an evaluation that was sanctioned by City Council action and later acknowledged by the Appeals Court as part of the necessary environmental evaluation for Phase 1 of Playa Vista. **This is but one example of environmental review that must be done and done in tandem with Playa Vista Phase 2 in order to provide a reasonable cumulative evaluation of the potential environmental impacts regarding dewatering and wastewater.**

RESPONSE NO. 40-10

The comment refers to the City's review of potential impacts from groundwater dewatering in the First Phase Project, which is outside the scope of the RS-DEIR. Please refer to Response No. 40-4 above regarding the scope of the RS-DEIR and analysis of potential methane gas and dewatering impacts. In addition, an analysis of the cumulative impacts related to construction and operational groundwater dewatering was included in

the Original FEIR. Please refer to Section IV.A, Earth, Section IV.C.(1), Hydrology, and Section IV.I, Safety/Risk of Upset, of the Original DEIR; Sections II.3 and II.13, Corrections and Additions, of the Original FEIR; Original DEIR, Technical Appendix D-6, Group Delta Consultants, Inc, "Evaluation of Subsidence Due to Lowering of Groundwater, Village at Playa Vista, Playa Vista Development, Playa Vista Project," April 15, 2003; and Original DEIR, Technical Appendix F-1, Camp Dresser & McKee, Psomas, and GeoSyntec Consultants, "Water Resources Technical Report for the Village at Playa Vista, Volumes I-III," August 2003. Further, the Original DEIR analyzed the cumulative impacts, including with the First Phase Project, on groundwater recharge, and concluded that the impacts would be less than significant. Please refer to Section IV.C.(1), Hydrology, of the Original DEIR, at pages 389-391.

COMMENT NO. 40-11

DEPARTMENT OF TOXIC SUBSTANCES CONTROL (DTSC) - NEW INFORMATION

The Phase 2 EIR fails to include and provide information for a cumulative impact analysis that includes offsite toxic contamination, oilfield gas issues, and dewatering/wastewater issues pertaining to all of the above. Namely, the Phase 2 EIR excludes the Draft Preliminary Assessment Report for Tract Map No. 49104 Lot 6 prepared by Playa Capital's consultant Camp Dresser & McKee (CDM) on July 18, 2007 AND the DTSC response to that report. GC attaches the DTSC response as part of its Phase 2 response. The significance of the DTSC report is that it serves to reveal that the City's CLA 2007 (CDM dewatering model) is deficient in providing adequate environmental review because the data relied upon for that model is the same data CDM utilized, in part, for the parcel at issue in the CDM 2007 Report. DTSC's comments also reflect that the data is inadequate for the immediate vicinity surrounding the parcel. Thus, the City cannot or should not be allowed to rely upon its Phase 1 data for this area and its CLA Report 2007 in order to respond to cumulative impact responses in the Phase 2 EIR. These issues, as cited by DTSC as well, must still undergo further and adequate analysis.

Some of the attached DTSC comments are:

Page 2- note that the requests include the Hughes Aircraft area- located also in Phase 2.

"4. Provide a more comprehensive summary of historical operations on Lot 6 and immediately adjacent areas that may have impacted the site, including the former Hughes Aircraft area, former Fire Safety Training Area (FSTA), etc. Include a conceptual site model (CSM) that reflects the AOCs, chemicals of potential concern (COPs), etc In addition, include a geological CSM.

6. The Draft PEA Report does not address adequately the validity of the data presented. Based on lack of data validation, DTSC can only consider the data as qualitative and recommends additional sampling and analysis to support a quantitative risk assessment and, possibly, a fate and transport analysis."

RESPONSE NO. 40-11

The commentor raises issues related to contamination, methane gas, and dewatering at a lot for a proposed school in the First Phase Project area. Those issues are outside the scope of the RS-DEIR. Please refer to Sections 1.B. and 1.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside of the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The Original DEIR does include an analysis of potential cumulative impacts related to soil and groundwater contamination, methane gas, and dewatering. Please refer to Section IV.A, Earth, Section IV.C.(1), Hydrology, and Section IV.I, Safety/Risk of Upset, of the Original DEIR; Sections II.3 and II.13, Corrections and Additions, of the Original FEIR; Original DEIR, Technical Appendix D-6, Group Delta Consultants, Inc, "Evaluation of Subsidence Due to Lowering of Groundwater, Village at Playa Vista, Playa Vista Development, Playa Vista Project," April 15, 2003; and Original DEIR, Technical Appendix F-1, Camp Dresser & McKee, Psomas, and GeoSyntec Consultants, "Water Resources Technical Report for the Village at Playa Vista, Volumes I-III," August 2003.

Please also note that the school site referenced by the commentor is in the First Phase Project and is designed at an elevation such that it will not require groundwater dewatering.³⁷⁷ The school site analysis did not involve the 2007 scientific studies concerning potential impacts of groundwater dewatering for methane mitigation measures. Rather, the California Department of Toxic Substances Control comments cited by commentor concern its initial review of a preliminary compilation of historic data about the proposed school site and immediately adjacent areas in the First Phase Project.

It should be noted that the proposed school is subject to independent environmental review by the Los Angeles Unified School District (LAUSD) and, as with all state-funded schools, the California Department of Toxic Substances Control. (See Cal. Ed. Code 17213 et seq.) The LAUSD certified a separate EIR for the school site on February 10, 2009. Commentor participated in the LAUSD CEQA environmental review for the proposed school. A Notice of Determination was filed on February 12, 2009, and no legal action has been filed challenging the adequacy of the LAUSD EIR.

COMMENT NO. 40-12

Groundwater environmental issues such as flow directional changes and salinity changes are not addressed in the Phase 2 EIR as it pertains to the cumulative evaluation -including Phase 1- of groundwater draw-down for decontamination issues or methane mitigation issues.

³⁷⁷ *Central Region Elementary School #22, Structural Basis of Design, prepared by Thornton Tomasetti for Los Angeles Unified School District, December 23, 2008.*

In fact the City's approval of the limited CDM dewatering model, approved CDM's assessment that no ground water flow changes would occur due to methane dewatering used in their model. The model cites methane dewatering at 16,000 gallons per day (gpd) for the building sites used in Playa Capital's model. However, this would seem to be contradicted by the new CDM PEA Report and DTSC because at 3.2.1.2 SITE HYDROGEOLOGY its states that the decontamination activities at the Fire Pit Training Area create a water table draw -down of several feet and that it has caused a flow change to occur that draws the water opposite of its historic flow which would allow the water to flow into the marsh west and nw of the site. Department of Sanitation records reveal that the Fire Pit Training area removes approximately 8-10,000 gpd. Considering this volume is causing a water flow change which is a significant environmental change for an area that the public has paid for dearly to be restored as a wetland, it would seem impossible for Playa Capital consultants to assert- as they do- in the 2007 CLA Report that the 16,000 gpd,(a volume greater than the newly acknowledged groundwater flow change at the Fire Pit Training area) is NOT able to cause any groundwater flow change.

ETINA and GC requests the groundwater draw downs across the Playa Vista site be evaluated and revealed to the public in order for public participation and disclosure regarding a cumulative impact analysis of this issue. The current Phase 2 EIR does not adequately describe or address this significant cumulative environmental impact upon the Playa Vista site- including but not limited to effects upon the ecological areas known as the Riparian Corridor and the "freshwater marsh" and all the wetlands adjacent to the Playa Vista project- including but not limited to the wetlands across Lincoln Blvd. from the Fountain Park Apts.

RESPONSE NO. 40-12

The potential impacts of groundwater dewatering associated with methane mitigation are outside of the scope of the RS-DEIR. Please refer to Response No. 40-4 above regarding the scope of the RS-DEIR and analysis of potential dewatering impacts.

With respect to the First Phase Project, the analysis of potential groundwater impacts conducted by CDM and reviewed by the City's consultants, Geocon and Fugro, the Regional Water Quality Control Board, and the City, considered the cumulative effects of dewatering both from the remediation systems, such as the Fire Safety Training Area remediation, and from the methane mitigation systems. Those analyses concluded that the dewatering would not have an adverse environmental effect and the Superior Court upheld the City's analyses.³⁷⁸ Further, please note that the Fire Safety Training Area is located in the First Phase Project and is not part of the Proposed Project. The remediation of that

³⁷⁸ See *Environmentalism Through Inspiration and Non-Violent Action v. City of Los Angeles, et al.* (LA Superior Court Case No. BS073182), Superior Court Order Granting Respondents' Motion for an Order Overruling Objections to Return to Writ of Mandate and for an Order Discharging the Writ of Entering Judgment, November 10, 2008.

area is being conducted pursuant to a Cleanup and Abatement Order issued by the Regional Water Quality Control Board.

COMMENT NO. 40-13

Failure To Discuss the Cumulative Groundwater Draw-down and Alternatives to Groundwater Removal

Lastly, nowhere in the Phase 2 EIR is there a discussion regarding the draw down of the water table, including but not limited to the Bellflower Aquitard, and why this is being allowed to occur in light of the water needs of southern California. This is especially troubling since the waters under Playa Vista are considered potential drinking water sources under the Porter-Cologne Act.

- a. Why are there no alternatives discussed to the dewatering and its subsequent "throwing away" into the sanitary sewer?
- b. Why has Playa Capital and its occupants not have to have paid for such disposal? What contracts exist for Phase 2 and cumulatively with Phase 1 for water disposal with the Department of Sanitation"
- c. Why are there no alternative discussions for groundwater removal as it effects the aquifers underlying Playa Vista as well as Playa Vista surface waters-namely the Riparian Corridor and the wetlands and marshes?

RESPONSE NO. 40-13

The potential impacts of groundwater dewatering associated with methane mitigation are outside of the scope of the RS-DEIR. Please refer to Response No. 40-4 above regarding the scope of the RS-DEIR and analysis of dewatering impacts. In addition, the Original FEIR did discuss the potential impacts of groundwater dewatering on water supply and found them to be less than significant. Please refer to Section IV.C.(1), Hydrology, of the Original DEIR. Further, the Regional Water Quality Control Board has determined that it is not feasible to reuse the groundwater.³⁷⁹ Please also refer to Response No. 40-9.

COMMENT NO. 40-14

PLAYA VISTA ENVIRONMENTAL SETTING- New Information & Information Formerly Not Disclosed By the City of LA to the Public

The following attached exhibits are just some of the examples that highlight the extremely serious and dangerous nature of the Ballona Wetlands/ Playa Vista development site and its surrounding environs- namely its Unique setting within the coastal Ballona Wetlands (the old LA Riverbed) and its adjacent proximity to the high pressure oil and gas storage field operations of SOCALGAS. SOCALGAS owns and performs its operations within its

³⁷⁹ See *Waste Discharge Requirements for Playa Capital Company, LLC (NPDES General Permit No. CAG914001)*.

mineral right area that directly abuts Lincoln Blvd. SOCALGAS has an easement right to store gas up to 500–7000 feet below ground surface (PV EIR- V. 1-1 Safety/Risk of Upset).

This is a site that the City's Texas based peer reviewer and oilfield gas consultant, Exploration Technologies Inc. (ETI), early on stated their recommendation that, due to the extremely high amounts of surfacing oilfield gases, the site should not be built-out and, if building were allowed, it should be non-residential. (1 AR 27-28)

UNIQUE SITE LOCATION

Ballona Wetlands - LA River flood plain (50' Gravel aquifer acts as gas conduit and has supersaturated areas of oilfield gases that are constantly replenishing (ETI Reports 2000-1, Still Working On It-2001 ETI)

Southern California Gas Company (SEMPRA ENERGY) The project is directly adjacent to an active, high pressure underground oil and gas storage operation situated within the oilfield setting.

High Water Table, Daily Tidal Flux- (15 AR 4096, 14 AR 3665, EIR 7258; 27 AR 7261, EIR 7179)

Liquefaction Zone (Seismic Hazard Mapping 1999, Venice Quadrangle Map)

2000- Discovery of fracture zones and zones of disrupted strata acting as gas conduits (ETI Still Workin On It –CD)

Because it is earthquake country, there is the future potential for earthquake-induced fluxes of large volumes of methane gas. (1 AR 32,9 JA 2440- ETI Report April 17, 2000, Still Workin On It ETI 2001)

The gas seeps are highly unpredictable and methane concentrations can change with the time of day, season of year, groundwater conditions, barometric pressure, tidal action near the ocean, and many other factors. CDM Oct. 1198 Report Methane Management Recommendations Playa Vista First Phase, Prepared for Playa Capital 2-7 (27 AR 7261, 10 JA 2698)

"It is the experience of the Department that methane gas can be highly migratory and transient." LADBS Methane Ctrl File-7, Log # 26682 January 19,1999.

(AR- Administrative Record in ETINA V City of LA, Playa Capital LLC)

RESPONSE NO. 40-14

Potential methane gas impacts are outside the scope of the RS-DEIR. Please refer to Response No. 40-4 above for further discussion regarding the scope of the RS-DEIR and analysis of potential methane gas. In addition, concerns regarding the adequacy of

the methane mitigation systems, the Southern California Gas Company storage facility, tidal influence, and liquefaction were raised by the commentor and responded to in the Original FEIR. Please refer to comments and responses to Comment Letter No. 35 of the Original FEIR. Further, Exploration Technologies, Inc. approved the First Phase Project methane mitigation systems and concurred with the findings regarding the Southern California Gas Company storage facility. Please refer to Original DEIR, Technical Appendix J-6 to the Original DEIR, *City of Los Angeles, Office of the Chief Legislative Analyst, "Final Report for City Investigation of Potential Issues of Concern for Community Facilities District No. 4, Playa Vista Development Project,"* May 2001. For further discussion regarding the Southern California Gas Company storage facility, please refer to Response No. 40-17.

COMMENT NO. 40-15

NEW INFORMATION

DECLARATION BY ALFRED BABAYANS – Former LADBS gas mitigation authority

This new Declaration provides very disturbing background regarding the feasibility of the dewatering/wastewater issues pertaining to the gas mitigation measures. Mr. Babayans, P.E. since the 1985 Ross-Dress-For-Less oilfield gas explosion and fires, had been the leading LADBS authority assigned to be involved in gas assessment and mitigation for the City of Los Angeles. April 6, 2007 Declaration in ETINA v City of LA (Reply in Support of Supplemental Objection To Supplemental Return To Peremptory Writ Of Mandate ...)

It is requested that the Phase 2 EIR address the comments made by Mr. Babayans in his Declaration, including citing to any and all data sources to back up any responses as required under CEQA. The issues cited by Mr. Babayans reflect upon the Phase 2 site's mitigation as well as cumulatively with Phase 1.

Excerpts from the Babayan Declaration:

"9. The methane mitigation systems that were allowed to be installed by the City at Playa Vista failed to comply with appropriate design requirements to assure safe operation over the range of anticipated operating conditions. The most dangerous features that were allowed to be installed by the City at Playa Vista, largely as cost cutting measures are described in the following paragraphs.

- 10. A so-called Dual System was used in which subsurface perforated gas collection pipes were simultaneously used to also collect water—that was seeping into these gas collection pipes—and drained to a sump area. This design practice is extremely dangerous because of the high probability that the jperforated gas collection pipes will fill with water, especially during heavy rains, and completely defeat the passively designed gas mitigation system.*

11. *The above-described defective design features employed at the Playa Vista site also prevent—on an ongoing basis—the ability to detect and determine if the methane mitigation system is actually venting gas to the atmosphere, as required to protect the building structures from explosion and fires. This is the central flaw of the passive mitigation system that was allowed to be installed at Playa Vista, against my strenuous objections based upon my experience gained in evaluating similar gas hazards in the Fairfax area, as described above. This passive system was allowed to be used by the City, solely as a cost saving benefit to the builder, as opposed to an active system that would allow validation of the ongoing requirements of venting.*
12. *I have reviewed various Declarations that have been prepared by LADBS employees, who I formerly worked with, that purport to claim that the gas mitigation system at Playa Vista works as intended. Based upon my personal knowledge of the defects existing in this system, these Declarations by current employees of the City are only self-serving conclusory opinions, not based upon the actual limitations of the system as installed.*
13. *The serious design defects that exist in the methane mitigation system installed at the Playa Vista site were deliberately and intentionally allowed to be used by LADBS officials in order to favor cost cutting measures advanced by the building developers. This violated the established practices and procedures of the LADBS, in providing protection to the jpublic in assuring safe building practices. As a result of these violations, there is an ever present risk of fires and explosions at the Playa Vista site."*

RESPONSE NO. 40-15

Potential impacts related to methane gas are outside the scope of the RS-DEIR. Please refer to Response No. 40-4 above regarding the scope of the RS-DEIR and analysis of potential methane gas and dewatering impacts. Further, please note that the allegations of Mr. Babayan were responded to in connection with the City Controller's Audit. As explained by LADBS in detail in those responses, Mr. Babayans' allegations are unfounded and incorrect.³⁸⁰ For further discussion of the methane mitigation systems applicable to the Proposed Project and the City Controller's audit, see Response Nos. 29-42 and 29-43.

COMMENT NO. 40-16

DECLARATION BY BERNARD ENDRES PHD

ETINA and GC request the Phase 2 EIR responses to address the comments made by Endres PhD. Please provide any and all data to back up any and all comments made by the City. It is necessary to address this issue due to the potential environmental damage that may occur as part of the cumulative dewatering needs of both Phase 2 and Phase 1.

³⁸⁰ See City of Los Angeles Inter-departmental Correspondence, from Los Angeles Fire Department, Department of Building and Safety, and City Planning to Council Member Bill Rosendahl regarding Response to Questions Dated December 17, 2007 Regarding the Playa Vista Project, April 21, 2008, pp. 8-10.

Regarding the scientific necessity of dewatering the 50' vent wells in order for them to degas the aquifer-

"11. . . .in recognition of the scientific reality that the degassing could not be performed using merely passive vent pipes extended from the surface into the shallow gas zones.

14. In 1989 there was a near repeat of the gas hazard conditions that had caused the 1985 explosion and gas fires. (Fairfax 1985) The City of Los Angeles discovered that the Anthony Vent Well had become clogged by the infiltration of water and scale build-up in the perforations used at the base of the vent well located at an approximate depth of 50 feet. These problems led to the formation of a second Task Force by the City of Los Angeles. The study results identified the extreme criticality of not allowing the water table to rise above the vent pipe perforations located at an approximate depth of 50 feet. Also, it was found critical not to allow scale build-up to occur within the perforations at this depth, largely caused by microbial activity occurring within the water and gas bubble interface at this depth.
15. For the foregoing reasons, and because extensive research has been performed on these detailed gas migration hazards and topics, since the 1985 explosion, today the problems have been well documented in the scientific literature. Detailed discussions of these topics are set forth in a textbook on Gas Migration that I co-authored.
16. The above findings and research confirm that degassing of the high-pressure gas pockets existing in the '50 Foot Gravel' at Playa Vista cannot be accomplished by way of drilling passive vent wells into these areas. In particular, the perforations used at the base of the vent wells will become clogged with water intrusion and scale build-up in the same manner that the Anthony Vent Well clogged in the 1989 time period, and nearly caused a repeat explosion of the 1985 Ross Department Store explosion."

(The Division of Oil and Gas and Geothermal Resources (DOGGR) mandated that the Anthony Vent Well be installed with a permanent pump to dewater the well should the water table rise as it did in 1989)

RESPONSE NO. 40-16

The comment refers to deep vent wells that are part of the methane mitigation system for the First Phase Project. Potential impacts related to methane gas are outside the scope of the RS-DEIR. Please refer to Response No. 40-4 above regarding the scope of the RS-DEIR and analysis of potential methane gas and dewatering impacts. Further, please note that the methane mitigation measures applicable to the First Phase Project differ from those that apply to the Proposed Project. The methane mitigation requirements of the Citywide methane mitigation ordinance (Ordinance No. 175790, effective March 29, 2004) apply to the Proposed Project. The Citywide methane mitigation requirements do not include the referenced deep vent wells. Please also refer to Response Nos. 29-42 and 29-43 for an additional discussion about the methane mitigation measures.

COMMENT NO. 40-17**November 2004 California Public Utilities Commission Safety Branch Report**

A November 2004 California Public Commission Safety Branch report was performed as part of the litigation between GC and SOCALGAS within the CPUC legal system. This Report established a greater than 50% likelihood that the gases surfacing at Playa Vista were SOCALGAS gases. The Report serves as a warning and prescribes numerous investigative procedures as followup.

ETINA and GC request a response to this report that affects the feasibility of mitigating both Phase 1 and 2. Under the heading of CPUC and SOCALGAS internal documents GC also submits numerous documents that serve as evidence of SOCALGAS leakage and the inherent enhanced dangers of the Project's proximity and environmental influence posed by the high pressure underground gas/oil storage operations.

Please also respond to any and all alternative designs or other alternatives to buildout due to the Project's potential to negatively impact the surrounding community(ies) due to capping of the site and the site's gas mitigation measures (including dewatering) causing negative environmental impacts to both the riparian corridor, marsh and wetlands as well as potential negative environmental impacts to the wastewater via dewatering VOCs and H₂S into the wastewater system.

RESPONSE NO. 40-17

Potential impacts related to methane gas are outside the scope of the RS-DEIR. Please refer to Response No. 40-4 above regarding the scope of the RS-DEIR and analysis of potential methane gas and dewatering impacts.

In addition, the Original FEIR specifically analyzed the potential impacts from the Southern California Gas Company storage facility. Please refer to Section, IV.I, Safety Risk of Upset, of the Original DEIR; Section II.13, Corrections and Additions, and Topical Response TR-12 of the Original FEIR. Concerns regarding gas leakage from the Southern California Gas Company storage facility were specifically raised by the commentor and responded to in the Original FEIR. Please refer to comments and responses to Letter 35 of the Original FEIR, at pages 1140-1142.

As commentor noted in Response No. 40-26 below, the litigation between commentor and the Southern California Gas Company before the Public Utilities Commission was settled in an agreement approved by the Public Utilities Commission. The settlement agreement provides for ongoing monitoring of the Southern California Gas Company storage facility and corrective action if monitoring shows any flow or leak of the

Southern California Gas Company gas outside of the storage field or its pipelines, or if any Southern California Gas Company well acts as a conduit for the release of other gases.³⁸¹

With regard to the riparian corridor and the marsh, please note that the methane mitigation systems are not connected to or associated with the riparian corridor or the marsh. Further, with regard to the discharges from the dewatering systems, as discussed in the Original FEIR, such discharges are subject to permits issued by the Department of Public Works. Please refer also to the Response No. 40-7 for further discussion regarding the discharge permits.

COMMENT NO. 40-18

CITY OF LOS ANGELES AUDITS BY THE CITY CONTROLLER (2)

The following two audits by the LA City Controller provide insight into the failure of the City's oversight and action taken upon the Playa Vista site. The two audits reveal serious and dangerous flaws with adequate expertise, lack of proper certification, implementation and accountability problems

July 10, 2006 City Controller's Performance Audit of the Los Angeles Building and Safety Department

LADBS Deficiencies examples:

- a. "Section 11 - Finding No.3: The Department's oversight of its inspectors is not adequate to ensure the quality and consistency of inspection and code enforcement activities."
- b. "Section 11-Finding No.2: Continuing Professional Education requirements are not adequately tracked and may not be met."
- c. "Section 11-Finding No.1: The Department does not ensure compliance with the State's regulation requiring inspector certification."

LADBS example of failure to adhere to its own Action Plan of deficiency corrections:

- a. "Section 11-Finding No.1: LADBS Action- LADBS will ensure that all inspection staff be certified in accordance with State law by indentifying inspectors who are required to obtain a certification and requiring them to comply with the certification requirements. LADBS will also develop a new data base program to track and monitor inspector certification status. (Complete by 4/07 and ongoing)

RESPONSE NO. 40-18

This comment refers to a 2006 performance audit of the Los Angeles Department of Building and Safety's Citywide inspection and code enforcement activities that was conducted by the City Controller. The 2006 audit was not about Playa Vista and is outside the scope of the RS-DEIR. Please refer to Response No. 40-4 above for further discussion

³⁸¹ See *Settlement Agreement, in the matter of Rita Boppana vs. Southern California Gas Company, California Public Utilities Commission case number 00-05-010, September 10, 2007, p. 2.*

regarding the scope of the RS-DEIR. The Department of Buildings and Safety developed an action plan to address the issues raised in the 2006 audit, which action plan was implemented.³⁸²

COMMENT NO. 40-19

June 5, 2007 City Controller's Audit on the City's Oversight of the Playa Vista Gas Safety Systems

Review of the 2007 Playa Vista Audit reveals LADBS' failure to comply with its Action plan stated above. Several examples of failure are provided below and can be reviewed in full in the Working Papers of the Controller's Audit of Playa Vista.

"Based on interviews with LADBS inspectors ((2007 PV Audit) work papers B-1 through B-4), the Controller's auditors note:

-That three of the four on-site DBS inspectors interviewed, (named inspectors ... ,) have no training in methane inspection,

-that 'DBS did not have the expertise to provide a deputy certification of methane',"

(Page 3 KNBC Audit Review)

The 2007 Audit reveals that not only can LADBS not provide the required inspection documents that would document implementation of gas safety systems but that there are continued failures to have qualified certification personnel. (See also attached KNBC Audit Review and GC Audit Review) Only by October of 2007, does LADBS provide some promissory response to the dangerous deficiencies at Playa Vista as seen in the 10/18/2007 Updated Methane Program Action Plan (GC Public Record Act response from LADBS). Unfortunately, by the end of **2007** much, if not most of Playa Vista Phase I has already been built and thus is still unaccounted for and/or failed regarding implementation of the 2001 CLA Report and Directives including the Playa Vista Methane Prevention Detection and Monitoring Program (PVMPDMP). And, the certifications for inspection of methane systems that the City has now provided are only for membrane inspections only. Thus, the numerous other required components of the gas safety systems have no qualified certification oversight by City personnel.

RESPONSE NO. 40-19

The 2007 City Controller audit of Los Angeles Department of Building and Safety to which the commentor refers is outside the scope of the RS-DEIR. Please refer to

³⁸² See letter from the Department of Building and Safety to the City Controller, August 8, 2006; letter from the Controller to Andrew Adelman, General Manager of the Department of Building and Safety, March 12, 2007.

Response No. 40-4 above regarding the scope of the RS-DEIR and analysis of methane gas impacts. The City Controller audit was of the Department of Building and Safety's oversight with regard to the First Phase Project methane mitigation systems. The methane mitigation requirements of the Citywide methane mitigation ordinance (Ordinance No. 175790, effective March 29, 2004) apply to the Proposed Project. A Memorandum of Understanding regarding inter-City departmental cooperation in the oversight of methane mitigation systems was developed in response to the City Controller's audit, was accepted by the Controller, and applies to the First Phase Project and, if approved, the Proposed Project.³⁸³ Notably, at a City Council hearing on February 6, 2008, the City Controller's office stated it was satisfied with the Department's response to the audit.³⁸⁴ Please also refer to Response No. 29-43 for additional discussion of the 2007 City Controller audit.

COMMENT NO. 40-20

Critical 50' Vent Wells-

But for these experimental systems the site was considered to be too dangerous to build. (ETI- 2001 CLA Report)

Background-2007 Audit:

Two examples from the KNBC Audit Review:

"50 Foot Vent Wells

The CLA Report states in its appendix, 'Methane Systems Requirements,' that 'subsurface ventilation' is required for Level 3 building areas where the highest methane concentrations have been detected. The spreadsheets interpret this requirement as applying to 'subsurface ventilation (L3) Pipes to 50 ft vent wells.'

Nowhere in the spreadsheets for the 18 building sites reviewed is there ANY explicit inspection data relating to *continuous* monitoring and testing or even *annual* assessments of

And reporting on the 50 foot vent wells. This seems consistent with DBS' responses to Public Record Act Requests filed by Grassroots Coalition for information relating to continuous monitoring and testing of the vent wells. In each instance, DBS declared that there was no data responsive to the request."

"Sub-slab Membranes

The CLA report states (page 3 of text): ' ... building prevention system elements shall include ... a City of Los Angeles approved methane gas membrane designed to prevent methane gas from migrating into enclosed building areas. As indicated on various

³⁸³ See Memorandum of Understanding, Methane Mitigation Enforcement Responsibilities of Los Angeles Department of Building and Safety and Los Angeles Fire Department, October 17, 2007.

³⁸⁴ See Audits and Governmental Efficiency Committee Report relative to the Controller's Report on the City's Oversight of Playa Vista Phase I Development and related matters, Agenda Item No. 5, Reporter's Transcript of Videotaped Proceedings, February 6, 2008, pp. 7, 9.

spreadsheets, a smoke test is the accepted method for initially verifying the integrity of the membrane. The CLA Report also states (page 3 of text): 'Methane sensors above and below the methane membrane may also be utilized to assist the qualified methane engineer in determining the integrity of the methane membrane.'

Nowhere in the eighteen spreadsheets is there any indication that th sensors related to the membranes are being monitored continuously to enable a qualified inspector to determine the continued integrity of the membranes."

RESPONSE NO. 40-20

The comment refers to components of the methane mitigation system for the First Phase Project. Potential impacts related to methane gas are outside the scope of the RS-DEIR. Please refer to Response No. 40-4 above regarding the scope of the RS-DEIR and analysis of potential methane gas impacts. Further, please note that the methane mitigation measures applicable to the First Phase Project differ from those that apply to the Proposed Project. The Proposed Project will follow the methane mitigation requirements of the Citywide Methane Mitigation Ordinance (Ordinance No. 175790), which does not include deep vent wells. Please refer to Response No. 29-42. In addition, please see Response No. 40-19 for further discussion of the City's oversight of the methane mitigation systems.

COMMENT NO. 40-21

50' VENT WELLS AND DEWATERING

At the Appellate Court in 2005 in ETINA v City of LA/ Playa Capital LLC the issues of dewatering associated with the performance ability of the 50' Vent wells was again raised.

Any dewatering and subsequent wastewater issues associated with the dewatering are key potentially damaging environmental issues that need to be addressed both for Phase 1 and cumulatively included for the Phase 2 EIR process. Thus far, this issue has not been addressed in the Playa Vista Phase 2 EIR.

The justices requested information from both the City and ETINA et al to provide data that would support the need for dewatering for proper performance and/or the data support that shows the wells do not need to be dewatered and will perform safely. As the record reveals, neither side was able to satisfy the Court and the issue was relegated back to the Superior Court level. The City however, has independently refused to engage in the issue and respond with its own data when posed by ETINA and GC in the 2007 CLA Report. The only City information supplied thus far has been the same information rejected by the Appellate Court as providing a definitive answer. This issue is relevant to both the City's reliance upon Phase 1 for Phase 2 competence of system performance as well as pertinent to the cumulative dewatering/ wastewater issues central to the revised EIR.

It is important to remember that ETINA was precluded from including ETI's Still Workin On It Report, that states the 50' pilot vent well system was a failure, due to the City's legal objections that the material was time-barred for entry into the CEQA record. The City prevailed in their argument.

GC and ETINA request that the feasibility of the methane gas systems be revisited within a CEQA review for Phase 2 as it pertains to the system feasibility and as it pertains dewatering and wastewater issues. Prejudicial abuse of discretion led to the City's withholding of information to both the Superior Court and Appellate Court namely- the Summary of ETI's Still Workin On It. The City not only withheld the ETI Report from the public but also created a pattern of deceit to the Court systems when citing that the pilot (50') vent well system was successful. And, the prejudicial abuse of discretion by the City is revealed in the State Lands Commission Attorney Rick Ludlow's (new information) Declaration citing the City Attorney's Office withholding the critical ETI Report from public disclosure.

The significance of this new information is that it reveals that the very serious LADBS deficiencies that LADBS claims it will fix, are shown not to have been fixed when compared to the even more scathing 2007 Controller's Audit of LA City Oversight of the Playa Vista Gas Safety Systems. The 2007 Audit provides interviews and reviews of data for LADBS that reveal "deep flaws that we found in the City's oversight of the project" July 25, 2007 letter to KNBC. Controller Laura Chick during on-air interviews with KNBC's producer Frank Snapp states that she cannot vouch for the safety of the Playa Vista site and that the records are mush. (See attached DVD section entitled Power Politics)

RESPONSE NO. 40-21

The comment refers to arguments raised by commentor in the ETINA litigation related to the First Phase Project methane mitigation systems, which are outside the scope of the RS-DEIR. Please refer to Response No. 40-4 above regarding the scope of the RS-DEIR and analysis of methane gas in the Original FEIR and methane mitigation issues in the ETINA case. Please see Response No. 40-19 for further discussion of the City's oversight of the methane mitigation systems. Please also refer to Response No. 29-43 regarding the 2007 City Controller audit.

Finally, please note that with regard to the ETI report referenced by commentor, a copy of the report was submitted by commentor prior to the City's certification of the Original FEIR and was included in the Administrative Record for the *City of Santa Monica et. al. v. City of Los Angeles et. al.* and *Ballona Ecosystem Education Project v. City of Los Angeles et. al.* consolidated cases challenging the adequacy of the Original FEIR. Commentor was a party to that litigation, and the ETI report referenced by commentor was discussed in that litigation. Both the Superior Court and Appellate Court upheld the City's analysis of the potential impacts related to methane gas and methane mitigation systems.

COMMENT NO. 40-22

2007 City Controller Audit of the LA City Oversight of the Playa Vista Gas Safety Systems (continued)

Today, due in part to the 2007 safety audit done by LA City Controller Chick, it is apparent that there was no CEQA enforcement of a mitigation monitor and no CEQA enforcement for the implementation of the new and experimental gas safety systems for Phase 1 on Playa Vista. (Aug. 7, '07 Chick letter to Goldberg-City Planner)

The City Controller characterized the June 12, 2001 CLA Report approval by City Council as a –PRESENTATION TO COUNCIL. And, that the CLA Report & Directives 2001 was not enforceable by the City until February 2004, when the City approved a new CITYWIDE METHANE ORDINANCE. (June 5, 2007 Controller Chick letter to City Officials)

Thus, the City believes it was able to dodge any legally binding enforcement of the 2001 City Council approved CLA Report and Directives. The 'working papers' of the audit reveal that there were deep flaws in the enforcement and accountability for the oilfield gas safety systems. Moreover, the Directives to fulfill CEQA requirements were also tossed by the wayside-

With regard to the CEQA requirement of a Mitigation, Monitoring and Reporting Program (MMRP) the Controller states,

"Our review noted that the Planning Department's role as CEQA monitor lacked authority to hold approval of certificates of occupancy, or enforce compliance." (August 7, 2007 Controller Chick letter to Goldberg, Director of Planning)

The City Controller claims there was no CEQA or legally binding enforceability of the gas safety systems and their monitoring and, according to the letters and working papers of the 2007 Audit the City failed to properly oversee the project.

The City Controller stated publicly, in interviews done by KNBC-TV that she could not vouch for the safety of the site and that the records of the site are mush.

The City Controller then simply requests proper oversight and compliance by the City for Phase 2 of Playa Vista. The authority that she requests to occur was already promised and documented

within the CLA Report and Directives of 2001 for Phase 1. Thus, the public is left with a lack of accountability and enforcement for Phase I due to a proven track record of abuse of discretion and failures by the City.

Additionally, the safety audit of the Playa Vista gas safety systems revealed serious and dangerous flaws in oversight, coordination, monitoring and implementation/ lack of implementation of the gas mitigation systems. (July 25, 2007 Controller Chick letter to KNBC; Working Papers of the Audit of Playa Vista Safety)

Based on the Controller's auditor interviews with Dept. of Building & Safety (DBS) inspectors, the interviews reveal that the DBS lacks the expertise, organization and documentation to vouch for the inspection process. (located at B1 through B4 within the 600 audit working pages)

These problems have not been resolved- there is no new data, eg. inspection reports, that have filled in the huge data gaps found during the audit. There was a failure to adhere to current Codes and requirements for implementation of the gas safety systems. (see specifics: KNBC Audit Review; July 18, 2007 GC Audit Review)

The City's resolve was to attempt to better the Phase 2 portion of Playa Vista. However, with no accountability for Phase I, any promises or Council approvals regarding Phase 2 accountability are highly suspect.

QUESTION:

Since the City is relying upon methane mitigation feasibility and dewatering/ wastewater conclusions of Phase I for the Phase 2 EIR, how will the City eliminate the methane mitigation and dewatering/wastewater data gaps, provide proof of methane mitigation feasibility for all systems and provide accountability as required under CEQA which has thus far not occurred?

QUESTIONS:

Since the City has not fulfilled the 2001 CLA Directive of a CEQA gas mitigation monitor for Phase 1 as evidenced by the 2007 Audit,

- 1) how will the City provide accountability and public disclosure regarding the methane mitigation feasibility as substantial evidence from Phase 1 that can be then applied to Phase 2 and,
- 2) 2) how will the City provide accountability and actual data gathering regarding the dewatering/wastewater issues that have not yet been adequately addressed in the Phase 2 DEIR?

And, since the Controller's 2007 Audit cites the 2001 CLA Report and Directives as simply vague "guidelines" and therefore (June 5, 2007 Controller letter to Mayor, Council, City Attorney) sends the City back to the drawing board to re-create accountability, interdepartmental coordination and enforcement capabilities for what the Appellate Court's ruling upon the 2001 CLA Report and Directives, in stark contrast to Controller Chick "vague guidelines" assessment, acknowledged as a legally binding CEQA discretionary approval by the LA City Council, how then will there be 3) accountability and resolution for the above described disparity of viewpoints eg. which is legally correct? And,

- 3) How will there be actual accountability and enforcement to determine what and what has not been implemented at Playa Vista Phase 1 regarding gas mitigation measures/dewatering-wastewater issues?
- 4) These issues have only a lip service of vague promises that Phase 2 will be properly evaluated, mitigated and enforced. How will #3 accountability occur and how does that affect Phase 2 both independently and cumulatively?

RESPONSE NO. 40-22

The comment refers to the First Phase Project methane mitigation systems and the 2007 City Controller audit of the Los Angeles Department of Building and Safety's oversight of those systems, which are outside the scope of the RS-DEIR. Please refer to Response No. 40-4 above regarding the scope of the RS-DEIR, the analysis of methane gas in the Original FEIR, and methane mitigation issues in the ETINA case. Please note that the Mitigation Monitoring and Reporting Program for the Proposed Project requires at Mitigation Measure I-12, a methane safety plan with methane mitigation measures specified prior to pulling a building permit. This mitigation measure, like all mitigation measures, is enforceable by the City. Annual mitigation monitoring reports are filed with the Department of City Planning confirming compliance with all mitigation measures. Please refer to Original MMRP, Section 1.2. Please see Response No. 40-19 for further discussion of the inter-departmental coordination and the City's oversight of methane mitigation systems. Please also refer to Response No. 29-43 for an additional discussion of the 2007 City Controller audit.

COMMENT NO. 40-23**Continued NEW INFORMATION****LA City Consultant - Exploration Technologies Inc. Report- Still Workin On It**

Failure of the new gas safety systems and failure to properly field test these systems was acknowledged and warned by the City's expert Exploration Technologies Inc.(ETI) in a report prepared by ETI (Still Workin On It) after the City Council had approved the safety measures in 2001.

We now know that the City Council, during the June 2001 CLA Hearing, was provided with false information from LADBS regarding gas safety system feasibility including but not limited to the success of the experimental 50' deep aquifer vent and monitoring well. In ETINA v City of LA/Playa Capital LLC the City continued to provide information to the court that we now know to have been false- including but not limited to the gas safety system's feasibility and the City's false claim that the oilfield gas issues were part of the 1993 Playa Vista EIR. Regarding the latter, the City documents of 2004 Methane Code cites the new discovery of oilfield gases at Playa Vista in 1999. Thus, the City acknowledges outside of court that the gases were discovered post 1993/5 EIR approvals.

The ETI Report, entitled STILL WORKIN ON IT, was withheld from the public by City attorneys (See- Letter from State Lands Commission attorney- Ludlow). City attorneys then argued successfully that the Report was time-barred for use in the Phase 1 CEQA Subsequent/Supplemental Environmental Impact Report (SEIR) lawsuit filed by ETINA and Grassroots Coalition against the City and Playa Vista.

Meanwhile, Phase 1 was almost entirely built out contrary to an Appellate Court ruling of Nov. 2005 which vacated the approval of the Phase 1 methane mitigation measures pending further CEQA review of the dewatering associated with the methane mitigation

measures. (2005 Appeal Court win by ETINA & GC against City of LA and Playa Vista (Playa Capital))

RESPONSE NO. 40-23

Potential impacts related to methane gas and the First Phase Project are outside the scope of the RS-DEIR. Please refer to Response No. 40-4 above regarding the scope of the RS-DEIR and analysis of potential methane gas and dewatering impacts. Also, please note that the 2005 order did not enjoin development of the First Phase Project. In overruling commentor's objections to the City's response to the 2005 Appellate Court order in the ETINA case, the Superior Court expressly found commentor's complaints about the continuation of First Phase construction to be without merit.³⁸⁵ Please also note that the Proposed Project will follow the methane mitigation requirements of the Citywide methane mitigation Ordinance (Ordinance No. 175790), which does not include deep vent wells. With response to the referenced ETI report, please also refer to Response No. 40-21 above.

COMMENT NO. 40-24

NEW SOIL GAS INFORMATION

ETINA and GC requests the following comments and documents provided be addressed by the Phase 2 EIR as pertaining directly to the environmental mitigation and the mitigation's potential negative environmental effects upon dewatering/ wastewater issues and the issues of mitigation feasibility in relation to the dewatering/wasterwater issues both singularly for Phase 2 and cumulatively for both Phase I and 2 and their potential negative environmental effects upon the Project and the surrounding sensitive wetland/ riparian corridor environs.

EG. QUESTIONS

- a. What potential negative environmental effects may occur due to dewatering effects upon the migration of the oilfield gases and thus will the gas mitigation measures still provide feasible mitigation? And,
- b. what mitigation systems provide accountability for water volumes removed? And,
- c. what mitigation systems provide accountability for ensuring that the dewatering can keep the groundwater levels at 1 foot below the gas intake systems as required by the PVMPDP and the Citywide Methane Code as it pertains to Phase 2?

³⁸⁵ See *Environmentalism Through Inspiration and Non-Violent Action v. City of Los Angeles, et al.* (LA Superior Court Case No. BS073182), Superior Court Order Granting Respondents' Motion for an Order Overruling Objections to Return to Writ of Mandate and for an Order Discharging the Writ of Entering Judgment, November 10, 2008, p. 11.

RESPONSE NO. 40-24

Potential impacts related to methane gas and dewatering are outside of the scope of the RS-DEIR. Please refer to Response Nos. 40-4 and 40-7 above regarding the scope of the RS-DEIR and analysis of methane gas and dewatering impacts. Further, please note that the Proposed Project will comply with the Citywide methane mitigation ordinance (Ordinance No. 175790), not the Playa Vista Methane Prevention Detection and Monitoring Program (PVMPDMP), which applies to the First Phase Project. The Citywide methane ordinance does not require that groundwater be kept at 1 foot below the gas intake systems.

COMMENT NO. 40-25

The proposed school site in Phase 1 was recently re-tested for soil gases by the consultant company known as Parsons. Parsons conducted some gas sampling including a cursory study for helium which may serve as an indicator of SOCALGAS reservoir gas leakage. This gas study also found high gas levels and pressures. Parson's first helium study using Summa canisters was botched as cited by Parson's, the second attempt with Tedlar bags, did find helium. New gas sampling that has been done in this same area by CDM -roughly earlier in 2005 reveals the area has high gas levels. Both the Parson's study and the CDM study show that the area now has high levels of gas by contrast to the 2000-1 ETI gas studies performed in the same area reveal low gas levels. Furthermore, since the ETI studies in 2000-1 the "freshwater marsh area has been documented by CDM and others to have a huge (millions of cubic feet of gas per day) leakage of oilfield gases that are moving through the waters of the marsh at such high pressures as to be able to gush to the surface through approximately 8 feet of water. The area proves to be a nonstatic situation.

The Phase 2 EIR does not identify these new and dangerous changes and does not provide any investigation as to how these new high gas areas may be affecting Phase 2 or how the mitigation measures of Phase 2 and of Phase 1 &2 may cumulatively negatively impact the newly identified gas migration pathways.

Helium has been found across the Ballona Valley in various soil gas studies performed by various companies. Helium can be a significant marker to signify gas leakage from the SOCALGAS reservoir. SOCALGAS storage gas that has been transferred into the facility from the Permian basin (Texas/Oklahoma) has been known to contain significant levels of helium. However gases coming into the SOC ALGAS facility today are from numerous other sources and do not contain the same levels of helium as in years past. Also, as stated by the leading expert of SOCALGAS/Playa del Rey facility, the lack of finding helium in a soil gas sample does not preclude the gas sample from being SOCALGAS's gas. (CPUC-Evidentiary Hearing transcripts of SOCALGAS testimony in the Complaint Case and the 851 Case)

And, SOCALGAS is responsible for any and all oilfield gases migrating up wellbores within their mineral right properties -CPUC-Initial Study Application No. 99-05-029:

"SCG owns most, if not all mineral rights in the PDR field and storage zone. As such, SCG is responsible for any gas leaks originating in the PDRGSF area of influence and/from thermogenic sources."

Thus far, no "gas mixing" studies have been performed upon the oilfield (thermogenic) gas samples that have been retrieved. Typically gases stored in an oilfield have the ability to mix with gases produced from the oilfield and thus mix. Migrating gases that have "mixed" do not have an exact match to the original source and are not an exact match for non-mixed native gases. (See Reports attached eg. Hazards From Methane Gas In The Soil: Identifying The Problem And Determining The Source- D. Coleman, PhD)

Grassroots Coalition provides below, numerous documents that have not been made part of the Phase 2 EIR. Much of the SOCALGAS information provided herein was garnered since 2004 as part of a California Public Utilities Commission investigation and litigation between SOCALGAS and Grassroots Coalition (acting as intervenors on behalf of the public at risk)

RESPONSE NO. 40-25

Potential impacts related to methane gas and dewatering are outside of the scope of the RS-DEIR. Please refer to Response No. 40-4 above regarding the scope of the RS-DEIR and analysis of methane gas and dewatering impacts.

In addition, commentor's reference to helium data from the school site studies is incomplete. The comment fails to include that the consultant for LAUSD subsequently determined that the referenced helium detection was due to a lab error, and that the subsequent sampling and analysis concluded that helium was not detected at the school site.³⁸⁶ Further, concerns regarding the adequacy of the methane gas sampling, the Southern California Gas Company storage facility, dewatering and methane mitigation measures were specifically raised by the commentor and responded to in the Original FEIR. Please refer to comments and responses to Comment Letter No. 35 of the Original FEIR. Importantly, in upholding the Original FEIR analysis of the methane mitigation systems, the Appellate Court specifically found that prior methane testing was sufficient for project approval.³⁸⁷ Please refer also to Response No. 40-17 above for further discussion regarding the Southern California Gas storage facility.

³⁸⁶ See *Central Region Elementary School #22 Final Supplemental Site Investigation Report, prepared by Parsons for Los Unified School District, February 2009, pp. 4-11 – 4-12.*

³⁸⁷ See *RS-DEIR Appendix A.i, Court of Appeal Opinion, p. 65.*

COMMENT NO. 40-26**OILFIELD/GAS STORAGE FIELD GAS LEAKAGE**

California Public Utilities Commission (CPUC) litigation (7 years) between Grassroots Coalition (GC), acting as intervenor on behalf of the communities(s) overlying the oil/gas storage operations and, SOCALGAS. The GC complaints against SOCALGAS revolved around community health and safety concerns of oilfield gas leakage/ migration and venting from SOCALGAS operations.

GC and SOCALGAS created a Settlement Agreement in 2007 which provides for further investigation and monitoring (CPUC approved). Fulfillment of the Agreement is currently being established and will be ongoing. (See Settlement Agreement and Court Filings listed herein and at CPUC WEBSITE under CASE 00-05-010 (filed May 11, 2000); Decision 07-12-035.

Internal SOCALGAS documents revealing SOCALGAS gas leakage and migration have been provided herein. The documents provided, constitute some of the evidence of SOCALGAS reservoir leakage and SOCALGAS wellbores acting as conduits for leakage of oilfield gases and/or mixed gases migrating and surfacing. No chemical signature or analysis of NATIVE Playa Del Rey oilfield gases exists-as per repeated discovery requests for same. The Playa del Rey oilfield was a prototype for use of an oilfield to store injected gases. SOCALGAS has acknowledged that its injected gases have migrated into the PDR oilfield beyond the boundaries (240 acres –south of Ballona Creek) established for storage when SOCALGAS took control of the storage field. Thus, a mixing of injected gases and native gases has been ongoing. (See also transcripts from Evidentiary Hearing Aug. 4, '05, 99-05-029 (851 Case) and transcripts from Complaint Case 00-05-010)

Information attached to this Playa Vista Phase 2 response includes: hydrogen sulfide (H₂S) reports/ acknowledgements by both Playa Capital consultants (Archaeological Monitoring Report, May 1998-99); (Playa Vista New Wells 1/27/00-10610-28999-RT Newells 1/27/00-3/19/00) and the Los Angeles Regional Water Quality Control Board (LARWQCB) quarterly groundwater reports. Quarterly groundwater monitoring reports of LARWQCB from across the Playa Vista site typically reveal the presence of H₂S in groundwater. The examples provided by Grassroots show H₂S in the proposed school site area. It is important to note that the LARWQCB does not provide jurisdiction over H₂S contamination and has never quantified its findings – the anecdotal notations regarding H₂S exist in virtually all quarterly groundwater reports. The PDR oil/gas field is well known and established as being a "sour" (H₂S) oil field (LA City Planning document 15808; SOCALGAS utilizes ucaride (as one example) to combat the H₂S-SOCALGAS internal document).

RESPONSE NO. 40-26

The referenced litigation before the Public Utilities Commission involving commentor and the Southern California Gas Company is outside the scope of the RS-DEIR. Please refer to Response No. 40-4 above regarding the scope of the RS-DEIR. Further, the

referenced litigation was settled in a Settlement Agreement approved by the Public Utilities Commission. In addition, the Original FEIR specifically analyzed the potential impacts from the Southern California Gas Company storage facility. Please refer to Response Nos. 40-17 and 40-25 for further discussion of the Southern California Gas Company storage facility.

COMMENT NO. 40-27

HISTORY

The Playa Vista site, situated upon Ballona Wetlands, was considered by the City of LA to be too dangerous to build utilizing its 1985 Methane Code due to both the unique geotechnical environment and the extraordinary high levels and pressures of surfacing oilfield gases discovered in 1999 (LA Citywide Methane Code 2004/ Ordinance 175790 & 91.7104.3.8; Exploration Technologies (ETI) Report (Playa Vista) 2000, Regional Geochemical Assessment of Methane, BTEX, CO₂ and H₂S Gas Occurrences. Playa Vista Development), ETI's- STILL WORKIN ON IT 2001, LA Building & Safety Commission Hearing Transcript 2000). In 2001, the LA City Council approved new and experimental gas safety systems that were still in a 'progressive design stage' (2001 CLA Report & Directives approval). These new and experimental systems were to be strictly field tested and monitored under a new CEQA mitigation monitoring program. The oilfield gases were newly discovered in 1999 and were not addressed in the 1993 EIR. (LA City Ordinance 175790; 2001 CLA Report)

BONDS-both CDLAC and Mello Roos bond disclosure statements portray the site's safety systems as including an early warning system, MONITORING OF THE 50' AQUIFER gas levels. This 24/7 monitoring of the gases within the 50' aquifer has never been implemented.
(Safety Audit 2007)

RESPONSE NO. 40-27

The comment refers to methane mitigation measures of the First Phase Project which are outside of the scope of the RS-DEIR. Please refer to Response No. 40-4 above regarding the scope of the RS-DEIR and analysis of methane gas and methane mitigation impacts in the Original FEIR. In addition, please refer to Response Nos. 40-14 and 40-16 for further discussion regarding methane mitigation requirements for the First Phase Project and the Proposed Project.

COMMENT NO. 40-28

POLITICAL FAST TRACK

The Playa Vista site, situated upon Ballona Wetlands, has been and continues to be a politically driven approval for build-out that has habitually dodged both scientific scrutiny and public disclosure.

The 1993 EIR cited that there were no known oilfield gas migration hazards. The City of LA refused to perform the soil gas studies requested on behalf of Grassroots Coalition by gas migration experts Endres PhD and Robertson (a licensed petroleum engineer)- both familiar with SOCALGAS gas storage operations and the Playa del Rey oilfield.

Playa Vista was acquired by Playa Capital-a conglomerate group of financial powerhouses and union - (Morgan-Stanley, Dean Witter, Goldman Sachs, and ULLICO construction pension fund in approximately 1997.

At LA Building & Safety Commission Hearings regarding Playa Vista, the Mayor's office's mantra was that the Playa Vista site was the most studied site in history and that there was no need for further study.

Yet, environmentalists prevailed and brought to light Playa Capital's own soil gas studies. Playa Capital internal documents acknowledged that gas studies had been done after they acquired the property due to environmental concerns raised by the public regarding gas migration. PC wanted to know how much they might end up spending for mitigation should gases exist. (ENSR Report) Upon finding the surfacing gases, Playa Capital did not inform the City of LA but released the studies to the LA Regional Water Quality Control Board- an EPA agency having no jurisdiction over migrating oilfield gases and where the report lay buried with no notification to the City of LA until found by GC in 1998-9 and GC brought the study to the attention of LA Building & Safety.

Upon reading the study, the head of the Grading Dept. at LADBS championed the requests at the City level to have Playa Capital perform new soil gas studies. Playa Capital complied utilizing Camp Dresser & McKee (CDM) to perform the tests. Via a CDM soil gas study, Playa Capital acknowledged that the site had some gases surfacing but that the gases were fairly insignificant and could be mitigated with the City's methane code of 1985. Again, the public prevailed when it questioned the integrity of Playa Capital's gas studies and conclusions. GC brought LADBS scientific literature citing industry standard techniques for soil gas studies, showing that the standards had not been met by CDM and Playa Capital. (eg. Hazards From Methane Gas In The Soil: Identifying The Problem And Determining The Source-D. Coleman PhD 1991) .

LADBS then allowed for Playa Capital to choose between 3 independent companies from outside California. Companies that had no prior work with either the Playa Vista site or Playa Capital. Playa Capital chose Exploration Technologies Inc.(ETI), a Texas based oil/gas investigation company.

ETI reviewed the site's previous environmental studies and concluded that the EIR had not done anything to investigate the gas issues and that the prior gas study work done by CDM was not properly or adequately done.

ETI then became the City's consultant and an investigation into the surfacing gases was begun.

During the course of these studies numerous attempts on the part of Playa Capital personnel and SOCALGAS personnel attempted to short cut any meaningful gas investigation via for example-constraints upon where to place probes, continued soil

disturbance by excavation and surcharging- activities that can readily cause outgassing and thus defeat and lower any actual soil gas readings.

ETI's conclusions were far different than Playa Capital and highly placed City officials had been stating. ETI found that the site was under pressure and outgassing oilfield gases as high if not higher than any oilfield gas seepage area they had experienced around the world.

Significant new issues came to light including the potential for a fault along Lincoln Blvd. which was later mapped as being numerous pressurized branches of displacement underlying the site. These newly found areas having the potential to change in intensity via earthquake activity or even tidal flux. (Map –underlying geologic structures allowing for gas chimneys – STILL WORKIN ON IT)

ETI and the Dept. of Building & Safety's Commission determined that the methane code for the City of LA was not sufficient to safely mitigate the oilfield gases surfacing at Playa Vista in Ballona Wetlands. (Building & Safety Commission Hearing 2000)

A new and experimental set of gas mitigation measures was developed and still in a "progressive design stage" that certain Building & Safety officials claimed were performing properly and safely. But for these measures and, in particular the experimental 50' deep aquifer gas vent wells- the site was considered to be too dangerous to develop. Two sets of Bonds (California Debt Limit Allocation-CDLAC; MELLO-ROOS) that were approved for use in build out and infrastructure usage described the mitigation measures that would protect the public. In particular the bonds describe the use of the 50' deep aquifer vent wells that would both act to vent the gases but also would serve as an early warning system-monitoring 24/7 the levels of gas at aquifer depth.

Thus in 2001, the studies undertaken were called the Chief Legislative Analyst's Report (CLA Report 2001). The 2001CLA Report and its new Directives (which included measures and oversight that the City claimed would be strictly enforced) was approved by the City Council and development of Playa Vista was allowed to continue.

Meanwhile, GC and others sued the City and PC for not having performed a new and supplemental environmental impact report (SEIR) now that the issues had come to light via the 2001 CLA Report. In court the City and Playa Capital argued that the EIR had reviewed and dealt with the oilfield gas issues and that the Playa Vista gases were not a new issue. The City and PC argued that the new mitigation measures and in particular the experimental 50' aquifer vent wells worked. GC and the public lost the California Environmental Quality Act (CEQA) court battle at the Superior Court level with the Court siding with the City's promises that the gas mitigation systems and Directives were actually working and being enforced.

However, contrary to the language argued in Court, the City acknowledged in 2004 (during a new Citywide Methane Code Hearing) that the gases surfacing at Playa Vista were newly

discovered in 1999. And, after the 2001 CLA Report had been approved and ETI had been dismissed by the City, ETI wrote a follow up report called STILL WORKIN ON IT. In this Report, ETI acknowledged that numerous field studies for the the gas safety systems had not been performed and that without strict adherence to what had been promised, a very dangerous situation existed. ETI also acknowledged that the experimental 50' deep aquifer vent well and monitoring system was a failure. Though much of it outgassed for a short period of time, the system ultimately clogged and filled with water and silt. (The failure of the 50' aquifer vent well system was also acknowledged, by LADBS, as a failure due to its placement within an aquifer and subsequent clogging with water and silt. The 2004 Citywide Methane Code does not utilize 50' vent wells for this reason according to LADBS. (2004 CITYWIDE METHANE CODE HEARING)

ETI's STILL WORKIN ON IT was withheld from the public by City Attorney's Directives (Ludlow declaration). GC was told of the Report's existence and had it confirmed by the State Lands Commission(SLC), who also had a copy of the Report. Under the direction of the State Controller, Connel- SLC had initiated an investigation into the gas issues of Playa Vista since part of the property slated for future development was given to the State as payment from the Howard Hughes estate for back monies owed to the State. This investigation was short lived and stopped due to lack of financing etc. Thus by the time the ETI Report was given to SLC, it was left in an attorney's hands.

In a phone conversation with the SLC attorney, GC was advised that the City may have confidentiality concerns and that he would check with the City Attorney. GC was subsequently told that not only did the City Attorney not want the Report released to GC but, that SLC was to return the Report to the City.

Having already been given the exact title of the Report by the SLC attorney, GC Public Act Requested the Report from the City. The City's response was that the Report did not exist.

Subsequent to the PRA response GC spoke with the SLC attorney and stated that since the City was stating that the Report did not exist, then there must not be any confidentiality agreements. SLC sent the Report to GC. Unfortunately, in a CEQA lawsuit there are time bar deadlines etc. and our attorney was not aware of other arguments that could have successfully allowed the revealing commentary by ETI into Court. The City and Playa Capital successfully argued to keep the document and its information that directly contradicted their legal statements attesting to the success of the mitigation systems- out of reach of the Court.

RESPONSE NO. 40-28

The comment refers to methane gas and methane mitigation measures of the First Phase Project which are outside of the scope of the RS-DEIR. Please refer to Response No. 40-4 above regarding the scope of the RS-DEIR. Further, the referenced postulated Lincoln Boulevard fault was thoroughly studied and determined to not exist. Exploration Technologies concurred with this determination and also approved of the methane

mitigation measures for the First Phase Project. Please refer to Original DEIR, Technical Appendix J-6, City of Los Angeles, Office of the Chief Legislative Analyst, "Final Report for City Investigation of Potential Issues of Concern for Community Facilities District No. 4, Playa Vista Development Project," May 2001. Please refer to Response Nos. 40-4, 40-14, and 40-21 above for further discussion regarding the analysis of methane gas and methane mitigation impacts in the Original FEIR. With respect to the ETI report referenced by commentor please see Response No. 40-21.

COMMENT NO. 40-29

Thank you for your consideration of these documents regarding the Playa Vista. We believe the documents provided herein have not, in the main, been provided for your review and consideration by any other party. Noted inside are further online areas to review informational documents, such as the CPUC website which contains the Grassroots Coalition v SOCALGAS legal briefs and further evidence. Thank you for your time and consideration of this important matter.

RESPONSE NO. 40-29

The comment is noted and will be incorporated into the Final RS-EIR for the review and consideration of the decision-makers.

COMMENT NO. 40-30

Attachments to Comment Letter No. 40.

RESPONSE NO. 40-30

Please note that this comment letter included attachments. The full letter and associated attachments can be located at Appendix F to this Final RS-EIR.

LETTER NO. 41

Kirsten James, Water Quality Director
W. Susie Santilena, Water Quality Scientist
Heal the Bay
1444 9th Street
Santa Monica, CA 90401

COMMENT NO. 41-1

On behalf of Heal the Bay, we submit the following comments on Recirculated Sections – Draft Environmental Impact Report (RS-DEIR) *Village at Playa Vista Project* (“Project”). We appreciate the opportunity to provide these comments.

Heal the Bay is a nonprofit environmental organization with over 13,000 members dedicated to making the waters of Southern California clean and healthy for marine life and people. Heal the Bay has actively worked to improve water quality in Ballona Creek and Ballona Estuary for over twenty years. Over the past fifteen years, Heal the Bay has worked with the Los Angeles Contaminated Sediments Task Force and others to develop solutions to the contaminated sediment problem in the Ballona Estuary. We recently completed work with the City and County of Los Angeles on a State-funded project to aid in developing a comprehensive structural BMP implementation analytical tool for the Ballona Creek Watershed in order to achieve water quality standards in receiving waters. Additionally, Heal the Bay has played an influential role in the development of local and regional stormwater regulations, which directly impact Ballona Creek. Heal the Bay was one of the key stakeholders in the development and negotiations of the Los Angeles County NPDES Municipal Stormwater permit and we played an instrumental role in the development and adoption of the SUSMP requirements of the permit. We are currently working with Ventura County officials and the Regional Water Quality Control Board (Regional Board) to develop Ventura County’s MS4 permit, with a heavy focus on Low Impact Development requirements. Also, we work very closely with the Regional Board in developing protective Total Maximum Daily Loads (TMDLs) for Ballona Creek and associated implementation plans to meet TMDL requirements.

In the context of this project, Heal the Bay has a long history of reviewing potential environmental impacts from the various phases of the Village at Playa Vista Project. We commented extensively on natural resources and water quality impacts as well as mitigation activities of the Phase I Playa Vista Development and of the Phase II Draft and Final EIRs. These comments are incorporated herein by reference.

In addition, we believe the Water Quality and Biotic Resources sections of the original EIR must be updated since it was first released in 2003. We also have concerns pertaining to

the RS-DEIR. First, the RS-EIR does not adequately discuss the water conservation strategies used in the development. The Wastewater Section of the RS-EIR should also identify key operation and maintenance components of the project that would prevent sewage spills and large storm events from impacting nearby waterways and aquifers. In addition, the Land Use Section should emphasize LID strategies used within the project.

RESPONSE NO. 41-1

The commentor provides background information concerning Heal the Bay and its prior work. The comment is noted and will be incorporated into the Final RS-EIR for review and consideration by the decision-makers. Specific responses to the particular impact identified in this comment are provided below.

In addition, the commentor refers to its prior comments concerning the Proposed Project's potential impacts on water quality and biotic resources. Those matters are outside the scope of the RS-DEIR. Please refer to Section I.B and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information." A detailed analysis of the Proposed Project's water quality impacts was included in Section IV.C.(2), Water Quality, of the Original DEIR, and Section II.6, Corrections and Additions of the Original FEIR. Detailed analyses of the Proposed Project's impacts on biotic resources were included in Section IV.D, Biotic Resources, of the Original DEIR, and Section II.7, Corrections and Additions of the Original FEIR.

Also, with respect to the commentor's prior comments on the Proposed Project and the Original FEIR, please refer to the City's responses to those comments contained in the Original FEIR (Comment Letter No. 36, pp. 1230-86 of the Original FEIR).

COMMENT NO. 41-2

Recent developments call for the recirculation of the Water Quality and Biotic Resources sections of the original EIR.

Although we submit these comments on the RS-EIR, there are sections of the original DEIR that remain inadequate in their analysis of impacts to biotic resources and water quality and do not incorporate the most recent stormwater regulations. As the Phase II Original DEIR was released in 2003, we are concerned that these two sections of the original DEIR have become outdated over the past six years. For instance, the City of Los Angeles completed the Integrated Resources Plan, and the Board of Public Works recently

approved the Water Quality Compliance Master Plan for Urban Runoff. Both of these documents address improving water quality in Ballona Creek.

RESPONSE NO. 41-2

Please refer to Response No. 41-1 above regarding the scope of the RS-DEIR and comments on water quality and biotic resources.

The Water Quality Compliance Master Plan for Urban Runoff³⁸⁸ (WQCMPUR) referenced by the commentor “seeks a broad watershed-based perspective to improve water quality and bring the City of Los Angeles into compliance” with water quality standards.³⁸⁹ (Emphasis added.) The WQCMPUR is a “high level planning tool providing the strategic guidelines” for its implementation.³⁹⁰ The City has not yet adopted “the Water Quality Management Plans and TMDL-specific Implementation Plans” that will actually select the Best Management Practices (BMPs) for implementation of the WQCMPUR in the City’s four watersheds.³⁹¹

The Proposed Project will further a number of the WQCMPUR’s watershed-based strategies. First, urban runoff from the Proposed Project will comply with all applicable water quality standards, including the applicable NPDES MS4 permit and the Total Maximum Daily Loads (TMDLs) applicable to the Ballona Creek Estuary. Refer to Response No. 41-3 below for further information. Compliance with applicable TMDLs and the MS4 permit is a key component of the WQCMPUR Implementation Strategy, as the “water quality goals for each of the four watersheds in the Los Angeles area are defined by the NPDES MS4 Permit and the many existing TMDLs or ones that will be developed in the near future.”³⁹² In addition to compliance with water quality standards, the Proposed Project already incorporates design features and BMPs discussed generally in the WQCMPUR. These measures include development of a portion of the Freshwater Wetland System (a constructed wetland), underground parking, on-site covered trash collection, vegetated swales, roof drain biofiltration systems, trash racks and screens, and BMP catch basin filters.³⁹³ Mitigation measures to reduce water quality impacts due to stormwater runoff were addressed in the Original FEIR and will be included in the Complete MMRP.³⁹⁴

³⁸⁸ The WQCMPUR may be found at: <http://www.lastormwater.org/Siteorg/program/masterplan.htm> (last visited June 10, 2009).

³⁸⁹ WQCMPUR, Preface, p. P-2.

³⁹⁰ WQCMPUR, Section 9.1, p. 9-1.

³⁹¹ WQCMPUR, Section 9.1, p. 9-1.

³⁹² WQCMPUR, Section 9.1, p. 9-1.

³⁹³ Original DEIR, pp. 453-58, Figure 33.

³⁹⁴ Original MMRP, Water quality mitigation measures C.(1)-1 through C.(1)-3 and C.(2)-2 through C.(2)-5.

Additionally, the Proposed Project must comply with future BMPs required by the City, the Board of Public Works, or other agencies.

With respect to the commentor's reference to the City's Integrated Resources Plan³⁹⁵ (IRP), the City previously confirmed that the Proposed Project is not inconsistent with the IRP, which like the WQCMPUR provides high level, strategic guidelines addressing, among other items, stormwater runoff in the City and its watersheds.³⁹⁶ For additional information, please refer to Response No. 29-65.

COMMENT NO. 41-3

In addition the 2006 303(d) list of water quality impairments was approved that includes impairments in Ballona Estuary and Wetlands and TMDLs were adopted for Ballona Creek. Since the completion of the original EIR, TMDLs for toxics and bacteria have taken effect in the Ballona Creek Estuary. These are only a few of the many advances in water quality regulation and planning since the Original DEIR was released. As the RS-DEIR and the original DEIR do not mention these developments, how does the project aim to address these standards? We believe these regulations must be considered.

RESPONSE NO. 41-3

Please refer to Response No. 41-1 above regarding the scope of the RS-DEIR and comments on water quality.

The Original FEIR analyzed the Proposed Project's water quality impacts pursuant to two sets of criteria for determining significant impacts: (1) the "pollution, contamination or nuisance" standard in California Water Code Section 13050; and (2) the various water quality standards derived from federal, state and local regulations. The latter threshold includes, for example, the applicable TMDLs for Clean Water Act Section 303(d)-listed waterbodies. The commentor references the 2006 updated 303(d) list. Neither that list, nor the draft 2008 updated 303(d) list currently being considered by the Los Angeles Regional Water Quality Control Board (RWQCB), contains constituents that were not on the previous 303(d) lists considered by the Original FEIR.³⁹⁷

³⁹⁵ Information regarding the IRP, including the Facilities Plan itself, may be found at: <http://www.lacitysan.org/irp/index.htm> (last visited June 10, 2009).

³⁹⁶ In re: Playa Vista Company, LLC – Vesting Tentative Tract No. 60110-1A, Agenda Item No. 6, 12200 West Jefferson Boulevard, Reporter's Transcript of Videotaped Proceedings, September 22, 2004, p. 90:18 – 90:22.

³⁹⁷ Original DEIR, p. 406, and Section IV.C.(2)3.4.1.2.2; see also Report Regarding Heal the Bay Comment Letter on the Recirculated Sections – Draft Environmental Impact Report (RS-DEIR) Village at Playa Vista, Geosyntec Consultants, July 7, 2009 (Appendix D.iii).

The Proposed Project discharges to the Ballona Creek Estuary. The Los Angeles RWQCB and other responsible agencies have adopted the 2006 Ballona Creek Estuary Toxic Pollutants TMDL and the 2007 Ballona Creek, Ballona Estuary, and Sepulveda Channel Bacteria TMDL.³⁹⁸ The Original FEIR addressed the constituents in these TMDLs. In addition, the Original FEIR evaluated the constituents based on the water quality standards that are the basis of these TMDLs.³⁹⁹ Based on that analysis, the Proposed Project is not expected to have a significant impact on sediment toxicity or from bacteria due to discharge of these constituents.

With regard to the Toxics TMDL that applies sediment quality standards for metal and organic constituents, impacts attributable to the Proposed Project's discharge of those constituents were addressed in the Original FEIR. The Proposed Project is not expected to discharge sediment to the Ballona Creek Estuary. Sediment will be captured by the Riparian Corridor and the Freshwater Marsh, so that if any of the TMDL constituent pollutants are attached to suspended sediment, they will be effectively removed prior to discharging to the Ballona Creek Estuary. Additional sediment controls such as catch basin inserts will further reduce sediment flows from the Proposed Project. Furthermore, many of the constituents in the TMDL, such as DDT, PCBs, and chlordane, are "legacy" pollutants that are no longer in use but may remain in sediment due to historical uses. To the extent that soil at the Proposed Project site contains any of these constituents, the Proposed Project would effectively cap those constituents with the site improvements. Other constituents, such as PAHs, are not generally associated with the Proposed Project's predominant land uses (i.e., residential).⁴⁰⁰ Monitoring of the Freshwater Marsh since 2003 confirms that sediment toxicity levels remain below levels of concern even after completion of substantial portions of the First Phase Project, which includes similar land uses.⁴⁰¹ Finally, the Original FEIR determined that the Proposed Project is expected to comply with all water quality (as opposed to sediment) standards for the constituents addressed in the Toxics TMDL.⁴⁰²

³⁹⁸ Information regarding the Ballona Creek Estuary bacteria TMDL may be found at: http://www.waterboards.ca.gov/losangeles/board_decisions/basin_plan_amendments/technical_documents/bpa_45_2006-011_td.shtml (last visited June 10, 2009). Information regarding the TMDL for toxics may be found at: http://www.waterboards.ca.gov/losangeles/board_decisions/basin_plan_amendments/technical_documents/bpa_29_2005-008_td.shtml (last visited June 10, 2009).

³⁹⁹ Report Regarding Heal the Bay Comment Letter on the Recirculated Sections – Draft Environmental Impact Report (RS-DEIR) Village at Playa Vista, Geosyntec Consultants, July 7, 2009 (Appendix D.iii).

⁴⁰⁰ Original FEIR, Response 32-8.

⁴⁰¹ Report Regarding Heal the Bay Comment Letter on the Recirculated Sections – Draft Environmental Impact Report (RS-DEIR) Village at Playa Vista, Geosyntec Consultants, July 7, 2009 (Appendix D.iii).

⁴⁰² *Id.*

The Ballona Creek Bacteria TMDL includes water quality standards derived from the Los Angeles RWQCB Basin Plan's beneficial uses for the Ballona Creek Estuary. The Original FEIR analyzed the Proposed Project based on those standards. The Proposed Project is anticipated to comply with the TMDL's dry and wet weather water quality standards. Further, the Original FEIR considered the (at the time) draft Santa Monica Bay TMDLs concerning dry and wet weather conditions for bacteria. The draft TMDLs considered in the Original FEIR are consistent with the bacteria TMDLs which were eventually adopted (after the certification of the 2004 Original FEIR) for the Santa Monica Bay and Ballona Creek Estuary by the Los Angeles Regional Water Quality Control Board.⁴⁰³ The Proposed Project includes numerous BMPs for reducing bacteria discharges to the Ballona Creek Estuary, including again the Freshwater Marsh.⁴⁰⁴

As part of the approach for assessing potential impacts for the Proposed Project, the Original FEIR evaluated all of the constituents that are addressed by the new Toxics and Bacteria TMDLs for the Ballona Creek Estuary and the assessment was made with reference to the same water quality standards that the TMDLs were based upon. Therefore, because the Original FEIR considered the water quality standards and constituents that are also addressed in the Toxics and Bacteria TMDLs,⁴⁰⁵ the analysis in the Original FEIR remains valid and the commentor does not offer significant new information within the meaning of CEQA Section 21092.1 and CEQA Guideline Section 15088.5.

COMMENT NO. 41-4

As we understand, mosquito fish (*Gambusia affinis*) are now used for vector control in the constructed Freshwater Wetland System. The environmental impact of introducing non-native mosquito fish to this area was not adequately addressed within the original DEIR. The use of this species in the marsh is particularly concerning because of potential impacts to the saltwater marsh habitat adjacent to the constructed Freshwater Marsh. *Gambusia* may be a problematic introduced species because it is not restricted to a diet of mosquito larvae. *Gambusias* have been found to threaten native fish and frog species by eating their eggs. *Gambusia* was found to be a voracious predator on the tadpoles of green and golden bell frogs¹ and a number of other native frogs² in Australia. In addition, reports have been listed that implicate *Gambusia* in the decline of various native fishes.³ There is a threat of impacts to habitat within the Ballona wetlands due to the fact that the fish exist in the freshwater marsh which is designed to overflow into the adjacent wetland area once or twice per year. Were native species of fish or insects ever considered for mosquito control

⁴⁰³ *Id.*

⁴⁰⁴ *Id.*

⁴⁰⁵ *Id.*

within the riparian corridor and freshwater marsh instead of using *Gambusia*? This issue should be addressed in the EIR. We urge project proponents to look into using indigenous fish or insect species for vector control instead of using *Gambusia affinis*.

3. *Morgan, L.A. and Buttemer, W.A. (1996) Predation by the non-native fish Gambusia holbrooki on small Litoria aurea and L. dentate tadpoles. Aust. J.Zool, 30: 143-149; Pike, G.H. and White, A.W. (1996) Habitat requirements for the Green and Golden Bell Frog Litoria aurea (Anura: Hylidae). Aust. Zool, 30: 224-232.*
4. *Harris, K. (1995) Is there a negative relationship between Gambusia and tadpoles on the Northern Tablelands? BSs (Hons) Department of Ecosystem Management, University of New England, Armidale. Op cit. Morgan, L.A. and Buttemer, W.A. Webb, C.E. and Joss, J. (1997) Does predation by the fish Gambusia holbrooki (Atheriniformes: Poeciliidae) contribute to declining frog populations? Aust. Zool, 30(3):316-324.*
5. *Courtenay, W.R. & G.K. Meffe. 1989. Small fishes in strange places: a review of introduced poeciliids. Pp. 319-331, in: G.K. Meffe & F.F. Snelson (eds.), Ecology and evolution of livebearing fishes (Poeciliidae). Prentice Hall, New Jersey, 453 pp.*

RESPONSE NO. 41-4

Please refer to Response No. 41-1 above regarding the scope of the RS-DEIR and comments on biotic resources.

As noted by the commentor, *Gambusia* are currently present in the Freshwater Wetland System, which includes the Freshwater Marsh and the Riparian Corridor. *Gambusia* have been present in each survey of the Ballona Wetlands from the past 25 years. They were originally introduced to the Ballona area when the Los Angeles County West Vector & Vector-Borne Disease Control District (LACWVCD) stocked the fish in area ditches, well before the construction of the Playa Vista First Phase Project, including the Freshwater Marsh and the portions of the Riparian Corridor on either side of the Proposed Project site.⁴⁰⁶ The *Gambusia* likely migrated from the existing ditches in the area to the First Phase Project portions of the Freshwater Wetland System shortly after their completion in 2003.⁴⁰⁷

The use of *Gambusia* in the Freshwater Wetland System for mosquito abatement purposes was analyzed in connection with the First Phase Project and is required by the

⁴⁰⁶ *Biological Effects of Mosquito Fish (Gambusia affinis) on the Ballona Wetlands System, E. Read and Associates, June 18, 2009 (Appendix D.ii).*

⁴⁰⁷ *Id.*

various federal, state, and local permits approving the construction of the Freshwater Wetland System.⁴⁰⁸ Those permits require a Habitat Mitigation and Monitoring Plan (HMMP), and the HMMP includes as an appendix a Mosquito Abatement Plan for the Freshwater Wetland System.⁴⁰⁹ The Mosquito Abatement Plan states that “Gambusia will be added to the system to control mosquito infestations.”⁴¹⁰ The Mosquito Abatement Plan has been in effect since the completion of the Freshwater Marsh in the First Phase Project in 2003.⁴¹¹ Please also note that the LACWVCD, not the Applicant, is the entity that carries out mosquito abatement for the Freshwater Wetland System, including, if necessary, the stocking of Gambusia.⁴¹²

In addition to the prior permits and First Phase Project analysis regarding the use of Gambusia to control mosquito populations in the Freshwater Wetland System, Section IV.C.(2)3.4.1.2.3. of the Original DEIR, pp. 475-76, discussed the use of Gambusia.

Please also note that native amphibians such as Pacific tree frogs are observed throughout the Freshwater Wetland System and their survival is not threatened by the use of Gambusia in the Freshwater Wetland System.⁴¹³ Green and golden bell frogs, or other native frogs in Australia raised in the comment, are not native to this area, and there is no evidence that they are found in the Freshwater Wetland System other portions of the Proposed Project site, or the general surrounding area.⁴¹⁴

Finally, while the Freshwater Marsh does infrequently “overflow” from the Freshwater Marsh to adjacent wetlands, that overflow occurs only during storm events

⁴⁰⁸ Original DEIR, Section IV.C.(2)2.1.1.4.

⁴⁰⁹ Refer to U.S. Army Corps of Engineers Permit No. 90-426-EV, Special Condition 2.d., State Water Resources Control Board, Conditional Water Quality Certification for Corps Permit No. 90-426-EV, Corresponding Section 401 Water Quality Certification Condition 18, California Department of Fish & Game 1603 Streambed Alteration Agreement No. 5-639-93, Condition 12, and HMMP Special Condition 2.d.; see also Original DEIR, pp. 475-76.

⁴¹⁰ Habitat Mitigation and Monitoring Plan for the Ballona Wetlands Freshwater Marsh, November 1995, Appendix 12: Mosquito Abatement Plan for the Freshwater Wetland System, The Playa Vista Project, June 28, 1995, Section II.

⁴¹¹ E. Read & E. Strecker, Ballona Freshwater Wetlands, Annual Report of Monitoring, Operation, and Maintenance, December 2003.

⁴¹² E. Read & E. Strecker, Ballona Freshwater Wetlands, Annual Report of Monitoring, Operation, and Maintenance, October 1, 2007 – September 30, 2008, p. 5.

⁴¹³ Biological Effects of Mosquito Fish (*Gambusia affinis*) on the Ballona Wetlands System, E. Read and Associates, June 18, 2009 (Appendix D.ii).

⁴¹⁴ *Id.*

larger than a one-year storm.⁴¹⁵ The Proposed Project will not increase the frequency of those overflow events.⁴¹⁶ Further, Gambusia are a freshwater species, and would not survive in the saltwater habitat adjacent to the Freshwater Marsh.⁴¹⁷

COMMENT NO. 41-5

Project Proponents should increase water conservation measures and update the Wastewater Section of the RS-EIR accordingly.

After talking to project proponents, we understand that landscaping irrigation within the Village is now being served by reclaimed water and Phase II will also use reclaimed water for this purpose. This is a key component of mitigating water supply pressures from the development. As a side benefit, the use of reclaimed water by this project has brought dual plumbing to the region and increased demand for recycled water. Use of recycled water helps reduce Playa Vista's environmental impact from the development's increased sewage contribution to Santa Monica Bay. In addition to the current planned use of reclaimed water for Phase II, we encourage project proponents to look for additional ways to conserve water, including the use of waterless urinals (which save approximately 10,000 gallons of potable water annually) instead of conventional urinals within commercial properties and wherever possible within the development. The current precarious state of our water supply in California has made it even more crucial that the project demonstrate efforts to conserve water to the greatest extent possible. On February 27th of this year, for instance, Governor Schwarzenegger proclaimed a state of emergency due to historic water shortages in California.⁴ Water shortages are expected to worsen due to climate change and population growth. Thus, the RS-EIR should better express how this development will strive to keep from further exhausting this precious resource by having not only the capability for maximum water reuse on-site, but through the use of as many water -saving features as possible. The project proponents should also explore ways to increase the native drought tolerant plants used for landscaping. On a visit to the site we were told that native drought tolerant plants are used for some of the landscaping on-site. Are there opportunities to increase landscaping with native drought tolerant plants?

⁶. *State of Emergency – Water Shortage* <http://www.gov.ca.gov/proclamati on/11557/>

⁴¹⁵ *Original DEIR, Section IV.C.(1)2.2.1.3.1.*

⁴¹⁶ *Original DEIR, p. 379.*

⁴¹⁷ *Biological Effects of Mosquito Fish (Gambusia affinis) on the Ballona Wetlands System, E. Read and Associates, June 18, 2009 (Appendix D.ii).*

RESPONSE NO. 41-5

To the extent that the comment concerns the Proposed Project's water supply impacts, that matter is outside the scope of the RS-DEIR. Please refer to Response Nos. 29-35 and 29-36. Also, for a discussion of the Proposed Project's water conservation measures, refer to Section IV.N.(1) of the Original DEIR (and in particular pages 1086-87); Section II.B.3.3, Section II.D.3.2.1, and Section II.D.3.2.4 of the RS-DEIR; and Response No. 29-39.

COMMENT NO. 41-6

The Land Use section of the RS-EIR should demonstrate that this project will implement adequate low impact development (LID) strategies.

The land use section should describe the project proponents' efforts to incorporate LID strategies in the project. The climate change section of the RS-EIR states that it is consistent with all of the measures promoted by the California Attorney General's office to reduce climate change impacts, including those pertaining to low impact development (LID), but there is no mention of LID within the recirculated Land Use section or in other portions of the EIR. Although Heal the Bay is aware that Playa Vista uses LID stormwater pollution reduction practices, it is imperative that this project reduce the amount of effective impervious area ("EIA") in order to reduce polluted runoff from the site and comply with imminent regulations. It is probable that the draft Ventura County MS4 (set for adoption on May 7, 2009) will serve as a template for the Los Angeles County MS4. The Ventura MS4 has a focus on LID requirements. The draft MS4 states that "[t]he goal of the New Development and Redevelopment standards shall be to reduce the effective impervious area (EIA) to 5% or less" for the SUSMP design storm (the 85th percentile runoff event with 0.2 inches per hour intensity). As this is an imminent consideration for developments in Los Angeles County regulated under the MS4, the project proponents should incorporate sufficient design features and land use elements that reduce the effective impervious area (EIA) to 5% or less. Many features may be used to achieve the goals of LID, including roof runoff collection systems (such as green roofs), pervious paving in low traffic areas, retentive grading, and onsite rainwater harvesting/ reuse systems. Which of these features will be used in the Village development?

RESPONSE NO. 41-6

Please refer to Response Nos. 41-1 and 41-2 above regarding the scope of the RS-DEIR and comments on water quality and stormwater runoff.

Additionally, the Original FEIR provides that the Proposed Project will comply with requirements for new development (including the implementation of all Best Management Practices) in the County's Manual for the Standard Urban Stormwater Mitigation Plan

(SUSMP), as required by the Los Angeles County Municipal Stormwater NPDES Program (MS4 Permit).⁴¹⁸ Further, “[a]ll other SUSMP design requirements, including those for individual priority project categories have been included in the development plan for the Proposed Project.”⁴¹⁹ Thus, the Proposed Project will fully comply with Los Angeles’ MS4 Permit and with the SUSMP. With respect to the referenced Ventura County MS4 Permit, the Proposed Project is not located within Ventura County and, as such, the Ventura County MS4 Permit is inapplicable.

Also, the Proposed Project will incorporate a number of Low Impact Development project design features to reduce stormwater runoff. Those features include the use of roof drain biofiltration systems, a bioswale within a park to receive and filter stormwater runoff from the Proposed Project prior to entering the Riparian Corridor, the use of porous pavement in appropriate areas associated with parks and open space, and the Freshwater Wetland System. Other pollutant source control and water quality project design features which would be implemented by the Proposed Project include underground parking, covered trash and recycling facilities, a street and catch basin cleaning program, xeriscape and native or drought-tolerant landscaping to reduce water use, a fertilizer and pesticide management program, prohibition of certain building materials high in copper and zinc, BMP catch basin filters, and a tenant/resident education program.⁴²⁰ For further discussion regarding the Proposed Project’s water sustainability features, please refer to Response No. 29-39.

COMMENT NO. 41-7

The RS-EIR should identify key operation and maintenance components of the project that would prevent sewage spills from impacting nearby waterways and aquifers and any associated spill response measures.

Within the last few years, numerous sewage spills have occurred in the Ballona Creek Watershed due to infrastructure failure, and as a result, there have been numerous closures of Dockweiler and Venice beach due to risks to human health. Are there any spill response procedures in place in case a sewage spill occurs in the project area? The RS-DEIR does not address this important issue. The Playa Vista Village development is situated within the Ballona Wetlands area, near a vital ecologically sensitive habitat. In addition, this area has a high groundwater table. Further, this development is located next to Ballona Creek, a direct conduit to the ocean. Even a small sewage spill can easily enter Ballona Creek, resulting in harmful environmental and public health impacts.

⁴¹⁸ *Original DEIR, Section IV.C.(2)3.3.*

⁴¹⁹ *Original DEIR, Section IV.C.(2)3.4.1.2.1.*

⁴²⁰ *Original DEIR, Section IV.C.(2)3.1.1.1.*

RESPONSE NO. 41-7

The City's Sewer System Management Plan (SSMP)⁴²¹ was adopted in February 2009 by the City's Board of Public Works in part to "develop and implement an overflow emergency response plan that identifies measures to protect public health and the environment."⁴²² The Overflow Emergency Response Plan, found in Chapter VI. of the SSMP, provides the procedures and guidelines necessary to address sanitary sewer overflows (which would be applicable to the City's sanitary sewer systems, including those within the Proposed Project area).

As concluded in the RS-DEIR, the additional wastewater flows associated with the Proposed Project would not occur at a point where, and at a time when a sewer's capacity is already constrained or would cause a sewer's capacity to become constrained.⁴²³ For more information see discussion of capacity of sewer collection system in Section II.B of the RS-DEIR.

COMMENT NO. 41-8

As discussed above, although the developer has provided us with additional information, we still have a number of concerns regarding the RS-EIR pertaining to wastewater and land use within Phase II. It is crucial that project proponents address these issues. In addition, since there have been many changes in water regulations and in project components since the Original DEIR was released, applicable sections should also be updated. If you have any questions or would like to discuss any of these comments, please feel free to contact us at (310) 451-1500.

RESPONSE NO. 41-8

The comment is a summary statement of the commentor's views. It is noted and will be incorporated into the Final RS-EIR for review and consideration by the decision-makers. Responses to the particular points addressed in the summary are provided in connection with the specific comments and responses above.

⁴²¹ The SSMP may be found at: <http://www.lacity.org/SAN/lasewers/ssmp/index.htm> (last visited June 10, 2009).

⁴²² SSMP, Chapter vi., Overflow Emergency Response Plan, p. 1.

⁴²³ RS-DEIR, p. II.B-26.

LETTER NO. 42

Susan Zolla
Inn at Playa del Rey
435 Culver Boulevard
Playa del Rey, CA 90293

COMMENT NO 42-1

I am writing to urge the City to approve the construction of The Village at Playa Vista. This section of the formerly industrial property has sat undeveloped for years while the rest of Playa Vista has flourished.

The recirculated sections of the EIR, case number ENV-2002-6129-EIR, now adequately addresses the outstanding issues that were challenged in court and have delayed the construction of The Village.

With any new development there will be some environmental impacts, but the benefits of building The Village are so clear. It would complete the sustainable, urban infill vision for our city that Playa Vista has promised to provide all along. Just as importantly, during a time of great economic difficulty, it would result in the creation of thousands of construction jobs and millions of dollars in new city tax revenues annually.

The Inn at Playa del Rey encourages and supports the development of the Village and believes the City should move The Village forward without any more delay.

RESPONSE NO. 42-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 43

Jim Ferro
LAX Coastal Area Chamber of Commerce
9100 S. Sepulveda Blvd., Suite 210
Westchester, CA 90045

COMMENT NO. 43-1

On behalf of the LAX Coastal Area Chamber of Commerce and the over 35,000 employees we represent, I am writing to express support for the re-circulated sections of the draft environmental impact report for The Village at Playa Vista which will soon be back before City Council for consideration.

The majority of the original EIR, which was overwhelmingly supported by the Los Angeles City Council and Planning Commission in 2004, and upheld by the Superior Court, was ruled to be in compliance with the California Environmental Quality Act. We have reviewed the City's new analysis on the three issues – land use, wastewater and archaeological resources - required by the Court of Appeals. Based on our review, we have voted to support the City Council's recertification of the EIR for the Village and reapproval of the land use entitlements and related approvals.

The Village makes sense for our community. That's why our chamber supported the plan in 2004, and continues to support it now. And this project is especially important in these difficult economic times, because the Village will generate thousands of construction jobs and millions of dollars in city revenue. The Village will also provide new affordable and market rate housing and new retail, both of which are much needed in our community, while maintaining the critical smart growth principles that support conservation and sustainable development.

In addition, the parks, open spaces and transportation improvements will also help maintain and improve the quality of life for those who work and live near Playa Vista.

The LAX Coastal Area Chamber of Commerce urges you to vote to re-approve the land use entitlements and related approvals for The Village at Playa Vista and help Playa Vista move forward and complete its community vision.

RESPONSE NO. 43-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 44

Gary Toebben
President & CEO
Los Angeles Area Chamber of Commerce
350 S. Bixel St.
Los Angeles, CA 90017

COMMENT NO. 44-1

On behalf of the Los Angeles Area Chamber of Commerce (Chamber), representing nearly 1,600 businesses in the region, I write to express our support of the recirculated sections of the EIR for the Village at Playa Vista. Specifically, we support the City Council's recertification of the EIR and the reapproval of the land use entitlements and related approvals. During this time of economic downturn, this project expects to generate thousands of construction jobs and millions of dollars in revenue to the city.

As you know, the Chamber - along with the Los Angeles City Council and City Planning Commission - also supported the original EIR in 2004. The recently completed supplemental analysis in the areas of land use, wastewater, and archaeological resources further indicate minimal impacts from the project. And the final supplemental analysis area, global climate change, demonstrates sustainable, urban infill development; a best-practice as the city continues to grow.

This project will also bring significant benefits to the community. The final phase of Playa Vista includes a new neighborhood retail center, new public parks and 2,600 new residential units. The Village includes state-of-the-art traffic improvements that will increase the safety and efficiency of traffic flow in both the project's adjacent area and the region.

The Chamber commends your management and the city's work as lead agency throughout this process. Please contact Public Policy Manager Vanessa Rodriguez at 213.580.7531 or vrodriguez@lachamber.com with questions or comments.

RESPONSE NO. 44-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 45

Molly Greenwood
NRDC
1314 2nd Street
Santa Monica, CA 90401
mgreenwood@nrdc.org

COMMENT NO. 45-1

Thank you for speaking with me on the phone earlier regarding the 23 duplicate mailings we received for the Village at Playa Vista Project Draft EIR. I'm not sure how best to go about helping you update your mailing list for NRDC. Perhaps I could mail you the labels from the envelopes we received? For simplicity's sake, our one entry should probably just read:

NRDC
1314 2nd St.
Santa Monica, CA 90401

We received multiple envelopes addressed to "National Resources Defense Council" (a very common typo), along with various combinations including the acronym as well. One envelope was addressed to our old office location at 6310 San Vicente Blvd, Suite 250, Los Angeles CA 90048-5426. We also had some addressed to staff members, some of whom no longer work here.

Please let me know if I should send you the labels, and if so, to what address. Thank you for helping us reduce paper waste!

RESPONSE NO. 45-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. For a discussion on the re-noticing of the availability of the RS-DEIR for public review and comment, please see Section I.D. of this Final RS-EIR.

LETTER NO. 46

Pile Drivers Local Union No. 2375
United Brotherhood of Carpenters and Joiners of America
728 Lagoon Avenue
Wilmington, California 90744-5499

COMMENT NO. 46-1

Enclosed please find the five (5) address labels from envelopes that we just received from your office.

Please update your mailing address records as Joel Harzan passed away in 2000; and only one (1) correspondence would be sufficient for our office. It can be generic like the top one or addressed to myself.

Thanking you in advance for your assistance and cooperation in this matter.

RESPONSE NO. 46-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. For a discussion on the re-noticing of the availability of the RS-DEIR for public review and comment, please see Section I.D. of this Final RS-EIR.

LETTER NO. 47

Ernest Roberts
PV JOBS
9100 S. Sepulveda Blvd., Suite 200
Los Angeles, CA 90045

COMMENT NO. 47-1

With its proposal for The Village, Playa Vista is going to add thousands of construction jobs during a time when the economy desperately needs a shot in the arm. The Village will also generate millions of dollars per year for the City of Los Angeles' general fund.

What's not to like? This project provides for long overdue transportation improvements, the addition of new parks and public transit enhancements that extend throughout the west L.A. region.

I support The Village. For too long, it has been delayed by litigation from professional project opponents and red tape. The project is good for the City and good for the local area. I encourage the City to approve it.

RESPONSE NO. 47-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 48

William R. Ewald, Jr.
PACT Chairman & CEO
Positive Alternative Choices Today (PACT)
12421 Venice Blvd. #7
Los Angeles, CA 90066

COMMENT NO. 48-1

As a former member of the American Institute of Planners, I have followed and been impressed by the 3D execution of the sound planning principles that have guided the development of Playa Vista. Let The Village go forth and complete the proper integration of land uses.

I commend the City on such meticulous work in revising the three sections of the environmental impact report for The Village which were overturned by the Court, Case No. ENV-2002-6129-EIR. It created a very comprehensive document that analyzes the three issues currently holding up construction of The Village: the land use impacts of changing the property's zoning, the adequacy of its wastewater treatment system and its protection of archeological resources.

The recirculated sections of the environmental impact report presented a convincing case that the project does not cause problems on any of these topics. More importantly, I think The Village is going to have a positive impact on the community. The new public parks, open space, and neighborhood retail area will all benefit the surrounding community.

Like the rest of Playa Vista development, The Village balances the need for homes and retail space with the need for parks and open space. I hope that the City of Los Angeles will approve it.

RESPONSE NO. 48-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 49

Duane Vander Pluym, D.Env.
Rincon Consultants, Inc.
790 East Santa Clara St.
Ventura, California 93001
<http://www.rinconconsultants.com>

COMMENT NO. 49-1

I received four copies of the above NOC to the same name and mailing address; please purge your mailing list to include only one instance. Thank you.

RESPONSE NO. 49-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. For a discussion on the re-noticing of the availability of the RS-DEIR for public review and comment, please see Section I.D. of this Final RS-EIR.

LETTER NO. 50

Joseph F. Young, Chair
Airport Marina Group
Angeles Chapter, Sierra Club
3435 Wilshire Boulevard, Suite 320
Los Angeles, CA 90010-1904

COMMENT NO. 50-1

The Airport Marina Group of the Angeles Chapter of the Sierra Club has the following comments on the Playa Vista Phase 2 RS-DEIR:

1) Since the Phase 2 EIR was approved in 2004, things have gotten worse with water pollution and negative impacts on the environment.

Therefore, the needs to be a more environmentally sound alternative to this proposed high-density development being placed on the Ballona wetlands ecosystem. Such an alternative could include the current zoning of 100,000 square feet of retail/office space, with the rest Of the land left as open space. The open space could include a treatment wetland to handle urban runoff from the Phase 1 east end development. The rest could be restored to native habitat, and some land for the indigenous Gabrielino Tongva people who have been living here for 10,000 years.

RESPONSE NO. 50-1

Project alternatives are outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information." The commentor offers no "significant new information" with respect to project alternatives within the meaning of California Public Resources Code 21092.1 and State CEQA Guidelines Section 15088.5. Please refer to Response No. 26-2.

COMMENT NO. 50-2

2) Benefit of restoring most of Phase 2 area to native habitat -
The large monetary value of coastal wetlands is just now becoming recognized by government Officials (such as shown on the PBS documentary "Poisoned Waters" last week). The value of the Ballona wetlands has still not been recognized. But now is the time to recognize it before more of it is destroyed. We have already lost over 95% of our wetlands in LA County and along the California coast.

RESPONSE NO. 50-2

Please refer to Response No. 26-2 regarding the scope of the RS-DEIR and comments on project alternatives. To the extent that the comment concerns the Proposed Project's biotic resources impacts, that matter is also outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" with respect to impacts on biotic resources within the meaning of California Public Resources Code Section 21092.1 and State CEQA Guidelines Section 15088.5. A detailed analysis of the Proposed Project's biotic resources impacts was included in Section IV.D, Biotic Resources, of the Original DEIR, and Section II.7, Corrections and Additions of the Original FEIR. As discussed in Response No. 50-1 above, the Proposed Project site is not part of the Ballona Wetlands, and is not a wetland. For more information, please refer to Response No. 26-4.

COMMENT NO. 50-3

3) Benefit of using Phase 2 to treat urban runoff of Phase 1 on the east end -

The fresh water marsh (urban runoff basin) west of Lincoln Blvd. was built to handle all the runoff from all of Phase 1. It will have to be dredged every 5-15 years to remove the toxic contamination from so much street runoff. This dredging will greatly disturb the wildlife and plant life there. This would be a tragedy, since that land adjoins the section of the Ballona wetland system purchased by the State of California in 2003. If some of the east end runoff can be treated east of Lincoln Blvd., then that would reduce the load on the fresh water marsh adjoining the wetlands. It could possibly reduce the amount of dredging of this wildlife habitat.

RESPONSE NO. 50-3

Please refer to Response No. 50-1 above regarding the scope of the RS-DEIR and comments on project alternatives, including a treatment wetland alternative and water quality impacts.

With regard to the comment concerning regarding the Freshwater Marsh, it should be noted that the Freshwater Marsh was approved and permitted separately as part of the adjacent Playa Vista First Phase Project, and was designed and constructed to accommodate urban runoff from an over 1,000 acre watershed, including the First Phase Project, the Proposed Project, and off-site drainage areas totaling over 600 acres. The impacts and mitigation measures associated with the adjacent First Phase Project, including those with respect to the need for dredging in the Freshwater Marsh, were

addressed in a separate EIR (EIR No. 90-0200-SUB(C)(CUZ)(CUB), State Clearinghouse No. 90010510), certified by the City of Los Angeles in September 1993, and Mitigated Negative Declaration/Addendum to the EIR, certified by the City of Los Angeles in December 1995.

Section IV.C.(2), Water Quality, of the Original DEIR, concluded that the loads and concentrations of sediment expected to enter the Freshwater Marsh are expected to decrease slightly with implementation of the Proposed Project due to the conversion of undeveloped areas to commercial and residential uses. These uses tend to decrease the amount of suspended solids associated with upland erosion. Additionally, the implementation of on-site treatment measures such as roof drain planter boxes, catch basin inserts, a vegetated swale adjacent to the Riparian Corridor, and completion of the Riparian Corridor itself will further reduce sedimentation. The mitigation measures for the Proposed Project would require the implementation of these design features.⁴²⁴

According to the 2008 Annual Report for the Freshwater Marsh, there is no “consistent trend of sediment accumulation or loss at any one [monitoring] location” in the Freshwater Marsh.⁴²⁵ The annual report also concluded with regard to urban runoff that “[a]cross all parameters, water quality and sediment quality data did not show any trends of accumulation or build-up that would signal the need for sediment removal, or pose a potential threat to aquatic life.”⁴²⁶ In the absence of long-term accumulation of pollutants or sediment, dredging will be very infrequent.

COMMENT NO. 50-4

4) The City of Los Angeles needs to preserve open space. It has one of the lowest public acres of open space per resident ratio of any large urban area in the United States. Destroying this open space with 2,600 condos, and 325,000 square feet of retail space is not a good option. Already the Playa Vista developers (Morgan Stanley, Goldman Sachs, and the ULLICO construction union pension fund) have been allowed to put up very intense development on this part of the Ballona ecosystem. In fact, development east of Lincoln Blvd. was illegally allowed on delineated wetlands prior to the Phase 1 construction.

RESPONSE NO. 50-4

The comment’s discussion of open space preservation is noted and will be incorporated into the Final RS-EIR for review and consideration of the decision-makers.

⁴²⁴ *Original MMRP mitigation measures C.(1)-1 and C.(2)-1, pp. 21, 23-24.*

⁴²⁵ *E. Read & E. Strecker, Ballona Freshwater Wetlands, Annual Report of Monitoring, Operation, and Maintenance, October 1, 2007 – September 30, 2008, p. 24.*

⁴²⁶ *Id., pp. 3, 31.*

The Proposed Project site is not public open space, and is not designated as such on any City, state, or federal plan. With respect to the comment that “development east of Lincoln Blvd. was illegally allowed on delineated wetlands prior to the Phase 1 construction,” in July 1992, the U.S. Army Corps of Engineers issued Section 404 Permit No. 90-426-EV, which allowed fill of a total of 16.1 acres of disturbed wetlands in various portions of the former Playa Vista Planning Area for construction of the Freshwater Wetland System and a mixed-use development. That permit was challenged in federal court and ultimately upheld by the U.S. Court of Appeal for the Ninth Circuit.⁴²⁷ All dredge or fill of wetlands associated with the adjacent First Phase Project have occurred pursuant to this permit.

COMMENT NO. 50-4

5) Finally, we have been told by gas experts that leaving open space on the Playa Vista site is a safer alternative, due to the underlying gas (which in some areas is extremely high) having more surface area from which to dissipate into the air. Otherwise, there is the danger it can build up under construction areas

Please consider these comments in determining how this land should be utilized.

RESPONSE NO. 50-5

Methane gas impacts are outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City’s obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to “significant new information.”

The commentor offers no “significant new information” with respect to methane gas impacts within the meaning of Public Resources Code 21092.1 and State CEQA Guidelines Section 15088.5. A detailed analysis of the Proposed Project’s impacts regarding methane gas was included in Section IV.I, Safety/Risk of Upset, of the Original DEIR, and Section II.13, Corrections and Additions of the Original FEIR and Topical Response TR-12 of the Original FEIR. For further discussion regarding methane gas impacts associated with the Proposed Project, refer to Response Nos. 29-42 and 29-43 and Nos. 40-4 through 40-28.

The commentor’s request that its comment be considered is noted and will be incorporated into the Final RS-EIR for review and consideration by the decision-makers.

⁴²⁷ See *Wetlands Action Network v. U.S. Army Corps of Engineers*, 222 F.3d 1105, 1122 (9th Cir. 2000).

LETTER NO. 51

Rosalyn Squires
Pipeline Planning Assistant
Transmission Department
Southern California Gas Company
P.O. Box 2300
Chatsworth, CA 91313-2300

COMMENT NO. 51-1

Southern California Gas Company-Transmission Department (The Gas Company) has received your request for pipeline locations within the general area of your proposed project. The Gas Company operates and maintains **(12, 30)**-inch high pressure natural gas lines **(1159, 1167)** within the limits of your construction project. Attached are copies of our pipeline Atlas sheets **(LA 2072-2, 3, 2073-1)** which show the location of our pipelines. While we cannot guarantee the accuracy of these maps they are included to assist you in your planning and design.

One design parameter The Gas Company requires is that:

- Consideration be given to the safety of our pipeline during the design and construction stages.
- No mechanical equipment will be permitted to operate within three feet of the pipeline, and any closer work must be done by hand.
- A representative of The Gas Company must observe the excavation around or near our facilities to insure protection and to record pertinent data necessary for our operations.

Upon request, at least two (2) working days prior to the start of construction, we will locate and mark our active underground facilities for the contractor at no cost. Please call Underground Service Alert (USA) at (800) 422-4133.

Arrangements for someone to stand-by and observe can be made by calling **(213) 703-4837** two working days prior to the start of construction. We would appreciate it if you would place a note on your plans to that effect.

We will also require "final" grading plans and construction profiles prior to the start of construction.

Within the limits of your proposed construction, if you have not already done so, please contact the **Northern Distribution Region** of The Gas Company for information on their pipelines. You can contact them at **(818) 701-3316** and they will furnish you with any information you may require.

If a conflict is identified and can only be resolved by the relocation of our facilities, please be advised that the projected timetable for the completion of this relocation is one year. This includes planning, design, material procurement, cathodic protection, permits, environmental issues and construction.

Please refer to our Document Control Plan File # **92-09-1159, 1167** and any correspondence directed to this office, in connection with this project. If you have further questions or require additional assistance, please contact **Mike Batista** (MBatista@Semprautilities.com) telephone number **(818) 701-4543**.

RESPONSE NO. 51-1

This comment is noted and will be forwarded to the decision-maker for their consideration. All infrastructure work associated with the Proposed Project that could affect the 12” and 30” high pressure natural gas lines referenced has been completed. Any future work in public rights of way associated with the Proposed Project would be conducted according to City of Los Angeles public works requirements, which would include contacting Underground Service Alert (USA) prior to the start of construction.

LETTER NO. 52

Nancy Hastings
Southern CA Field Coordinator
nhastings@surfrider.org

COMMENT NO. 52-1

In the past week or so I have received 5 copies of the Notice of Completion and Availability of Recirculated Sections of Draft EIR No. Env-2002-6129-EIR State Clearinghouse No. 2002111065. This is for the project name: The Village at Playa Vista Project.

4 copies were sent to attn: Nancy Hastings, 3783 Redwood Avenue, Los Angeles, CA 90066

1 copy was sent to attn: Southern California Regional Manager, Surfrider Foundation, PO Box 6010, San Clemente, 92674-6010

Please check your mailing database and help reduce the waste (and cost) of sending me 5 copies of the same thing. Thank you!

RESPONSE NO. 52-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. For a discussion on the re-noticing of the availability of the RS-DEIR for public review and comment, please see Section I.D. of this Final RS-EIR.

LETTER NO. 53

Andy Layman
President
Venice Chamber of Commerce
info@venicechamber.net

COMMENT NO. 53-1

On behalf of the Board of Directors of the Venice Chamber of Commerce, we want to reaffirm our continued support of the Village at Playa Vista. The Venice Chamber supported the Village when it went through the initial review and approval process in 2004. That approval process was one of the most public and transparent we have ever seen.

Although a court has required further analysis on three issues, we see no need to reverse our initial approval. The Village is an integral part of the Playa Vista project and will be a benefit to its surrounding communities. The Village creates new parks and enables investment in critically-needed transportation improvements with a commitment to public transit.

In these economic times, the Village will generate thousands of jobs and millions in City revenues. It continues Playa Vista's goals of providing workforce housing and new retail opportunities. Playa Vista demonstrates the smart growth principles that support conservation and sustainable development. And Playa Vista has proven itself as a good friend to its neighboring communities, such as Venice.

We urge the City Council to recertify the EIR for the Village and to reapprove the land use entitlements and other necessary approvals which will allow the Village can go forward and be completed.

RESPONSE NO. 53-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 54

David C. Voss, Jr.
Voss, Silverman & Braybrooke, LLP
Marina Towers
4640 Admiralty Way, Suite 800
Marina del Rey, CA 90292

COMMENT NO. 54-1

I have followed the news surrounding Playa Vista for many years, and always thought the development was a good idea because it offers a smart model for future growth in Los Angeles. We need more mixed-use developments that allow people to live close to jobs, schools and shopping, particularly on the Westside. This model for growth will cut down on traffic and protect the environment in addition to creating the sense of community that has been lost in Los Angeles.

Now the City has an opportunity to make the entire vision of Playa Vista a reality by approving The Village. The careful analysis in the re-circulated sections of the environmental impact report clearly shows that Playa Vista will not create the negative impacts that opponents of the project have claimed.

The City should approve The Village, allowing for the completion of this important model for smart growth on the Westside.

RESPONSE NO. 54-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 55

Tina Hakanen and
Board of Directors
Westchester Vitalization Corporation
PO Box 88005
Los Angeles, CA 90009

COMMENT NO. 55-1

The initial Playa Vista ground-breaking ceremony was met with great enthusiasm from many local residents and Westchester Vitalization Corporation Board of Directors were part of that celebration.

The same support and enthusiasm exists today. The Village will complete the vision that Playa Vista had promised, allowing people to live close to jobs, schools and shopping, thus reducing the number of cars on the road.

We are excited about The Village as it will continue to preserve open space land and provide new public parks and habitat, as well as neighborhood retail areas.

Playa Vista offers a model for future development that protects the environment and provides significant economic benefits. The Village will be a real community resource.

While we cannot speak to City requirements and/or process, we definitely support Playa Vista and their newest effort, 'THE VILLAGE.'

RESPONSE NO. 55-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 56

Brad Zacuta, Head of School
Glenn Scott, Chair, Board of Trustees
Westside Neighborhood School
5401 Beethoven Street
Los Angeles, CA 90066

COMMENT NO. 56-1

Westside Neighborhood School (then called the Westchester Neighborhood School) endorsed The Village at Playa Vista when it first went through the City of Los Angeles approval process in 2004. We now urge the City to approve the Recirculated Sections of the EIR and allow Playa Vista to move forward with construction.

Playa Vista is a tremendous resource to our community. Beyond bringing benefits, including beautiful new parks and a public library, Playa Vista has been an incredibly strong supporter and partner for WNS. We have had the pleasure of using the new Sports Park for our school soccer, football and softball games. And most importantly, the Playa Vista Educational Trust has allowed WNS to bring extraordinary diverse arts and cultural programs - including dance, drama and music performances - to our students. This programming has truly enhanced our student's education in ways, which we would otherwise not have been able to provide. Approving The Village is integral to the PVET program and the educational support it provides.

Playa Vista's benefit to the community extends far beyond its boundaries. Through the years, their support has made a difference to all of the students at WNS.

The Village will also provide additional benefits to the area, including public transit enhancements that extend throughout the West Los Angeles region, as well as long overdue roadway improvements. We are also pleased that the plans call for more open space, including new public parks and habitat and a neighborhood retail area that is much needed and very appropriate for the area.

I hope that you will support Playa Vista in their efforts to complete their vision to ensure that Playa Vista can continue to support the children and their families in our community.

RESPONSE NO. 56-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 57

Doug Archer

dougarcher26@yahoo.com

COMMENT NO. 57-1

Yes, I support the completion of Playa Vista's The Village. That was the primary reason I moved to Playa Vista, and it has been a shame that the project has been stalled, especially after all the infrastructure was invested into it already. Now, it's just partially developed vacant land that is ready for continued development between the already developed Playa Vista homes and the offices (being built) near Centinela. Let's get going on this last phase of the project. It will also create jobs and stimulate the economy, which is greatly needed at this time! No more delays. Build it!

RESPONSE NO. 57-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 58

Diane Barretti
7339 W. 91st Street
Westchester, CA 90045

COMMENT NO. 58-1

With its proposal for **The Village, Playa Vista** is going to add thousands of construction jobs during a time when the economy desperately needs a shot in the arm. The Village will also generate millions of dollars per year for the City of Los Angeles' general fund.

What's not to like? This project provides for long overdue transportation improvements, the addition of new parks and public transit enhancements that extend throughout the west L.A. region.

I support **The Village**. For too long, it has been delayed by litigation from professional protest opponents and red tape. The project is good for the City and good for the local area. I encourage the City to approve it.

RESPONSE NO. 58-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 59

Bruce Campbell
1158 26th St. #883
Santa Monica, CA 90403

COMMENT NO. 59-1

First I will mention some numbers and letters which I see on the Village at Playa Vista documents -- even though I'm not sure if they apply to the revisions or to the earlier documents. Those letters and numbers are: "ENV-2002-6129-EIR" and "State Clearinghouse # 2002111065" and the date "January 2009".

RESPONSE NO. 59-1

The letters and numbers referenced in the comment are: 1) the City's designation for the environmental review case for which the Original DEIR, Original FEIR, the RS-DEIR, and this Final RS-EIR have been prepared; 2) the State Clearinghouse designation number for the Proposed Project's Original EIR; and 3) the date of the RS-DEIR. The RS-DEIR is a recirculated revision to certain sections in the Original DEIR, which was initially circulated in 2003. The RS-DEIR is not a separate EIR. Accordingly, the same State Clearinghouse and City case numbers previously assigned still apply.

COMMENT NO. 59-2

Second, I do not believe that the earlier Village at Playa Vista documents adequately considered reasonable alternatives despite what I believe is a mandate to do so under the California Environmental Quality Act. One reason why certain alternatives were not mentioned or adequately considered is that there is the presumption (which I believe was tossed out by a court) that the Village at Playa Vista can build a lot more buildings and square footage than is allowed under the current zoning. Thus, it was assumed that there could be massive development since I suppose Playa Vista representatives realized that they had the vast majority of City Councilmembers under their thumb, and that they would do their bidding to be able to change zoning ordinances in order to allow such dense developments. Both the Westchester/Playa del Rey Community Plan and the Area D Specific Plan would need to be changed so that the project as proposed can move forward.

RESPONSE NO. 59-2

The commentor states concerns about the analysis of alternatives to the Proposed Project. Those matters are outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information." The alternatives analysis contained in Section VII of the Original DEIR, and Section II.33 of the Original FEIR, included analysis of several alternative uses. The commentor offers no "significant new information" with respect to the alternatives analysis within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5. For a further discussion regarding the analysis of alternatives, please see Response Nos. 25-3 and 25-7.

The commentor is correct that amendments to both the Westchester/Playa Del Rey Community Plan and the Playa Vista Area D Specific Plan are necessary in order to enable the Proposed Project to move forward. The RS-DEIR acknowledges and explains the need for amendments to these plans, and the potential land use impacts associated with the proposed amendments were analyzed in the RS-DEIR.⁴²⁸

COMMENT NO. 59-3

I call for inclusion in the Final EIR of all contact which representatives of Playa Vista (and their family members and related companies) had with members of the Los Angeles City Council, as well as documentation of all Playa Vista (and related family members and companies) donations to members of the Los Angeles City Council, as well as to the Mayor and City Attorney of Los Angeles. The public deserves to know the extent to which officials are financially and otherwise influenced relating to this large project.

RESPONSE NO. 59-3

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. Please also note that the obligations of elected officials and lobbyists with respect to disclosures of campaign contributions and reporting of lobbying contacts are governed by laws other than CEQA.

⁴²⁸ See RS-DEIR, Sections II.A.2, II.A.3.

COMMENT NO. 59-4

Due to the presumption that certainly the Los Angeles City Council would readily change the zoning for this area to accommodate the Village at Playa Vista, thus certain other alternatives were deemed unrealistic due to the cost of the property which increases further if one presumes that the two zoning plans will be changed so that the project can move forward. Since we are back to an earlier era when the zoning plans clearly state that there should be a maximum of 108,050 square feet of office space in the Village at Playa Vista, thus one cannot assume that the property is worth more than the value which it has seeing that the current zoning says that office space construction at the Village at Playa Vista is limited. Also, besides claims that several intersections in the region would be improved, there has been no serious traffic analysis of the true impact of a huge increase in vehicle trips in the area far beyond the 1568 additional vehicle trips a day which is allowed under the current zoning for the Village at Playa Vista site.

RESPONSE NO. 59-4

Please refer to Response No. 59-2 above regarding the scope of the RS-DEIR and comments on alternatives to the Proposed Project. Please also note that the Original FEIR's alternatives analysis did not, as maintained by the commentor, reject alternatives based on a presumption that the City would change the zoning. Rather, alternatives were rejected for a variety of reasons, including failure to achieve most of the project objectives.⁴²⁹ For a further discussion of this issue, please see Response No. 59-9.

The comment also refers to the Proposed Project's potential traffic impacts. Those impacts are outside the scope of the RS-DEIR. Please refer to Response No. 59-2 above regarding the scope of the RS-DEIR. Please also note that as required by CEQA, the Original FEIR's traffic analysis assessed the potential traffic impacts of the Proposed Project based on trip generation attributable to the Proposed Project against a baseline condition of undeveloped land, not the trip generation associated with development authorized under existing zoning.⁴³⁰ An analysis of the Proposed Project's traffic impacts based on its incremental trip generation over and above those generated under existing entitlements, as the commentor suggests, would actually result in lower trip generation and less impacts.

⁴²⁹ *Original DEIR, pp. 1263-1265.*

⁴³⁰ *State CEQA Guidelines Section 15125(a); Original DEIR, pp. 840-41, 859-60; Original FEIR, pp. 472-73.*

COMMENT NO. 59-5

The "Equivalency Program" says "may", so it sounds like the developers are still unsure what they want to do with the Village site, but it is likely they want to maximize their profit and what they can build on it. Do not say "may" or give vague ideas. Either abide by current zoning, or at least give an honest assessment of what plans are in the works for the site.

RESPONSE NO. 59-5

The Equivalency Program is designed to enable the Applicant to exchange a limited portion of the requested office uses to provide additional retail and/or assisted living units in lieu of 125,000 square feet of office space. This program is intended to permit the Proposed Project to adjust to meet evolving demands and needs in the marketplace (including those working and residing at Playa Vista). Impacts from the Equivalency Program were fully evaluated in the Original FEIR for those topics not covered in the RS-DEIR, and the RS-DEIR evaluated the land use, archaeological, wastewater, and global climate change impacts attributable to the Equivalency Program.

COMMENT NO. 59-6

And despite calling on the public to limit comments to certain topics, the preparers of the RS-DEIR themselves have added one topic for further consideration -- that being global climate change. Yet, not surprisingly, one portion regarding global climate change was partially addressed (that portion focused on the claim that building the Village at Playa Vista would add insignificantly to global climate change), yet a rather obvious matter regarding global climate change was ignored. The omitted portion crying for attention is how global climate change will impact various portions of the Playa Vista development (including the Village site), as well as the general Playa del Rey and Marina del Rey areas. Ocean level should significantly rise and some scientists foresee that the Village site at Playa Vista will be under Pacific Ocean water in less than a century. This needs further analysis in a Supplemental DEIR document. How will ocean water east of Lincoln Blvd. impact the drainage/run-off ditch of the so-called "riparian area" which feeds into the so-called freshwater marsh -- which will be quite salty by that point?

RESPONSE NO. 59-6

As discussed in the RS-DEIR, the Proposed Project would not cause a significant impact to global climate change on either a project-specific or a cumulative level.⁴³¹ Accordingly, the Proposed Project would not cause any significant impacts on sea level rise attributable to global climate change. It should also be noted that the amount of sea level rise attributable to global climate change is a subject of scientific debate.⁴³² In addition, there is no indication that any potential sea level rise would adversely impact the Riparian Corridor at the Proposed Project.⁴³³ For a further discussion of sea level rise, please see Response Nos. 29-62 and 32-6 and Appendix C.i to this Final RS-EIR,

COMMENT NO. 59-7

The documents claim that there will be no problem with the impact of Playa Vista Village sewage on the Hyperion facility, but I doubt that the document was updated to account for various new developments planned in the Marina del Rey area, at Playa del Rey, and Loyola Marymount University, in the Hughes Center area, more skyscrapers in Century City, and other proposed Westside developments. Please account for these various development proposals in a Supplemental DEIR when you are assessing the Village at Playa Vista's impact on the Hyperion sewage facility and on Santa Monica Bay.

RESPONSE NO. 59-7

The analysis in the RS-DEIR of the Proposed Project's wastewater impacts considered the cumulative impacts of projected growth throughout the 515-square-mile Hyperion Service Area. Please see Response No. 29-27 for a further discussion of this issue.

COMMENT NO. 59-8

As far as comparative cumulative impacts of the Village at Playa Vista project on Santa Monica Bay, seeing that alternatives such as a regional park or a treatment/restored wetland were readily dismissed in earlier documents, those alternatives must be examined again in a Supplemental DEIR. A number of environmentalists in the area have called for natural treatment wetlands to treat the water from Centinela Creek and at least some water from Ballona Creek at the site proposed for the Village at Playa Vista. While the high cost

⁴³¹ RS-DEIR, pp. II.D-62-II.D-63.

⁴³² Village at Playa Vista – Sea Level Rise, Mestre Greve Associates, July 1, 2009, pp. 3-4 (Appendix C.i).

⁴³³ Id., pp. 5-6.

of acquiring the land resulted in dismissal of some more environmental alternatives in the DEIR, yet if one considers what it would cost the City of Los Angeles to abide by TMDLs (Total Maximum Daily Loads) for Ballona Creek so that it does not violate regulations where it empties into Santa Monica Bay, then the fairly steep price for Village at Playa Vista land seems reasonable as compared to the cost which would be incurred by constructing major buildings and mechanical treatment facilities in order to clean up the water of Ballona and Centinela Creeks so that the federal guidelines for TMDLs (which will be enforced in future years) are met.

RESPONSE NO. 59-8

Please refer to Response No. 59-2 above regarding the scope of the RS-DEIR and comments on the analysis of alternatives to the Proposed Project. For a detailed discussion regarding the suggested acquisition of the Proposed Project site for use as open space or a treatment wetland as an alternative to the Proposed Project, please see Response Nos. 25-3, 25-7, 29-65 through 29-72, and 59-9.

COMMENT NO. 59-9

Clearly in such a comparison, Prop. O funds would get a lot more bang for the buck by acquiring the land for "natural treatment wetlands" to help cleanse Centinela and Ballona Creek water -- than if the major construction of buildings and mechanical treatment facilities was carried out. Thus, since it would be cheaper and there would be higher quality water emptying out of Ballona Creek and Centinela Creek if there was a natural treatment wetland at the Village at Playa Vista cleaning this water before it goes into Santa Monica Bay. Thus, this natural treatment wetland alternative would have quite positive impacts on Santa Monica Bay, rather than adding to the contaminant load which would occur if the Village at Playa Vista was constructed and commercially landscaped.

RESPONSE NO. 59-9

Please refer to Response No. 59-2 above regarding the scope of the RS-DEIR and comments on the analysis of alternatives to the Proposed Project. The suggestion that the Proposed Project site be turned into a treatment wetlands was previously made by commentators and rejected by the City in the Original FEIR for a variety of reasons, including the fact that it failed to meet nearly all of the project objectives.⁴³⁴ The City's rejection of the suggestion that the Proposed Project site be acquired and transformed into a treatment wetlands, as well as the Original FEIR's analysis in that regard, were upheld by the Court

⁴³⁴ *Original DEIR, p. 1263; Original FEIR, p. 1037.*

of Appeal, which specifically noted that development of a treatment wetlands could not be considered a “practical result of the project’s non-approval” since no available funding could be identified for use in acquiring the site for that purpose.⁴³⁵ In addition, at the 2004 City Council hearings on the Original FEIR, City staff also explained that a treatment wetlands at the Proposed Project site was not favored by the City.⁴³⁶

Further, with respect to the commentor’s suggestion that Proposition O money now be used to fund the development of a treatment wetlands at Playa Vista, please note that all \$500 million in Proposition O funds are either currently funding, or have been set aside for, other projects.⁴³⁷ For a detailed discussion regarding the analysis of alternatives, please see Response No. 25-3.

COMMENT NO. 59-10

I call for not disturbing areas where native remains are known to be. If the approximately 400 native remains at Playa Vista Phase One is any indication, there likely will be many more native remains discovered at the Phase Two Village site. It is disgraceful especially if there are more than a handful of remains to dig up these original people of this area in order to put the run-off ditch from the development in the exact place which the developer wants. There must be "preservation in place" and if there are at least a handful of remains discovered in a locale, then this area should be thereafter avoided, except for some native plant restoration as long as the digging to plant such do not go too deep. Basic respect calls for a preservation in place alternative no matter what anti-native guidelines you may claim can be cited to dismiss it.

RESPONSE NO. 59-10

Preservation in place, and its status as the preferred mitigation measure for reducing a project’s impacts on archaeological impacts, is discussed in detail in the RS-DEIR. Section II.C. examines four design options in detail (and six design options total) for relocating the Riparian Corridor in the Proposed Project area and restoring the archaeological resources, which were removed during construction of the Riparian

⁴³⁵ *RS-DEIR Appendix A.i, Court of Appeal Opinion, p. 88, citing State CEQA Guidelines Section 15126.6(e)(3)(B).*

⁴³⁶ *In re: Playa Vista Company, LLC – Vesting Tentative Tract No. 60110-1A, Agenda Item No. 6, 12200 West Jefferson Boulevard, Reporter’s Transcript of Videotaped Proceedings, September 22, 2004, p. 90:1-5.*

⁴³⁷ *See Proposition O – Clean Water Bond Program, March 2009 Monthly Report, at p. 15 “Project Funding Summary.” The Monthly Report may be found at: <http://www.laprogo.org/sitefiles/docs/MonthlyReport-March2009.pdf> (last visited June 4, 2009).*

Corridor, to their original location. That analysis includes a discussion of the potential impacts of the four options. Additional information on this issue is provided in Response Nos. 29-8 through 29-13.

Note that portions of the known archaeological sites in the Proposed Project site which have been left intact likely contain additional archaeological resources which have been preserved in place. Given the completion of the Riparian Corridor, it is unlikely that those resources will be disturbed if the Proposed Project is built out as proposed in the RS-DEIR and the Riparian Corridor is not relocated. For additional information on this topic, refer to Response No. 29-13.

Regarding the number of human burials discovered at the Playa Vista First Phase Project site, please note that unlike the situation in the First Phase Project, no concentrated burial area was found in the Proposed Project site, and the archaeological resources found in the Proposed Project area were far less numerous than those found in the First Phase Project. Specifically with respect to human remains, only three scattered human burial features, along with some isolated human remains (which may be related to the burials), have been found at the Proposed Project site. For additional information on this topic, refer to Response Nos. 12-3, 12-4, and 29-15.

LETTER NO. 60

Donald Culton
5701 S. Kiyot Way #6
Playa Vista, CA 90094

COMMENT NO. 60-1

This one is sufficient.

Thanks.

RESPONSE NO. 60-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. For a discussion on the re-noticing of the availability of the RS-DEIR for public review and comment, please see Section I.D. of this Final RS-EIR.

LETTER NO. 61

Pamela L. Davidson, Ph.D.
davidson@ucla.edu

COMMENT NO. 61-1

I have been reading up on the Environmental Impact Report released by the Playa Vista Developers.

The Developers are hoping to overturn the 2007 Court Decision to halt development.

As a resident of the local community I am extremely concerned about the deficiencies in the analysis related to the environmental impacts of continued development on one of the last remaining wetlands on the California coast, which allows for filtering and cleansing of toxins and pollutants that would otherwise run off into the south bay. Other impacts not adequately addressed in the biased report provided by the Developers include the methane gas risk, water supply limitations, and global warming caused by continued destruction of our natural environment.

I certainly support the 2007 Court Decision. We should not continue to revisit these decisions. The local community has strongly spoken on these issues and we have won this battle in court. Rather we should be spending our time developing funds to protect our wetlands and to create a nature preserve for wildlife and the community to enjoy for generations to come.

RESPONSE NO. 61-1

The commentor's opinion regarding the 2007 Court of Appeals decision is noted. As discussed in Section I.A. of the RS-DEIR, the City has prepared and circulated the RS-DEIR in accordance with the May 23, 2008 California Superior Court Writ and the September 13, 2007 Court of Appeal Opinion.

As discussed on pages II.A-20 through II.A-23 of the RS-DEIR, the Proposed Project is not located "on one of the last remaining wetlands on the California Coast". It is located approximately 2 miles inland from the Santa Monica Bay, and is surrounded by existing development to the north, west, and south, and the land to the east of the Proposed Project is approved for office and commercial uses and is currently under construction. See Response No. 26-4.

The commentor states concerns relative to water quality, methane gas, and water supply. Those matters are outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" with respect to these issues within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5. A detailed analysis of the Proposed Project's potential impacts on water quality was included in Section IV.C.(2), Water Quality, of the Original DEIR, and Section II.6, Corrections and Additions of the Original FEIR. The issue of methane was addressed in Section IV.I, Safety/Risk of Upset, of the Original DEIR, and Section II.13, Corrections and Additions of the Original FEIR. The potential impacts on water supply were addressed in Section IV.N.(1), Water Consumption, of the Original DEIR, and Section II.24, Corrections and Additions, of the Original FEIR. For further discussion regarding potential water supply impacts associated with the Proposed Project, see Response Nos. 29-35 through 29-41.

The commentor also states concerns relative to global warming. A detailed analysis of the Proposed Project's potential impacts on Global Climate Change can be found in Section II.D of the RS-DEIR. The analysis concludes that the Proposed Project's impacts on Global Climate Change would be less than significant.

With respect to protecting wetlands and creating a nature preserve, as discussed in the RS-DEIR, the Proposed Project includes the 6.7-acre Riparian Corridor and restoration of the adjacent Westchester Bluffs. Now complete, this section of the Riparian Corridor connects to the eastern and western portions of the riparian corridor within the Playa Vista First Phase Project, and forms a 25-acre habitat corridor that connects with the Freshwater Marsh (also constructed as part of the Playa Vista First Phase Project). In addition, as discussed in Section II.A.1.1 of the RS-DEIR, between December 2003 and July 2004, the State of California acquired substantial portions of the Former Playa Vista Master Plan Area for long term open space/recreational uses. Under the direction of the California Coastal Conservancy, the State is currently conducting preliminary planning activities for the restoration of these areas.

LETTER NO. 62

John Davis
PO 10152
Marina del Rey, CA 90295

COMMENT NO. 62-1

PLEASE REPLACE MY SUBMISSION OF APRIL 30 WITH THIS DOCUMENT.

MY ATTACHMENT 2 WAS THE WRONG FILE.

THE ONLY CHANGE TO MY COMMENTS IS TO CORRECT THE ATTACHMENT.

PLEASE CONTACT ME IF FOR ANY REASON IF YOU DO NOT MAKE THE REPLACEMENT .

Please find below my comments in regard to the Environmental Impact Report.

COMMENT 1: THE CITY CANNOT LAWFULLY PROCEED IN THIS PROCESS BECAUSE IT IS IMPOSSIBLE TO DETERMINE ISSUES OF CUMULATIVITY BECAUSE PHASE ONE OF THE PROJECT IS UNDER CURRENT LITIGATION (BS073182) AS TO GROUNDWATER DEWATERING. UNTIL FINAL ADJUDICATION WHICH WILL SETTLE MATTERS OF GROUNDWATER DEWATERING AT PHASE ONE NO LAWFULLY VALID DETERMINATION OF CUMULATIVITY REGARDING GROUNDWATER DEWATERING AT PHASE TWO CAN BE MADE.

QUESTION: WHY DOES THE CITY FAIL TO WITHDRAW FROM THIS PROCESS UNTIL ADJUDICATION OF THE PHASE ONE LAWSUIT SO THAT IT WOULD BE POSSIBLE TO LAWFULLY EVALUATE CUMULATIVITY RELATIVE TO GROUNDWATER DEWATERING AND ITS POTENTIAL TO CREATE NEW AND POTENTIALLY ADVERSE ON THE ENVIRONMENT AS CEQA COMMANDS?

RESPONSE NO. 62-1

The commentor cites to the court case number for Environmentalism Through Inspiration and Non-Violent Action et al v. City of Los Angeles et al (ETINA), which is a case involving the potential impacts attributable to the groundwater dewatering associated with certain methane mitigation systems in the Playa Vista First Phase Project. The status of that litigation is discussed in Response No. 62-2.

Methane gas impacts and associated groundwater dewatering are outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" with respect to potential methane gas impacts within the meaning of Public Resources Code 21092.1 and State CEQA Guidelines Section 15088.5. A detailed analysis of the Proposed Project's impacts regarding methane gas was included in Section IV.I, Safety/Risk of Upset of the Original DEIR and Section II.13, Corrections and Additions and Topical Response TR-12 of the Original FEIR. The Original FEIR concluded that the Proposed Project's methane-related impacts would be less than significant after imposition of mitigation measures.

In addition, an analysis of the Proposed Project and cumulative impacts related to construction and operational groundwater dewatering (including those associated Playa Vista First Phase Project) was included in the Original FEIR. Please refer to Section IV.A, Earth, Section IV.C.(1), Hydrology, and Section IV.I, Safety/Risk of Upset, of the Original DEIR; Sections II.3 and II.13, Corrections and Additions, of the Original FEIR; Original DEIR, Technical Appendix D-6, Group Delta Consultants, Inc, "Evaluation of Subsidence Due to Lowering of Groundwater, Village at Playa Vista, Playa Vista Development, Playa Vista Project," April 15, 2003; and Original DEIR, Technical Appendix F-1: Camp Dresser & McKee, Psomas, and GeoSyntec Consultants, Water Resources Technical Report for the Village at Playa Vista, Volumes I – III, August 2003. That analysis was upheld by the court in the consolidated cases of *City of Santa Monica et al v. City of Los Angeles et al* and *Ballona Ecosystem Education Project v. City of Los Angeles et al.*, after claims similar to the issue raised in this comment were made by the parties to those cases.⁴³⁸ For further discussion, refer to Response No. 40-4.

COMMENT NO. 62-2

COMMENT 2: PAGE 26 OF THE FEIR STATES "LAND IMMEDIANTLY TO THE WEST AND EAST OF THE PROPSED PROJECT IS APPROVED FOR DEVELOPENT AS PART OF PLAYA VISTA FIRST PHASE DEVELOPMENT... "

THIS IS SMIPLY A FALSE STATEMENT IN THAT THE CALIFORNIA COURT OF APPEAL ORDERED EITHER AND SEIR OR SEIR AND PROCEEDANCE IN

⁴³⁸ Superior Court Statement of Decision in *City of Santa Monica et al v. City of Los Angeles et al.*, (LASC Case No. BS 093502 (lead case) consolidated with *Ballona Ecosystem Education Project v. City of Los Angeles* (LASC Case No. BS 093507 (related case)), January 10, 2006, pp. 40-41.

ACCORDANCE WITH CEQA. PHASE ONE IS THEREFORE UNDER LEGAL CHALLENGE. THE CITY AS RESPONDEDNT IS CLEARLY AWARE OF THE LITIGATION. THE LITIGATION IS NOT CITED IN THE HISTORY SECTOIN .

QUESTION 2: WHY DOES THE FEIR FAIL TO ADDRESS ONGOING PHASE ONE LITIGATION?

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RESPONSE NO. 62-2

Refer to Response No. 62-1 for a discussion of the scope of the RS-DEIR relative to the ETINA litigation referenced by the commentor. In addition, the comment incorrectly asserts that in the ETINA litigation the Court of Appeal ordered the City to prepare a subsequent EIR or supplemental EIR in connection with the First Phase Project. In the ETINA case, the Court of Appeal directed the Los Angeles Superior Court to issue a writ of mandate ordering the City to “vacate its approval of the methane mitigation measures, *for the purpose of determining whether* a subsequent EIR or supplemental EIR is required with respect to groundwater dewatering, and proceed accordingly as required by CEQA.”⁴³⁹ Subsequently, the City vacated its approval of the First Phase Project’s methane mitigation measures on March 31, 2006, and after receiving additional technical analyses, made a specific finding on February 27, 2007, that no subsequent EIR or supplemental EIR was required for the First Phase Project. Also on that date, the City approved documents comprising an Addendum to the previously certified EIR for the First Phase Project. The Los Angeles Superior Court upheld the decisions by the City in a ruling dated November 10, 2008.⁴⁴⁰ The commentor has appealed that ruling. For a further discussion of the ETINA case, refer to Response No. 40-4.

⁴³⁹ *Environmentalism Through Inspiration and Non-Violent Action v. City of Los Angeles, et al. (Court of Appeal Case No. B174856, unpublished opinion), October 24, 2009, p. 35 (emphasis added).*

⁴⁴⁰ *See Environmentalism Through Inspiration and Non-Violent Action v. City of Los Angeles, et al. (LA Superior Court Case No. BS073182) Superior Court Order Granting Respondent’s Motion for an Order Overruling Objections to Return to Writ of Mandate and for an Order Discharging the Writ and Writ and Entering Judgment, November 10, 2008.*

COMMENT NO. 62-3

COMMENT 3: THE CITY DID NOT COMPLETE THE MASTER FEIR PROCESS FOR PHASE ONE AND TWO, EVER. THE MANDATORY NOTICE OF COMPLETION WAS NEVER TRANSMITTED TO THE STATE OFFICE OF PLANNING AND RESEARCH THEREFORE A COMPLETE AND FAIRLY DONE FEIR NEVER EXISTED FOR PHASE ONE.

FURTHERMORE EVEN IF IT DID IT WAS IN THE FORM OF A MASTER EIR WHICH REQUIRES RECERTIFICATION BY THE CITY EVERY FIVE YEARS AND SINCE THE LAST CERTIFICATION WAS DONE BY THE CITY IN 1995 IT IS EXPIRED AND MAY NOT BE CITED FOR THIS PROJECT.

QUESTION 3: WHY HASN'T THE CITY BEGAN A NEW DRFAT MASTER EIR PROCESS THAT LAWFULLY CONSIDERS THE CUMMULITIVE AFFECTS OF BOTH PHASES RATHER THAN RELYING ON AN INCOMPLETE EXPIRED MASTER EIR FROM 2001 WHICH WOULD HAVE EXPIRED IN 1995 IF IT WAS COMPLETED?

RESPONSE NO. 62-3

The commentor's statements about a Master EIR for both the First Phase Project and the Proposed Project and unspecified cumulative impacts are outside the scope of the RS-DEIR. Please refer to Sections I.B and I.C of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor raises no "significant new information" (within the meaning of CEQA Section 21092.1 and CEQA Guideline 15088.5) concerning cumulative impact analyses in the Original FEIR. It should also be noted that a "Master EIR" (as defined under CEQA Guidelines Section 15175) was never prepared for development of either the First Phase Project or the Proposed Project.⁴⁴¹ While a Draft Master Plan Program EIR was prepared in 1992 and attached as an appendix to the EIR for the First Phase Project, that Draft Master Plan Program EIR was used as an informational document to provide context for the First Phase Project's cumulative impacts analysis and was not separately certified. The cumulative impacts of the First Phase Project are accounted for in the cumulative impacts analysis contained in the Original DEIR and RS-DEIR for the Proposed Project, since the First Phase Project is included as a "related project" to the Proposed Project. Cumulative impacts for each environmental topic analyzed in connection with the Proposed Project are discussed under the heading "Cumulative Impacts" at the end of each chapter of the

⁴⁴¹ *Contrary to the commentor's suggestion, it should also be noted that a project-level EIR does not automatically "expire" after a set number of years under CEQA.*

Impact Analysis in the Original DEIR and RS-DEIR (as applicable). Consequently, the cumulative effects of the entire Playa Vista development are being considered as part of the environmental review of the Proposed Project.

COMMENT NO. 62-4

COMMENT 4 : FEIR PDF PAGE 50 MAKES ONLY AN **ASSUMPTION** AS TO THE POTENTIAL ADVERSE CUMMULITVE AFFECTS OF GROUNDWATER DEWATERING WITHOUT EMPIRICAL EVIDENCE TO SUPPORT ITS CONCLUSION.

MAKING SUCH AN ASSUMPTION HAS LED THE CALIFORNIA COURT OF APPEAL TO REJECT THE GROUNDWATER DEWATERING FOR THE MASTER EIR WHICH GOVERNS BOTH PHASES OF THE PROJECT.

THE FEIR DOES NOT CONSIDER THE POTENTIAL ADVERSE AFFECTS FROM GROUNDWATER DEWATERING ON THE METHANE MITIGATION SYSTEMS THEMSELVES IN PHASE ONE, THE POTENTIAL TO CHANGE THE DIRECTIONAL FLOW OF GROUNDWATER, THE POTENTIAL TO DRAW CONTAMINATED GROUNDWATER FROM TWO SITES AT PLAYA VISTA TO AREAS THAT ARE NOT CONTAMINATED, THE POTENTIAL AFFECT ON THE THREE AQUIFERS INVOLVED AS IT RELATES TO SALTWATER INTRUSION - DISCHARGING THE WATER TABLE- CROSS CONTAMINATION THROUGH AQUIFER COMMUNICATION - AND OR SUBSIDANCE.

FURTHERMORE THE FEIR DOES NOT SPEAK TO THE CUMULITIVE AFFETS OF DEWATERING FROM ALL CONSTRUCTION DEWATERING ACTIVITIES ON BOTH PHASE ONE AND TWO WHICH ARE INTRINSICALLY RELATED PLUS THE DEWATERING ACTIVITY ASSOCIATED WITH ONE KNOWN SITE OF CONTAMINATION TO THE EAST PLUS ONE KNOWN SITE OF CONTAMINATED GROUNDWATER TO THE WEST, PLUS ALL DEWATERING ACTIVITIES IN THE ENTIRE PROJECT ASSOCIATED WITH GROUNDWATER DISCHARE PERMITS (INDUSTRIAL WASTE WATER PERMITS) ISSUED BY THE

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CITY OF LOS ANGELES DEPARTEMENT OF SANITARY WASTEWATER IN COMBINATION. THE QUANTIES OF GROUNDWATER DISCHARGE AT THE ENTIRE PROJECT SITE ARE PARTIALLY QUANTIFIED BY THE REGIONAL WATER QUALITY CONTROL BOARD IN MY RECENT LETTER TO THE LARWQCB. THE LARWQCB DID NOT CONDUCT A "PEER REVIEW" UNDER THE CALIFORNIA HEALTH AND SAFTEY CODE AS IT CLAIMED THERERFORE NO DATA DERIVED FROM A FALSIFIED "PEER REVIEW" WHICH REPRESENTS POTENTIAL AGENCY MISCONDUCT OR GROSS NEGLIANCE MAY BE CITED BY THE CITY AS A SOLID FOUNDATION TO WHICH TO DRAW CONCLUSIONS.

ATTACHMENT 1 - MY LETTER TO THE LARWQCB

HOWEVER THE ACTUAL AMMOUNTS OF DEWATERING FROM THE CONTAMINED FIRE PIT AREA IN PAHSE ONE AND OR DEWATERING DONE UNDER THE ALREADY ISSUED INDUSTRIAL WASTEWATER PERMITS ARE UNKNOWN.

GIVEN THESE CIRCUMSTANCES THE CITY HAS FAILED TO ADDRESS THE CUMMULITIVE AFFECTS OF DEWATERING.

"HOWEVER DEWATERING ACTIVITIES DURRING CONSTTRUCTIONAND OPERATION OF URBAN DEVELOPMENT USES ARE ANTICIPATED TO RESULT IN A LESS-THAN-SIGNIFICANT IMPACT SINCE THEY WOULD NOT CAUSE OR ACCELARATE GEOLOGIC HAZARDS WIHC WOULD RESULT IN SUBSTANTIAL DAMAGE TO STRUCTURES OF INFRASRTRUCTURE, OR EXPOSE PEOPLE TO SUBSTANTIAL RISK OF INJURY; CONSTITUTE A GEOLOGIC NATURAL HAZARD OR OTHER PROPERTIES BY CAUSING OR ACCELARATING INSTABILITY FROM EROSION; OR ACCLERATE DEPOSITION WICH WOULD NOT BE CONTAINED OR CONTROLLED ON-SITE."

QUESTION 4A: WHY IS THE CITY RELYING ON BLIND FAITH INSTEAD OF EMPHERICAL EVIDENCE WHICH CEQA COMMANDS?

QUESTION 4B: WHY DOES THE FEIR AVOID CONSIDERING THE ACTUCAL AMMOUNTS OF GROUNDWATER DEWATERING INSTEAD OF MERLEY PROGNOSTIGATING THE AFFECT (ANTICIPATE). CEQA DOES NOT RECONGNIZE ANTICIPATION OR PROGNOSTIGATION OR BLIND FAITH.

NOTE: INCORPORTATED BY REFERENCE ARE COMMENTS MADE TO THIS FEIR BY PATRICIA MCHPERSON OF GRASSROOTS INC. A NON- PROFIT CORPORATION. EMPHISIS IS MADE TO THE SPIDER MAP SHOWING THE LOCATION OF ALL INDUSTRIAL WASTE PERMITS AND IDENTIFYING THEM.

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RESPONSE NO. 62-4

The commentor states concerns regarding groundwater dewatering, which are outside the scope of the RS-DEIR. Please refer to Response No. 62-1 above regarding the scope of the RS-DEIR and analysis of potential dewatering impacts. Commentor's reference to a court of appeal ruling concerning dewatering relates to the ETINA case and the First Phase Project. Please refer to Response Nos. 62-1 and 62-2 above and Response No. 40-4 concerning the ETINA case.

With respect to commentor's claim that there is a "Master EIR which governs both phases of the project," please note that the First Phase Project and the Proposed Project each have their own EIRs. Please refer to Response No. 62-3 above on this topic.

With respect to comments regarding analysis of cumulative groundwater dewatering, please note that the Original FEIR's analysis included a review of groundwater dewatering from construction, methane mitigation systems, and remediation on both a project-specific and a cumulative basis.⁴⁴² For further discussion on these issues, please refer to Response Nos. 40-4, 40-7, 40-8, 40-12, and 40-13.

With respect to commentor's allegations regarding the validity of the RWQCB's review of dewatering studies, please note that these allegations were directly addressed by the RWQCB in a letter from RWQCB Assistant Executive Officer David Bacharowski to commentor dated May 2, 2008. As Mr. Bacharowski explained, the RWQCB's review of the dewatering analysis conducted in response to the Court of Appeal's order in the ETINA case was not a "peer review" under California Health & Safety Code Section 57004, which applies only to scientific review of the RWQCB's scientific assumptions in its regulations.⁴⁴³ Please also refer to Response No. 40-5 for a discussion of the Superior Court's rejection of commentor's claims concerning the purported lack of a "peer review" in the ETINA case.

It should also be noted that commentor raised in the ETINA case the same allegations concerning the City's use of modeling data to analyze groundwater dewatering instead of the data referenced in this comment. In ETINA, the Superior Court overruled commentor's objections to the City's use of computer modeling.⁴⁴⁴ Refer to Response Nos. 40-7 and 40-8.

Finally with respect to commentor's incorporation by reference of the comments of Patricia McPherson of Grassroots Coalition, please note that the City has responded to those comments at Comment Letter No. 40.

⁴⁴² See *Original DEIR Section IV.A., Earth, Section IV.C.(1), Hydrology, and Section IV.I, Safety/Risk of Upset; Original FEIR Sections II.3 and II.13, Corrections and Additions; Original DEIR, Technical Appendix D-6, Group Delta Consultants, Inc., Evaluation of Subsidence Due to Lowering of Groundwater, Village at Playa Vista, Playa Vista Development, Playa Vista Project, April 15, 2003; and Original DEIR Appendix F-1, Camp Dresser & McKee, Psomas, and GeoSyntec Consultants, Water Resources Technical Report for the Village at Playa Vista, Volumes I – III, August 2003.*

⁴⁴³ *Letter from David Bacharowski, Assistant Executive Officer, Groundwater Remediation Programs, California Regional Water Quality Control Board, Los Angeles Region to John Davis, May 2, 2008, p. 3.*

⁴⁴⁴ See *Environmentalism Through Inspiration and Non-Violent Action v. City of Los Angeles, et al. (LA Superior Court Case No. BS073182) Superior Court Order Granting Respondent's Motion for an Order Overruling Objections to Return to Writ of Mandate and for an Order Discharging the Writ and Writ and Entering Judgment, November 10, 2008, pp. 11- 12.*

COMMENT NO. 62-5

COMMENT 5 : THE CITY CANNOT CIRCULATE AN FEIR FOR COMMENT. COMMENT MAY ONLY BE MADE TO A DRAFT EIR IN CONJUNCTION WITH THE MANDATORY NOTICE OF CIRCULATION OF DRAFT EIR WHICH MUST MANDATORLY BE FILED WITH THE STATE OFFICE OF PLANNING AND RESEARCH. ONLY THE LEGISLATURE OF THE STATE OF CALIFORNIA MAY LIMIT THE SCOPE OF CEQA IN LAW. THE CITY COUNCIL MAY NOT THEREFORE LIMIT THE SCOPE OF CEQA WHICH IS REPRESENTED AS UNLAWFUL IN THIS FEIR.

THE CITY CANNOT UTILIZE A DEFEATED FEIR WHICH IS SIX YEARS OLD TO ELICIT COMMENTS FROM THE PUBLIC. IT MUST CIRCULATE A NEW DRAFT EIR THAT FULLY ENCOMPASSES CURRENT CIRCUMSTANCES. EVEN THOUGH THE COURT EXPRESSED CERTAIN CONCERNS, THAT FACT DOES NOT EXCUSE THE CITY FROM CONDUCTING CEQA IN COMPLETION. CEQA MAY ONLY BE LIMITED BY THE LEGISLATURE OF THE STATE. THE CITY CANNOT MERELY ASSUME NO SUBSTANTIAL CHANGES TO THE ENVIRONMENT SINCE 2003, IT MUST INVESTIGATE AND PROVIDE PROOF INSTEAD OF OFFERING UNSUPPORTED CONCLUSIONS WHICH FAVOR PROJECT.

QUESTION 5: WHY DID THE CITY FAIL TO ADDRESS THE ISSUE THAT THE MASTER FEIR FOR BOTH PROJECTS EXPIRED BECAUSE IT WAS NOT RECERTIFIED BY THE CITY COUNCIL AS NECESSARY EVERY FIVE YEARS.

NOTE: THE EXPIRED MASTER FEIR GOVERNS CUMMULITIVITY ON BOTH PHASES.

RESPONSE NO. 62-5

The process undertaken by the City with respect to the RS-DEIR complies with CEQA and is expressly authorized in State CEQA Guidelines Section 15088.5, subdivision (f)(2). In its opinion regarding the Original FEIR, the Court of Appeal stated that the form and process for revising the deficiencies noted by the Court were matters within the City's discretion.⁴⁴⁵ Neither the Court of Appeal nor the Superior Court required recirculation of the entire EIR. Please refer to Sections I.B and I.C of this Final RS-EIR, Executive Summary, for a discussion on the scope of the RS-DEIR, the City's obligation to respond to comments outside of the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information." Refer to Section I.D of this Final RS-DEIR, Executive Summary, for a discussion of the public noticing of completion and availability of the RS-DEIR. Please note that the Notice of Completion and Availability of the RS-DEIR was filed with the State Office of Planning and Research. Refer to Comment Letter Nos. 9,

⁴⁴⁵ See RS-DEIR Appendix A.i, Court of Appeal Opinion, p. 113.

10, and 11 for communications from OPR in that regard. Finally, refer to Response No. 62-3 concerning the prior Draft Master Plan Program EIR.

COMMENT NO. 62-6

COMMENT 6: THE REGIONAL WATER QUALITY CONTROL BOARD MAY NOT ISSUE ANY NEW NPDES PERMITS BECAUSE THE EFFECTS OF GROUNDWATER DEWATERING IN PHASE ONE OF THE PROJECT WILL NOT BE DETERMINED UNTIL FINAL ADJUDICATION OF THE LAWSUIT FOR PHASE ONE WHICH IS NOW IN THE COURT OF APPEAL. FURTHERMORE THE LARWQCB CANNOT ISSUE ANY PERMITS BECAUSE ALL OR A FRACTION PORTION OF THE WATER WELLS AT THE SITE ARE ILLEGAL IN THAT

NO

WELL COMPLETION REPORTS HAVE EVER BEEN FILED FOR ALL OF THE WATER WELLS ON PHASE ONE AND TWO WITH THE STATE WATER RESOURCES AGENCY AS REQUIRED BY LAW NOR HAS THE APPLICANT COMPLETED A WELL COMPLETION REPORT RELEASE AGREEMENT – ENVIRONMENTAL CLEANUP STUDY FORM FOR ANY WATER WELLS WITHIN TWO MILES OF A KNOWN BODY OF CONTAMINATED GROUNDWATER AND THEREFORE THE LARWQCB HAS NOT YET INITIATED THE REQUIRED ENVIRONMENTAL STUDY REQUIRED FOR EACH AND EVERY WELL WITHIN TWO MILES OF THE KNOWN CONTAMINATION. THE REQUIRED FORMS MAY BE REFERENCED AT:

http://www.groundwater.water.ca.gov/technical_assistance/gw_wells/gww_comprept/index.cfm

ALL DEWATERING ACTIVITIES COVERED BY INDUSTRIAL WASTE PERMITS REPRESENT WATER WELLS AND MUST BE REPORTED ON AS SUCH. THE LOGIC FOR THIS POSITION IS EXTRACTED FROM A STATE OF COLORADO SUPREME COURT DECISION ATTACHED

QUESTION 6: WHY DOES THE CITY FAIL TO CONSIDER THE FACT THAT LAWFULLY REQUIRED ENVIRONMENTAL STUDIES FOR WATER WELLS WITHIN TWO MILES OF A CONTAMINATED GROUNDWATER SOURCE HAVE NOT YET BEEN COMPLETED BY THE LARWQCB AND COULD NOT BECAUSE THE WELL OWNER FAILED TO LAWFULLY FILL OUT THE REQUIRED FORM THEN SUBMIT IT TO THE STATE WATER RESOURCES AGENCY. WHY DOES THE CITY RELY ON DATA FROM SOURCES (WATER WELLS) THAT ARE LARGELY OR COMPLETELY ILLEGAL SOURCES OF DATA. WHY DOES THE CITY FAIL TO REQUIRE ALL OF THE DATA LINEAGE AND PROOFS OF A SECURE CHAIN OF CUSTODY FOR ANY DATA USED TO CREATE COMPUTER GROUNDWATER MODELS. WHY DOES THE CITY INSTEAD OF EMPHIRICAL SCIENCE SUBSTITUTED BLIND FAITH?

SEE ATTACHMENT 1

ATTACHEMNT 2 - ARTICLE REGARDING COLARADO SUPREME COURT DECISION REGARDING WHAT CONSTUTES A WATER WELL.

ATTACHMENT 3 - RESPONSE FROM LARWQCB THAT NO COMPLEIOTN REPORT RELEASE AGREEMENT-ENVIRONMENTAL CLEAN UP STUDY FORM HAS BEEN UTILIZED BY THE LARWQCB TO INITIATE ENVIRONMENTAL STUDIES FOR WATER WELLS WITHIN 2 MILES OF A KNOWN SITE OF GROUNDWATER CONTAMINATION.

RESPONSE NO. 62-6

The commentor states concerns about groundwater dewatering and water wells. These matters are outside the scope of the RS-DEIR. Please refer to Section I.B and I.C of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" (within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5) concerning these issues. A detailed analysis of groundwater hydrology, including project-specific and cumulative impacts related to groundwater at the Proposed Project site was included in Section IV.C(1), Hydrology, of the Original DEIR and Section II.5, Corrections and Additions of the Original FEIR. A detailed analysis of the Proposed Project's groundwater quality impacts was included in Section IV.C(2), Water Quality, of the Original DEIR and Section II.6, Corrections and Additions of the Original FEIR.

Please note that the Los Angeles County Department of Health Services issued well permits for the groundwater monitoring wells installed at the Playa Vista site. In addition, well completion reports have been submitted to the Department of Water Resources for those wells. Please also note that the Release Agreement referenced by commentor is not legally required.

It should be noted that groundwater is not currently extracted in the vicinity of the Proposed Project site for beneficial (*i.e.*, drinking water, industrial, or agricultural supply) uses.⁴⁴⁶ The nearest public water supply well, located at Venice Polytechnic High School approximately 2 miles northwest of the Proposed Project site, was capped in 1960 and is not active.⁴⁴⁷ The next closest public supply wells are located approximately 3.5 miles northwest of the Proposed Project in the City of Santa Monica.⁴⁴⁸ The nearest irrigation well

⁴⁴⁶ *Original DEIR, pp. 366, 388.*

⁴⁴⁷ *Original DEIR, p. 366, fn. 127.*

⁴⁴⁸ *Id.*

is located approximately 2 miles southeast of the Proposed Project at the Hillside Memorial Park Cemetery.⁴⁴⁹

Also, with respect to the comment about data lineage and computer groundwater modeling, please note that the commentor objected in the ETINA case to the use of a computer model to analyze impacts of the First Phase Project's groundwater dewatering associated with the methane mitigation system and the origin of the data used in that modeling. The Superior Court overruled those objections.⁴⁵⁰ For further discussion on this issue, refer to Response Nos. 40-7 and 40-8.

COMMENT NO. 62-7

COMMENT 7; A LARGE VOLUME OF GROUNDWAER HAS BEEN DISCHARD SINCE 2003 – SEE ATTACHMENT 1. UNKNOWN AMMOUNTS OF GROUNDWATER HAVE BEEN DISCHAERGED FROM THE FIRE PIT TRAINING AREA IN PHASE ONE WHICH CONTAINS TOXIC MATERIALS BUT THE VOLUME IS UNKNOWN. UNKNOWN ACTUAL VOLUMES OF GROUNDWATER HAVE BEEN DISCHARDED UNDER INDUSTRIAL WATE PERMITS BUT THE QUANTIY REMAINS UNKNOWN.

LONG TERM DEWATERING QUANTITIES HAVE NOT YET BEEN DETERMINED AS THOSE VOLUMES ARE IN A CONSTENT STATE OF FLUX.

GIVEN THE AMOUNT OF KNOWN DEWATERING AND THE TWO UNKNOWN QUANTITIES PREVIOULSLY REFERENCED IT IS IMPOSSIBLE FOR THIS FEIR TO ADDRESS EITHER THE QUANTIFIABLE VOLUMES AT ANY CERTAIN POINT IN TIME OR THE QUANTITIAVE VOLUMES IN THE PAST OR FUTURE.

SEE ATTACHEMENT 1

QUESTION 7: WHY HAS THE FEIR FAILED TO CONSIDER QUANTITATIVE GROUNDWATER DEWATER VOLUMES FROM ALL FOUR SOURCES PAST AND FUTURE TO MAKE ITS CALCULATIONS.

RESPONSE NO. 62-7

The commentor states concerns about groundwater dewatering activities in connection with the First Phase Project. This matter is outside the scope of the RS-DEIR.

⁴⁴⁹ *Id.*

⁴⁵⁰ See *Environmentalism Through Inspiration and Non-Violent Action v. City of Los Angeles, et al.* (LA Superior Court Case No. BS073182) Superior Court Order Granting Respondent's Motion for an Order Overruling Objections to Return to Writ of Mandate and for an Order Discharging the Writ and Writ and Entering Judgment, November 10, 2008, pp. 8- 12.

Please refer to Response No. 62-1 for a discussion of the scope of the RS-DEIR and an analysis of groundwater dewatering. For a further discussion regarding this topic, please refer to Response Nos. 40-4, 40-7, 40-8, 40-12, 40-13, and 62-4.

COMMENT NO. 62-8

COMMENT 8: SINCE 2003 AN EARTHQUAKE OF MAGNITUDE 3+ WAS EPICENTERED ON THE CHARNOCK FAULT WHICH BISCETS THE PLAYA VISTA PROJECT. ANOTHER RECENT EARTHQUAKE WAS EPICENERED ON AN ACTIVE FAULT LOCATED IN VENICE CA. NEARBY WHICH WAS ALSO A MAGNITUDE 3+.

QUESTION 8: WHY IS THE FEIR SILENT ON THESE NEW AND CHANGED ENVIRNMENTAL CIRCUMSTANCES THAT WERE NOT AND COULD NOT HAVE BEEN KNOWN AT TIME OF THE ORIGNAL CERTIFICATION OF THE FEIR?

RESPONSE NO. 62-8

The commentor states concerns about the Proposed Project's seismic-related hazards impacts. This matter is outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" (within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5) concerning the Proposed Project's seismic-related hazards impacts. A detailed analysis of seismic-related hazards was included in Section IV.A, Earth, of the Original DEIR and Section II.3, Corrections and Additions of the Original FEIR. Earthquakes of the magnitude stated by the commentor are not uncommon in southern California, particularly on "active" faults, and dozens to hundreds of earthquakes in the range of magnitude 3.3 occur in southern California each year.⁴⁵¹ It should be noted that no surface trace of the Charnock Fault has been found at either the site of the Playa Vista First Phase Project or the site of the Proposed Project, and further seismic investigations performed during the preparation of the Original FEIR concluded that the Charnock Fault is not located beneath the Proposed Project site.⁴⁵²

⁴⁵¹ See Original DEIR, p. 226.

⁴⁵² See Original DEIR, pp. 222-230; Original DEIR Appendix D-4, Davis and Namson Consulting Geologists, "An Evaluation Of The Subsurface Structure Of The Playa Vista Project Site And Adjacent Area, November 2000, pp. 24-26, 42-43; Original DEIR Appendix D-5, Earth Consultants International Inc. (ECI), Geologic Study To Evaluate The Potential For Active Faulting Near The Intersection Of

COMMENT NO. 62-9

COMMENT 10: THE CITY IS AWARE THAT THE STATE OF CALIFORNIA IS FINALIZING NEW TSUNAMI INUNDATION MAPS FOR THE AREA AND THEY ARE DUE TO BE RELEASED THIS YEAR.

QUESTION 10: WHY DOES THE CITY FAIL TO EXTEND THE COMMENT PERIOD TO A DATE AFTER THE NEW INUNDATION EVACUATION MAPS CAN BE CONSIDERED?

NOTE: THE CITY IS AWARE OF THE NEW MAPS AND POCESSES A DRAFT COPY.

RESPONSE NO. 62-9

The commentor states concerns about tsunami hazards. This matter is outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" (within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5) concerning tsunami hazards. A detailed analysis of tsunami hazards at the Proposed Project site was included in Section IV.A, Earth, of the Original DEIR and Section II.3, Corrections and Additions of the Original FEIR. As noted by the commentor, the California Emergency Management Agency ("CalEMA", formerly the Office of Emergency Services) and County of Los Angeles are currently in the process of updating the Los Angeles County tsunami evacuation planning map. The map is intended for evacuation planning uses only. The map is not an "official" State map to be used for land use planning or any other regulatory purpose.⁴⁵³

COMMENT NO. 62-10

Attachments to Comment Letter No. 62.

Lincoln And Jefferson Boulevards, At The Playa Vista Site, In The City Of Los Angeles, CA, March 30, 2001, p. 11.

⁴⁵³ *Personal Communication, James Goltz, Ph.D, Earthquake and Tsunami Program Manager, California Emergency Management Agency, June 26, 2009.*

RESPONSE NO. 62-10

Please note that this comment letter included attachments. The full letter and associated attachments can be located at Appendix F of this Final RS-EIR. The Los Angeles Regional Water Quality Control Board responded to the letter from Mr. Davis dated April 15, 2009 contained in attachment 1 of Comment Letter No. 62 with a letter from Executive Officer Tracy Egoscue dated July 21, 2009.⁴⁵⁴

⁴⁵⁴ *Tracy Egoscue, Executive Officer California Regional Water Quality Control Board, Los Angeles Region, Letter to John Davis, July 24, 2009.*

LETTER NO. 63

Steve Donell
5801 South Kiyot Way, #1
Playa Vista, CA 90094

COMMENT NO. 63-1

I am writing to you regarding the comment period for the re-circulated sections of the Village EIR for Playa Vista. I am a very active member of the Playa Vista/Westchester community and have been tracking the Village issues since the original EIR was circulated in 2003. While I speak for myself only, I am an active member of the community at large and have/do serve on numerous boards as follows:

1. Neighborhood Council of Westchester/Playa:

- District 14 Board Member Representative (Playa Vista)
- Treasurer
- Planning & Land Use Chairperson

2. LAX Coastal Area Chamber of Commerce:

- 2006-2007 Chairman of the Board, former Treasurer

3. Rotary Club of Playa Sunrise:

- Former board member/treasurer

4. PVPAL (Playa Vista Parks & Landscape Corporation) - Playa Vista Master Homeowner's Association:

- CFO of the board of directors (over four years and a resident of Playa Vista for over five years)

5. PVCC (Playa Vista Community Committee)

- Chairperson

I understand that your office is considering a request for an extension of the comment period for the re-circulated sections of the Village EIR. I cannot think of any compelling reason why your office would grant such an extension. The community is well aware that the re-circulated sections are "on the street," as a result of the press coverage and wide distribution of information from many organizations in the West Los Angeles community. For example, I just chaired the Neighborhood Council Planning and Land Use Committee meeting last night to consider supporting the approval of the RS-DEIR. The agenda was circulated to the community and this is but one of a series of communications on this issue.

Incidentally, the committee did vote unanimously to recommend approval to the full Neighborhood Council Board.

I have not heard from **anyone** who believes that 45 days is not enough time for review and comment, especially on a document that deals with only four narrow issues. Our community is aware of the RS-DEIR process, the time constraints associated therewith and the process in general. As a result, I encourage you to deny any such request to extend the 45-day comment period.

Thank you for your consideration in this matter. If you should have any questions, please feel free to contact me at (310) 207-8481 or you may email me at steve.donell@jalmar.com.

RESPONSE NO. 63-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. For a discussion on the re-noticing of the availability of the RS-DEIR for public review and comment, please see Section I.D. of this Final RS-EIR.

LETTER NO. 64

Barbara Eisenberg
1705 Penmar Avenue
Venice, California
barbeebarbvenice@yahoo.com

COMMENT NO. 64-1

I ask that your office reconsider the rather outdated statistics which are contained in the 2004 EIR for the Playa Vista Development Project in Marina del Rey.

The City needs to consider everything which has been built since then and determine the new impacts of continuing development on the existing infrastructure. This would include main thoroughfares, neighborhood roads, and air quality impacts and acknowledge new science regarding earthquakes and tsunamis which was not available five years ago.

The City also needs to look at the present and the future, with the age of the EIR and not get stuck on antiquated information.

RESPONSE NO. 64-1

The commentor suggests the cumulative analyses relied upon in the Original FEIR are outdated and do not account for intervening development that has occurred since the Original FEIR was certified in 2004. Additionally, the commentor incorrectly identifies the Proposed Project as located in Marina del Rey, which is an unincorporated area of Los Angeles County located approximately one mile to the northwest of the Proposed Project.

With respect to the cumulative impact analyses on air quality and infrastructure (such as roadways, sewers, police and fire, and parks), the Original FEIR considered 96 related projects. That related projects list included over 31 million square feet of commercial and industrial development as well as over 9,300 residential units. To account for additional cumulative development, the Original FEIR assumed an additional growth factor of 10 percent of commercial and industrial development and 25 percent of residential development. These additional increments account for over 3.1 million square feet of commercial and industrial development as well as over 2,300 residential units. The Original FEIR's related projects represented a total of over 34 million square feet of commercial and industrial development as well as over 11,600 residential units. Therefore, the related projects assumptions used in the Original FEIR are more than sufficient to account for any new projects that have been built since 2004. See Original DEIR Section IV.K.(1); Topical Response TR-1 through TR-10 for more information about the

traffic analysis in the Original FEIR. See also Response No. 7-20 for additional information regarding cumulative impacts.

In addition, it should be noted that the passage of time alone does not by itself invalidate a CEQA analysis.⁴⁵⁵ The commentor, therefore, offers no “significant new information” within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5.

The commentor also raises concerns regarding air quality, earthquakes, and tsunamis. Those matters are outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City’s obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to “significant new information.” The commentor offers no “significant new information” with respect to potential impacts related to air quality, earthquakes, and tsunamis within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5. A detailed analysis of the Proposed Project’s impacts on Air Quality was included in Section IV.B, Air Quality, of the Original DEIR, and Section II.4, Corrections and Additions of the Original FEIR. The potential impacts on earthquakes and tsunamis were addressed in Section IV.A of the Original DEIR and Section II.4, Corrections and Additions of the Original FEIR.

⁴⁵⁵ *CEQA Guidelines Section 15088.5; Fed’n of Hillside & Canyon Ass’n v. City of Los Angeles*, 126 Cal.App.4th 1180, 1206 (2004).

LETTER NO. 65

Diane Fecho
4351 Redwood Ave., #3
Marina del Rey, CA 90292

COMMENT NO. 65-1

Playa Vista's opponents will say just about anything to try to stop the project, but the reality is that the development is good for the community. When the Playa Vista project was first announced, my biggest concern was traffic. Playa Vista proved that my fears were misguided-it has actually improved traffic in my neighborhood.

Playa Vista made significant commitments to improve traffic conditions and has delivered on those commitments. For example, the widening of Jefferson Boulevard has significantly reduced traffic on the street.

I am supportive of Playa's traffic plans for The Village. Importantly, there will be increased public transit that will enable residents to take buses from The Village to employment centers in West Los Angeles. Playa Vista has proven that it is a good neighbor with its Phase I development-and based on that history, I know that it will follow suit with The Village.

I urge the city to approve the plans for The Village and to hold other developers to the same standard that Playa Vista consistently meets.

RESPONSE NO. 65-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 66

Dorothy Feinstein

COMMENT NO. 66-1

I moved. Please remove my name from your mailing list. I tried twice by telephone but it was not successful. I do not live in Los Angeles, (over) my old address. Dorothy Feinstein 4250 Via Marina Marina Del Rey, CALIF. 90292 Thank you

RESPONSE NO. 66-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. Please refer to Section I.D. of the Final RS-EIR concerning the noticing of the completion and availability of the RS-DEIR.

LETTER NO. 67

GLENCOVE@aol.com

COMMENT NO. 67-1

I object to the creation of village at Playa Vista due to overpopulation in the Westside. Mar Vista is experiencing an extreme increase in road traffic on crosstown roads like Inglewood and Centinela and Grandview. It is already unbearable. With additional population our lives will be unfairly and negatively impacted. Many neighborhoods need housing. The Westside is almost dysfunctional. Traffic crawls on Olympic and Pico. This is your fault because you have allowed overbuilding. You are greedy and have no respect for the quality of life in Los Angeles.

RESPONSE NO. 67-1

The commentor states concerns about traffic and population. Those matters are outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" with respect to potential traffic impacts within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5. A detailed analysis of the Proposed Project's traffic impacts was included in Section IV.K.(1), Traffic and Circulation, of the Original DEIR, Section II.15, Corrections and Additions of the Original FEIR, and Topical Responses TR-1 through TR-10 of the Original FEIR. For further discussion regarding potential traffic impacts associated with the Proposed Project, see Response Nos. 7-14 through 7-20.

The comment also does not provide any "significant new information" within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5 with respect to population, housing, or employment. An analysis of the Proposed Project's impacts on population, housing, and employment is included in Section IV.J of the Original DEIR and Section II.14, Corrections and Additions of the Original FEIR.

LETTER NO. 68

Howard Hackett
hhackett1@verizon.net

COMMENT NO. 68-1

I agree that the City of LA has followed the guidelines for the RS-DEIR mandated by the courts of California.

Therefore the Village at Playa Vista project should be allowed to proceed.

RESPONSE NO. 68-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 69

Amy Halpern-Lebrun
3711 Ocean View Avenue
Los Angeles, California 90066
amyhalpern@mac.com

COMMENT NO. 69-1

(Sorry for this late contribution. We have been out of the country for 2 months until this weekend.)

In response for your solicitation for comments regarding "the Village at Playa Vista Project", which is very near to our home in Mar Vista, a block from Centinela Boulevard and a block and a half from Venice Boulevard, I submit the following:

I. Already Part One of the plan has had very negative impact on our major thoroughfares. Traffic on Venice Boulevard, and especially on Centinela, which is the major route to the 10 freeway has more than doubled. It is virtually impassable at rush hours a.m. and p.m., even to cross Centinela north/south, and to travel on it is very unpleasant indeed.

It seems that a compulsory part of this plan ought to include an internal route within the Playa Vista Project to the 405 and the 10 freeways, and a designated on-ramp. This route should be persuasively better for residents, people who work there, and customers to prefer it to the street traffic on Centinela.

RESPONSE NO. 69-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. The impacts and mitigation measures associated with the adjacent First Phase Project were addressed in a separate EIR (EIR No. 90-0200-SUB(C)(CUZ)(CUB), State Clearinghouse No. 90010510), certified by the City of Los Angeles in September 1993, and Mitigated Negative Declaration/Addendum to the EIR, certified by the City of Los Angeles in December 1995.

The commentor states concerns related to traffic and transportation mitigation. Those matters are outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" with respect to potential traffic impacts within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5. A detailed analysis of the Proposed Project's traffic impacts was included in Section IV.K.(1), Traffic and Circulation, of the Original DEIR, Section II.15, Corrections and Additions of the Original FEIR, and Topical Responses TR-1 through TR-10 of the Original FEIR. For further discussion regarding potential traffic impacts associated with the Proposed Project, see Response No. 7-14 through 7-20.

COMMENT NO. 69-2

2. The small and apparently unsecured number (200) of assisted-living units in a complex designed to accommodate 2,600 dwelling units is shamefully small. Given normal percentages in a population of need for such dwellings, this unsecured 200 so gravely under-serves the theoretical community that it will clearly burden the surrounding neighborhoods, themselves already inadequate to help those already there who need such assisted-living units.

RESPONSE NO. 69-2

The commentor's opinion that the Proposed Project should increase the number of assisted-living units proposed is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. The potential environmental impacts of the assisted living units associated with the Proposed Project are addressed in the "Equivalency Program Impacts" sections of the Original FEIR and RS-DEIR. The commentor offers no "significant new information" within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5.

COMMENT NO. 69-3

3. The 11.7 acres of green space in the development of a 99.3-acre site is entirely too tiny an allotment. This is especially true since 5 of those acres - the Westchester Bluffs - are mostly vertical, and unsuitable to building - or for recreation.

The selling points of "the Village at Playa Vista" include its green nature, but the 11.7 provision for parks and 0.4 acre of "passive open space" is inadequate to secure this green quality - either for people, or for the wildlife that has been inhabiting it for millennia.

RESPONSE NO. 69-3

The commentor states concerns related to biotic resources and parks and recreation. Those matters are outside the scope of the RS-DEIR. Please refer to Sections

I.B. and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" with respect to potential biotic resources or parks and recreation impacts within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5. A detailed analysis of the Proposed Project's potential impacts on Biotic Resources and Parks and Recreation was included in Sections IV.D and IV.L.(4) of the Original DEIR, and Sections II.7 and II.21, Corrections and Additions of the Original FEIR.

The commentor has incorrectly stated the amount of "green space" in the Proposed Project. The RS-DEIR's calculation of the total acreage in the Proposed project and its components is shown in Table II.A-2 of the RS-DEIR on page II.A-25, the total project area is 111.0 acres, consisting of the 99.3-acre Urban Development Component and the 11.7-acre Habitat Creation/Restoration Component. The 99.3-acre Urban Development Component includes 11.4 acres of parks, and 0.4 acres of passive open space. As discussed in footnote c of that Table, the passive open space is located along the south side of Bluff Creek Drive, just to the north of the Habitat Creation/Restoration Component; it is neither included in the parks acreage, nor the habitat acreage. The 11.7-acre Habitat Creation/Restoration Component consists of the 6.7-acre Riparian Corridor and 5.0 acres of bluff restoration. Thus, the Proposed Project includes a total of 23.5 acres of "green space" – the 11.4 acres of parks, 0.4 acres of passive space, and 11.7-acre Habitat Creation/Restoration Component.

COMMENT NO. 69-4

4. The Plan seems not to include provision for a site museum and graveyard/ monument for the exhumed archaic Indian village that has been displaced by Part One. The very least that ought to be done is a 1 acre allotment for a small museum building of the Puvugna who lived there and a park with space for a monument for the exhumed dead village.

I sincerely submit these considerations to you, and am available for further comment.

RESPONSE NO. 69-4

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. The comment relates to archaeological excavations which occurred at the adjacent Playa Vista First Phase Project. The Playa Vista First Phase Project is outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR,

the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

As discussed above in Response No. 69-1, the impacts and mitigation measures associated with the adjacent First Phase Project were addressed in a separate EIR (EIR No. 90-0200-SUB(C)(CUZ)(CUB), State Clearinghouse No. 90010510), certified by the City of Los Angeles in September 1993, and Mitigated Negative Declaration/Addendum to the EIR, certified by the City of Los Angeles in December 1995. It should be noted that the Native Americans that formerly inhabited the Ballona area, including the Playa Vista site, are known as Gabrielino-Tongva. Puvugna is the name of a Gabrielino-Tongva village in the neighborhood of the California State University at Long Beach.

As part of the adjacent Playa Vista First Phase Project, a 1.7-acre site known as the Ballona Discovery Center has been designated for commemoration of the natural and cultural history of the Ballona wetlands and its native peoples. Please refer to Response No. 37-3 for additional information on the Ballona Discovery Center.

LETTER NO. 70

Lloyd & Renate Hild
7429 McConnell Avenue
Los Angeles, CA 90045

COMMENT NO. 70-1

I am writing to you in reference to the re-circulated sections of the environmental impact report for case number ENV-2002-6129-EIR.

For years opponents of the Playa Vista project have been complaining that the Westchester Bluffs may be harder to see once the development is fully built. As a lifelong neighbor of the project, I can tell you that the property once used by Howard Hughes for industrial purposes has been an eyesore for years. It has been frustrating to watch these opponents pursue round after round of litigation, which has delayed the meaningful development of this property for far too long.

Phase I of Playa Vista substantially improved the area- no longer is the land something to turn your head from. Contrary to the claims of opponents, you can still see the bluffs, and the project has made the property much more beautiful, with enhancements such as the creation of the freshwater marsh and landscaping on the south side of Jefferson. The Village would bring more improvements to our area, adding new landscaping and much-needed retail space that would serve the needs of the local community.

The City now has the opportunity to finally approve The Village and transform an old industrial site into something much more aesthetic and useful for our community.

RESPONSE NO. 70-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 71

Phyllis Horning
7100 Playa Vista Drive, #106
Playa Vista, CA 90094

COMMENT NO. 71-1

I would like submit a comment in regards to the re-circulated sections of the environmental impact report for case number: ENV-2002-6129-EIR.

As a resident of Playa Vista, I feel like a pioneer, knowing that our community will one day be held up as a model for urban living. We enjoy spacious, hi-tech homes, beautiful parks and a shared sense of pride in where we live. Playa Vista is the community I have previously not been able to find in all my years of living in Southern California.

Those of us who live at Playa Vista are very excited about The Village and hope that the City of Los Angeles will approve the project. The Village will result in the creation of new parks, shopping, and hiking trails nearby, and expand the community of people who are fortunate enough to call Playa Vista home. The re-circulated sections of the environmental impact report for The Village shows that the three narrow issues that have held up this project have now been resolved. The City should allow this project to move forward so that the community of Playa Vista can finally be complete.

RESPONSE NO. 71-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 72

Mike Janis
13020 Pacific Promenade #302
Playa Vista, CA 90094
mikej000@yahoo.com

COMMENT NO. 72-1

I just wanted to send you a quick note, I heard that the revised Environmental Impact Report was completed and wanted to share with you my complete and very hopeful support of the Playa Vista Village project.

RESPONSE NO. 72-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 73

Tom Kardashian
6000 S. Para Way
Playa Vista, Ca. 90094
tomkar@msn.com

COMMENT NO. 73-1

My wife, Joan, and I agree with Dick Walker's endorsement, and are in favor of moving on with this project also.

RESPONSE NO. 73-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 74

David Kay
13060 Discovery Creek
Los Angeles, CA 90094
David.Kay@sce.com

COMMENT NO. 74-1

I have reviewed the recirculated sections of the subject draft EIR and find that they sufficiently address deficiencies found by the Court of Appeals. I also find that they sufficiently address potential impacts and proposed mitigation measures for the proposed project as required by CEQA. The final EIR should be adopted and the project permitted to go forward.

RESPONSE NO. 74-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 75

Thomas Kelley
4100 Wade St.
Los Angeles, CA 90066
tfkiii@gmail.com

COMMENT NO. 75-1

I am deeply concerned about the issues surrounding Playa Vista. From what I know about this development it will bring only adverse effects to the environment and community which it surrounds. The people whom stand to benefit are neither locals, nor do they have any connection to this place beyond the money they hope to make. Please consider the future of this city when making decisions, and realize that when it comes to the issues which cloud Playa Vista's completion, Los Angeles is on very shaky ground already.

Please consider the following

RESPONSE NO. 75-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of the decision-makers.

COMMENT NO. 75-2

Land Use:

CEQA guidelines require projects to be consistent with density limits in existing Community and Specific Plans, and failure in consistency is defined as a significant impact. Under the current Area D Specific Plan, only 108,050 sq. ft of office space is available for development by Playa Vista in the Phase II area. The proposed development calls for 2600 residential units, 175,000 sq. ft of office space, and 150,000 sq. ft of retail space. To avoid the definition of this impact, the RS-DEIR requires that the Area D Specific Plan and Westchester/Playa del Rey Community Plan be amended to allow for increased density and different land uses. Why should well researched urban plans be changed to allow for density in excess of what is zoned for? Furthermore, the RS-DEIR does not assess traffic impacts due to development at this scale.

RESPONSE NO. 75-2

The Proposed Project would be implemented via amendments to the General Plan (through the Westchester/Playa Del Rey Community Plan) and the Playa Vista Area D

Specific Plan. The Proposed Project could not be constructed as proposed without amending the General Plan and Specific Plan. However, consistent with CEQA, the RS-DEIR evaluated the Proposed Project, including its proposed amendments to the City's General Plan (through the applicable Community Plan) and the Specific Plan, against all existing federal, state, and local plans.

Although the Proposed Project requires amendments to, among other things, the Playa Vista Area D Specific Plan, an "inconsistency between a project and other land use controls does not in itself mandate a finding of significance."⁴⁵⁶ Instead, a proposed project is consistent with land use plans if, considering all aspects, it will further the objectives and policies of the land use plan and not obstruct their attainment. To be consistent, the proposed project must be compatible and in general harmony with the objectives, policies, general land uses, and programs specified in the applicable plan.⁴⁵⁷ As explained in the RS- DEIR, the Proposed Project would be consistent with the goals and policies in all relevant federal, regional, county, and city plans.⁴⁵⁸

In addition, the Proposed Project and its associated plan amendments would satisfy numerous important City goals and policies, such as providing 2,600 residential units to encourage compatible mixed-use development with multi-family housing.⁴⁵⁹ Similarly, the proposed 40,000 sq. ft. of community-serving uses furthers the General Plan's goal to provide such uses in an integrated setting that would reduce dependency on the automobile as a means of travel to such amenities.⁴⁶⁰ Also, the Proposed Project would provide park, recreational, and open space areas for its residents, workers, and the surrounding community.⁴⁶¹ Finally, the employment opportunities made available by the Proposed Project, which will form an integrated mixed-use development with a commercial and light industrial district when combined with the Playa Vista First Phase, will further the City's goals of providing commercial and industrial growth along with associated employment opportunities for the City's residents.⁴⁶²

⁴⁵⁶ *Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170, 1207 (such an inconsistency "is merely a factor to be considered in determining whether a particular project may cause a significant environmental effect").

⁴⁵⁷ RS-DEIR, p.II.A-24, fn. 21; see generally, *Friends of Lagoon Valley v. City of Vacaville* (2007) 154 Cal.App.4th 807, 817.

⁴⁵⁸ RS-DEIR, p. II.A-44.

⁴⁵⁹ RS-DEIR, pp. II.A-32-- II.A-33.

⁴⁶⁰ RS-DEIR, pp. II.A-32 -- II.A-33, II.A-36.

⁴⁶¹ RS-DEIR, p. II.A-36.

⁴⁶² RS-DEIR, pp. II.A-35--II.A-36.

With respect to the commentor's concern about updating the relevant land use plans, it should be noted that broad planning documents, such as the Westchester/Playa Del Rey Community Plan, require updating and modification from time to time in light of dynamic conditions in the City and community. For example, the Westchester/Playa Del Rey Community Plan was last amended in 2004.⁴⁶³

The commentor also states concerns about traffic. This matter is outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" with respect to potential traffic impacts within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5. A detailed analysis of the Proposed Project's traffic impacts was included in Section IV.K.(1), Traffic and Circulation, of the Original DEIR, Section II.15, Corrections and Additions of the Original FEIR, and Topical Responses TR-1 through TR-10 of the Original FEIR. The Court of Appeal found no deficiency in the Original FEIR's traffic analysis and expressly upheld that analysis. In particular, the Court did not find any inadequacies with regard to the baseline used to measure the actual physical impacts of the Proposed Project (*i.e.*, undeveloped land). Accordingly, the Original FEIR's traffic analysis was based on the appropriate baseline under CEQA (*i.e.*, undeveloped land) and the Proposed Project's development uses, *i.e.*, 2,600 residential units, 175,000 total square feet of office space, 150,000 square feet of retail space and 40,000 square feet of community-serving uses. Thus, since the commentor provides no "significant new information" (within the meaning of CEQA Section 21092.1 and CEQA Guideline 15088.5) concerning the Proposed Project's traffic impacts, no additional analysis of such impacts is warranted.

COMMENT NO. 75-3

Wastewater:

The RS-DEIR does not fully address the true impacts from wastewater, either from a treatment capacity standpoint or from a water quality standpoint. It is unclear at what capacity Hyperion is currently operating and what the cumulative flows will be to the treatment system. Because it is relevant to the determination of significant impacts, the EIR must address the true capacity of Hyperion in relation to current flows into Hyperion for

⁴⁶³ *Westchester/Playa Del Rey Community Plan, Activity Log and p. II-2. The Westchester/Playa Del Rey Community Plan may be found at: <http://cityplanning.lacity.org/complan/pdf/WchstrCPTXT.pdf> (last visited on June 2, 2009).*

purposes of determining whether there is adequate capacity. On the demand side, the City appears to be using the Sewer Allocation Ordinance to assess treatment capacity only after project build-out. Because the City is not properly tracking capacity by reducing the available capacity by other project allocations, the RS-DEIR avoids a true discussion of impacts due to wastewater. Further, the public and decisionmakers cannot tell from the RS-DEIR whether or not the wastewater flows will cause significant impacts to the sewer collection system because the RS-DEIR's analysis of sewer line capacity is flawed.

RESPONSE NO. 75-3

For a detailed discussion regarding the Proposed Project's wastewater impacts, please see Response Nos. 29-16 through 29-33.

COMMENT NO. 75-4

Water Supply:

As aptly stated by Los Angeles Department of Water and Power's (LADWP) CEO and general manager David Nahai, "There are no more rivers to tap or aqueducts to build from hundreds of miles away." Given the finite water resources available; the state of emergency recently declared by the Governor; the 8-year drought described as "most critical drought in the State's modern history"; groundwater contamination; the recent federal court decision curtailing water deliveries from northern California due to environmental factors in the Sacramento-San Joaquin Delta; the low Sierra Nevada snow-pack; and the impacts of global warming, the RS-DEIR is deficient for failing to address the availability of water for the project both individually and cumulatively. For the Second District Court of Appeals has stated: "An environmental impact report for a housing development must contain a thorough analysis that reasonably informs the reader of the amount of water available." (Santa Clarita Organization for Planning the Environment v. County of Los Angeles (2003) 106 Cal.App.4th 715, 717.)

RESPONSE NO. 75-4

The commentor states concerns about water supply. This matter is outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" with respect to potential water supply impacts within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5. For a further discussion regarding the Proposed Project's water supply impacts, please see Response Nos. 29-34 through 29-41.

COMMENT NO. 75-5

Methane and Methane Mitigation:

Methane is not addressed in the RS-DEIR - a mistake, considering that new evidence has arisen highlighting the inadequacy of methane gas mitigation measures described in the Final EIR of 2004. Evidence of methane gas entering existing buildings has been presented by members of the public to Building and Safety. In addition, the City Controller's 2007 report found Playa Vista's methane mitigation methods to be inadequate. Single-family dwellings in the development are not consistently required to have methane detection systems, and responsibility for the design, installation, and testing of detection systems in single family homes was not assigned.

RESPONSE NO. 75-5

The commentor states concerns about methane-related impacts and methane mitigation. Please refer to Sections I.B. and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" with respect to potential methane-related impacts and methane mitigation within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5. For a further discussion regarding the Proposed Project's methane-related impacts and methane mitigation, please see Response Nos. 29-42 and 29-43.

COMMENT NO. 75-6

Archaeology:

Archaeological preservation in place is defined by CEQA as the preferred method to reduce impacts to archaeological sites. Two archaeological sites located in the project area were eligible for the National Register for Historic Places. The RS-DEIR maintains preservation in place of these sites was not possible, but never adequately states why. Alternative designs to restore in place the archaeological sites are not fully described and are dismissed without adequate exploration of their potential. The possibility for replacement of Native American remains in their original location is not addressed, the preferred option as expressed by the Gabrielino Tongva in original project documents. The failure to address placing remains back in their original place is a violation of the Court of Appeal's 2007 order.

RESPONSE NO. 75-6

Preservation in place, and its status as the preferred mitigation measure for reducing a project's impacts on archaeological impacts, is discussed in detail in the RS-DEIR. Section II.C. examines four design options in detail (and six design options total) for relocating the Riparian Corridor in the Proposed Project area and restoring the archaeological resources, which were removed during construction of the Riparian Corridor, to their original location. That analysis includes a discussion of the potential impacts of the four options. Additional information on this issue is provided in Response Nos. 29-8 through 29-13.

In addition, please note that the Court of Appeal Opinion expressly envisioned the possibility that the City may conclude that archaeological resources should be reburied at "other suitable locations on the project site," rather than restoring the resources to their original locations.⁴⁶⁴

COMMENT NO. 75-7

Global Warming:

California's interagency Climate Action Team (CAT) recently projected that if rising sea levels follow their current trajectory, the project area (as well as much of the surrounding coast line) may be under water by the end of the century ("California panel urges immediate action to protect against rising sea levels." Los Angeles Times, March 12, 2009). While no one can predict exactly when sea levels will rise to this height, the research summarized by the CAT indicates that a rise of between 1 and 1.4 meters not unlikely over this time period. Limiting coastal development in areas at risk from sea rise was one proposed strategy included in the report. With growing consensus on the effects of climate change, and state-led imperatives already initiated to deal with coastal decline, it is irresponsible to allow the development of Playa Vista's Phase II.

In summary, with such serious project deficiencies, breaches of City, State and Federal environmental and planning guidelines, and looming environmental realities, allowing Playa Vista's Phase II project to proceed would be highly irresponsible. In this era of increased threats to water supply, air quality, and open land, alternate uses for remaining open land need to be explored. More development in the last remaining section of open coastal land in the city will only hasten our community on the way to environmental failure.

⁴⁶⁴ RS-DEIR Appendix A.i, Court of Appeal Opinion, p. 40.

RESPONSE NO. 75-7

For a detailed discussion regarding the Proposed Project's potential impact on global climate change, please see Response Nos. 29-45 through 29-61. With respect to sea level rise, please see Response No. 29-62.

The commentor also states concerns regarding alternatives. This matter is outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" with respect to alternatives within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5. For a further discussion regarding alternatives, please see Response Nos. 25-3, 26-2, and 29-65.

LETTER NO. 76

Gail Teller Levy
7718 West 81st Street
Playa del Rey, CA 90293-7909

COMMENT NO. 76-1

I am writing to you to voice my satisfaction with proposal for The Village at Playa Vista, and to voice my support for the improvements that Playa Vista has already brought to our neighborhood and our community. I look forward to seeing more of the well-planned kinds of improvements that Playa Vista has provided in recent years, including the completion of The Village, which will hopefully be approved soon.

With a workday drive from Playa del Rey to downtown LA, I greatly appreciate the new landscaping along the medians on Jefferson Boulevard, and the widening of the street, which has improved traffic flow and made the area more beautiful. The public parks in Playa Vista's Phase I area are also a great community resource, not just for Playa Vista residents but also for those of us who live in adjacent communities. Personally, I use them frequently to walk my dog and enjoy the breezes of the nearby Pacific Ocean...often followed by a quick stop at the Coffee Bean & Tea Leaf.

Having lived in Playa del Rey (above Playa Vista) for 24 years, and having witnessed the birth of the vibrant community of Playa Vista, I believe that the construction of The Village will bring additional improvements to our community, and will provide amenities and services that make it a complete, vibrant community. As such, I urge the City of Los Angeles to approve this project.

RESPONSE NO. 76-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 77

Meg Linton & Marc Meredith
13045 Pacific Promenade, #129
Playa Vista, CA 90094
mlinton@otis.edu

COMMENT NO 77-1

Like many Angelenos-I was long skeptical of "master-planned" communities. Then I took a look at Playa Vista, where developers have taken a piece of former industrial land and turned it into a thriving and futuristic community.

I have never been happier with my home. My house is wired for the latest in technology. The local parks are beautiful. The Westside is right at my doorstep. I feel connected to my neighbors.

To make Playa Vista even better, we need The Village. Providing a mix of housing, retail, office and open space, The Village will allow Playa Vista to become a true mixed-use community.

The residents of Playa Vista have waited years to see The Village completed. I urge you to approve this project.

RESPONSE NO. 77-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 78

Jessica Logan
jessica.peppard@gmail.com

COMMENT NO. 78-1

I have been a homeowner in Playa Vista since 2005 and completely support the completion of the Village. I bought my home expecting the entire development to be complete.

RESPONSE NO. 78-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 79

Linda Lucks
30 Wave Crest Avenue
Venice, CA 90291
lindalucks@aol.com

COMMENT NO. 79-1

I have received 6 notices on the same issue: The Village at Playa Vista Project. I am happy to have one, but since each written document is 3 pages long and sent in 6 different envelopes, all addressed to me, this is a gigantic waste of City Funds. I am mailing them back in one envelope to Gail Goldberg.

I hope this prompts the department to review mailing lists for duplicates.

RESPONSE NO. 79-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. For a discussion on the re-noticing of the availability of the RS-DEIR for public review and comment, please see Section I.D. of this Final RS-EIR.

LETTER NO. 80

Linda Lucks
lindalucks@aol.com

COMMENT NO. 80-1

That was fast! I only mailed the envelope yesterday. Any future mailings can be sent to my email address. I was happy to learn that the City does not bear the financial burden. Have you considered offering an opt in or opt out email delivery system?

RESPONSE NO. 80-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. Please refer to Section I.D. of this Final RS-EIR concerning the noticing of the completion and availability of the RS-DEIR.

LETTER NO. 81

Nora MacLellan
8324 Delgany Avenue
Playa del Rey, CA 90293

COMMENT NO. 81-1

I have reviewed the re-circulated sections of the environmental impact report for The Village at Playa Vista, case number ENV-2002-6129-EIR, and believe that this project's benefits far outweigh the minor unmitigated impacts it will have on the area.

As a longtime resident of the neighborhood, I can attest to the value of having Playa Vista nearby. Traffic improvements, such as the widening of Jefferson Boulevard, have helped to create smoother traffic flow during my morning commute. The concerts at Playa Vista's community center, which my husband and I frequently attend, are fantastic. On sunny California days, we love to walk our dogs in Playa Vista's parks and along the new riparian corridor.

The Village will bring new benefits, including more transportation improvements, parks, and shops. Just as importantly-at a time when our economy is in serious trouble, I understand that it will create thousands of construction jobs and millions of dollars in tax revenue for the City of Los Angeles every year.

After reviewing the re-circulated sections of the environmental impact report for The Village, the issues with this project are very small compared to the overwhelming tangible benefits of new jobs, sustainable housing, and increased revenue and infrastructure improvements for our community.

I support The Village and hope the City will too.

RESPONSE NO. 81-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 82

Glenn & Lyndell Martin
11860 Beatrice St.
Culver City, CA 90230-6209

COMMENT NO. 82-1

How wasteful can you folks be? Many people our neighborhood got multiple (average 6-10) copies of the same thing.

There was 42 cents postage on each envelope
Each envelope had to be stuffed
Each page had to be printed

There no reason for this. Regardless of a complaint that **ONE** person did not get correspondence previously, just do you homework and add that person.

You owe the taxpayers money!

RESPONSE NO. 82-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. For a discussion on the re-noticing of the availability of the RS-DEIR for public review and comment, please see Section I.D. of this Final RS-EIR.

LETTER NO. 83

Linda McNally
7423 W. 83rd St.
Los Angeles, CA 90045

COMMENT NO. 83-1

I recommend that any person who wants to state an opinion about Playa Vista first take a walk through the community- it's nothing like the opponents say. There are parks, a library, a variety of home styles and prices and a community center. There is abundant open space, and a clear sensitivity to the needs of nature. It's a wonderful and smart design that promotes 'community' and instills a sense of safety, security and common sense. My husband and I commute daily on our bicycles through Playa Vista on our way to work in Culver City, we look forward to the completion of this project with the Village phase.

The Village will complete Playa Vista and result in the creation of thousands of construction jobs and millions of dollars in new tax revenues for the City of Los Angeles annually.

After years of delay, it is time to make The Village a reality. I urge the City to approve this project.

RESPONSE NO. 83-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 84

Matthew and Molly Menzie
13020 Pacific Promenade #308
Playa Vista, CA 90094
matthewsharpmenzie@yahoo.com

COMMENT NO. 84-1

I have been an owner/resident of Playa Vista for 3 years, and I have been waiting the entire time for the Village to open. My wife and I definitely would do much of our shopping and dining there without driving, using gas, causing traffic, etc. We also plan to investigate job opportunities there so we would not have to commute to downtown and Encino anymore. In addition, the entire area would benefit from the gentrification, jobs, housing, dining, shopping, entertainment, and outdoor opportunities. This should be a no-brainer.

The opponents don't even believe their own arguments. They are just against development of any kind for any reason -- right after their own home, neighborhood, grocery store, etc. is built. They fail to consider the benefits that come with smart, multi-use development that adds jobs and housing, while mitigating traffic and bringing needed services to residents who are already there, pay their taxes, and need and deserve these things. The current residents have more at stake, feel more strongly for better reasons, and should receive more weight than outsiders just looking to protest something for the sake of protesting.

Thank you for your time and consideration.

RESPONSE NO. 84-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 85

Kathy and Wally Miglin
kpmiglin@gmail.com

COMMENT NO. 85-1

I beg you to do all you can to downsize everything. I drive through Playa Vista area to visit my son and the congestion is horrendous. I can't imagine it getting any worse but it will with this development. People would rather pay higher taxes than have more density. Thank you,

RESPONSE NO. 85-1

The commentor states concerns about traffic. Those matters are outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" with respect to potential traffic impacts within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5. A detailed analysis of the Proposed Project's traffic impacts was included in Section IV.K.(1), Traffic and Circulation, of the Original DEIR, Section II.15, Corrections and Additions of the Original FEIR, and Topical Responses TR-1 through TR-10 of the Original FEIR. For further discussion regarding potential traffic impacts associated with the Proposed Project, see Response Nos. 7-14 through 7-20.

LETTER NO. 86

Tim Myer
mumed@earthlink.net

COMMENT NO. 86-1

Too much confused text in the notice sent out. BUT one thing is for certain-Congestion, traffic, and poor air quality is getting worse and worse in this area due to these new Ballona developments, and will become a worse version of the gridlock on Lincoln Blvd that we already have. This is in direct relationship to the housing developements on south Lincoln and Jefferson. The roads are far inadequate for increased development in this area.

RESPONSE NO. 86-1

The commentor states concerns about traffic and air quality impacts. Those matters are outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" with respect to potential traffic impacts within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5. A detailed analysis of the Proposed Project's traffic impacts was included in Section IV.K.(1), Traffic and Circulation, of the Original DEIR, Section II.15, Corrections and Additions of the Original FEIR, and Topical Responses TR-1 through TR-10 of the Original FEIR. For further discussion regarding potential traffic impacts associated with the Proposed Project, see Response Nos. 7-14 through 7-20.

The comment also does not provide any "significant new information" within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5 with respect to air quality. A detailed analysis of the Proposed Project's impacts on Air Quality was included in Section IV.B, Air Quality, of the Original DEIR, and Section II.4, Corrections and Additions of the Original FEIR.

LETTER NO. 87

Dorothy M. Nicholson
1083 Marco Pl.
Venice, CA 90291-3935

COMMENT NO. 87-1

Have you people lost your minds? Do you have any idea what a mess Lincoln Blvd. is – all the way from Santa Monica to the Playa Vista, project is?

I just returned from spending 20 minutes on less than a ¼ mile trip on Lincoln Blvd. It should only be a 5 minute journey!

It's a bumper to bumper crawl all the way from Rose Ave. south on Lincoln Blvd. to Playa Vista – caused in part by that project.

What do you suppose is going to happen if this new phase is allowed to go thru?

It's ridiculous - and all developers greed. I know my letter isn't going to change anything. But the whole thing is unbelievable & ugly. Everyone I speak to feels the same way & we are all disgusted!

RESPONSE NO. 87-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. The commentor states concerns about traffic. Those matters are outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" with respect to potential traffic impacts within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5. A detailed analysis of the Proposed Project's traffic impacts was included in Section IV.K.(1), Traffic and Circulation, of the Original DEIR, Section II.15, Corrections and Additions of the Original FEIR, and Topical Responses TR-1 through TR-10 of the Original FEIR. For further discussion regarding potential traffic impacts associated with the Proposed Project, see Response Nos. 7-14 through 7-20.

LETTER NO. 88

Kate Oakland
7806 Airline Ave
Los Angeles, CA 90045
kateoakland@ca.rr.com

COMMENT NO. 88-1

Just wanted to let you know that I received three copies of the same report in the mail today. In an effort to reduce waste, save trees and city money, please only send me one report. Not sure how or why I am getting three of these, but I certainly don't need all of them.

Thank you!

RESPONSE NO. 88-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. For a discussion on the re-noticing of the availability of the RS-DEIR for public review and comment, please see Section I.D. of this Final RS-EIR.

LETTER NO. 89

Leslie Purcell
2399 Katari St.
Ventura, CA 93001

COMMENT NO. 89-1

Regarding the Playa Vista Phase 2 RS-DEIR – it is not compliant under CEQA, is defective, and a Supplemental or Subsequent EIR should be done to further address the following issues:

- Methane and toxic plume underlying the site--health and safety issue, particularly with a proposed school, in Phase 1 area adjacent.

RESPONSE NO. 89-1

The commentor states concerns about methane gas impacts and groundwater contamination at the Proposed Project site. Those matters are outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" with respect to potential methane gas impacts or groundwater contamination within the meaning of California Public Resources Code 21092.1 and State CEQA Guidelines Section 15088.5. A detailed analysis of the Proposed Project's impacts regarding these topics was included in Section IV.I, Safety/Risk of Upset, of the Original DEIR, and Section II.13, Corrections and Additions of the Original FEIR and Topical Response TR-12 of the Original FEIR. For further discussion regarding these topics, including the status of the proposed school in the Playa Vista First Phase Project area, refer to Response Nos. 29-42, 29-43, and Comment Letter No. 40.

COMMENT NO. 89-2

- Viability/habitability of riparian corridor project as it is constructed—narrow and concrete channel through much of Phase 2.

RESPONSE NO. 89-2

It is unclear what the commentor is referring to, but the commentor appears to state concerns about biotic resources. Those matters are outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" with respect to biotic resources within the meaning of California Public Resources Code 21092.1 and State CEQA Guidelines Section 15088.5. A detailed analysis of the Proposed Project's impacts regarding biotic resources was included in Section IV.D., Biotic Resources, of the Original DEIR, and Section II.7., Corrections and Additions of the Original FEIR. Please refer to Section IV.D.2.2.2 of the Original DEIR for a discussion of the Proposed Project's Habitation Creation/Restoration Component, which includes the Riparian Corridor. Please refer to RS-DEIR Technical Appendix D.iv. for the *Village at Playa Vista Riparian Corridor Biological Resources Report* (PSOMAS 2008), which details the biotic resources utilizing the Riparian Corridor for habitat.

COMMENT NO. 89-3

- Validity of CA Dept. of Fish and Game Streambed Alteration Agreement, which allowed the moving of the historic Centinela Creek channel toward the base of the bluff, and thus allowed for the removal of several hundreds of burials in Phase 1 and 2, with no adequate review.

RESPONSE NO. 89-3

California Department of Fish and Game 1603 Streambed Alteration Agreement No. 5-639-93 was issued pursuant to California Fish and Game Code Section 1603 in 1991, and was one of many regulatory approvals for the construction of the Freshwater Wetlands System. All work authorized under the Streambed Alteration Agreement has been completed within the term of the Agreement. The Streambed Alteration Agreement has not been the subject of any judicial challenge.

With respect to the comment about Native American human remains, only three burial features (along with some isolated human remains, which may be related to the burials) have been found at the Proposed Project site. For more information please refer to Response Nos. 12-4, 29-6, 29-7, and 37-2.

COMMENT NO. 89-4

- The mis-use of Mello-Roos bond monies to pay (in large part retroactively) for the digging up of Indian human remains, placing them in buckets, and in storage facilities. Mello-Roos (infrastructure) bonds were not intended by the legislature to pay for such activity. Playa Capital asked for the \$11 million Mello-Roos funds after they had presented Phase 2 to the City Council, misrepresenting that they were paying for the archaeology themselves.

RESPONSE 89-4

The commentor states concerns about Mello-Roos funding, which has only been made available for the Playa Vista First Phase Project. While the Applicant and the City maintain that there was no misuse of the Mello-Roos funds, this comment does not raise an environmental issue concerning the Proposed Project and, therefore, is outside the scope of the RS-DEIR. The Proposed Project is not included in the Infrastructure Funding Agreement for City of Los Angeles Community Facilities District No. 4 (Playa Vista - Phase 1), which is the subject of the comment; that Agreement relates to infrastructure funding for the First Phase Project only. Archaeological work for the Proposed Project has been funded by the Applicant and will not be funded with Mello-Roos funds.

Please also note that, in accordance with guidelines provided by the Most Likely Descendant (MLD), Mr. Robert Dorame, human remains were placed in cloth bags and were ultimately placed in ceremonial deerskins for reinterment.

COMMENT NO. 89-5

- Per Gov Code § 65560, 65562.5: Consultation with Native Americans on Open Space: Includes protection of Native American **cultural places** as an acceptable designation of open space. **Requires local governments to conduct meaningful consultation** with California Native American tribes on the contact list maintained by the Native American Heritage Commission for the purpose of protecting cultural places located within open space. (Has LA City done required consultation to protect Indian sites here?)

RESPONSE 89-5

The commentor refers to California Government Code Sections 65560 and 65562.5, which are applicable when open space land is designated or proposed to be designated on a city's general plan. The Proposed Project does not call for the designation of open space

on the City's General Plan.⁴⁶⁵ For more information on the history of Native American consultation concerning Playa Vista, refer to Response No. 89-6 below.

COMMENT NO. 89-6

- § 65352.3- 65352.4: Consultation with Native Americans on General Plan Proposals Requires local governments to conduct meaningful consultation with California Native American tribes on the contact list maintained by the Native American Heritage Commission **prior to the adoption or amendment of a city or county general plan for the purpose of protecting cultural places on lands affected by the proposal.** (Has LA City, with the upzoning of the specific plan, done the required consultation to protect Gabrielino/Tongva cultural places on lands affected by the Phase 2 proposal?)

RESPONSE 89-6

There is a lengthy history of Native American consultation concerning Playa Vista. In 1990, Gabrielino-Tongva provided input to the previous property owner (the predecessor-in-interest of the Applicant) regarding selection of the Playa Vista project archaeologist. In addition, Gabrielino-Tongva participated in proceedings with the U.S. Army Corps of Engineers regarding development of the research design for the entire Playa Vista site and, ultimately, the Programmatic Agreement, which includes a concurrence signed by interested Gabrielino-Tongva. Gabrielino-Tongva were also notified and invited to offer input in 2001, when the extension of Programmatic Agreement was under consideration. The Archaeological Treatment Plans promulgated under the Programmatic Agreement, including those for the archaeological areas included in the Proposed Project site (CA-LAN-62 Locus D and CA-LAN-211/H), provide for consultation with the Gabrielino-Tongva MLD named by the Native American Heritage Commission (NAHC). RS-DEIR Technical Appendix D.viii., pp. 272-79 and RS-DEIR Technical Appendix D.ix. contain copies of those Archaeological Treatment Plans.

In 1995, Mr. Robert Dorame, the MLD, provided his first set of guidelines for handling Gabrielino-Tongva human remains found at the Playa Vista site. Updated guidelines in 2000, 2003, and 2005 (found at RS-DEIR Technical Appendices D.xi, D.xii, and Final RS-EIR Technical Appendix B.ii) reflect the continuing dialogue with the MLD, who most recently was heavily involved in the reinterment of the human remains and

⁴⁶⁵ *While the Proposed Project includes open space in areas known to contain archaeological resources, please note that the Riparian Corridor is complete and portions of the known archaeological resources have been left intact and are not likely to be disturbed so long as the Proposed Project is built out as proposed in the RS-DEIR and the Riparian Corridor is not relocated. With respect to the archaeological resources that have been left intact, please note that in most areas the resources are protected by at least several feet of fill and the fencing, signage and vegetation of the Riparian Corridor and Bluff Restoration passive open space areas encourage passers-by to stay out of those locations.*

associated grave goods excavated from the First Phase Project site. Numerous Gabrielino-Tongva from various tribal groups participated in the First Phase Project reinterment ceremony, held in December 2008 at the Ballona Discovery Center. Gabrielino-Tongva from numerous groups have also participated in almost a decade of planning and design of the Ballona Discovery Center, which includes the reinterment area and Gabrielino-Tongva elements. Finally, Native Americans have monitored all earth disturbing activities in archaeological areas in both the First Phase Project and Proposed Project locations, and Native Americans from various Gabrielino-Tongva groups (including all groups listed on the Contact List provided by the NAHC) were sent notice of the opportunity to comment on the RS-DEIR.

Please also note that because California Government Code Section 65352.3 refers specifically to a plan or amendment proposed on or after March 1, 2005, and the Proposed Project proposals were initiated prior to 2005, the consultation provisions cited by the commentor are inapplicable here. The Office of Planning and Research's *Tribal Consultation Guidelines Supplement to General Plan Guidelines* (November 14, 2005)⁴⁶⁶ state that a local agency's acceptance of a complete application is the relevant date for whether a proposed plan or amendment is on or after March 1, 2005. The City received the Applicant's complete application requesting a general plan amendment and specific plan amendment for the Proposed Project in October 2002.

COMMENT NO. 89-7

- Greenhouse gas and global warming issues must now be addressed; creating a dense and high-rise zone will contribute to additional heat and pollution in the area. Leaving open space and recreating a wetland/upland habitat will help to cool and filter the air and water, and will be a highly beneficial use for this land.

RESPONSE NO. 89-7

The RS-DEIR analyzes the Proposed Project's potential impacts regarding greenhouse gases and global climate change in detail in Section II.D. of the RS-DEIR and concludes after extensive analysis that the potential impact on global warming resulting from the Proposed Project would not be significant at a project-specific or a cumulative level. To the extent the commentor is stating an opinion regarding alternatives to the Proposed Project, alternatives are outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C. of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of

⁴⁶⁶ *The Tribal Guidelines may be found at:*
[http://www.opr.ca.gov/programs/docs/09_14_05%20Updated%20Guidelines%20\(922\).pdf](http://www.opr.ca.gov/programs/docs/09_14_05%20Updated%20Guidelines%20(922).pdf).

the RS-DEIR, and the standards for recirculation of a draft EIR due to “significant new information.” The commentor offers no “significant new information” with respect to project alternatives within the meaning of Public Resources Code 21092.1 and State CEQA Guidelines Section 15088.5. A detailed analysis of the Proposed Project alternatives may be found in Section VII. of the Original DEIR, and Section II.33., Corrections and Additions of the Original FEIR. Please refer to Response No. 29-65 for further information regarding a treatment wetland alternative and Response No. 25-3 regarding project alternatives generally.

The comment’s discussion of open space preservation is noted and will be incorporated into the Final RS-EIR for review and consideration of the decision-makers.

LETTER NO. 90

Jhoiey Ramirez
11601 Wilshire Blvd., 11th Floor
Los Angeles, CA 90025
JRAMIREZ2@us.westfield.com

COMMENT NO. 90-1

I am a resident of Playa Vista and....

Yes, I support the completion of Playa Vista's The Village. That was the primary reason I moved to Playa Vista, and it has been a shame that the project has been stalled, especially after all the infrastructure was invested into it already. Now, it's just partially developed vacant land that is ready for continued development between the already developed Playa Vista homes and the offices (being built) near Centinela.

Let's get going on this last phase of the project. It will also create jobs and stimulate the economy, which is greatly needed at this time! No more delays, please. Build it!

RESPONSE NO. 90-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 91

Craig Russell
Craig.Russell@fox.com

COMMENT NO. 91-1

I support the Playa Vista Village & am anxiously awaiting the completion of the Village to the east of our development, including completion of the walking trail and park to the east to Centinela.

RESPONSE NO. 91-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 92

Jacquelyn Sharrar
12059 Juniette St.
Culver City, CA 90230

COMMENT NO. 92-1

This is regards “The Village” at Playa Vista Project.

In this same area they are building three or four large office buildings. – So far there doesn’t seem to be a need for more offices.

RESPONSE NO. 92-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. As discussed on page II.A-20 of the RS-DEIR, land immediately to the west and east of the Proposed Project site is part of the previously approved Playa Vista First Phase Project. The area immediately to the east of the Proposed Project site is approved for office and commercial uses, including entertainment, media, and technology uses. Currently, several office buildings, three to six stories in height, are under construction in this area.

COMMENT NO. 92-2

One big question – What about the increased traffic? In the morning starting at 6:00 AM Centinela Ave and Inglewood Ave are at about capacity for cars and trucks. Again in the evening it is dangerous to enter either of these Blvds. – In order to avoid the traffic signals cars are cutting through the residential streets at over the speed limits and ignoring all the stop signs. I never see any traffic control nor have I been able to get the police to check the ignoring of stop signs.

An increase in traffic from this project would spoil a nice neighborhood.

RESPONSE NO. 92-2

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. The commentor states concerns about traffic. Those matters are outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City’s

obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to “significant new information.”

The commentor offers no “significant new information” with respect to potential traffic impacts within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5. A detailed analysis of the Proposed Project’s traffic impacts was included in Section IV.K.(1), Traffic and Circulation, of the Original DEIR, Section II.15, Corrections and Additions of the Original FEIR, and Topical Responses TR-1 through TR-10 of the Original FEIR. For further discussion regarding potential traffic impacts associated with the Proposed Project, see Response Nos. 7-14 through 7-20.

COMMENT NO. 92-3

There is also an elementary school on Juniette St. on the corner of Centinela -

RESPONSE NO. 92-3

As the commentor notes, Playa del Rey Elementary School is located at the corner of Juniette St. and Centinela. The commentor’s statement relates to schools. Those matters are outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City’s obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to “significant new information.”

The commentor offers no “significant new information” within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5. Potential impacts on this school were addressed in Sections IV.B (Air Quality), IV.E (Noise), and IV.L.(3) (Public Services: Schools) of the Original DEIR, and Sections II.4, II.8, and II.20, Corrections and Additions of the Original FEIR.

COMMENT NO. 92-4

Still no one observes the stop signs –

What is the plan to protect those living in this area.? -

RESPONSE NO. 92-4

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. The comment also offers no “significant new information” with respect to potential traffic impacts within the meaning of CEQA Section

21092.1 and State CEQA Guidelines Section 15088.5. Neighborhood Traffic Management Plans were included in the analysis of the Proposed Project's traffic impacts, discussed above in Response No. 92-2.

COMMENT NO. 92-5

P.S. The buildings there now block any view of the Westchester Bluffs that we had. – The angles of the windows reflect the traffic & light into our homes.

RESPONSE NO. 92-5

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. This comment pertains to buildings under construction to the east of the Proposed Project site, which are part of the previously approved Playa Vista First Phase Project. The impacts and mitigation measures associated with the adjacent First Phase Project were addressed in a separate EIR (EIR No. 90-0200-SUB(C)(CUZ)(CUB), State Clearinghouse No. 90010510), certified by the City of Los Angeles in September 1993, and Mitigated Negative Declaration/Addendum to the EIR, certified by the City of Los Angeles in December 1995.

LETTER NO. 93

Gary Smith
6757 W. 86th Place
Westchester, CA 90045

COMMENT NO. 93-1

I am a longtime resident of the Westside and have been impressed by the thriving community that Playa Vista has been able to build in such a short time. This has occurred because of smart planning - diverse residences offered at a variety of price levels that are located close to shopping, entertainment, and jobs.

The Village will continue this concept and will help complete the vision of Playa Vista by adding more stores, open spaces and residences to the development. After years of litigation, the City has an opportunity to finally approve the project.

Playa Vista offers a sustainable model for development that promises a better future for Los Angeles. I encourage the City to approve it.

RESPONSE NO. 93-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 94

Thomas M. Tyrrell
Catherine A. Tyrrell
5721 Crescent Park West, #213
Playa Vista, CA 90094

COMMENT NO. 94-1

We would like to commend the City for its excellent analysis on the recirculated sections of the environmental impact report for The Village at Playa Vista, case number ENV-2002-6129-EIR.

The roadway improvements, water quality enhancements, public parks, addition of open space and neighborhood retail area are all needed and appropriate for this vacant piece of land that once served as an airplane runway for Howard Hughes.

Having generally reviewed this document, it seems to us that the City has adequately addressed The Village's three potential areas of impact that are up for review. First, the report shows that the upzoning of the property is consistent with all applicable land use policies and plans. Second, the document shows that the Hyperion Wastewater Treatment Plant will have the capacity to handle the future waste from the development. Third, the careful analysis of potential locations for the Riparian Corridor shows that the current location is the best suited to both avoid damage to archeological resources and prevent impacts on water quality, habitat and wildlife. Finally, the discussion of Global Climate Change shows that Playa Vista's sustainable design is part of the solution, not part of the problem.

Construction on The Village has been delayed for too long. We support this next stage of development at Playa Vista and encourage the City of Los Angeles to approve it.

RESPONSE NO. 94-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 95

Lucia and Daniel Walker
7416 West 82nd Street
Westchester, CA 90045
daniel.walker2@boeing.com

COMMENT NO. 95-1

Below are our comments on the revised EIR for The Village at Playa Vista:

We support The Village at Playa Vista and recommend swift EIR approval by the LA city council. The revised EIR now adequately addresses issues with the project's effects on the Hyperion wastewater treatment plant, the treatment of human remains and artifacts, etc.

As there would be within any substantial housing and commercial development, there are some adverse environmental impacts and many more positive impacts for our community. During this recession, the construction of The Village at Playa Vista would provide a significant number of good jobs for several years and the commercial properties would provide additional long term jobs for local residents.

We like Playa Vista phase 1 results especially the improved roads (i.e. Lincoln Blvd., Jefferson Blvd., etc.) and the new local bike paths. We believe the Ballona freshwater marsh is great. We like the proposed phase 2 riparian corridor habitat creation / restoration component.

The LA Unified School District Board on Feb. 10, 2009 approved funding for construction of Playa Vista Elementary School, ideally located adjacent to the riparian corridor and just east of the Playa Vista Sports Park. We hope our twin babies will be able to attend Playa Vista school when construction is finished in a few years.

RESPONSE NO. 95-1

These comments do not raise any environmental issues, and are noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

COMMENT NO. 95-2

Although not specifically covered in this revised EIR, our only concern with Playa Vista phase 2 The Village is adequate funding for traffic / transportation mitigation in region surrounding Playa Vista. Traffic in our community (especially north / south along 405

freeway and Lincoln) was gridlocked even before Playa Vista began construction. We hope additional funding will be secured by Los Angeles, Caltrans, MTA and / or Playa Vista to improve Lincoln Blvd. north of Jefferson (i.e. widen bridge over Ballona Creek with room for bikes and pedestrians too). We recommend funding to build a safer link from Playa Vista to the Ballona Creek bike path. We also support funding to extend the Marina Freeway west to Admiralty Way in Marina Del Rey. We support plans to extend Green Line Light Rail north to LAX and further north.

RESPONSE NO. 95-2

The commentor states concerns related to traffic and transportation mitigation. Those matters are outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" with respect to potential traffic impacts within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5. A detailed analysis of the Proposed Project's traffic impacts was included in Section IV.K.(1), Traffic and Circulation, of the Original DEIR, Section II.15, Corrections and Additions of the Original FEIR, and Topical Responses TR-1 through TR-10 of the Original FEIR. For further discussion regarding potential traffic impacts associated with the Proposed Project, see Response Nos. 7-14 through 7-20.

It also should be noted that funding to study the feasibility of bicycle and pedestrian improvements on Lincoln Boulevard over the Ballona Channel would be provided by the Proposed Project under the proposed Development Agreement, which is attached as Appendix B.iii to the RS-DEIR. Comments regarding the extension of the Marina Freeway and the extension of the Green Line Light Rail are noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 96

Richard Walker
6099 Sea Bluff Drive
Playa Vista, CA 90094
dick@rwwcompany.com

COMMENT NO. 96-1

I have received the "Notice of Completion and Availability" of above referenced report and wholeheartedly endorse the results.

As a 3 year resident and homeowner in the Playa Vista community I am very much in favor of moving on with the completion of Phase II of this project. I believe I speak for the vast majority, if not all of the homeowners in Playa Vista.

RESPONSE NO. 96-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 97

John Wehner
2429 Abbot Kinney Blvd.
Venice, CA 90291-4728

COMMENT NO. 97-1

I AM STRONGLY AGAINST THIS PROJECT!

P.S. STOP PAVING OVER THE MARINA & VENICE AREA!

RESPONSE NO. 97-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 98

Sheri Weitz
7870 Bleriot Ave.
Los Angeles, CA 90045

COMMENT NO. 98-1

As an avid hiker and longtime resident of a nearby community, I am writing to urge the City of Los Angeles to approve The Village, which currently has the re-circulated sections of the environmental impact report up for review (ENV-2002-6129-EIR).

I have enjoyed expanding my walks along the freshwater marsh to include the riparian area that Playa Vista created at the base of the bluffs, near the future site of The Village. Together with sections to the east and west, the completion of the riparian area created a continuous 25-acre habitat corridor that is now home to native plants and dozens of species of birds and other wildlife.

If The Village project is approved, I will be able to enjoy more improvements in the area during my walks. Five acres of the Westchester Bluffs will be restored, with native coastal sage replacing non-native grasses and iceplant, which will make the bluffs more stable and far more attractive than what exists today.

I encounter many other people on my walks who also look forward to the day when The Village is built and the Westchester Bluffs are restored. This project has been delayed for too long- hope the City of Los Angeles will approve it.

RESPONSE NO. 98-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers.

LETTER NO. 99

Mary Westcott
mmwestcott@mac.com

COMMENT NO. 99-1

As a resident of Venice... I frequent the Playa beaches every day and am greatly concerned about Playa Vista's Phase II project.

With such serious project deficiencies, breaches of City, State and Federal environmental and planning guidelines, and looming environmental realities, allowing Playa Vista's Phase II project to proceed would be highly irresponsible. In this era of increased threats to water supply, air quality, and open land, alternate uses for remaining open land need to be explored. More development in the last remaining section of open coastal land in the city will only hasten our community on the way to environmental failure.

RESPONSE NO. 99-1

The comment is noted and will be incorporated into the Final RS-EIR for review and consideration of decision-makers. The Complete FEIR, inclusive of the Original FEIR, RS-DEIR, and this Final RS-EIR, and their respective appendices, addresses the City, State, and Federal environmental and planning guidelines with respect to the Proposed Project.

The commentor states concerns related to water supply, air quality, and alternatives. Those matters are outside the scope of the RS-DEIR. Please refer to Sections I.B. and I.C of this Final RS-EIR, Executive Summary, for a discussion of the scope of the RS-DEIR, the City's obligation to respond to comments outside the scope of the RS-DEIR, and the standards for recirculation of a draft EIR due to "significant new information."

The commentor offers no "significant new information" with respect to potential water supply impacts within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5. The potential impacts on water supply were addressed in Section IV.N.(1), Water Consumption, of the Original DEIR, and Section II.24, Corrections and Additions, of the Original FEIR. For further discussion regarding potential water supply impacts associated with the Proposed Project, see Response Nos. 29-34 through 29-41.

The commentor offers no "significant new information" with respect to air quality within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5. The Proposed Project's potential impacts on Air Quality were addressed in

Section IV.B, Air Quality, of the Original DEIR, and Section II.4, Corrections and Additions of the Original FEIR.

The commentor offers no “significant new information” with respect to alternatives within the meaning of CEQA Section 21092.1 and State CEQA Guidelines Section 15088.5. The alternatives analysis contained in Section VII of the Original DEIR, and Section II.33 of the Original FEIR, included analysis of several alternative uses. Additionally, as discussed on pages II.A-20 through II.A-23 of the RS-DEIR, the Proposed Project is not located on “the last remaining section of open coastal land.” Rather, it is located approximately two miles inland from the Santa Monica Bay, and is not included within the Coastal Zone. It is surrounded by existing development to the north, west, and south, and the land to the east of the Proposed Project is approved for office and commercial uses and is currently under construction. For further discussion regarding alternatives, see Responses Nos. 25-3 and 28-65.

LETTER NO. 100

Jo Ellen Young
joellen@youngcanine.com

COMMENT NO. 100-1

I agree with the Ballona Wetlands Land Trust finding that Playa Vista's Recirculated Sections of the Draft Environmental Impact Report (RS-DEIR) is an insufficient and inaccurate document, and misrepresents the true environmental effects of the Playa Vista Phase II project in each subject area covered by the RS-DEIR.

RESPONSE NO. 100-1

The commentor's opinion is noted and will be incorporated into the Final RS-EIR for review and consideration of the decision-makers.

COMMENT NO. 100-2

Land Use:

CEQA guidelines require projects to be consistent with density limits in existing Community and Specific Plans, and failure in consistency is defined as a significant impact. Under the current Area D Specific Plan, only 108,050 sq. ft of office space is available for development by Playa Vista in the Phase II area. The proposed development calls for 2600 residential units, 175,000 sq. ft of office space, and 150,000 sq. ft of retail space. To avoid the definition of this impact, the RS-DEIR requires that the Area D Specific Plan and Westchester/Playa del Rey Community Plan be amended to allow for increased density and different land uses. Why should well researched urban plans be changed to allow for density in excess of what is zoned for? Furthermore, the RS-DEIR does not assess traffic impacts due to development at this scale.

RESPONSE NO. 100-2

For a detailed discussion regarding the Proposed Project's land use impacts, please see Response No. 75-2.

COMMENT NO. 100-3

Wastewater:

The RS-DEIR does not fully address the true impacts from wastewater, either from a treatment capacity standpoint or from a water quality standpoint. It is unclear at what capacity Hyperion is currently operating and what the cumulative flows will be to the treatment system. Because it is relevant to the determination of significant impacts, the EIR must address the true capacity of Hyperion in relation to current flows into Hyperion for purposes of determining whether there is adequate capacity. On the demand side, the City appears to be using the Sewer Allocation Ordinance to assess treatment capacity only after project build-out.

Because the City is not properly tracking capacity by reducing the available capacity by other project allocations, the RS-DEIR avoids a true discussion of impacts due to wastewater. Further, the public and decisionmakers cannot tell from the RS-DEIR whether or not the wastewater flows will cause significant impacts to the sewer collection system because the RS-DEIR's analysis of sewer line capacity is flawed.

RESPONSE NO. 100-3

For a detailed discussion regarding the Proposed Project's wastewater impacts, please see Response No. 75-3.

COMMENT NO. 100-4

Water Supply:

As aptly stated by Los Angeles Department of Water and Power's (LADWP) CEO and general manager David Nahai, "There are no more rivers to tap or aqueducts to build from hundreds of miles away." Given the finite water resources available; the state of emergency recently declared by the Governor; the 8-year drought described as "most critical drought in the State's modern history"; groundwater contamination; the recent federal court decision curtailing water deliveries from northern California due to environmental factors in the Sacramento-San Joaquin Delta; the low Sierra Nevada snow-pack; and the impacts of global warming, the RS-DEIR is deficient for failing to address the availability of water for the project both individually and cumulatively. For the Second District Court of Appeals has stated: "An environmental impact report for a housing development must contain a thorough analysis that reasonably informs the reader of the amount of water available." (Santa Clarita Organization for Planning the Environment v. County of Los Angeles (2003) 106 Cal.App.4th 715, 717.)

RESPONSE NO. 100-4

For a detailed discussion regarding the Proposed Project's water supply impacts, please see Response No. 75-4.

COMMENT NO. 100-5

Methane and Methane Mitigation:

Methane is not addressed in the RS-DEIR - a mistake, considering that new evidence has arisen highlighting the inadequacy of methane gas mitigation measures described in the Final EIR of 2004. Evidence of methane gas entering existing buildings has been presented by members of the public to Building and Safety. In addition, the City Controller's 2007 report found Playa Vista's methane mitigation methods to be inadequate. Single-family dwellings in the development are not consistently required to have methane detection systems, and responsibility for the design, installation, and testing of detection systems in single family homes was not assigned.

RESPONSE NO. 100-5

For a detailed discussion regarding the Proposed Project's methane impacts, please see Response No. 75-5.

COMMENT NO. 100-6

Archaeology:

Archaeological preservation in place is defined by CEQA as the preferred method to reduce impacts to archaeological sites. Two archaeological sites located in the project area were eligible for the National Register for Historic Places. The RS-DEIR maintains preservation in place of these sites was not possible, but never adequately states why. Alternative designs to restore in place the archaeological sites are not fully described and are dismissed without adequate exploration of their potential. The possibility for replacement of Native American remains in their original location is not addressed, the preferred option as expressed by the Gabrielino Tongva in original project documents. The failure to address placing remains back in their original place is a violation of the Court of Appeal's 2007 order.

RESPONSE NO. 100-6

For a detailed discussion regarding the Proposed Project's archaeology impacts, please see Response No. 75-6.

COMMENT NO. 100-7

Global Warming:

California's interagency Climate Action Team (CAT) recently projected that if rising sea levels follow their current trajectory, the project area (as well as much of the surrounding coast line) may be under water by the end of the century ("California panel urges immediate action to protect against rising sea levels." Los Angeles Times, March 12, 2009). While no one can predict exactly when sea levels will rise to this height, the research summarized by the CAT indicates that a rise of between 1 and 1.4 meters not unlikely over this time period. Limiting coastal development in areas at risk from sea rise was one proposed strategy included in the report. With growing consensus on the effects of climate change, and state-led imperatives already initiated to deal with coastal decline, it is irresponsible to allow the development of Playa Vista's Phase II.

In summary, with such serious project deficiencies, breaches of City, State and Federal environmental and planning guidelines, and looming environmental realities, allowing Playa Vista's Phase II project to proceed would be highly irresponsible. In this era of increased threats to water supply, air quality, and open land, alternate uses for remaining open land need to be explored. More development in the last remaining section of open coastal land in the city will only hasten our community on the way to environmental failure.

RESPONSE NO. 100-7

For a detailed discussion regarding the Proposed Project's global warming impacts, please see Response No. 75-7.

IV. LIST OF APPENDICES TO THE FINAL RS-EIR

A. PUBLIC UTILITIES: WASTEWATER

- i. Psomas & Associates, June 17, 2009
- ii. Status of Regulatory Standards for Emerging Contaminants (ECs), Flow Science, Inc., June 26, 2009
- iii. Analysis of Hyperion Treatment Plant (HTP) Acute Toxicity Results, Flow Science, Inc., June 29, 2009
- iv. Memorandum in Support of Playa Vista EIR Responses, CH2MHill, July 10, 2009

B. CULTURAL RESOURCES: ARCHAEOLOGICAL RESOURCES

- i. Gabrielino Tongva Indians of California Recovery and Reburial Procedures Most Likely Descendent (MLD) Guidelines, 2005
- ii. U.S. Army Corps of Engineers, Letter to City of Los Angeles, February 16, 2006
- iii. Comments Relating to Analysis of Archaeological Impacts in the Recirculated Sections of Draft Environmental Impact Report (RS-DEIR) for the Village at Playa Vista Project (Proposed Project), Statistical Research, Inc., July 16, 2009

C. GLOBAL CLIMATE CHANGE

- i. Village at Playa Vista – Sea Level Rise, Mestre Greve Associates, July 1, 2009
- ii. Potential Influence of the Proposed Playa Vista Village Development Project on the Rate of Naturally-Occurring Methane Emissions from the Site, CDM, July 9, 2009
- iii. Quantitative AB 32 Consistency Assessment for the Village at Playa Vista Development, Environ, August 26, 2009.

D. OTHER TECHNICAL APPENDICES BEYOND SCOPE OF RS-DEIR

- i. Cooper Ecological Monitoring Inc., Letter, June 12, 2009
- ii. Biological Effects of Mosquito Fish (*Gambusia affinis*) on the Ballona Wetlands System, E. Read and Associates, June 18, 2009
- iii. Report Regarding Heal the Bay Comment Letter on the Recirculated Sections – Draft Environmental Impact Report (RS-DEIR) Village at Playa Vista, Geosyntec Consultants, July 7, 2009
- iv. Report on Playa Vista WSA, Ron Gastelum, July 7, 2009

E. LETTERS FROM CITY AND APPLICANT REGARDING NOTICE

F. RS-DEIR COMMENT LETTERS

V. REVISED MITIGATION MONITORING AND REPORTING PROGRAM

1.0 MITIGATION BY ENVIRONMENTAL TOPIC

As of January 1, 1989, the California Environmental Quality Act (CEQA) requires a Mitigation Monitoring and Reporting Program (MMRP) for projects where mitigation measures are a condition of their approval and development. This program has been prepared in compliance with the requirements of CEQA, Public Resources Code Section 21081.6. The MMRP describes the procedures the Applicant will use to implement the mitigation measures adopted in connection with the approval of the project and the methods of monitoring and reporting on such actions. Monitoring refers to the observation of mitigation activities at the Project site, in the design of plans or in the operation of designated agencies. A Monitoring/Reporting Program is necessary only for impacts which would be significant if not mitigated.

The mitigation measures listed below are strictly related to the environmental topics identified in the RS-DEIR. This Revised MMRP supersedes the Section III of the RS-DEIR. The analysis in the RS-DEIR did not identify any additional significant impacts or additional mitigation measures for the Land Use, Wastewater, and Archaeology environmental topics beyond those identified in the Original FEIR and included in the Original MMRP adopted in 2004 (and subsequently vacated). The sections of the Original MMRP applicable to the Proposed Project's land use, archaeological resource, and wastewater impacts (i.e., Mitigation Measures G-1 through G-3, N.(2)-1, and P.(2)-1 through P.(2)-8) have been superseded by the provisions in those sections in the Revised MMRP. Added mitigation measures also are proposed for the Global Climate Change environmental topic. These mitigation measures for these four environmental issues have been re-stated below in the attached Revised MMRP for ease of convenience.

The remaining portions of the Original MMRP have not been superseded. The Original MMRP, which was adopted and then vacated, also is available at the City Planning Department, Room 720, City Hall, 200 North Spring Street, Los Angeles, 90012, or on-line at <http://cityplanning.lacity.org/>, as is the Original FEIR (which includes the Original DEIR).

Together, the Revised MMRP and portions of the Original MMRP that were not superseded will constitute the Complete MMRP. The Complete MMRP will include mitigation measures that cover the entire Proposed Project. The Complete MMRP will be the document that will be used by the enforcement and monitoring agencies responsible for the

implementation of the Proposed Project's mitigation measures if the Proposed Project is approved. The Complete MMRP will list the Proposed Project's mitigation measures, by environmental topic, and identify for each of the measures, the enforcement agency, the monitoring agency, the monitoring phase, the monitoring frequency, and the action indicating compliance with the mitigation measures.

The Applicant shall be obligated to provide documentation concerning implementation of the listed mitigation measures to the appropriate monitoring agency and the appropriate enforcement agency as provided for herein. All departments listed below are within the City of Los Angeles unless otherwise noted. The entity responsible for the implementation of all mitigation measures shall be the Applicant unless otherwise noted. All mitigation measures identified in the Original MMRP, which was adopted and then vacated, shall be recommended again for approval, with the addition of mitigation measures related to global climate change listed below.

A. Land Use

Mitigation Measures for the Proposed Project and the Equivalency Program

G-1* Prior to recordation of the tract map, the Proposed Project development standards and guidelines shall be incorporated as tract map conditions including, but not limited to, building height, setbacks, lot coverage, density, and land uses, as analyzed in ENV-2002-6129-EIR (See Attachment C). Any changes shall be subject to additional environmental review and implementation of proper mitigation measures if additional impacts associated with such changes are identified.

Enforcement Agency: Los Angeles City, Department of City Planning

Monitoring Agency: Los Angeles City, Department of City Planning

Monitoring Phase: Pre-Construction

Monitoring Frequency: Once at tract map approval.

Action Indicating Compliance with Mitigation Measure(s): Tract map approval.

G-2 Lot 113 of VTTM 49104 shall remain as open space unless the Advisory Agency determines that this lot is not needed to meet the open space requirements of VTTM 49104.

Enforcement Agency: Los Angeles City, Department of City Planning

* Please note that since the mitigation measures initially approved for the Proposed Project in 2004 are recommended again for reapproval in this Final RS-EIR and for ease of reference and clarity, this document refers to the mitigation measures using the same reference numbers as those that were used in the Original MMRP, adopted in 2004.

Monitoring Agency: Los Angeles City, Department of City Planning

Monitoring Phase: Pre-Construction

Monitoring Frequency: Once at tract map approval.

Action Indicating Compliance with Mitigation Measure(s): Advisory Agency Determination.

Additional Mitigation Measure for the Off-site Improvements

- G-3** Any private property that is affected during the construction of off-site improvements shall be restored to be consistent with conditions prior to construction, to the extent feasible.

Enforcement Agency: Los Angeles City, Department of Public Works

Monitoring Agency: Los Angeles City, Department of Public Works

Monitoring Phase: Post-Construction

Monitoring Frequency: Once at completion of site work.

Action Indicating Compliance with Mitigation Measure(s): Report at the completion of site work with inclusion in the Annual Monitoring Report.

B. Wastewater

Mitigation Measures for the Proposed Project and the Equivalency Program

- N.(2)-1** Prior to issuance of any building permit, construction of on-site infrastructure improvements necessary for the conveyance of project wastewater to the 42-inch Marina Interceptor Sewer in Jefferson Boulevard shall be completed, or suitably guaranteed, to the satisfaction of the City Department of Public Works and other applicable responsible agencies.

Enforcement Agency: Los Angeles City, Department of Public Works

Monitoring Agency: Los Angeles City, Department of Public Works

Monitoring Phase: Pre-Construction

Monitoring Frequency: Once at issuance of any building permit.

Action Indicating Compliance with Mitigation Measure(s): Compliance statement from Department of Public Works.

C. Archaeological Resources

Mitigation Measures for the Proposed Project and the Equivalency Program

P.(2)-1 Prior to the issuance of any grading/excavation or building permits (except for grading/excavation permits associated with archaeological investigations) which may affect the properties designated as LAN-211/H and LAN-62, the measures required within the approved Archaeological Treatment Plans for these properties, which have been determined eligible for listing in the National Register of Historic Places and accepted by the U.S. Army Corps of Engineers, the State Historic Preservation Officer, and the Advisory Council on Historic Preservation shall be implemented. The archaeological treatment plans shall be consistent with the following: the Secretary of Interior Guidelines for Archaeological Documentation; the California Office of Historic Preservation's Archaeological Resource Management Reports: Recommended Contents and Format, and Guidelines for Archaeological Research Designs; the Department of the Interior's Guidelines for Federal Agency Responsibilities under Sections 106 and 110 of the National Historic Preservation Act; and take into account the Council's publication, Treatment of Archaeological Properties – A Handbook.

Enforcement Agency: U.S. Army Corps of Engineers

Monitoring Agency: U.S. Army Corps of Engineers; Los Angeles City, Department of Public Works

Monitoring Phase: Pre-Construction

Monitoring Frequency: Once at issuance of grading/excavation or building permits.

Action Indicating Compliance with Mitigation Measure(s): Statement of compliance from U.S. Army Corps of Engineers.

P.(2)-2 Prior to issuance of grading/excavation or building permits, a professional archaeologist shall be retained that meets the Secretary of Interior's guidelines and is listed in the Register of Professional Archaeologists to implement the Research Design and comply with the Programmatic Agreement.

Enforcement Agency: Los Angeles City, Department of City Planning

Monitoring Agency: Los Angeles City, Department of City Planning

Monitoring Phase: Construction

Monitoring Frequency: Once prior to construction.

Action Indicating Compliance with Mitigation Measure(s): Retention of professional archaeologist; execution of construction contract.

P.(2)-3 Historic resources eligible for listing in the National Register of Historic Places shall be avoided or unavoidable disturbance be mitigated through data recovery, documentation, analysis, and curation. Archeological treatment plans required by the Programmatic Agreement shall be developed and implemented, as applicable. All materials and records resulting from implementation of the Programmatic Agreement shall be curated in accordance with 36 Code of Federal Regulations part 79.

Enforcement Agency: U.S. Army Corps of Engineers

Monitoring Agency: U.S. Army Corps of Engineers

Monitoring Phase: Pre-Construction; Construction.

Monitoring Frequency: Once at issuance of grading or building permits.

Action Indicating Compliance with Mitigation Measure(s): Implementation of archaeological treatment plans; issuance of grading or building permits; Statement of compliance from the U.S. Army Corps of Engineers.

P.(2)-4 In addition to a qualified archaeologist, a representative of the Gabrielino Indians shall be retained to monitor subsurface archaeological excavations. Prior to issuance of grading or building permits, evidence shall be provided for placement in the subject file with the City Planning Department that a Native American monitor has been retained.

Enforcement Agency: Los Angeles City, Department of City Planning

Monitoring Agency: Los Angeles City, Department of City Planning

Monitoring Phase: Pre-Construction; Construction

Monitoring Frequency: Once prior to construction.

Action Indicating Compliance with Mitigation Measure(s): Retention of a Native American Gabrielino; execution of construction contract, during construction.

P.(2)-5 In the event that previously unknown archaeological and historical resources are discovered during construction, grading/excavation/construction shall temporarily be halted. The U.S. Army Corps of Engineers and the State Historic Preservation Officer shall immediately be notified to provide these agencies with the opportunity to assess the resources and offer recommendations for treatment required by the Programmatic Agreement.

Enforcement Agency: U.S. Army Corps of Engineers

Monitoring Agency: U.S. Army Corps of Engineers

Monitoring Phase: Construction

Monitoring Frequency: Annually until buildout.

Action Indicating Compliance with Mitigation Measure(s): Execution of construction contracts with mitigation measure provisions.

- P.(2)-6** The Project archaeologist shall monitor ground disturbing activities in areas where significant archaeological or historical materials are discovered or detected. If cultural resources are discovered during grading/excavation/ construction monitoring, such resources shall be evaluated for their eligibility for listing in the National Register of Historic Places. If potentially significant resources are encountered, a letter of notification shall be provided in a timely manner to the Department of City Planning, in addition to the report (described below) that is filed at the completion of grading. If eligible, an archaeological treatment plan shall be developed and implemented in accordance with the Programmatic Agreement.

Enforcement Agency: Los Angeles City, Department of City Planning

Monitoring Agency: Los Angeles City, Department of City Planning

Monitoring Phase: Construction

Monitoring Frequency: As needed during construction operations.

Action Indicating Compliance with Mitigation Measure(s): Execution of construction contracts with mitigation measure provisions.

- P.(2)-7** Following completion of grading activities, a qualified archaeologist, who meets the Secretary of Interior Guidelines and is listed in the Register of Professional Archaeologists, shall prepare a report of the results of archaeological investigations to the City of Los Angeles Department of City Planning, other appropriate public agencies, and concurring parties as specified in the Programmatic Agreement. The report shall be submitted to the above parties according to the schedules established in the respective Archaeological Treatment Plans (ATPs).

Enforcement Agency: U.S. Army Corps of Engineers

Monitoring Agency: U.S. Army Corps of Engineers

Monitoring Phase: Construction

Monitoring Frequency: Once at completion of all grading.

Action Indicating Compliance with Mitigation Measure(s): Submittal of archaeological investigation report.

P.(2)-8 If a commemorative display center for items of cultural significance should be provided in the Playa Vista First Phase Project, representative artifacts from the Proposed Project site, should they be discovered, or accurate replicas shall be made available for the display at the display center.

Enforcement Agency: Los Angeles City, Department of City Planning

Monitoring Agency: Los Angeles City, Department of City Planning

Monitoring Phase: Pre-Construction; Construction

Monitoring Frequency: Once at completion of archaeological investigation.

Action Indicating Compliance with Mitigation Measure(s): Provision of artifacts/replicas to commemorative center; or curation at Fowler Museum at University of California, Los Angeles.

D. Global Climate Change

Mitigation Measures for the Proposed Project and the Equivalency Program

Q-1 The Proposed Project shall coordinate with LAUSD and the City of Los Angeles to prepare a “Pedestrian Routes to School” map, which will be distributed to parents, students, and school staff at the beginning of each school year, and shall coordinate with the LAUSD on bus services to schools serving the Proposed Project site.

Enforcement Agency: Los Angeles City, Department of Transportation

Monitoring Agency: Los Angeles City, Department of Transportation, Department of Building and Safety

Monitoring Phase: Post-Construction

Monitoring Frequency: Once, prior to issuance of first temporary or permanent Certificate of Occupancy.

Action Indicating Compliance with Mitigation Measure(s): Issuance of temporary or permanent Certificate of Occupancy; “Pedestrian Routes to School” map.

Q-2 The Property Owners Association of the Proposed Project shall use Neighborhood Electric Vehicles (NEVs) or similar vehicles for landscaping, maintenance workers, janitorial services, and the building engineer.

Enforcement Agency: Los Angeles City, Department of City Planning

Monitoring Agency: Los Angeles City, Department of City Planning

Monitoring Phase: Post-Construction

Monitoring Frequency: Once at issuance of first temporary or permanent Certificate of Occupancy.

Action Indicating Compliance with Mitigation Measure(s): Issuance of temporary or permanent Certificate of Occupancy; statement of compliance from Property Owners Association.

Q-3 The Proposed Project shall incorporate food waste collection to the existing on-site greenwaste collection program.

Enforcement Agency: Los Angeles City, Department of Public Works (Bureau of Sanitation); Los Angeles City, Department of City Planning; Los Angeles City, Department of Building and Safety

Monitoring Agency: Los Angeles City, Department of Public Works (Bureau of Sanitation); Los Angeles City, Department of City Planning; Los Angeles City, Department of Building and Safety

Monitoring Phase: Post-Construction

Monitoring Frequency: Once at approval of recycling program.

Action Indicating Compliance with Mitigation Measure(s): Approval of recycling program.

Q-4 Car washing shall be prohibited within the Proposed Project and the use of water for cleaning outdoor surfaces shall be restricted to the maximum extent possible.

Enforcement Agency: Los Angeles City, Department of Public Works

Monitoring Agency: Los Angeles City, Department of Public Works

Monitoring Phase: Post-Construction

Monitoring Frequency: Once at issuance of first temporary or permanent Certificate of Occupancy.

Action Indicating Compliance with Mitigation Measure(s): Issuance of temporary or permanent Certificate of Occupancy; statement of compliance from Property Owners Association.

Q-5 The Proposed Project shall include accommodations for car-sharing.

Enforcement Agency: Los Angeles City, Department of Transportation

Monitoring Agency: Los Angeles City, Department of Transportation, Department of Building and Safety

Monitoring Phase: Pre-Construction

Monitoring Frequency: Once prior to issuance of first temporary or permanent Certificate of Occupancy.

Action Indicating Compliance with Mitigation Measure(s): Issuance of temporary or permanent Certificate of Occupancy; Evidence of provision of accommodations for car-sharing satisfactory to Los Angeles City, Department of Transportation (LADOT).

- Q-6** The expanded internal shuttle would be operated as a free service for residents and employees within the Proposed Project and adjacent Playa Vista First Phase Project at all times, and for visitors during peak hours (8:00 to 9:00 a.m. and 5:00 to 6:00 p.m.).

Enforcement Agency: Los Angeles City, Department of Transportation

Monitoring Agency: Los Angeles City, Department of Transportation

Monitoring Phase: Pre-Construction

Monitoring Frequency: Once at implementation of expanded internal shuttle system.

Action Indicating Compliance with Mitigation Measure(s): Issuance of temporary or permanent Certificate of Occupancy; Evidence of shuttle operation satisfactory to LADOT.

- Q-7** The Proposed Project shall provide bicycle parking at all commercial projects and public spaces (such as parks).

Enforcement Agency: Los Angeles City, Department of Building and Safety

Monitoring Agency: Los Angeles City, Department of Building and Safety

Monitoring Phase: Pre-Construction; Construction

Monitoring Frequency: Once at issuance of building permit; once at issuance of temporary or permanent Certificate of Occupancy.

Action Indicating Compliance with Mitigation Measure(s): Issuance of building permit; issuance of temporary or permanent Certificate of Occupancy.

- Q-8** The Proposed Project shall include an advanced digital broadband telecommunications network, facilitating high speed data connectivity, video conferencing, video telephony, and interactive multimedia services.

Enforcement Agency: Los Angeles City, Department of City Planning

Monitoring Agency: Los Angeles City, Department of City Planning

Monitoring Phase: Pre-Construction

Monitoring Frequency: Once prior to issuance of first temporary or permanent Certificate of Occupancy.

Action Indicating Compliance with Mitigation Measure(s): Issuance of temporary or permanent Certificate of Occupancy; statement of compliance from Property Owners Association.

**ATTACHMENT C
PROPOSED PROJECT DEVELOPMENT STANDARDS**

The following is Subsection 3.2 Project Design Feature of Section II.A, Land Use, of the Village at Playa Vista RS-DEIR as revised for the Final RS-EIR.

3.2 Project Design Features

3.2.1 Urban Development Component

The Proposed Project's Urban Development Component would create a planned, mixed-use community, containing a diverse range of commercial, residential, recreational, public, and open space uses. The Proposed Project design includes a specified land use arrangement of streets, blocks, and lots, as well as development standards which limit the amount and type of development which can occur. The Proposed Project would be implemented via amendments to the Westchester-Playa del Rey Community Plan and the Playa Vista Area D Specific Plan. The proposed land use arrangement and plan designations are presented in Figure II.A-6.

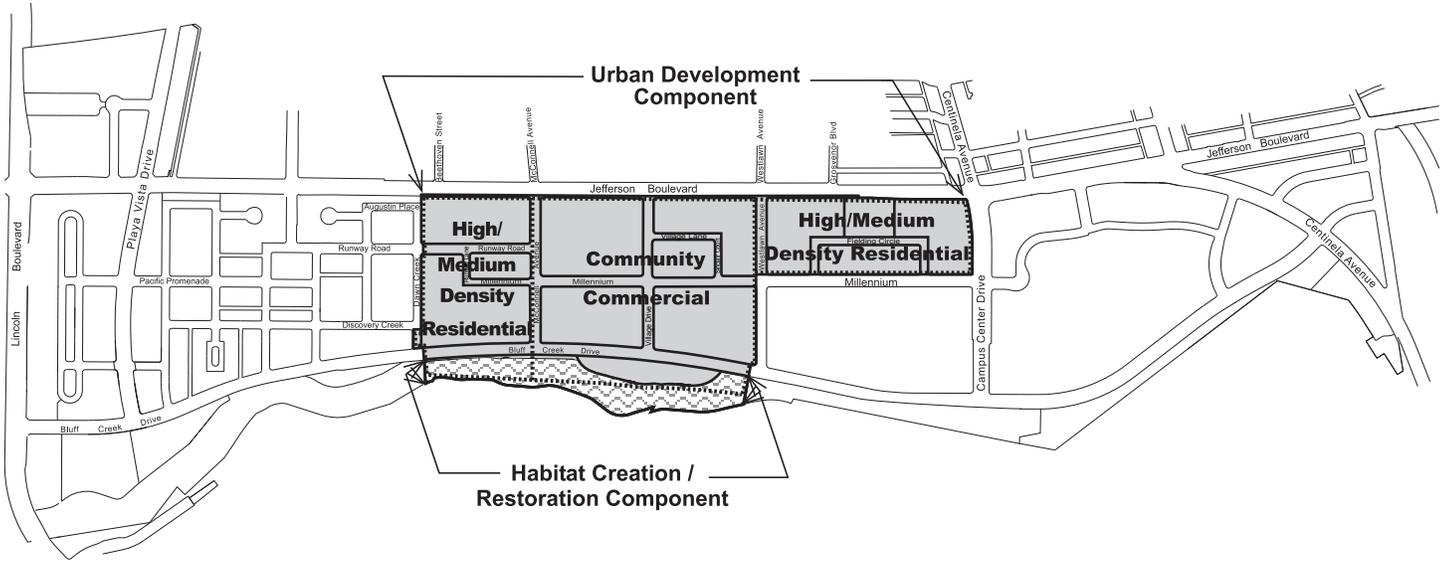
The Urban Development Component includes a series of residential neighborhoods organized around a Village Center. The Village Center is envisioned as an area defined by mixed-use development centered on a public plaza that may include ground floor retail uses with additional retail, office, and/or residential uses located above. The development program for the Proposed Project is shown in Table II.A-2.

The shapes and locations of the building envelopes in which development could occur would be limited by restrictions on building heights, on developable floor area as a percentage of lot area, and minimum setbacks. The proposed height limit designations for the Proposed Project site are in Figure II.A-7. The height limits are expressed in feet above mean sea level (AMSL). By expressing the height limits in terms of elevation rather than height above ground, direct comparisons can be made to the elevations associated with the various visual vantage points outside of the Proposed Project site, such as the Westchester Bluffs. For descriptive purposes, building heights, as expressed in feet AMSL, are correlated to building heights above ground level in the legend for Figure II.A-7.

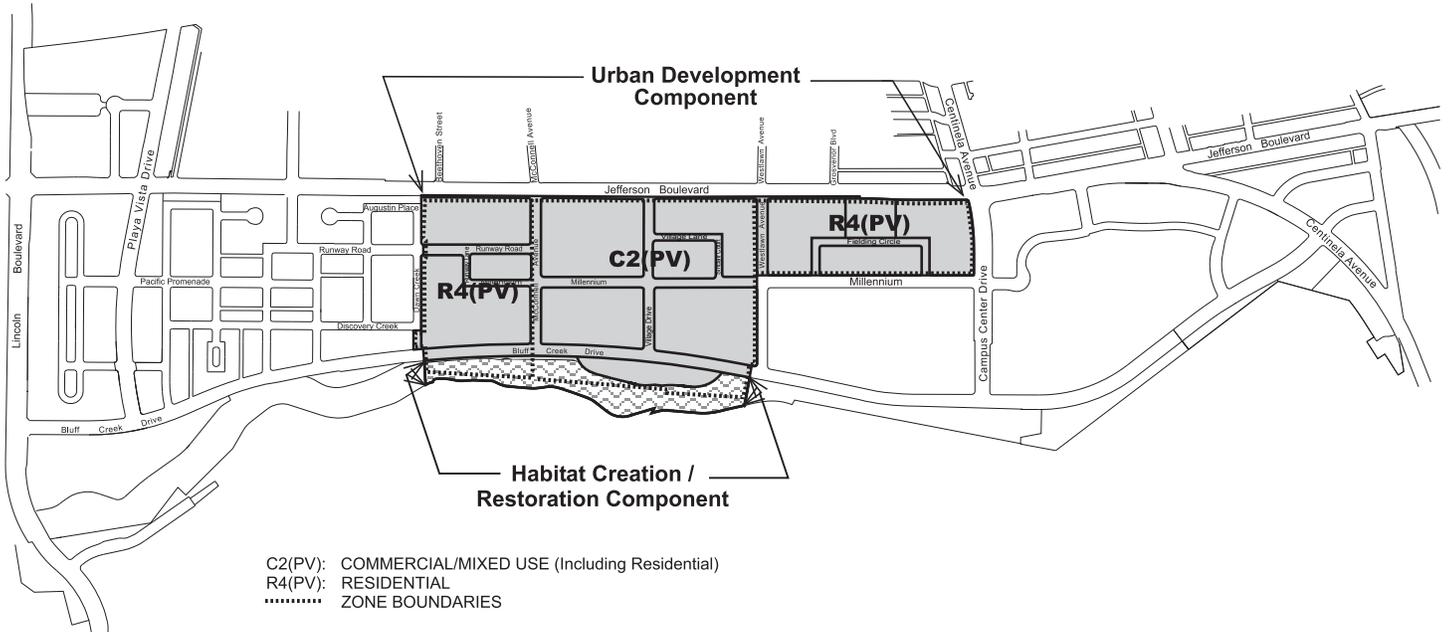
The Proposed Project further restricts the mass of development by placing limits on the percentage of total lot area which may be developed through the Project's Development Criteria and Guidelines. The limitation on floor area varies according to land uses, as follows:

- Residential Lots: The maximum lot coverage would be 55 percent.
- Commercial and Mixed Use Lots: The maximum lot coverage would be 70 percent.

Proposed General Plan Designations

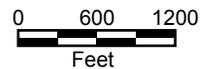


Proposed Specific Plan/Zoning Designations



NOTE:

Locations of roadways and land use boundaries are approximate.
 Precise placement will be determined as part of subdivision process.



Source: Playa Capital Company, March 2004.

TABLE II.A-2 PROPOSED PROJECT DEVELOPMENT COMPONENTS		
Land Areas	Size (acres)	Totals
Urban Development Component		
Urban Development	87.5 ^a	
Parks	11.4 ^b	
Passive Open Space	0.4 ^c	
	Subtotal	99.3
Habitat Creation/Restoration Component		
Riparian Corridor	6.7	
Bluffs	5.0	
	Subtotal	11.7
	Total Area	111.0
Urban Development Program^d		
Land Uses	Size	
Office	175,000 sq.ft.	
Residential Units	2,600 du	
Retail	150,000 sq.ft.	
Community-Serving	40,000 sq.ft.	
<p>^a Includes 1.0 acres of bicycle lanes.</p> <p>^b Park acreage is approximate. Actual park acreage will be provided in accordance with the Proposed Project's conditions of approval, based on the number of dwelling units ultimately constructed.</p> <p>^c Located along the south side of Bluff Creek Drive, just to the north of the Proposed Project's Habitat Creation /Restoration Component.</p> <p>^d The Proposed Project also would include an Equivalency Program to allow a limited exchange of office uses for additional retail uses and/or assisted living uses.</p>		
Source: Playa Capital Company, 2003.		

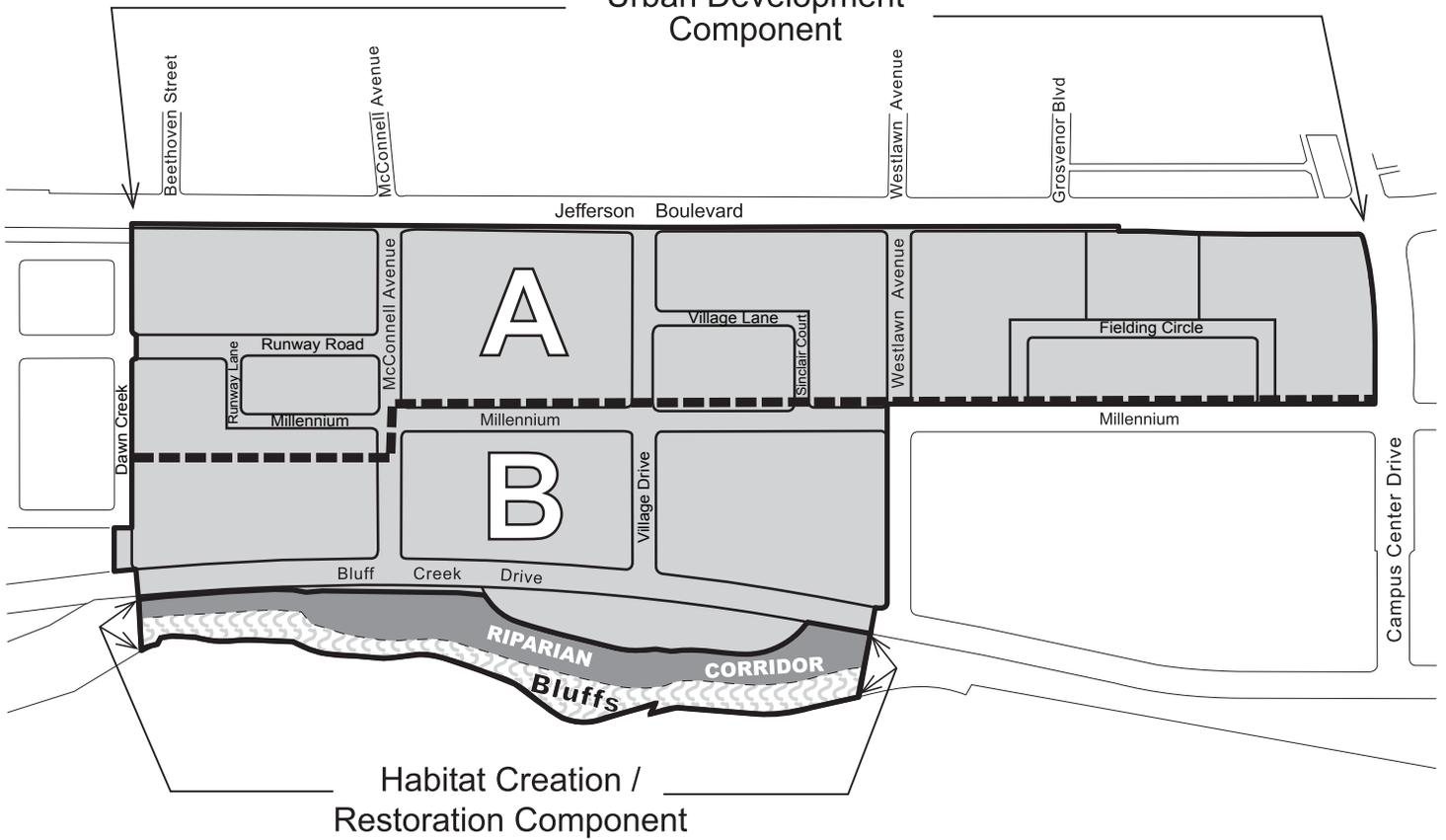
- Park Sites: The maximum lot coverage would be 15 percent (for recreational and park structures).

The design and development criteria set forth in the tract conditions would establish further regulations pertaining to the portions of individual development sites within which development can occur. This is accomplished by establishing minimum front, side, and rear lot setback areas. The proposed setback requirements are shown in Table II.A-3.

3.2.2 Habitat Creation/Restoration Component

The Project's Habitat Creation/Restoration Component includes the construction of a 6.7-acre Riparian Corridor and the restoration and maintenance of a five-acre portion of the Westchester Bluffs, located to the south of the Riparian Corridor. As of 2002, construction of the Riparian Corridor had not yet begun. As of September 2004, construction of the Riparian

Urban Development Component



LEGEND

Height District	Above Mean Sea Level (AMSL)	Above Finished Grade ^a	Above Existing Grade ^a
A	95'	68' - 72'	71' - 88'
B	112'	85'-89'	88'-105'

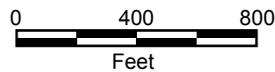
^a Height above finished grade and above existing grade are approximate. Finished grades will be approximately 23' to 27' AMSL. Existing grades vary from approximately 7' to 24' AMSL. Westchester Bluffs: Approximately 140' AMSL



Urban Development Component



Habitat Creation / Restoration Component



Source: Playa Capital Company, March 2004.

TABLE II.A-3	
PROPOSED SETBACK REQUIREMENTS	
Location	Required Setback
Thoroughfares	
Jefferson Boulevard	15 Feet (From the right-of-way/property line, regardless of which way the building orients on the lot. This setback excludes retaining walls.)
Bluff Creek Drive	15 Feet
Runway Road (Dawn Creek to McConnell)	15 Feet
Millennium (McConnell to Village Drive)	0-5 Feet (Street front retail will characterize this block.)
Millennium Road (Runway Lane to McConnell)	10 Feet
Millennium Road (Village Drive to Campus Center Drive)	15 Feet
McConnell Avenue	10 Feet
McConnell Avenue (400 feet north of Millennium along the east side of block)	0-5 Feet (Street front retail will characterize this block.)
Westlawn Avenue	10 Feet
Campus Center Drive	15 Feet
Runway Lane, Village Drive, Sinclair Court, and Fielding Circle	10 Feet
Village Drive (400 feet north of Millennium along the west side of the block)	0-5 Feet (Street front retail will characterize this block.)
Village Lane and Fielding Circle	10 Feet
Dawn Creek	10 Feet
Setbacks from Adjacent Lots ^a	
Adjacent to a Residential or Commercial Lot	10 Feet
Adjacent to a Park or Open Space Lot	5 Feet
^a Multi-family structures in two separately developed projects shall be separated by no less than 20 feet.	
Source: Playa Capital Company, 2008.	

Corridor in the western portion of the First Playa Vista Phase Project was underway. As of summer 2007, construction of the Habitat Creation/Restoration Component was complete and connected with the eastern and western portions of the Riparian Corridor within the Playa Vista First Phase Project.

The Riparian Corridor within the Proposed Project site has been planted with habitat such as emergent, willow scrub woodlands, and mixed riparian woodlands, as well as native grasslands. With this component complete, there is now a 25-acre riparian corridor that also includes sections east and west of the Riparian Corridor in the Proposed Project site, ultimately feeding into the Playa Vista First Phase Freshwater Marsh (west of Lincoln Boulevard and south of Jefferson Boulevard), thus establishing a 51-acre Freshwater Wetland System. The final component of this system is a box culvert connection underneath Lincoln Boulevard, which was completed in April 2008.

The bluff restoration program in the Proposed Project site, which has also been completed, enhanced the bluffs with native plants creating a coastal sage scrub community with increased habitat value.

VI. LIST OF REFERENCES TO THE FINAL RS-EIR

The following list is a compilation of references for the entire Final RS-EIR. These references do not include documents attached as appendices to the Original FEIR or the RS-DEIR. The references are organized according to topics in which they either occur or are most substantially connected. The documents referenced in the Original FEIR, Original RS-DEIR, and Final RS-EIR are on file with the City of Los Angeles Department of City Planning: 200 North Spring Street, Room 720, Los Angeles, CA 90012.

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